

**PLANNING COMMISSION MINUTES OF OCTOBER 25, 2010**

**2010-7625:** Use Permit to allow a large family day care (LFDC) within 300 feet of another LFDC for a site located at **790 Mahogany Lane** (APN: 213-19-022) NC

**Andrew Miner**, Principal Planner, presented the staff report. He said staff recommends approval of the Use Permit subject to the conditions in Attachment B. Mr. Miner said an email from two concerned neighbors received by staff after the completion of the report has been provided to the Commission this evening.

**Vice Chair Hendricks** confirmed with staff that approval of this application has nothing to do with the State of California daycare regulations, which are overseen by the State.

**Comm. Hungerford** discussed condition AT-1.a with staff, which indicates the hours of operation being 6 a.m. to midnight. Staff said the hours should have been listed as 8 a.m. to 6 p.m. Comm. Hungerford discussed the public noticing for this application with staff saying that 65 homes within 300 feet of the proposed site were noticed. **Chair Travis** confirmed with staff that the map on page 4 of the report shows the homes that were sent notices.

**Vice Chair Hendricks** confirmed with staff that condition GC-5 requires that the applicant remove the existing signs that are currently in the window of the site.

**Chair Travis opened the public hearing.**

**Pushendra Agrawal**, applicant, said his wife currently runs a small daycare and that they recently moved into the bigger house to accommodate expanding to a LFDC. He said when they checked with the State about expanding, nothing was said to them about checking on local requirements other than to obtain approval from the Fire Department. He said the Fire Department directed them to the Planning Division, who informed them that they would need to apply for a permit for an LFDC within 300 feet of another LFDC; including obtaining Planning Commission approval. He said he spoke with several neighbors about the plans for the daycare and no one expressed concern. He said the daycare drop off and pick up is staggered and should not cause a traffic issue. He said that noise from the children would not be excessive and should not be a problem for the neighbors.

**Comm. Hungerford** confirmed with the applicant that the hours of operation would be 8 a.m. to 6 p.m. Comm. Hungerford asked the Mr. Agrawal if he would like to respond to the noise concerns mentioned in the email received this evening that was sent by neighbors. Mr. Agrawal reviewed the neighbors' email

and addressed the concerns regarding a sign on the window, the combined possible noise of three daycares in the area, and explained that the traffic should be minimal due to staggered drop off and pick up times and that there are two parking spots in their driveway available for parents. Mr. Agrawal said that their proposed daycare is on a different street than the other two LFDCs and the backyard of their home is not behind the other daycares. He said the neighbors do not seem to be concerned about the existing small daycare right now as no complaints have been made.

**Comm. Sulser** discussed with Mr. Agrawal the potential noise, with the applicant saying the daycare is structured, discussing when the children normally play outside.

**Mr. Agrawal** thanked the Commission for their time, and said he hopes the Commission will approve the application.

**Chair Travis closed the public hearing.**

**Vice Chair Hendricks** confirmed with staff that there is no duration assigned to this permit.

**Comm. Hungerford** asked staff if the City has ever conditioned the duration of a permit based on lack of complaints or evidence of excessive noise. Mr. Miner said that any project that gets approved and has certain requirements to meet, and they do not meet them, the City has the option to revoke the permit, or resolve the issues. Comm. Hungerford discussed the noise standards with staff. Mr. Miner said that the applicant seems sensitive to monitoring noise and any need to reduce noise levels would be on a complaint-driven basis.

**Comm. Chang** discussed with staff that the small family daycare at this location has been in operation for three months, and there have been no complaints. Comm. Chang discussed with staff the options neighbors have if the noise became a problem, and the other two LFDCs located on Wolfe Rd.

**Vice Chair Hendricks** confirmed with staff that no noise complaints have been filed with Neighborhood Preservation regarding the other LFDCs in the neighborhood.

**Vice Chair Hendricks moved for Alternative 1, to approve the Use Permit with a modification to condition AT-1.a changing the hours of operation to "7 a.m. to 7 p.m." which allows some flexibility. Comm. Chang seconded with the acceptance of the modification.**

**Vice Chair Hendricks** said he could make the findings, that finding quality daycare in local neighborhoods reduces transit, and should not cause an excessive traffic increase. He said this daycare has a level of separation from the other two LFDCs, which are on Wolfe Road. He said he thinks this is an opportunity for the applicant to run a positive business for themselves and the City.

**Comm. Chang** said that he could make the findings, and that he would encourage any citizen with noise concerns to contact Neighborhood Preservation.

**ACTION: Vice Chair Hendricks made a motion on 2010-7625 to approve the Use Permit with a modified condition, changing the hours of operation in condition AT-1.a to read, "7 a.m. to 7 p.m." Comm. Chang seconded. Motion carried 7-0.**

**APPEAL OPTIONS: This action is final unless appealed to City Council no later than November 9, 2010.**