



Council Meeting: September 11, 2012

SUBJECT: 2012-7045: Appeal of a decision by the Planning Commission denying a Use Permit for a large family day care within 300 feet of another large family day care located at 1372 Cordilleras Ave.

REPORT IN BRIEF

Existing Site Conditions Single-Family Home

Surrounding Land Uses

North	Single-Family Home
South	Single-Family Home
East	Single-Family Home
West	Single-Family Home

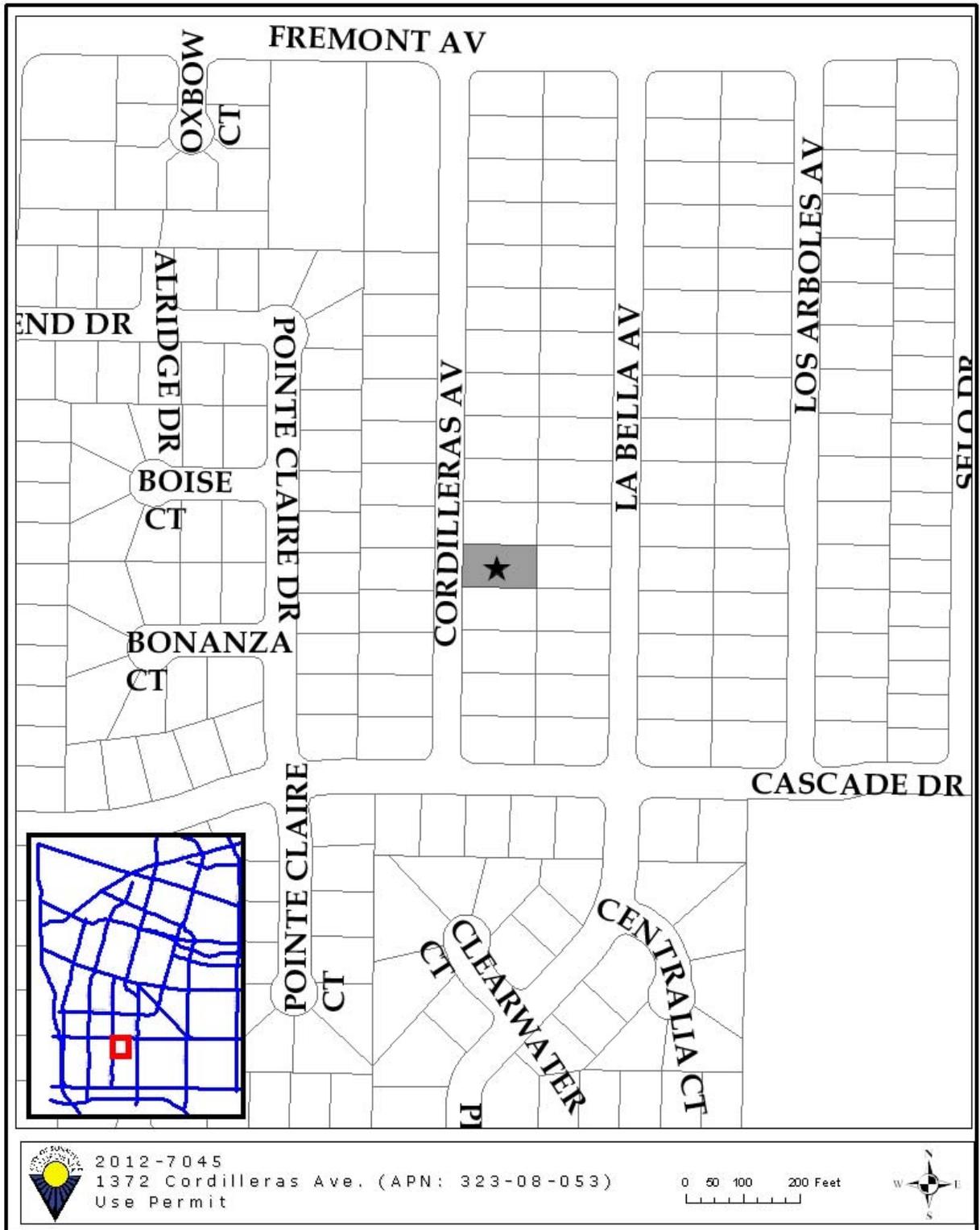
Issues Parking, Traffic, Noise

Environmental Status A Class 1 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City Guidelines.

Planning Commission Action Denied the Use Permit

Staff Recommendation Grant the appeal and approve the Use Permit with conditions.

VICINITY MAP



PROJECT DATA TABLE

	EXISTING	PROPOSED	REQUIRED/ PERMITTED
General Plan	Residential Low Density	Same	Residential Low Density
Zoning District	R-1	Same	R-1
Lot Size (s.f.)	9,633	Same	8,000 min.
Gross Floor Area (s.f.)	3,610	Same	N/A
Lot Coverage (%)	24%	Same	40% max.
Floor Area Ratio (FAR)	37%	Same	45% max. without PC review
Parking			
Total Spaces	4	Same	4
Covered Spaces	2	Same	2

★ Starred items indicate deviations from Sunnyvale Municipal Code requirements.

BACKGROUND:

The proposed project is to allow a large family day care (LFDC) within 300 feet of another LFDC. No site or architectural modifications are proposed to the existing home.

A Planning Commission hearing was held on March 12, 2012. Several members of the public attended the hearing to voice opposition for the project. The Planning Commission denied the project with a 4-3 vote. The applicant submitted an appeal on March 26, 2012.

Previous Actions on the Site

The following table summarizes previous planning application related to the project site.

File Number	Brief Description	Hearing/Decision	Date
2008-1304	Demolish one-story home and build a new two-story home.	Staff/Approved	2/12/2009

EXISTING POLICY

Requested Permit(s):

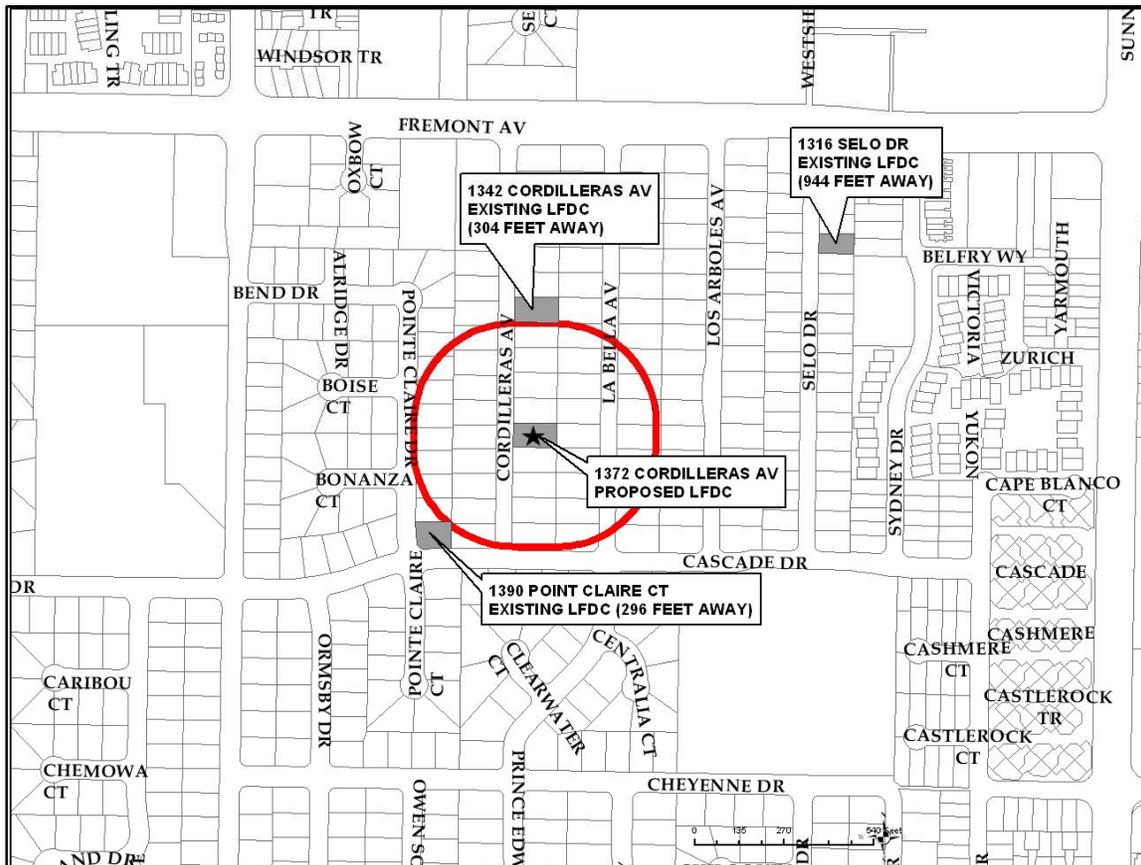
- Use Permit
 Sunnyvale Municipal Code Chapter 19.58.020 prohibits the establishment of a LFDC within 300 feet of another LFDC without approval of a Use Permit.

Related General Plan goals and policies include supporting home businesses that preserve the character of existing neighborhoods and supporting appropriately-located quasi-public services, such as day care uses. These goals and policies are discussed in the findings in Attachment A.

DISCUSSION AND ANALYSIS:

Proposed Use: The applicant currently operates a small family day care at the existing home and provides care for up to eight children, which is not subject to the same 300 foot distance separation requirement as a LFDC. The applicant is now requesting to operate as a LFDC in order to provide care for up to 14 children. The applicant proposes to retain the hours of operation, which are from 8:30 a.m. to 6 p.m. Monday through Friday. In addition to the applicant, two employees will be on-site during the hours of the business.

Other LFDC in the Neighborhood: There is currently one LFDC home within 300 feet of the subject property located one block away and around the corner at 1390 Pointe Claire Drive. There are two other LFDC homes within the vicinity, one located five homes away at 1342 Cordilleras Avenue (same street but beyond 300 feet) and the second located three blocks away at 1316 Selo Drive. The following map shows the proximity of these day care facilities:



Development Standards

The proposed project complies with the applicable Development Standards as set forth in the Sunnyvale Municipal Code. The following have been identified as items for clarification:

- **Site Layout**

The proposed day care will utilize portions of the existing kitchen, family room, and bedroom on the first floor. The backyard area will also be used as outdoor recreational space. No exterior modifications or additional floor area will be added to the home as part of this project (see Attachment C).

- **Parking and Traffic**

The existing home meets the parking requirements for a single-family home by providing two-covered garage spaces and two-uncovered driveway spaces. Parents may utilize the existing driveway and available on-street parking for drop-off and pick-up. Generally, children are dropped off between 8:30 a.m. and 9:30 a.m. Some children require all day care and are picked-up in the evening hours, while others are there part-time and are picked up in the afternoon hours (see Attachment D). Due to the availability of parking and varying drop-off and pick-up times, staff finds that the parking demand for the use will not adversely impact neighboring residents.

The other LFDC located within 300 feet is located on Pointe Claire Drive, a street parallel to Cordilleras Avenue. The other two LFDC homes nearby are more than 300 feet away (approximately 304 feet and 944 feet away from the subject site). Staff finds that there is reasonable separation between these LFDC homes and that traffic impacts are unlikely.

- **Noise**

The proposed LFDC will have outdoor activities within the fenced back yard, and as a result, may have potential noise impacts on adjacent properties. Noise from children at a day care is not subject to the operational noise limits in the Municipal Code. The 300-foot separation requirement for LFDC uses was established in part to protect property owners from the potential noise impacts associated with large numbers of children being cared for in outdoor areas. Although the combined operation of two facilities within 300 feet of another may result in higher noise levels at adjacent properties, staff does not believe that this impact will be significant due to the configuration and distance between the sites. The rear yards are not adjacent to one another and are separated by a row of homes and Cordilleras Avenue.

The City's Neighborhood Preservation Division (NPD) has not received noise complaints from the current small family day care operation at this home,

nor has NPD received any noise complaints from the other LFDC homes within the vicinity.

- **Outdoor Play Structures**

There are existing play structures in the back yard that are less than 8 feet in height and do not require Planning permits. Future outdoor play structures greater than 8 feet in height located in the backyard will require a separate staff-level permit and will be subject to siting and height restrictions contained in SMC 19.40. Play structures are prohibited in the front yard.

- **Signs**

SMC 19.42.010 prohibits the display of wall and window signs, which is noted in Staff's Recommended Conditions of Approval in Attachment B.

- **Sidewalks**

The project does not have a standard sidewalk and has a rolled curb. This is common for some residential neighborhoods that are former Santa Clara County pockets. Staff has determined that there is no nexus to require a new sidewalk. There are no other sidewalks to connect a new sidewalk to along this block and the requirement is not proportional to the scope of the project (primary use as a single-family home is maintained and redevelopment is not proposed).

Environmental Review

A Class 1 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City Guidelines. Class 1 Categorical Exemptions include projects involving family day care facilities.

Planning Commission Hearing

On March 12, 2012, the project was considered at a Planning Commission public hearing. In response to public noticing for the hearing, staff received two letters from neighboring residents opposing the project. Two additional neighbors spoke at the public hearing in opposition to the project. Neighborhood concerns generally included parking, traffic and noise impacts. The adjacent neighbor to the south also expressed privacy concerns about the existing fence between the two properties that is approximately 4 feet in height from his back yard. A second neighbor who attended the hearing also expressed concerns about toys being thrown over her fence from the existing LFDC at 1390 Pointe Claire Court (see minutes in Attachment H). After considering the proposal and public testimony, the Planning Commission denied the project with a 4-3 vote.

Appeal to City Council

On March 26, 2012, the decision of the Planning Commission was appealed by the applicant (see appeal letter in Attachment D). The applicant states that the proposed LFDC provides a child care service that is in demand in Sunnyvale and impacts on the neighborhood will be minimized. In an attempt to reach out to the neighbors, the applicant provided letters to the neighbors that address concerns expressed at the Planning Commission hearing (see letter to neighbors in Attachment H). The letter addressed the following issues:

- **Parking and Traffic**

In an effort to reduce potential parking impacts on the neighborhood, the applicant has provided a draft agreement that will be signed by the parents. The agreement encourages the use of the two driveway spaces and two to three on-street parking spaces directly in front of the property. On-street parking in front of other properties should only be used if the driveway spaces and spaces in front of the subject site are already taken. The signed agreement also discourages unsafe driving behaviors, such as double-parking and speeding (see letter to parents in Attachment F). The applicant also states that there will be siblings attending the day care, which will reduce the number of vehicles visiting the site.

- **Noise**

A schedule of the children's activities has been provided by the applicant (see Attachment E). The schedule shows that most of the activities are structured and occur indoors. Outdoor play time is limited to approximately one to two hours a day collectively under the supervision of LFDC staff.

- **Privacy**

The applicant sent a letter to the neighboring property owner to the south regarding the existing fence (see Attachment E). As mentioned at the public hearing, the existing fence is approximately 4 feet in height from the neighbor's side and approximately 5 feet in height from the applicant's side. SMC 19.48 allows fences up to 8 feet in height without a separate Planning permit (building permit is required). Fence height for zoning purposes is measured from the highest adjoining grade to the highest point on the fence. An 8-foot tall fence would allow for 9 feet of privacy on the applicant's side, which would help to reduce potential privacy impacts. To address potential privacy impacts, staff recommends that the entire rear yard fence be up to 8-feet tall as mutually agreed by each adjacent neighbor. Fence height would be measured from the highest adjoining grade (see Attachment B).

Staff Comments on Appeal

In staff's opinion, the applicant has attempted to provide additional assurance to neighbors by: explaining her child care program, implementing the parking/driving agreement and addressing privacy concerns of the adjacent neighbor through fence height. Therefore, staff finds that traffic, parking and noise impacts will be reduced and that the simultaneous operation of multiple LFDC's will not be detrimental to neighborhood properties.

A Use Permit for a LFDC located at 880 Lori Avenue was unanimously approved by the Planning Commission on April 9, 2012. In this instance, there is an existing LFDC operating within 300 feet, across the street and three houses down. On-street and off-street parking is more limited on Lori Avenue due to narrower lots and single-car garages. Several residents expressed opposition at the public hearing and a petition against the project was circulated. However, the Planning Commission was able to make the findings to approve the project based on the applicant's efforts to address neighborhood concerns and reduce potential impacts. Similar to the current application being considered, the applicant reached out to neighbors and created a similar agreement for parents to sign. As conditioned with the fence upgrade, staff also finds that privacy impacts will be further minimized. Therefore, staff finds that approval of this project is consistent with Planning Commission's recent action to approve a LFDC within 300 feet of another.

FISCAL IMPACT

No fiscal impacts are anticipated other than normal fees and taxes.

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's Web site. A total of 50 notices were mailed to property owners and residents adjacent to the project site.

At the time of this staff report preparation staff had received letters from the neighbors, including seven letters in support, four letters in opposition, and a petition against the project signed by 14 neighbors along Cordilleras Avenue and La Bella Avenue (see Attachment G). Several concerns outlined in these letters have already been addressed in this report, which include parking, traffic, noise and privacy impacts. One letter alleges that the applicant's description of capacity (number of children and ages) violates the State's Department of Social Services requirements for capacity. If the project is approved, the applicant is required to obtain all permits or licenses required by the State Department of Social Services (Condition of Approval #GC.6.a).

Through this separate licensing process, the State will ensure compliance with all applicable regulations.

ALTERNATIVES

1. Grant the appeal and approve the Use Permit with conditions listed in Attachment B.
2. Grant the appeal and approve the Use Permit with modified conditions.
3. Deny the appeal and uphold the decision of the Planning Commission to deny the Use Permit.

RECOMMENDATION

Alternative 1 – Grant the appeal and approve the Use Permit with conditions listed in Attachment B.

Reviewed by:

Hanson Hom, Director, Community Development Department

Reviewed by: Trudi Ryan, Planning Officer

Prepared by: Noren Caliva, Associate Planner

Approved by:

Gary M. Luebbers

City Manager

Attachments

- A. Recommended Findings
- B. Recommended Conditions of Approval
- C. Site and Architectural Plans
- D. Appeal Letter
- E. Applicant's Letters to Neighbors
- F. Applicant's Letter to Parents
- G. Letters from Other Interested Parties
- H. Minutes of the Planning Commission Hearing Dated March 12, 2012

RECOMMENDED FINDINGS

Use Permit

Goals and Policies that relate to this project are:

General Plan: Land Use and Transportation – Policy LT-4

Preserve and enhance the high quality character of residential neighborhoods.

General Plan: Land Use and Transportation – Policy LT-4.4c

Encourage and support home businesses that accommodate changing technologies and lifestyles, while remaining secondary to the nature of the residential neighborhood.

General Plan: Land Use and Transportation – Policy LT.4.14

Support the provisions for a full spectrum of public and quasi-public services (e.g. parks, day care, group living, recreation centers, religious institutions) that are appropriately located in residential, commercial and industrial neighborhoods and ensure that they have beneficial effects on surrounding areas.

Council Policy – Policy 5.1.2

The City will support activities designed to increase the availability and quality of family child care homes in Sunnyvale. Priorities include developing more infant care slots; improving the quality of home care; and increasing the numbers of licensed providers.

Sunnyvale Municipal Code – Chapter 19.58.070

Finding

*A waiver of the 300-foot separation requirement would not be detrimental or injurious to the property or improvement, or uses in the immediate vicinity.
[Finding Met]*

The proposed use is a desirable addition to the community, as it provides conveniently-located neighborhood child care. There is sufficient parking available for the proposed use both on the driveway of the home and on the street. The rear yard of the home is fenced to provide a private outdoor recreation area and prevent undue noise impacts on adjacent properties. In addition, the applicant's agreement to be signed by parents will help to further reduce potential traffic and parking concerns. Therefore, the simultaneous operation of the two facilities is not likely to result in detrimental traffic, parking, or noise levels in the neighborhood. As a result, the proposed use would not be detrimental to the public welfare or injurious to the property, improvements, or uses within the immediate vicinity.

ATTACHMENT B

RECOMMENDED CONDITIONS OF APPROVAL AND STANDARD DEVELOPMENT REQUIREMENTS SEPTEMBER 11, 2012

Planning Application 2012-7045

1372 Cordilleras Avenue

Use Permit to allow a large family day care within 300 feet of another large family day care.

The following Conditions of Approval [COA] and Standard Development Requirements [SDR] apply to the project referenced above. The COAs are specific conditions applicable to the proposed project. The SDRs are items which are codified or adopted by resolution and have been included for ease of reference, they may not be appealed or changed. The COAs and SDRs are grouped under specific headings that relate to the timing of required compliance. Additional language within a condition may further define the timing of required compliance. Applicable mitigation measures are noted with "Mitigation Measure" and placed in the applicable phase of the project.

In addition to complying with all applicable City, County, State and Federal Statutes, Codes, Ordinances, Resolutions and Regulations, Permittee expressly accepts and agrees to comply with the following Conditions of Approval and Standard Development Requirements of this Permit:

GC: THE FOLLOWING GENERAL CONDITIONS AND STANDARD DEVELOPMENT REQUIREMENTS SHALL APPLY TO THE APPROVED PROJECT.

GC-1. CONFORMANCE WITH APPROVED PLANNING APPLICATION:

All building permit drawings and subsequent construction and operation shall substantially conform with the approved planning application, including: drawings/plans, materials samples, building colors, and other items submitted as part of the approved application. Any proposed amendments to the approved plans or Conditions of Approval are subject to review and approval by the City. The Director of Community Development shall determine whether revisions are considered major or minor. Minor changes are subject to review and approval by the Director of Community Development. Major changes are subject to review at a public hearing. [COA] [PLANNING]

GC-2. USE EXPIRATION:

The approved Use Permit shall expire if the use is discontinued for a period of one year or more. [SDR] (PLANNING)

GC-3. PERMIT EXPIRATION:

The permit shall be null and void two years from the date of approval by the final review authority at a public hearing if the approval is not exercised, unless a written request for an extension is received prior to the expiration date and is approved by the Director of Community Development. [SDR] [PLANNING]

GC-4. OUTDOOR PLAY STRUCTURES:

A separate staff-level permit is required for play structures greater than 8 feet in height located in the backyard and must comply with siting requirements contained in SMC 19.40. [COA] [PLANNING]

GC-5. SIGNS PROHIBITED:

Display of wall and window signs are prohibited per SMC 19.42.010. [PLANNING] [COA]

GC-6. OBTAIN OTHER PERMITS AND LICENSES:

The following additional permits and licenses are required prior to commencement of the approved use:

- a) Obtain all required permits or licenses to operate as a large family day care from the State Department of Social Services.
- b) Obtain required permits from the City of Sunnyvale Department of Public Safety, Fire Services.
- c) Obtain a City of Sunnyvale business license. [COA] [PLANNING]

GC-7. FENCE:

The entire rear yard fence shall be up to 8-feet tall as mutually agreed by each adjacent neighbor. The fence height shall be measured from the highest adjoining grade and is subject to a building permit by the Building Safety Division. The fence shall be constructed prior to the commencement of use. [COA] [PLANNING]

AT: THE FOLLOWING CONDITIONS SHALL BE COMPLIED WITH AT ALL TIMES THAT THE USE PERMITTED BY THIS PLANNING APPLICATION OCCUPIES THE PREMISES.

AT-1. HOURS OF OPERATION:

The use permitted as part of this application shall comply with the following hours of operation at all times:

- a) The hours of operation are limited from 8 a.m. to 6 p.m. [COA] [PLANNING]

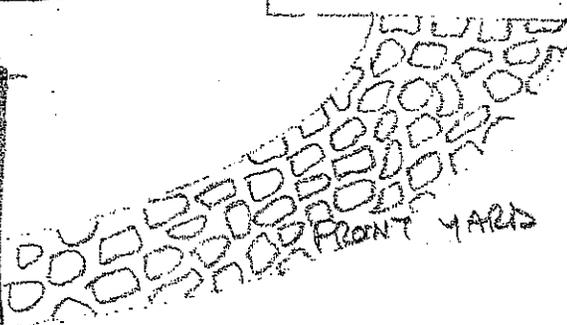
AT-2. PARKING:

Garage spaces shall be maintained at all times so as to allow for parking of two vehicles. Vehicles belonging to the business operator and residents of the home shall be stored inside the garage during the operating hours of the large family day care. [COA] [PLANNING]

HOUSE

2 CAR GARAGE

OUTSIDE PARKING SPOTS



20'8"

76'0"

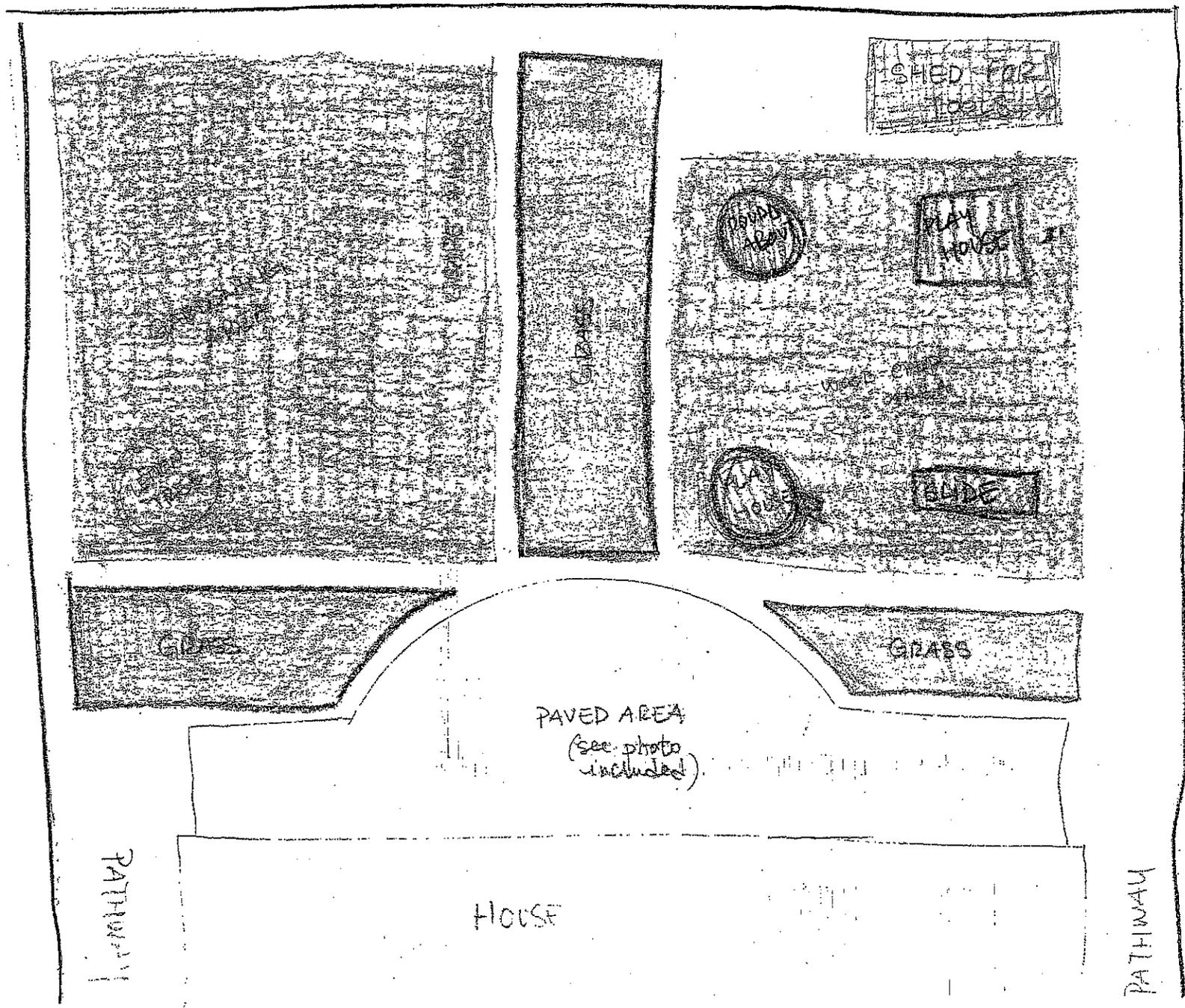


ATTACHMENT
Page 1 of 3

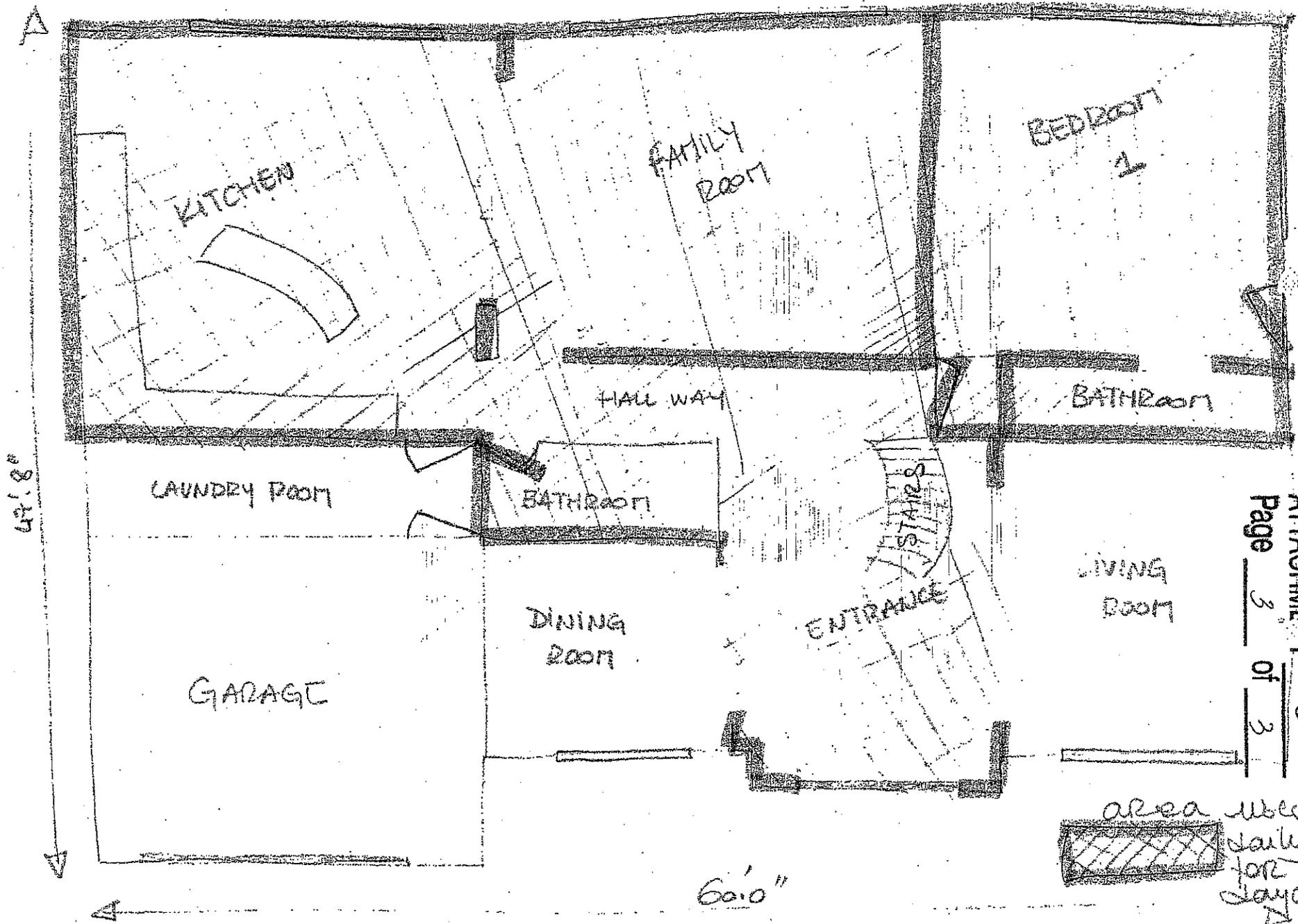
1372 CORDILLERAS AVE

possible to park 2 or 3 cars in front of the house + 2 outside parking spots

PARKING SPOTS



FRENCH AMERICAN KIDS



ATTACHMENT 1
 Page 3 of 3

FLOOR PLAN

Use permit to allow a large family daycare on Cordilleras Ave, within 300 feet of another large family daycare.

This application is to allow a large family daycare in an existing small family daycare on Cordilleras Avenue in Sunnyvale, CA.

The owner, Sholeh Hashemi, has opened her daycare in September of 2010 and is looking to extend care to more children. There are a few reasons to her wish to get a large family daycare; Siblings of current students are in age to attend the daycare with their brother or sister; Sholeh provides a very rare opportunity for Francophone and Francophile families to have their children attend a full French immersion program. Therefore, there is also a demand from new families to join the daycare; and finally, this is the only income to Sholeh and her two teenage sons since her husband passed away about 3 month ago.

We hope that the explanation we have provided in the following documents will assure you, the commission, and the neighbors that the daycare will not be a nuisance to the neighborhood but rather an addition to the wellbeing of the community.

Thank you in advance for your time and consideration.

Daily schedule of French American Kids

ATTACHMENT D
Page 2 of 8

- 8:30 – 9:30 Arrival / Free Play
- 9:30 – 10 Circle time: Reading, Singing, Educational Games Working on Color, Alphabet,...
- 10 – 10:30 Snack (sitting at table)
- 10:30 – 11 Outside play (supervised)
- 11 – 12 Creative Activities: Painting, Cooking,...
- 12 – 12:30 Lunch (sitting at table)
- 12:30 – 1:30 Free Play
- 1:30 – 3 Nap / Quiet Time
- 3 – 3:30 Snack (sitting at table)
- 3:30 – 4 Outside Play
- 4 – 6 Free Play

The outside play time can be changed depending on weather condition, in the winter the children might go outside later, and in the summer, they might go outside earlier before the heat really sets in.



Traffic

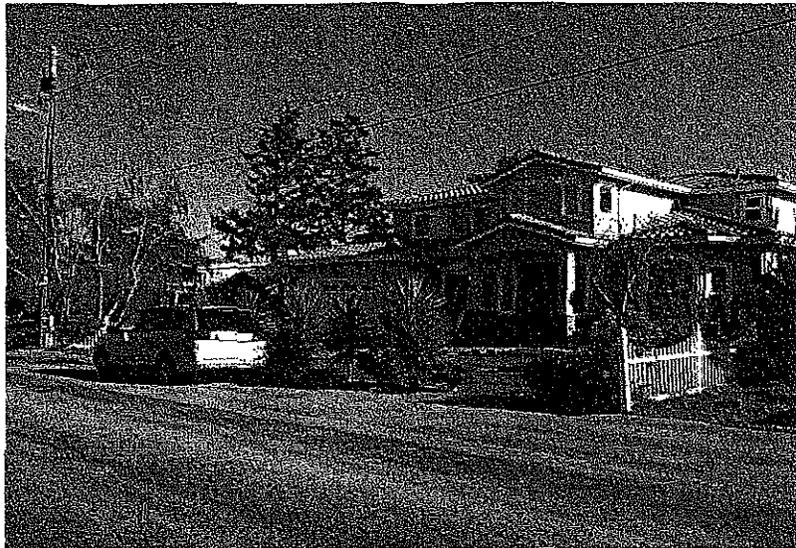
During the previous hearing, people have raised the issue of traffic speed on Cordilleras Ave, without any formal or direct incident with our parents. However, we understand and share their concerns and have hand out little flyers to our families, reminding them that the speed limit is 25 miles per hour (see flyer attached).

Parking

The parking issue was also mentioned and some people felt that having more than 6 children dropped off and picked up would really interfere with parking and safe traffic on the street.

Our children arrive between the time of 8:30 and 9:30am, the drop off is therefore pretty spread out over an hour, furthermore, some of our families bring siblings and one family uses public transportation.

As for the pick up, we provide flexible schedule to our families and some, with younger children, pick them up at 12:00pm, while most do at 1pm, after lunch. As of now, the daycare is open until 6pm, but only one or two children are cared for in the afternoon.



Capacity of the Daycare

We currently have a license for 8 children, however the many restrictions on the age of the children attending at one given time currently limits us to 6 children (see California Social Services documents attached).

A license for 14 children would require that 2 of them are at least 6 years of age. Since we provide care for children 18 month to 4 years of age, this would limit us to 12 children.

In order to care for this amount of children, the owner would be assisted by 2 teachers. We currently have one teacher alongside the owner on a daily basis.

Outside Play

We understand our neighbors concerns about the noise level of 6 or 12 children playing outside but would like to outline certain aspects of our program in order to ease their worry.

Our program is educational and most of the activities are structured and indoors. However, the children are also involved with outside activities in our garden during the day, but for a limited amount of time. The Daily schedule shows when the children are outside.

On some occasion, the children might spend more time outside, as they recently did to plant onions and garlic under direct supervision of their teacher, or to pick grapes up from the vines at the end of the summer. These activities are relatively quiet and are most likely not going to have any impact on the noise level on the street.



When playing outside for their 'recess time' the children are supervised and have direct interaction with their teacher who provides guidance to their play.

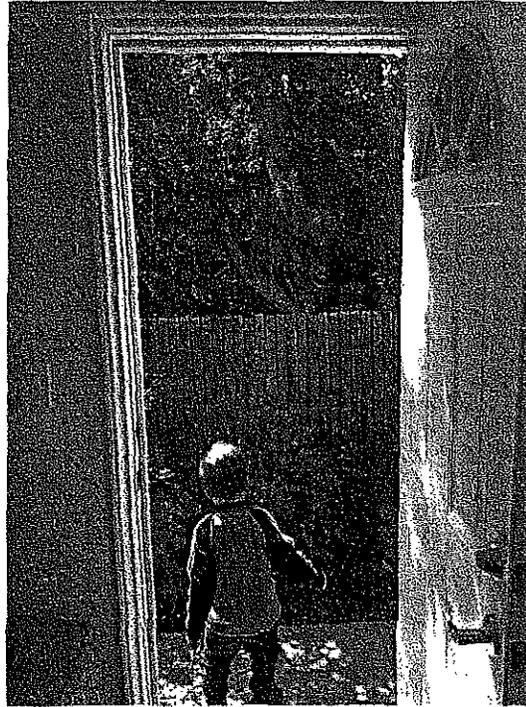
We would like to point out that no complains associate to noise have been made against the daycare.



Concern about the height of the fence

Please see pictures of the fence below that has been an issue for our neighbor. We have requested 2 quotes from professionals in order to accommodate the issue, we hope to find an agreement with our

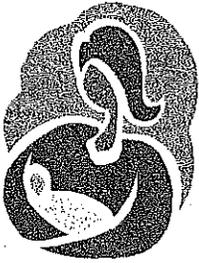
neighbor on how to resolve this. We propose to share the cost of a new fence.



Proximity with other daycare

There is another daycare within 300 feet of our daycare. This daycare is located on Point Claire Drive. While this daycare has a license for a large family daycare, the daycare is currently providing daily care for 6 to 7 children maximum. The owner told us that drop off starts at 6am, and that most children are there part-time. We feel that the traffic generated by her families would not be in addition to ours since her children are mostly dropped off much earlier than ours.

From what we understood, she does not plan on having more children under her care, even though she does have a license for 14 children.



California Family Child Care Staffing Ratio and Capacity

The capacity specified on the license is the maximum number of children for whom care can be provided.

Small Family Child Care – License for 6

The maximum number of children for whom care may be provided in a small family child care licensed for 6, including children under age 10 who live in the licensee's home, is:

- * Four infants; or
- * Six children, no more than three of whom may be infants

NOTE: An infant is any child under the age of 2 years old

Small Family Child Care – License for 8

A small family day care home may provide care for up to eight children, without an additional adult present, if all of the following conditions are met:

- * At least two of the children are at least six years of age.
- * No more than two infants are cared for during any time when more than six children are cared for.
- * The licensee notifies each parent that the facility is caring for two additional school-age children and that there may be up to seven or eight children in the home at one time.
- * 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.

Large Family Child Care – License for 12

The maximum number of children for whom care may be provided, with an assistant present, in a large family child care licensed for 12, including children under age 10 who live in the licensee's home and/or the assistant's children, is:

- * Twelve children, no more than four of whom may be infants

Large Family Child Care – License for 14

A large family day care home may provide care for up to 14 children, with an assistant present, if all of the following conditions are met:

- * At least two of the children are at least six years of age.
- * No more than three infants are cared for during any time when more than 12 children are being cared for.
- * The licensee notifies a parent that the facility is caring for two additional school-age children and that there may be up to 13 or 14 children in the home at one time.
- * 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.

The facility's license should be posted in a prominent place. If you don't see it ask!

Dear Neighbors,

I am the owner of 1372 Cordilleras Ave and have operated a daycare at my house for a little over a year. I am currently licensed for a small family daycare, but because of California's restrictions and the age of the children I care for, I currently can only have 6 children on a given day. My families have siblings they would like to enroll and I am happy to say that I have received a lot of interest from new families.

The large family daycare license would allow me to have up to 12 children at a time.

We provide a French immersion care, with a very structured program for children 18 month to 4 years of age. We are currently two working adults on a daily basis.

You might remember a letter from the city of Sunnyvale about my request. We presented our program to the commission but have been denied because of neighbors' concern about parking, traffic speed and noise (3 commissioners voted yes, while 4 voted no). We want to assure you that we heard and shared your concerns, and have presented an appeal to the city of Sunnyvale.

Here is what we have been doing to assure you and everyone in the neighborhood that we heard and shared your concerns:

- Privacy impacts - I have received a quote from a fence contractor and plan to extend the height of the fence along the right side of my home. This will help to address the neighbor's concerns about children looking over the fence line.

- Noise impacts - Children will not play outside for more than 2 hours a day. While outside, children have a structured play activity, such as gardening, painting, or group play activities. At one least adult is outside supervising the children at all times. The limited outdoor play time and supervision will help to reduce noise impacts.

- Parking - I will keep the two parking spaces on my driveway open for parents to park, as well as the two parking spaces on the street right in front of my home. Each parent has been required to sign an agreement that states that they must use the two driveway spaces first if available, then the two street spaces if the driveway spaces are taken. I will also remind the parents that illegal parking, such as double-parking, is prohibited.

- Traffic - Although most of the traffic concerns raised in the neighborhood are not attributed to the parents of my daycare, I will do my best to remind the parents that unsafe driving is discouraged. Each parent will be required to sign an agreement which includes information that addresses traffic impacts.

We hope you will be supportive of our request and come and talk to me about any concerns or suggestions you might have, I will be happy to tell you about our program and operation and give you a tour of our home.
Regards,

Your neighbor,
Sholeh Hashemi

Dear Neighbor,

I understand your concern about the fence between our backyards and I have requested a quote from a contractor to investigate what we could do to change the fence to a high that would make you more comfortable.

I am enclosing the quote for a new fence 6 feet high, and would like to suggest that we share the cost of its installation. I think the price is reasonable.

Please let me know how you feel about it, I hope we can find common ground on this.

Regards,

Sholeh Hashemi
(408) 598 5052

Dear Parents,

Our neighbors have raised concerns about traffic speed and parking on Cordilleras Ave, we understand and share these concerns and would like to remind you that:

- traffic speed is limited to 25 miles/hour on Cordilleras
- double parking is always illegal and dangerous
- parking should be, as much as possible, limited to the driveway and direct area in front of Sholeh's house. If you have to park elsewhere, please make sure to do so safely and respectfully.

Thank you for your help in keeping our neighborhood safe and pleasant to all.

French American Kids

I have received a document from French American Kids highlighting rules about traffic and parking on Cordilleras Avenue and will gladly comply with the list of rules.

Name:

Signature:

Date:

From: Cynthia Markiewicz < >
To: "ncaliva@ci.sunnyvale.ca.us" <ncaliva@ci.sunnyvale.ca.us>
Date: 2/27/2012 5:26 PM
Subject: File 2012-7045 Large Family Day Care

As requested I am sending my comment re the above application. I am unable to attend the public hearing due to the need to care for someone having surgery that day.

I approve of day-care in private homes and appreciate the need for same. However, I believe the number of children should be limited to 5 or 6. You told me that there is no license needed for up to 8 of which I was unaware. I understand that this application would allow up to 14 children! This number of children in a residential neighborhood is far too many in my opinion. The traffic, the noise of the children which of course is natural, is fine for a school or major day-care center but I did not buy my home in a residential area with the idea I would be near a day-care center. I take care of my grandchildren and other children at times and with two or three the noise level can be high which at times concerns me because of my neighbors. This has always been a quiet neighborhood. I would appreciate keeping it this way. There are times, of course, when folks have parties and the noise level is high but that is infrequent, not a daily event.

To summarize, eight children is too many (from my viewpoint) so I am much opposed to an increase above this number.

Most sincerely,

Cynthia Markiewicz
1385 Cordilleras Ave.
Sunnyvale, CA

"The ideals which have always shone before me and filled me with the joy of living are goodness, beauty, and truth." - Albert Einstein

- Traffic - Although most of the traffic concerns raised in the neighborhood are not attributed to the parents of my daycare, I will do my best to remind the parents that unsafe driving is discouraged. Each parent will be required to sign an agreement which includes information that addresses traffic impacts.

We hope you will be supportive of our request and come and talk to me about any concerns or suggestions you might have, I will be happy to tell you about our program and operation and give you a tour of our home.
Regards,

Your neighbor,
Sholeh Hashemi

4/22/12

I live behind Sholeh Hashemi.
I Kim Kamit ses am the owner of
the house 1373 LaBella.
I have no objection with the
day care, There is no noise
or traffic. I fully support
Mrs. Hashemi, She is an outstanding
neighbor.

Kim Kamit ses
1373 LaBella Ave
Sunnyvale CA 94087
408 736 3624

- Traffic - Although most of the traffic concerns raised in the neighborhood are not attributed to the parents of my daycare, I will do my best to remind the parents that unsafe driving is discouraged. Each parent will be required to sign an agreement which includes information that addresses traffic impacts.

We hope you will be supportive of our request and come and talk to me about any concerns or suggestions you might have, I will be happy to tell you about our program and operation and give you a tour of our home.
Regards,

Your neighbor,
Sholeh Hashemi

I Sedi Sohrabi owner of 1396 Cordilleras Ave have no problems and no objection with Sholeh to have day care. She is such a nice person and responsible person and it will be good for the neighborhood to have a day care and wouldn't be any traffic or noise.

Sedi Sohrabi
1396 Cordilleras Ave
SUNNYVALE CA 94087
PH # (408) 230-2745

- Traffic - Although most of the traffic concerns raised in the neighborhood are not attributed to the parents of my daycare, I will do my best to remind the parents that unsafe driving is discouraged. Each parent will be required to sign an agreement which includes information that addresses traffic impacts.

We hope you will be supportive of our request and come and talk to me about any concerns or suggestions you might have, I will be happy to tell you about our program and operation and give you a tour of our home.
Regards,

Your neighbor,
Sholeh Hashemi

(408) 598 5052

I, Mihal Nozik, owner of the house on 1384 Cordilleras Avenue, have absolutely no objection, and see no problem, with ~~a~~ having the day care on our street. I think that Sholeh is a wonderful person and I am sure that the daycare will be wonderful for the children who go there. I see no problem with traffic or noise or any other problem.

Mihal Nozik
1384 Cordilleras Ave
Sunnyvale, CA 94087
(408) 737 1097

- Traffic - Although most of the traffic concerns raised in the neighborhood are not attributed to the parents of my daycare, I will do my best to remind the parents that unsafe driving is discouraged. Each parent will be required to sign an agreement which includes information that addresses traffic impacts.

We hope you will be supportive of our request and come and talk to me about any concerns or suggestions you might have, I will be happy to tell you about our program and operation and give you a tour of our home.
Regards,

Your neighbor,
Sholeh Hashemi

(408) 598 5052

~~#~~ J. Francisco Banton
1290 Coralulleras Ave
Sonnyvale, CA 94089

Have no problem with the daycare of Sholeh Hashemi. I have no problems with traffic and noise from the daycare.

Francisco & Michael
Banton

(408) 245-9226 - 04/17/2012 -

- Traffic - Although most of the traffic concerns raised in the neighborhood are not attributed to the parents of my daycare, I will do my best to remind the parents that unsafe driving is discouraged. Each parent will be required to sign an agreement which includes information that addresses traffic impacts.

We hope you will be supportive of our request and come and talk to me about any concerns or suggestions you might have, I will be happy to tell you about our program and operation and give you a tour of our home.
Regards,

Your neighbor,
Sholeh Hashemi

(408) 598 5052

I Debbie Schaeffer see no problems with the day care being on my street. I don't see a problem with traffic at all. I think that Sholeh is providing a wonderful service.

Debbie Schaeffer
1360 Cordillera Ave.
Sunnyvale CA 94087
408-832-0118
cell

- Traffic - Although most of the traffic concerns raised in the neighborhood are not attributed to the parents of my daycare, I will do my best to remind the parents that unsafe driving is discouraged. Each parent will be required to sign an agreement which includes information that addresses traffic impacts.

We hope you will be supportive of our request and come and talk to me about any concerns or suggestions you might have, I will be happy to tell you about our program and operation and give you a tour of our home.
Regards,

Your neighbor,
Sholeh Hashemi

Our residence at 1361
Cordillias is across the street from
1372 and have no objection toward
the 'Day Care' Review,
we feel no objection to concern about
noise or traffic

ROBERT & YVONNE SCHAUTZKE

Robert Schautzke

- Traffic - Although most of the traffic concerns raised in the neighborhood are not attributed to the parents of my daycare, I will do my best to remind the parents that unsafe driving is discouraged. Each parent will be required to sign an agreement which includes information that addresses traffic impacts.

We hope you will be supportive of our request and come and talk to me about any concerns or suggestions you might have, I will be happy to tell you about our program and operation and give you a tour of our home.
Regards,

Your neighbor,
Sholeh Hashemi

I live in 1379 Cordilleras Ave,
It is ok for us.

Sholeh

Noren Caliva - Large Daycare on Cordilleras

From: Chet Hee <
To: ncaliva <ncaliva@ci.sunnyvale.ca.us>
Date: 6/29/2012 2:31 PM
Subject: Large Daycare on Cordilleras
CC: Chet Hee
Attachments: Double parking.jpg; Parking 6 29 12.jpg

Hi Noren,

*Can you please pass this along for the upcoming city council meeting
 Thank you for the opportunity to comment on the proposed large daycare at 1372 Cordilleras Ave. ?
 Thank you.*

Dear City Council Members,

I am sending you a copy of the letter I sent to the planning department concerning the large daycare permit for 1372 Cordilleras Ave. Since this letter was drafted, we have learned that there will be an application coming for an 18 plus unit housing project on the corner of our street at the church property. If this project and the large daycare project are approved, the total number of uses generating more than the usual neighborhood traffic will be 4. There are two existing large daycare centers (one on Cordilleras and one on Point Claire) approximately 300 feet from our house. If you add the new proposed housing project on the corner and the possible large daycare across the street, there certainly will be an increase in traffic beyond what average neighborhoods should have to deal with. Also, parents tend to speed to drop their children off and get to work.

Parking is also an issue and I have included pictures of illegal parking going on currently. If the permit for a larger daycare is approved, it is more likely that this type of parking will occur.

With the two existing large daycares and new housing project coming We **strongly oppose** the permit approving a large daycare at 1372 Cordilleras Ave.

The staff report notes the following:

"Due to the availability of parking and varying drop-off and pick-up times, staff finds that the parking demand for the use will not adversely impact neighboring residents."

Did any of your staff come and spend some time out at the site before they made this determination? I come home at varying times in the afternoon and at the current student levels, there are many times that there are cars in front of my house. I live across the street. I am concerned that the increase in pick up and dropping off of students will mean I will be parking in front of my neighbor's house and then, out of consideration for my neighbors, coming out and moving my car back in front of my house.

Parking and Traffic

In response to "Therefore, staff finds that there is reasonable separation between the LFDC homes and that traffic impacts are unlikely", I have noticed that there is a definite increase through traffic down our street. It is noticeable enough that when I come home from work in the afternoon, I have to use extra

caution when exiting my car. Furthermore, if you look at the likely route people would use to get to the Pointe Claire site, they use Cordilleras to get there from Fremont since it involves all right turns and no traffic light. People would not have to wait for the light and then make a left if approaching from Hollenbeck. Approval of this project would certainly increase the traffic but more importantly, impact the existing safety of our neighborhood due to speeding . Speeding is something else I have notice an increase in. Two other traffic hazards that I have noticed are an increase in people cutting the corner when making a left turn from Cascade onto Cordilleras. My wife has commented on almost being hit by someone in a hurry to drop off or pick up their children.

The other hazard is parents parking half way in the driveway and halfway in the street. This forces traffic to go around the car in the driveway not to mention any pedestrians on the street. Even more worrisome is the obstruction the illegally parked car presents. What if one of the children runs around the car that is half in half out of the driveway and is struck by a car. Parents also park on the wrong side of the street facing the wrong way. Who is going to make sure that this type of parking doesn't happen? It happens ROUTINELY NOW! (**please see attached files**)

Noise

"The City's Neighborhood Preservation Division (NPD) has not received noise complaints from the current small family day care operation at this home, nor has NPD received any noise complaints from the other LFDC homes within the vicinity."

Once you allow this project to go in, what recourse do I have if there is a problem with the larger enrollment?

"Land Use and Transportation – Policy LT-4.4c"

Encourage and support home businesses that accommodate changing technologies and lifestyles, while remaining secondary to the nature of the residential neighborhood."

I fail to see the justification for approval if the project will affect the safety, traffic flow and parking in the primarily quiet neighborhood. The project blatantly puts the daycare interests first and the existing residents second. Since the project is within the 300 foot requirement, the city could disapprove this project.

"AT-2. PARKING":

Garage spaces shall be maintained at all times so as to allow for parking of two vehicles. Vehicles belonging to the business operator and residents of the home shall be stored inside the garage during the operating hours of the large family day care. [COA] [PLANNING]"

Who will enforce this? If this is not followed, this could lead to illegal driveway parking and someone getting hurt.

The applicant states ..."we will then have two teachers and the owner working at the facility." Where are the employees parking? If they park in front of the daycare, they increase the chance of traffic risk for the children. If they park, in front of the neighbors' house, the employees become primary to the nature of the residential neighborhood which is contradictory to the city's stated objective (Policy LT-4.4c). If they park in the driveway, they set up the situation for the parents to park illegally in the driveway.

From the applicant:

"With at least one car in the driveway it doesn't seems to impact the quietness and order of the street,

and our families are very polite and well mannered. We have not had any problems with the neighbors and passing cars."

This is an assumption on the applicant's part. We know the applicant had some family issues going on and we were trying to be tolerant of her circumstances and so we did not complain.

"As far as the impact on the neighborhood, I don't think there will be any complaints." Again, a false assumption. We and others in the neighborhood oppose the project.

"Most new children will be sibling, so the traffic in the street at drop off and pick up time won't increase very much." This is another unsubstantiated assumption. How can the applicant be sure that siblings will want to attend? If demand is so high, what stops the applicant from raising fees where parents can only afford to enroll one child?

"There is a definite need from the surrounding community." At best , the needs of 14 children will be met who may or may not be part of the Sunnyvale community. I would guess that there are at least 14 local residents that have a need to preserve our neighborhood the way it is. Do we count to or are we just formalities in the way of the city making more money?

From the Applicant:

"French American Kids offers a french language immersion program for children **18 month and up to 4 years of age.**" This seems to be contradictory to the state requirements.

From the state website:

102416.5 STAFFING RATIO AND CAPACITY

Up to 14 children when one child is at least six years of age and one child is enrolled in and attending kindergarten or elementary school, and no more than three infants are in care. Parent notification and property owner consent must be on file.

While we understand that the city can grant a permit to the 300 foot rule, there are numerous problems that would arise including children's safety, traffic safety and state compliance if the project is allowed to go forward. I hope we are not put in the position where we have to monitor the daycare because of the safety issues involved. We would like to think that we are part of the community too and not just part of the process. We have been trying to be tolerant of our neighbor but we would like to maintain our quiet neighborhood.

PLEASE DO NOT APPROVE THE PERMIT!!!

Sincerely,

Chet and Katy Hee





Dear City Council Members,

I am writing to oppose the large daycare permit at 1372 Cordilleras Ave. I am the neighbor to the north of this property at 1366 Cordilleras Ave.

We have lived here in Sunnyvale since 1990. We have seen many changes in the neighborhood, but none have affected the character of our street, or our daily life here as much as the daycare next door. Its current existence is opposed to the residential nature of the neighborhood which we valued so much when we bought our house. Any increase in size will only magnify changes brought by the current daycare..

Our first concern is the increase in traffic caused by daycare clients. There is no parking for parents dropping off their children except on the street in front of the neighbor's houses. Their cars block the street sweeper from sweeping in front of adjacent homes – a bi-monthly city service for which we pay . They also prevent our guests and us from parking in front of our house. Since there are no sidewalks on our street, the extra cars force pedestrians to walk dangerously close to passing cars. This is of special concern because the requested permit will allow 30 children to attend the daycare. If all attend, there will be a maximum of 60 trips to drop off and pick up children, dramatically increasing the amount of traffic on our street. The increased traffic poses and even greater risk to the children who will have to walk in the street to access the daycare.

Our practical use of our property and street safety aside, the daycare's presence has affected our ability to enjoy the peace and quiet of our backyard. The children play outside often and are quite noisy, especially in the morning. In our front yard, we often pick up trash dropped by the clients.

We are not opposed to the neighbor running a business out of her home, and are not denying her the opportunity to do so, but the business's affect on the surrounding neighborhood should be carefully considered. Size is very important in maintaining a balance between businesses and residents. There are already two other daycares near by that also contribute to traffic and noise. Since this is still a residential neighborhood, the city should regulate the size of these businesses so that they do not encroach on the street's character, safety and function for its residents.

Please deny the request for a large daycare at 1372 Cordilleras Ave.

Sincerely,

Valerie Jackson and Terry Smith

RECEIVED

JUL - 3 2012

PLANNING DIVISION

Grant Jasmin
1378 Cordilleras Ave.
Sunnyvale, CA 94087
(408) 736-9156

August 8, 2012

To the Sunnyvale City Council,

Please deny the Appeal of the denial, by the planning Commission, of a use Permit for a Large Family Day Care (LFDC) at 1372 Cordilleras Ave.

An orderly society lives by rules. In Sunnyvale, the rule is that there cannot be two LFDC's within 300 feet of one another. Here, there is another LFDC within 300 feet and a second just 304 feet away. The planning Commission properly denied the use permit because to grant it would violate the well established rule.

There is no compelling reason to reverse the judgment of the Planning Commission. The Day Care presently operated at this location, like the other three in the neighborhood, is a commercial enterprise operated for profit. It confers no benefit to the neighborhood and is indeed harmful to the neighborhood. The primary promoter of this enterprise does not live in the neighborhood, she lives in another city. None of the customers are from the neighborhood.

The findings of the Staff are erroneous and biased. Absolutely no input was sought from any one in the neighborhood. Since commencement of the enterprise presently operated at 1372 Cordilleras, traffic has increased substantially and parking has become scarce. The staff concludes that traffic and parking will not be a problem even though they have not asked anyone who lives with the existing day care and no study of any kind has been performed. Excessive noise is a constant irritation and litter has increased substantially. There are no sidewalks on Cordilleras and children often run into the street during drop off and pick up – which occurs all day. I believe the existing enterprise is a nuisance. To overturn the judgment of the Planning Commission would be to multiply the hardship this enterprise is already causing to the neighborhood.

The applicant highlights the fact that no formal complaints have been lodged regarding noise. Just because we don't call the police does not mean noise is not a problem. This only means there are good and tolerant neighbors. Noise is a major problem. The children at the present Day Care shriek and squeal at the top of their lungs when outside and many of the games and toys are loud. The noise from the existing LFDC down the street can often be heard all the way down the street. . To overturn the judgment of the Planning Commission would be to multiply the hardship this enterprise is already causing to the neighborhood.

Since the existing day care began operations, strangers (adults and children) have been peering over the fence into my yard and disturbing the peaceful enjoyment of my property. The applicant claims to have made efforts to resolve the "issue" with fence. This is not true. The applicant has proposed that I pay for one half of the cost of replacing the fence – which

would be a capital improvement to that Business. The fence has been there for 30 years that I know of. The fence is not and never has been a problem. The operation of the day care is the problem. Granting an exception to the rule would only make the problem far worse.

The alleged details regarding the operation of the nearby LFDC are simply not relevant and are not reliable. The LFDC is permitted to have 14 children. Even if they have no customers, they could be operating at the 14 child level next week. There is simply no direct unbiased information regarding the operation of that enterprise.

The intersection at Cordilleras and Cascade is un-controlled, the view to the east is partially obstructed and has no sidewalk. I have recently observed cars taking the turn too fast and 'cutting' the corner. I believe this is due to the increased traffic resulting from the existing LFDC's and has worsened since the subject day care has begun operations. Granting a waiver to allow yet another LFDC at 1372 Cordilleras would multiply the risk to pedestrians and other drivers.

The staff highlights that another LFDC was approved by the Planning Commission within 300 feet of another LFDC and states "staff finds that approval of this project is consistent with Planning Commission's recent action to approve a similar LFDC." This is absurd. This case is not that case. THIS CASE WAS DENIED by the very same Planning Commission. The cases are clearly inconsistent in their most important aspect -the result. Clearly the cases are different. Attached as Exhibit 1 is a map provided by the Planning Commission showing the location of the proposed LFDC and the surrounding neighborhood. Other than single family homes, the two large properties shown are a church and the neighborhood elementary school. There are no sidewalks in this neighborhood. Attached as Exhibit 2 is a map provided by the Planning Commission showing the location of the other LFDC and the surrounding neighborhood. The large lots at the bottom of the map are industrial properties occupied by Ration, Ironkey and the Sunnyvale Business Park. All of the other large lots at the top of the map are also large industrial buildings. All of the other properties shown are densely packed apartment buildings. There are sidewalks on the two streets in the center which are the only single family dwellings in the area. I am not aware of the other facts and circumstances surrounding approval of the other LFDC but there is a large commercial presence in that area and none surrounding 1372 Cordilleras and the one has sidewalks which promote safety for children and 1378 Cordilleras does not. The Planning Commission clearly saw the two situations as different and decided differently. Both decisions of the Planning Commission should be upheld and this Appeal denied.

The staff is impressed that the Applicant put a letter in my mail box proposing I pay for half of a new fence. As stated above, the fence has been there for 30 years that I know of and is in good repair. The problem is the Day Care, not the fence. Why should I pay for capital improvements to their business.

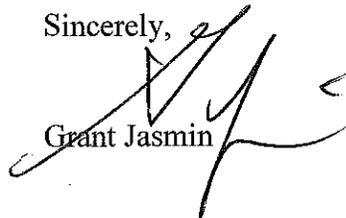
The staff is impressed that the Applicant wrote a letter to some of the neighbors after the application was denied by the Planning Commission. A self-serving letter drafted for the purpose of creating a favorable image is evidence of nothing and was likely suggested by others to create a more favorable illusion than is the reality. There is no mechanism for

enforcement of any of the statements made in the letter and most of the neighbors I have spoken with never received it. Nothing has changed since the letter was distributed. If anything, the situation is worse.

The staff is impressed that the Applicant wrote a letter to its customers, after the application was denied by the Planning Commission, asking for more civilized behavior. Again, a self-serving letter drafted for the purpose of creating a favorable image is evidence of nothing and was likely suggested by others to create a more favorable illusion than is the reality. There is no mechanism for enforcement of any of the statements made in the letter. I don't believe for a moment that any of the customers care or will change their behavior. Again, nothing has changed since the letter was distributed. If anything, the situation is worse.

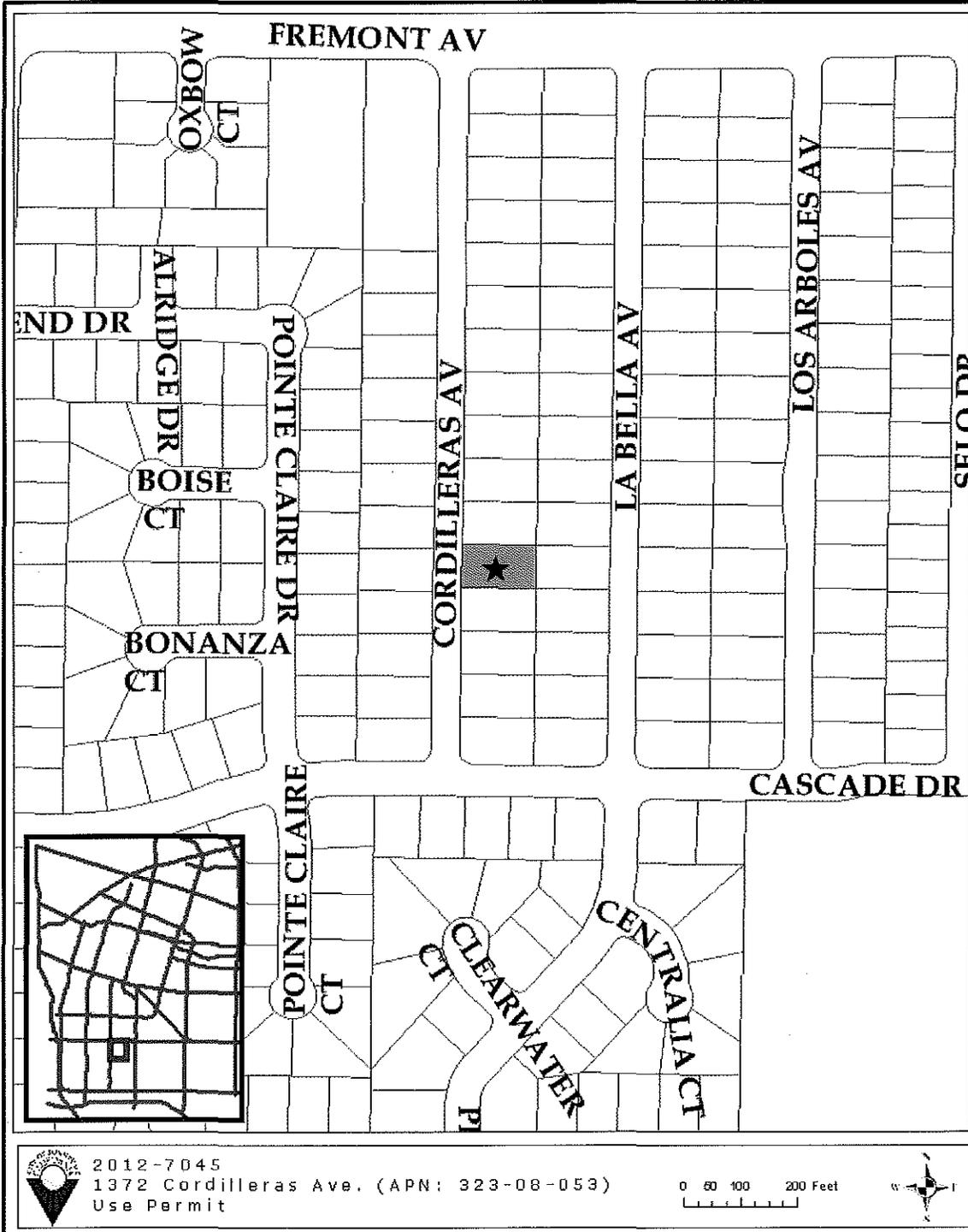
The Municipal Code forbids operation of an LDC within 300 feet of an existing LFDC. There is another large family day care within 300 feet of 1372 Cordilleras. There is no good reason to waive the rule. The Planning Commission denied the application. I urge you to enforce the law and deny the appeal.

Sincerely,


Grant Jasmin

2011-7045: Appeal of a Use Permit to allow a large fam

VICINITY MAP

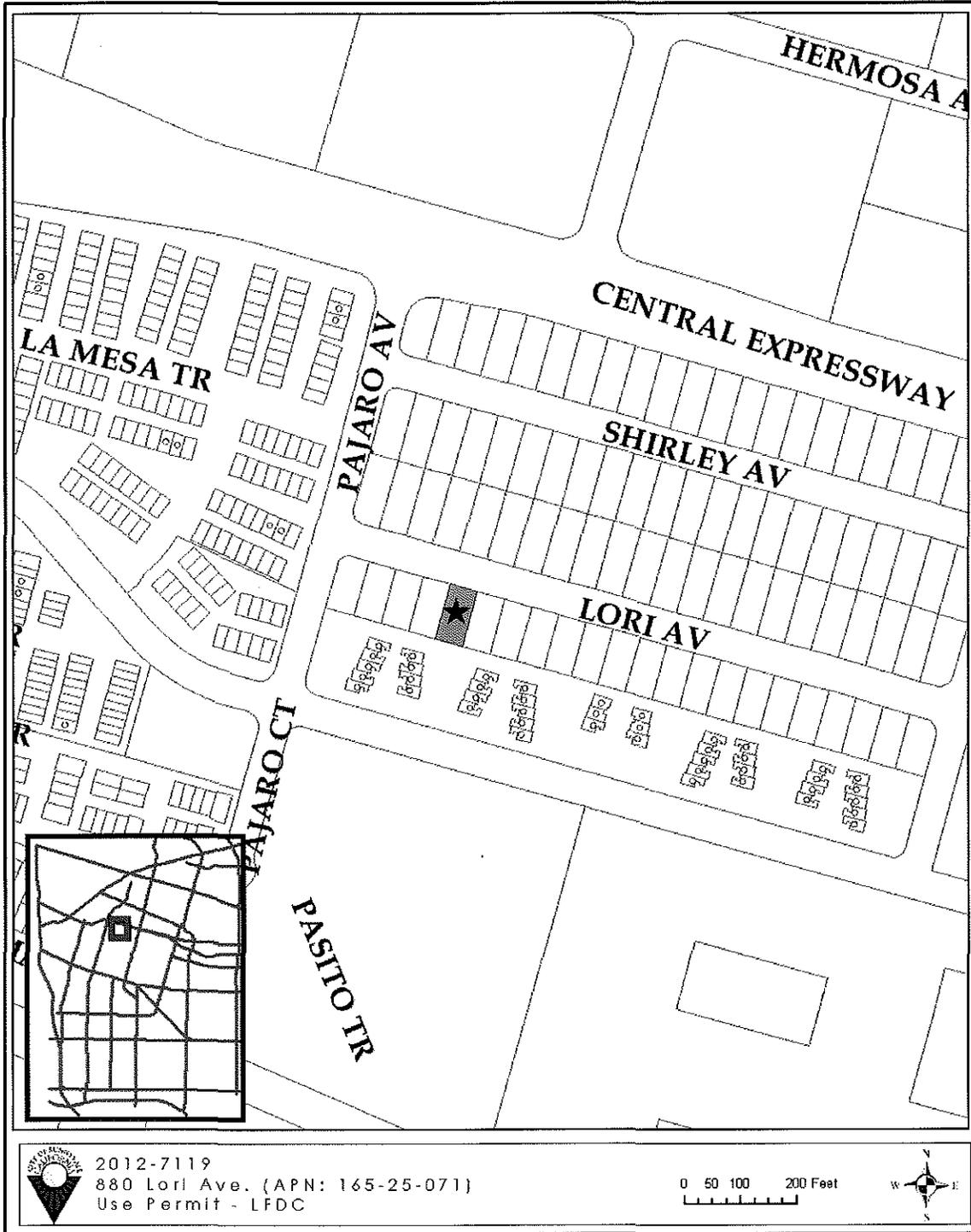


2012-7045
1372 Cordilleras Ave. (APN: 323-08-053)
Use Permit

0 50 100 200 Feet



VICINITY MAP



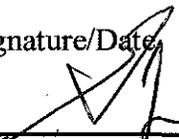
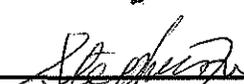
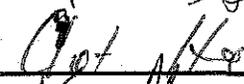
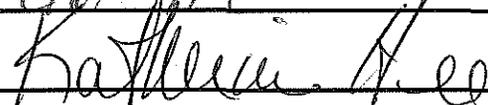
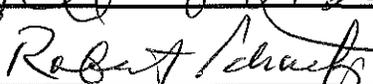
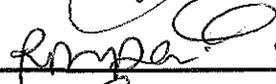
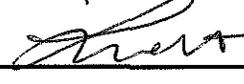
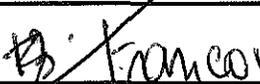
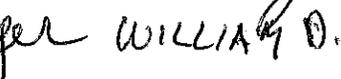
**Petition to the Sunnyvale City Council to Deny a Use
 Permit for a Large Family Day Care at 1372
 Cordilleras Ave.**

RECEIVED

AUG - 9 2012

The below property owners in the neighborhood of Cordilleras Ave. and La Bella Ave. are strongly opposed to the granting of a permit to operate a Large Family Day Care at 1372 Cordilleras Ave. We ask the council to affirm the well-considered decision of the Planning Commission denying an exception to the existing rule against a Large Family Day Care within 300 feet of another Large Family Day Care.

PLANNING DIVISION

Name	Signature/Date	Address
Grant Jasmin	 8-8-12	1378 Cordilleras
Stephen Stephen	 8-8-12	1379 Cordilleras
Dot Ho	 8/8/12	1378 Cordilleras
Kathleen Neo	 8-8-12	1378 Cordilleras
ROBERT SCHAETZLE SR	 08-08-12	1361 CORDILLERAS 94087
Valerie Jackson	 8-8-12	1364 Cordilleras 94087
Terry Smith	 8-8-12	1366 Cordilleras 94087
Debbie Schaezle	 8-8-12	1360 Cordilleras Ave. 94087
Rupal Desai	 8-8-12	1343 cordilleras
Man Szeto	 8-8-12	1349 Cordilleras Ave
FRANCOISE BARTON	 8/8/2012	1390 Cordilleras Ave Sunnyvale, CA 94089
BARBARA DWYER	 8/8/12	1343 La Bella Ave 94087
William Dwyer	 8/8/12	1343 La Bella Ave 94087

3. **File #:** 2012-7045
Location: 1372 Cordilleras Ave. (APN: 323-08-053)
Proposed Project: Use Permit to allow a large family day care within 300 feet of another large family day care.
Applicant/ Owner: French American Kids / Sholeh Hashemi
Environmental Review: Categorically Exempt Class 1
Staff Contact: Noren Caliva, 408-730-7637 ncaliva@ci.sunnyvale.ca.us

Trudi Ryan, Planning Officer, presented the staff report. She said two additional letters of opposition for allowing the day care were received and have provided to the Commission this evening.

Comm. Chang discussed with staff the zoning ordinance regarding Large Family Day Cares (LFDC) with staff explaining that any LFDC within 300 feet of another one would need a waiver to be allowed.

Chair Hendricks opened the public hearing.

Cecile Coignoux-Aram, representing the applicant Sholeh Hashemi, explained that the day care currently is unable to accommodate siblings of children enrolled. She said the number of children allowed is a ratio based on the age of enrolled children, which currently limits this day care from six to eight children. She said the LFDC designation would allow a maximum of 14 children, however they probably would not have that many. She said that the neighbors may be concerned about the noise level and explained the daily schedule of inside and outside activities. She said there probably would not be impact on traffic as most of the additional children would be older siblings and would arrive and depart in the same vehicle as children already attending the day care.

Vice Chair Larsson confirmed with the applicant that the age ratio of children allowed is a State requirement.

Comm. Dohadwala asked if the applicant provides any handouts for direction to parents on the best way to drop off and pick up children to help mitigate traffic and parking issues. Ms. Coignoux-Aram explained how drop off and pick up currently works and said something could be provided.

Comm. Kolchak commented that if this LFDC is allowed that in the future it is possible traffic would be impacted. He asked if the applicant has plans to mitigate potential traffic impacts. Ms. Coignoux-Aram said she is not sure that she does not know what the future impact might be.

Chair Hendricks said a neighbor expressed concern in an email about children from the day care looking over the four-foot high fence into their yard. Ms. Coignoux-Aram said that she thinks the fences in the backyard are higher than four feet and the current children are only 3 1/2 years old. Chair Hendricks commented to the applicant that if 14 children are allowed that the maximum impact would be 14 trips for drop off and 14 trips for pick up.

Ms. Ryan clarified that the maximum number of trips would be 12 each way as the LFDC allows 12 children and an additional two children of the owner or an employee.

Comm. Kolchak confirmed with staff that the LFDC would allow 14 children, however two of the 14 would have to be the owner's or an employee's children and those two children would not generate traffic trips.

Grant Jasmin, a neighbor, said he measured the fence between his yard and the existing day care yard and the fence is four feet high. He commented that the presenter tonight is not the homeowner or the applicant. He said traffic, parking, and noise are already affected by the small family day care and doubling the number of children would increase impacts.

Comm. Chang asked staff about the enrollment in the other nearby day cares.

Comm. Dohadwala asked staff to address the concern of Mr. Jasmin about the applicant not being the presenter. Ms. Ryan said it is common for an applicant to have a spokesperson and applicants often have someone else represent them.

Barbara Dwyer, a neighbor, said she lives behind the other LFDC that is within 300 feet of the proposed project. She said day cares are businesses that do not belong in residential neighborhoods. She said she constantly hears children screaming, that fruit, food and toys have been thrown over the fence, and the large play equipment towers over the fence. She said day cares are not required to sound proof, or provide landscaping. She said she can no longer enjoy her backyard due to the LFDC behind her and that she intentionally purchased her home away from parks, schools and businesses to avoid these impacts. She said it is wrong to have LFDC in residential neighborhoods. Ms. Dwyer said she is not impacted by traffic from the LFDC behind her; however, she knows there are problems elsewhere with traffic and parking from day cares.

Ms. Coignoux-Aram clarified that she is the mother of one of the children at the day care. She said the fence issue can be resolved. She explained that this day care is not the typical type of day care where the children are outside all day as there is a set schedule and discipline. She said she understands the issues raised. She said there is a need for this day care to keep the French language in their children's lives, and that the children are well behaved and are learning. She said she hopes the Commission approves the Use Permit.

Vice Chair Larsson asked that applicant about the ages of the currently enrolled children. Ms. Coignoux-Aram said that currently the children's ages range from 18 months and 4 years of age.

Chair Hendricks closed the public hearing.

Vice Chair Larsson asked staff about the fence issue and whether a condition could be added to increase the height of the fence in the rear yard. Ms. Ryan said yes and added that clarification about the existing fence height may be needed as the fence height can be different on different sides of the fence.

Chair Hendricks asked staff what recourse a neighbor has if there is excessive noise from a day care. Ms. Ryan said it is a difficult situation, as the noise requirements do not include children. Ms. Ryan said a neighbor could talk to their neighbor or possibly obtain mediation services.

Comm. Kolchak asked staff about the recourse a neighbor might have for speeding and parking problems. Ms. Ryan said the City's Neighborhood Preservation division could be contacted. Ms. Ryan said it is a good idea for the day care providers to remind the parents about traffic, parking and dropping off and picking up their children.

Comm. Dohadwala moved for Alternative 3, to deny the Use Permit. **Comm. Kolchak** seconded the motion.

Comm. Dohadwala said that this was a very difficult decision as she is a parent and understands the need for good day care. She said residents often choose a neighborhood expecting it to be a quiet neighborhood. She said allowing some day cares that do not disrupt a community are good; however, too many LFDCs allowed in an area can negatively affect the community.

Comm. Kolchak said he understands what the applicant is trying to do and he thinks it is great. He said the neighbors have come out to share their concerns about the application. He said it is important to preserve the neighborhood and make it safe and comfortable all throughout the day, keeping the noise and traffic down. He said letters of concern and the speakers this evening are evidence that there is an issue with this application. He said he appreciates the public providing the input.

Vice Chair Larsson said would be opposing the motion. He thanked the public for providing feedback. He said is not convinced this project or day care with the few additional cars would impact the neighborhood. He said regarding the noise that he thinks the applicant would work with the neighbors and that he thinks day cares in neighborhoods are important.

Comm. Sulser said he would be opposing the motion. He said overall he thinks this is a zoning question, and he cannot make the findings that there is an overage of LFDCs in the neighborhood.

Comm. Chang said he would be supporting the motion. He said this application is a waiver if there is another day care within 300 feet. He said, after the review of this application he thinks there is a large number of LFDCs in a concentrated area.

Comm. Travis said he would be supporting the motion. He said he found that there is an LFDC concentration in this area and he thinks this day care should remain the current size.

Chair Hendricks said he would not be supporting the motion. He thanked the speakers for coming and providing input. He said if he had a compelling reason to deny this, it would be regarding noise. He said it is a challenge for the City to determine the appropriate places for day cares and the neighbors need to work together on the issues.

ACTION: Comm. Dohadwala made a motion on 2012-7045 to deny the Use Permit. Comm. Kolchak seconded. Motion carried 4-3, with Chair Hendricks, Vice Chair Larsson and Comm. Sulser dissenting.

APPEAL OPTIONS: This action is final unless appealed to the City Council no later than March 27, 2012.

Ms. Ryan said the City has an ongoing study about appropriate locations for Commercial Day Cares and that the Planning Commission and City Council would be reviewing this study later in 2012.

Supplemental Information

Submitted after completion of report.

RTC 12-198

Project No. 2012-7045 - Appeal

City Council Meeting, 9/11/12

Sunnyvale City Council,

Attached please find five pages of petition in opposition to the appeal of the Planning Commission's denial of a use permit to operate a Large Family Day Care (LFDC) at 1372 Cordilleras Ave. In an effort to aid in the analysis, I have included a copy of the Commission's map showing the property owners who have signed the petition in opposition.

Many owners, in their zeal in opposition, signed more than once and some couples both signed. In the attached illustration, I have tried to reconcile these irregularities in an effort to add clarity to the vast scale of opposition to this appeal.

The Petition sets forth 33 separate addresses in opposition on the two streets polled. The applicant has submitted 7 copies of her letter with statements in favor of the application apparently gathered in April. In August, 5 of the Applicant's signatories, upon reflection and further consideration, recanted their earlier support by signing the petition in opposition.

If we entirely negate those 5 votes as good neighbors who merely want to help anyone in the neighborhood (and it is truly a neighborhood), we are left with 28 opposed to the LFDC and merely 2 in favor. Even the existing LFDC 302 feet away on Cordilleras signed the petition in opposition.

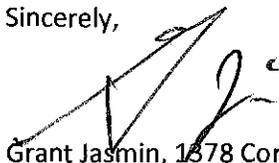
Also, it is worth noting that there are 4 vacant houses on Cordilleras (mostly unresolved estate situation and reconstruction), 2 elderly neighbors (in their 90's) whom none of the neighbors felt it appropriate to approach, and at least 3 strong opponents who were out of town during the limited time the signatures were gathered. In short, neighborhood opposition is even greater than the 28 to 2 numbers clearly demonstrate.

It is also worth noting that everyone in the neighborhood is busy with careers, children and the demands of modern life. We are not deciding the fate of the free world, but merely asking our elected officials to enforce the existing law and to maintain the quality of the neighborhood in which we have all invested so much. Nonetheless, the neighborhood has taken time out of their busy lives to clearly take a stand against the granting of this appeal to the ruling of the Planning Commission which was just and proper in the view of the law and the neighborhood.

Finally, 6 neighbors have taken the time out of their busy lives to draft well considered letters to the Council, expressing their profound opposition to an LFDC at 1372 Cordilleras and to the recommendations of the staff. Not one neighbor has submitted a letter in support.

Please Deny the Appeal.

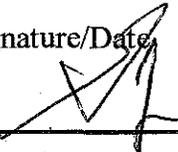
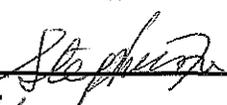
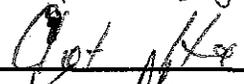
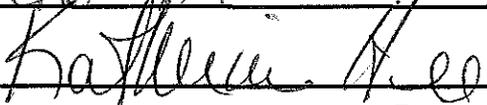
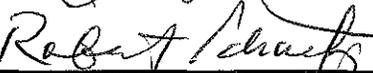
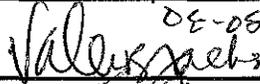
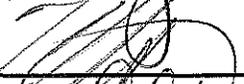
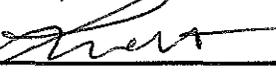
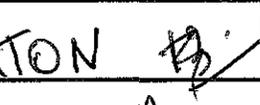
Sincerely,



Grant Jasmin, 1378 Cordilleras

Petition to the Sunnyvale City Council to Deny a Use Permit for a Large Family Day Care at 1372 Cordilleras Ave.

The below property owners in the neighborhood of Cordilleras Ave. and La Bella Ave. are strongly opposed to the granting of a permit to operate a Large Family Day Care at 1372 Cordilleras Ave. We ask the council to affirm the well-considered decision of the Planning Commission denying an exception to the existing rule against a Large Family Day Care within 300 feet of another Large Family Day Care.

Name	Signature/Date	Address
Grant Jasmin	 8-8-12	1378 Cordilleras
Stephen Stephen	 8-8-12	1379 Cordilleras
Dot Ho	 8/8/12	1379 Cordilleras
Kathleen Ho	 8-8-12	1378 Cordilleras
ROBERT SCHAEZLE SR	 Robert Schaezle	1361 CORDILLERAS 94087
Valerie Jackson	 Valerie Jackson 08-08-12	1366 Cordilleras 94087
Terry Smith	 Terry Smith	1366 Cordilleras 94087
Debbie Schaezle	 Debbie Schaezle	1360 Cordilleras Ave. 94087
Rupal Desai	 Rupal Desai	1343 Cordilleras
Wan Szeto	 Wan Szeto	1349 Cordilleras Ave
FRANCOISE BARTON	 Françoise Barton	1390 Cordilleras Ave Sunnyvale, CA 94087
BARBARA DWYER	 Barbara Dwyer	1343 La Bella Ave 8/8/12
William O'Dwyer	 William O'Dwyer	1343 La Bella Ave 94087

**Petition to the Sunnyvale City Council to Deny a Use
Permit for a Large Family Day Care at 1372
Cordilleras Ave.**

The below property owners in the neighborhood of Cordilleras Ave. and La Bella Ave. are strongly opposed to the granting of a permit to operate a Large Family Day Care at 1372 Cordilleras Ave. We ask the council to affirm the well-considered decision of the Planning Commission denying an exception to the existing rule against a Large Family Day Care within 300 feet of another Large Family Day Care.

Name	Signature/Date	Address
<u>Bollette Lewis</u>	<u>[Signature]</u>	<u>1306 Cordilleras Ave Sunnyvale</u>
<u>A. H. Saville</u>	<u>[Signature]</u>	<u>1331 Cordilleras Ave. Sunnyvale</u>
<u>DEBORAH K BEYSE</u>	<u>[Signature]</u>	<u>13721A BELLA AVE, Sunnyvale, 94087</u>
<u>Kim Kamitsei</u>	<u>[Signature]</u>	<u>1373 La Bella Ave Suite 94087</u>
<u>RAY ADUSE</u>	<u>[Signature]</u>	<u>1379 LA BELLA AVE 94087</u>
<u>EARL GRUBER</u>	<u>[Signature]</u>	<u>1391 LABELLA 94087</u>
<u>[Signature]</u>	<u>[Signature]</u>	<u>1397 La Bella 94087</u>
<u>Cassandra Harrah</u>	<u>[Signature]</u>	<u>1397 La Bella Ave 94087</u>
<u>Jay R Keller</u>	<u>[Signature]</u>	<u>1354 Cordilleras Av 94087</u>
<u>Ann B Keller</u>	<u>[Signature]</u>	<u>1354 cordilleras Ave 94087</u>
<u>Cynthia Markiewicz</u>	<u>[Signature]</u>	<u>1385 Cordilleras Ave 94087</u>
<u>Kalpana Parulwar</u>	<u>[Signature]</u>	<u>1397 Cordilleras Ave 94087</u>

Petition to the Sunnyvale City Council to Confirm the Denial of a Use Permit for a Large Family Day Care at 1372 Cordilleras Ave.

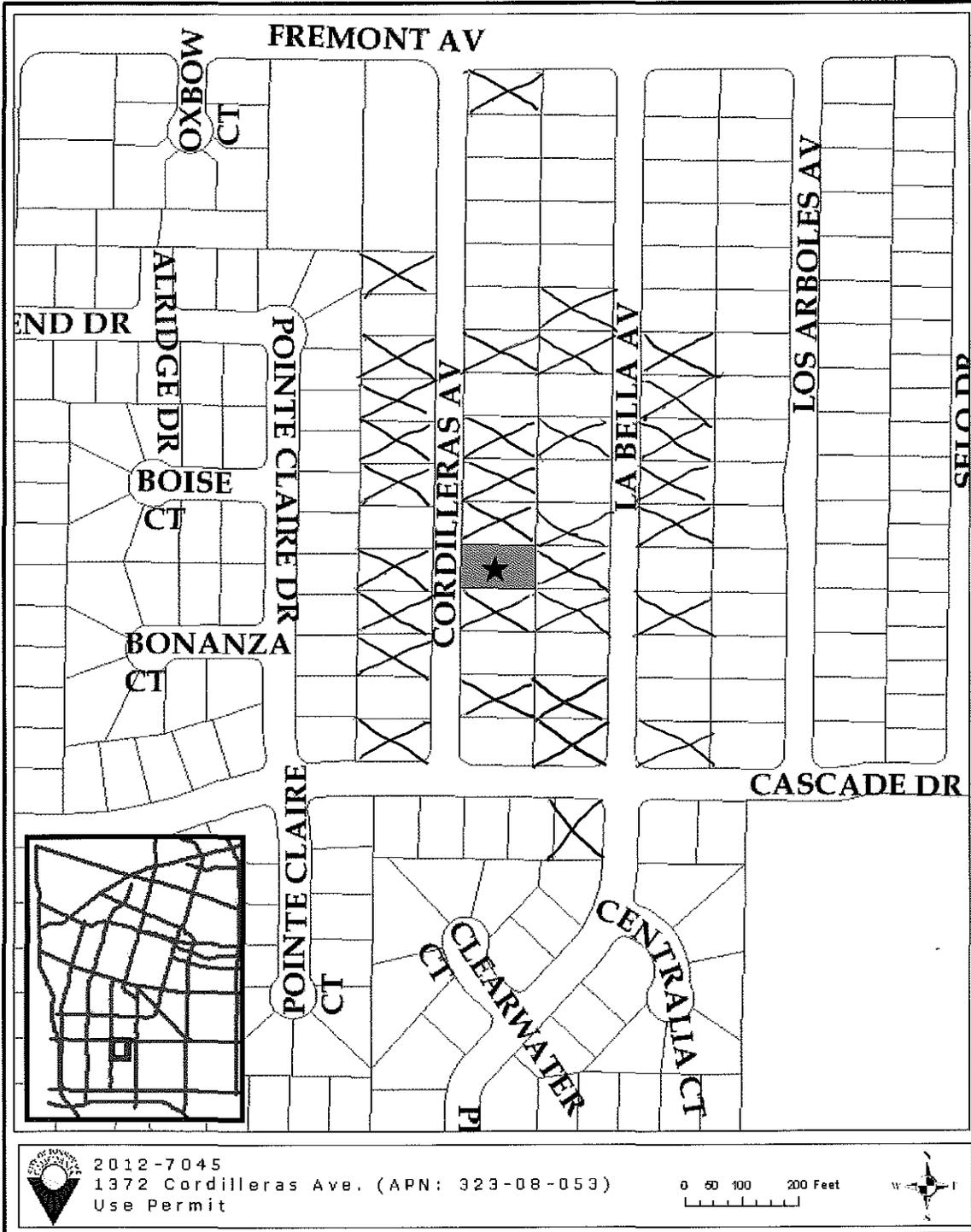
The below property owners in the neighborhood of Cordilleras Ave. and La Bella Ave. are strongly opposed to the reversal of the well considered decision of the Planning Commission denying an exception to the existing rule against a Large Family Day Care within 300 feet of another Large Family Day Care.

Name	Address	Signature
W. KARI GROSS	1337 La Bella Ave	W. Karl Gross
Betty Kiracofe	1342 La Bella Ave	Betty Kiracofe
Lee Kiracofe	1342 La Bella Ave	Lee Kiracofe
Craig Schaffter	1355 La Bella Ave	Craig Schaffter
TODD OVERGARD	1360 La Bella Ave	Todd Overgard
^{Margaret + Jim} Maggie Cote	1366 La Bella Ave	Margaret Cote
JIM COTE	1366 LA BELLA AVE	[Signature]
Debra Beere	1373 La Bella Ave Sunnyvale, CA 94087	Debra Beere
Mrs Kim Wount	1373 La Bella	94087
Michael Trapp	1378 La Bella Ave	Michael Trapp
Holly G Trapp	1378 La Bella Ave	Holly Trapp
Catherine Gross	1337 La Bella Ave,	Catherine Gross
Myra Diamond	1360 La Bella Ave, Sunnyvale, CA 94087	Myra Diamond
John W. Harris	1354 La Bella Ave CA 94087	JOHN HARRIS
Kevin Tricker	1354 La Bella Ave CA 94087	Kevin Tricker



Neighbors signing Petition in opposition to

VICINITY MAP Large Family Day Care at 1372 Cordilleras



2012-7045
1372 Cordilleras Ave. (APN: 323-08-053)
Use Permit

0 50 100 200 Feet



Dear Council Members,

Daycares are businesses that do not belong in residential neighborhoods. I am listening to screaming kids from the large family daycare on Cordilleras in the yard behind ours as I write this. Since 2008, four daycares have opened in our neighborhood. There is one on La Bella, two on Cordilleras and one on Pt. Claire. Three are barely the required 300 ft. apart, and more can open. There can be one in every fifth yard.

Before this daycare opened, we could hear our neighbor's children when they were outside, just like we could hear adults speaking. However, they were not out 6 to 8 hours a day Monday through Friday, and there was not a playground complete with several slides, swings, and an 11 ft. jungle gym towering over the fence. If I am lucky, they are using their outdoor voices and the adults are using their "listen to me voices". If I have all the windows closed, I can at least be in my home and not have to hear them. You don't want to be out in the yard. Although some days are worst than others, and every once in a while it is quiet, it is usually just a matter of time until the screaming and yelling begin. This pierces our double paned windows. Do you know what it is like recuperating from surgery or even the flu, listening to screaming kids for hours? Our neighbors across the street are disturbed by the noise, and cannot believe how loud they are.

I have had food thrown into my yard on numerous occasions (sometimes more than 30 apples, some of them partially eaten. I have also had a bread roll, half of a cheese stick and a few lemons tossed over.) I no longer return the toys, but it is the noise that is the worst.

According to the daycare owner, the kids are out from 10:30 to noon and 3 to 5:30. It was 10AM when I was talking to her and they were already out. Her reply was "But it's nice out." Another time her reply was "You can't hold me to the minute." This means the kids are out anytime between 9:10 and 10:10 at the latest. They go in anywhere between noon and 1PM. I guess her 3 kids can't play while the daycare is there, so they play along the fence from 1 to 3 and 5:30 to 6:50. Thankfully, 2 are back in school now. The SUN had an article saying how the hectic Silicon Valley lifestyle has people craving peace and quiet, and they are creating an oasis in their backyards. Screaming kids are not my idea of an oasis.

I think you will agree we are a densely populated area. People don't have 14 children anymore. In the 1700's when the average family had 10 children they lived on farms and were acres apart. They worked the farm and ranged in age. They were not all preschoolers running around screaming, and they grew up and moved away. As these kids grow up, they will simply be replaced by more screamers. There is no limit on the number of hours the kids can be out. They do not have to do any sound-proofing or landscaping.

There are 7 professional daycares within walking distance of our home which are on commercial property with parking lots. If you approve this large family daycare, you are

possibly bringing 42 cars into this 600 feet area every morning and evening. Parents often to run late and speed and double-park making it difficult for the people who live there to get to work.

We did not buy next to commercial property or a school or a park, but we can no longer enjoy our yard or even have peace and quiet in our own home. This daycare has devalued our property, as we certainly would not have bought this house if the daycare had been there 12 years ago. These are businesses that do not belong in residential neighborhoods.

Sincerely,
Barbara F. Dwyer 9/5/2012
1343 La Bolla Ave.
Sunnyvale, Ca.
94087

Manish Desai
1343 Cordilleras Ave.,
Sunnyvale, CA 94087

September 5, 2012

To Sunnyvale City Council/Planning Commission Staff,

RE: File # 2012-7045 Appeal of a decision by the Planning Commission denying a Use Permit to allow a large family day care within 300 feet of another large family day care.

Please deny this appeal of denial. There are no compelling reasons by allowing another Large Family Day Care (LFDC), where there is already an existing day care facility within 300ft on the same street. City of Sunnyvale zoning regulation already prohibits such facility.

There are no benefits of having another such daycare to the neighborhood or neighbors living on Cordilleras. Cordilleras is a residential street with no side walks. There is already issue of noise and vehicular traffic due to existing day care. By permitting opening of another day care facility on same street, will just add to noise and increased traffic on street. It also increases chances of an accident as small children running around while crossing street which has no sidewalks. We live across existing LFDC and we experience noise and extra traffic five days a week.. During drop off and pick times during morning and evening, there is almost traffic jam situation due to number of cars being parked. The pollution due to vehicular exhaust and dust is also an issue. Adding another LDFC will just compound these problems. Also there is proposal for building high density residences on the existing church property located at **636 W. Fremont Ave., which is on the opposite end of the street. This is going to increase noise, pollution and traffic on the street.**

It is absurd to subject neighbors living on the street to this nuisance while the entrepreneurs of proposed day care live in another city and when none of the customers are from surrounding neighborhood.

Existing Zoning code forbids operation of LFDC within 300ft of existing one, which is the case on Cordilleras Ave. We neighbors do not see any compelling and overwhelming reasons to overturn and overlook this code.

Please deny this appeal of denial and let the Cordilleras street be a residential street and not turn into a commercial zone.

Sincerely,

Manish and Rupal Desai