

**Council Meeting: May 15, 2012**

**SUBJECT: 2011-7719: 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

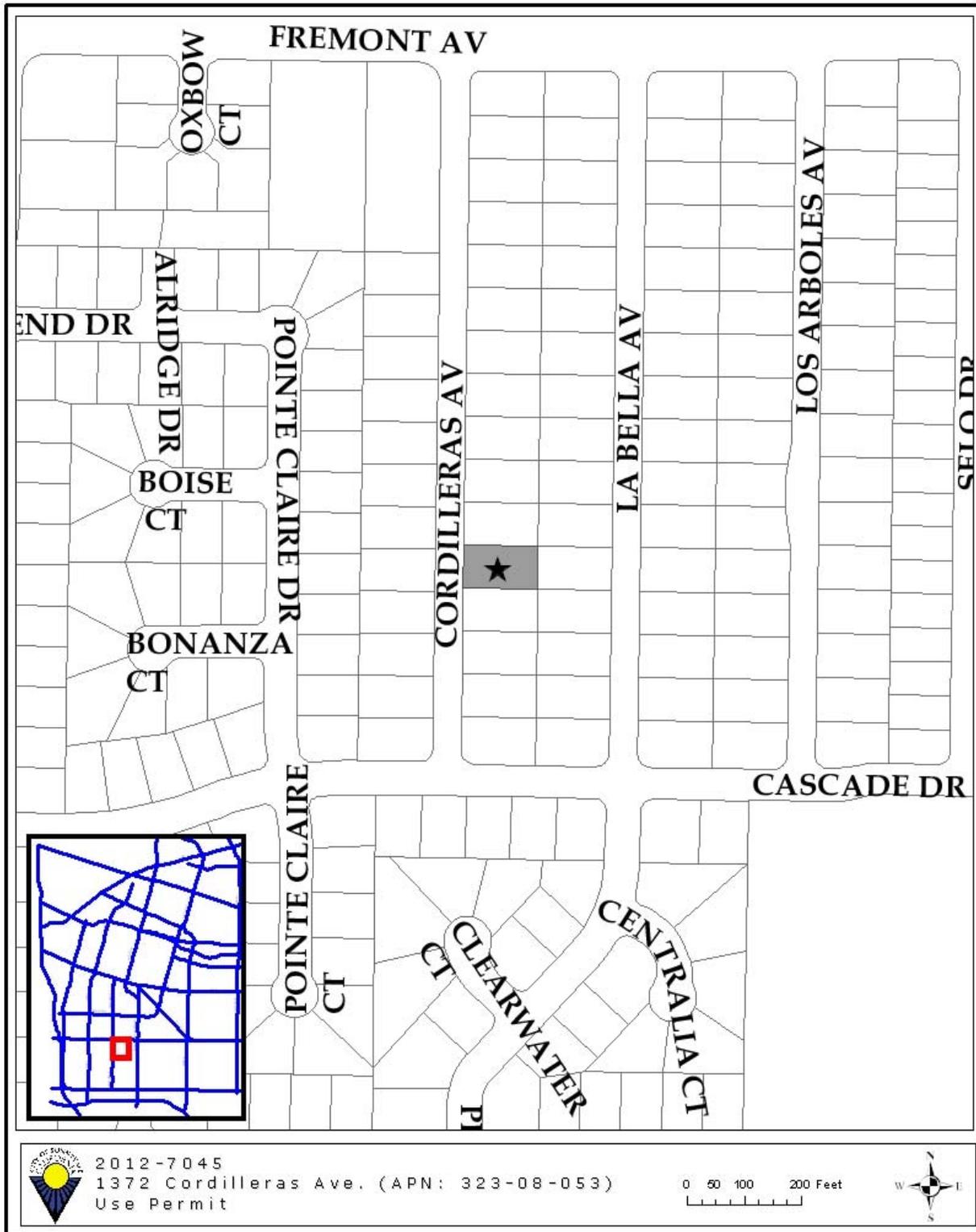
**Issues**    Parking, Traffic, Noise

**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**

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

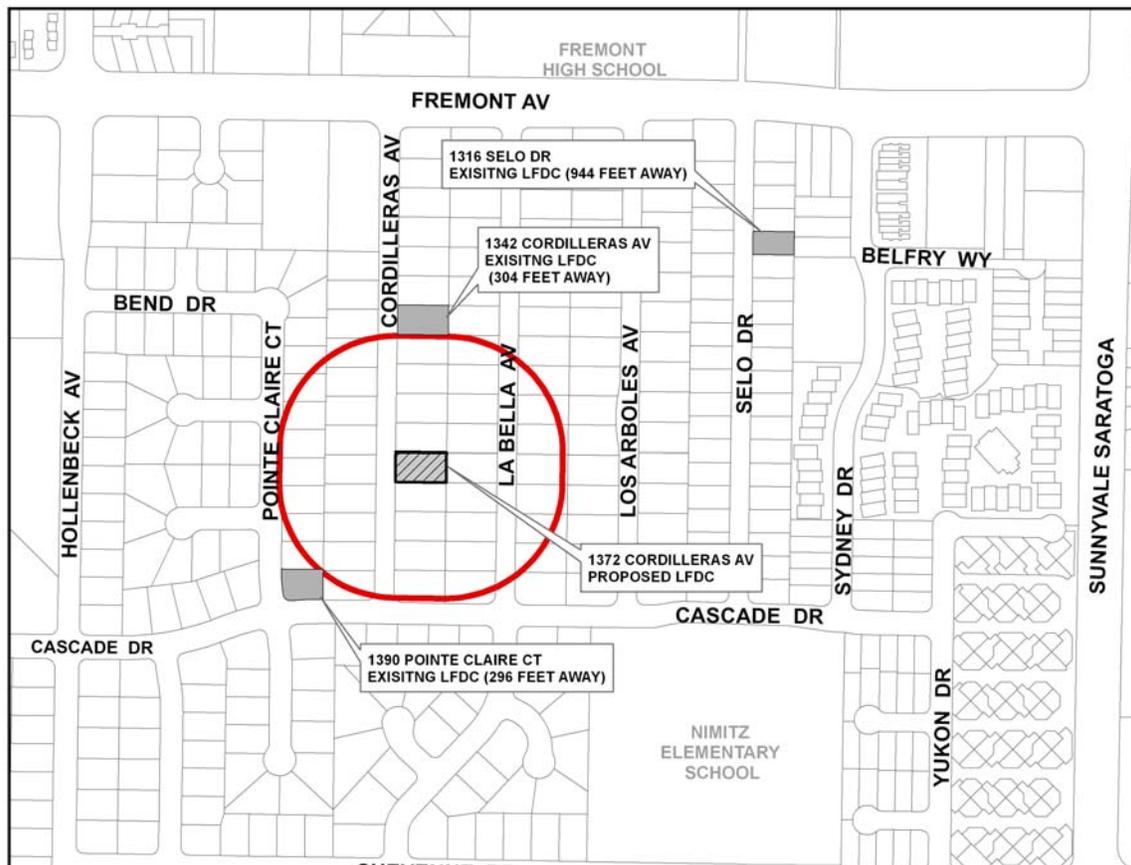
- Use Permit  
 Sunnyvale Municipal Code Chapter 19.58.020 prohibits the establishment of a LFDC within 300 feet of another LFDC without approval of a Use Permit.

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 within the vicinity are located more than 300 feet away. Therefore, staff finds that there is reasonable separation between the 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.

### **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 three 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.

### **City Council Appeal**

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).

- **Noise**

A schedule of the children's activities has been provided by the applicant (see appeal letter in 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. 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 is measured from the highest adjoining grade to the highest point on the fence. The applicant has indicated that she is willing to extend the fence height to provide 6 to 8 feet of privacy on the neighbor's side, subject to a height agreeable to the neighbor.

### **Staff Comments on Appeal**

In staff's opinion, the applicant has put in a good faith effort to reach out to the neighborhood by sending letters to the neighbors explaining the day care program and how potential impacts to the neighborhood will be reduced. Extension of the existing side yard fence will help reduce privacy impacts and has been included in Condition of Approval #GC.7. The parents' signed agreements will also help to privately manage where parents will park and will help to discourage unsafe parking and driving behaviors. 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 similar 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. Therefore, staff finds that approval of this project is consistent with Planning Commission's recent action to approve a similar LFDC.

### **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.

### **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

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Goals and Policies that relate to this project are:

#### **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 MAY 15, 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:

<b>GC: THE FOLLOWING GENERAL CONDITIONS AND STANDARD DEVELOPMENT REQUIREMENTS SHALL APPLY TO THE APPROVED PROJECT.</b>
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**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 existing side yard fence along the south property line (located at least 20 feet from the front property line) shall be extended to 6 to 8 feet in height, subject to a height agreeable to the adjacent property owner. Fence height is measured from the highest adjoining grade and requires a building permit prior to construction. The fence shall be installed prior to commencement of the approved use as a large family day care. [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]

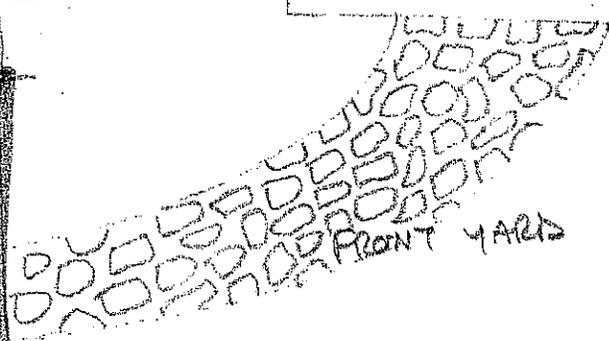
AT-2. PARKING:

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

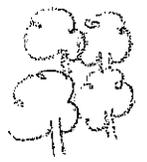
2 CAR GARAGE

OUTSIDE PARKING SPOTS



20'8"

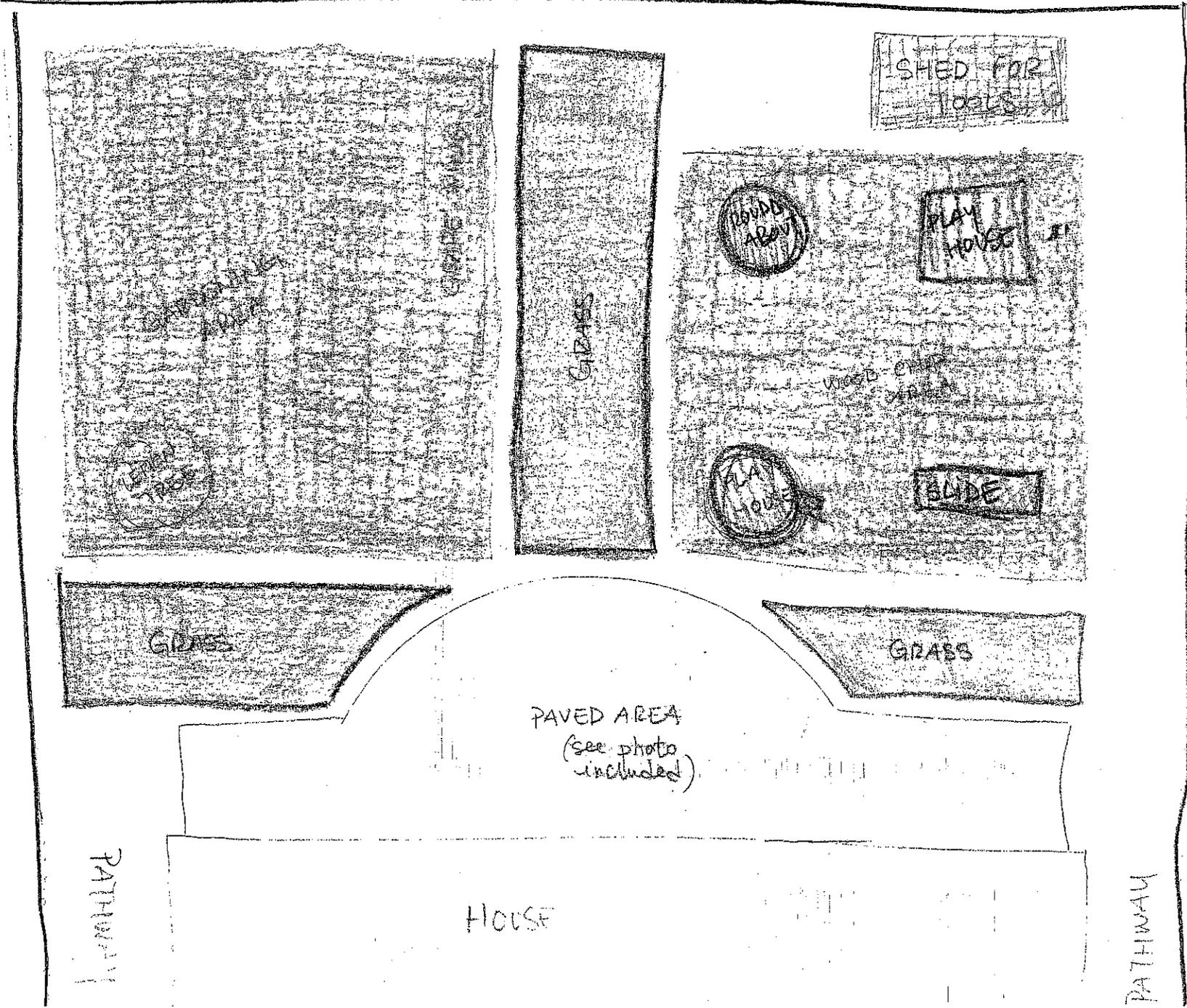
76'0"

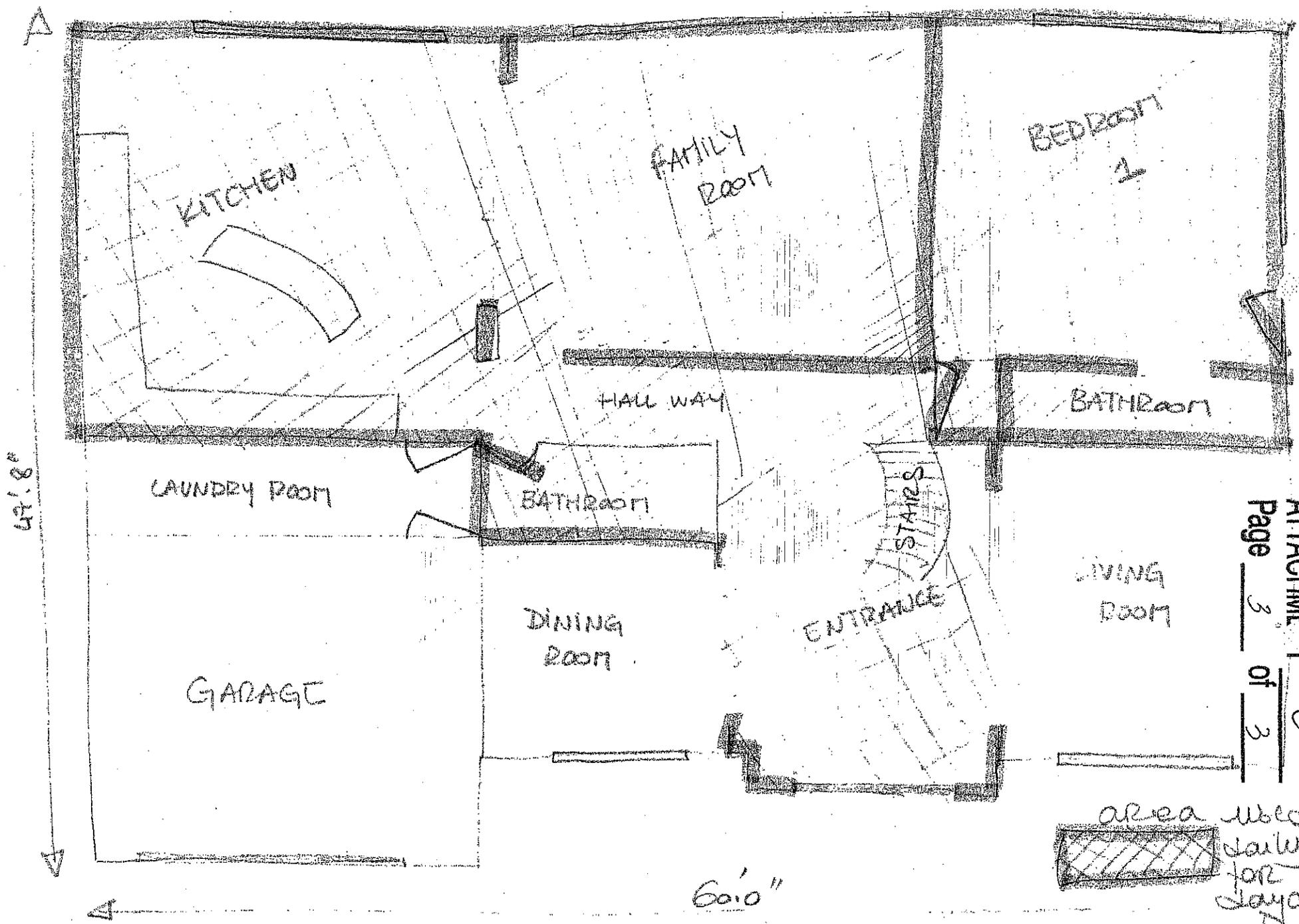


1372 CORDILLERAS AVE

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

PARKING & LANDSCAPE





ATTACHMENT  
 Page 3 of 3

area used daily for daycare

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**

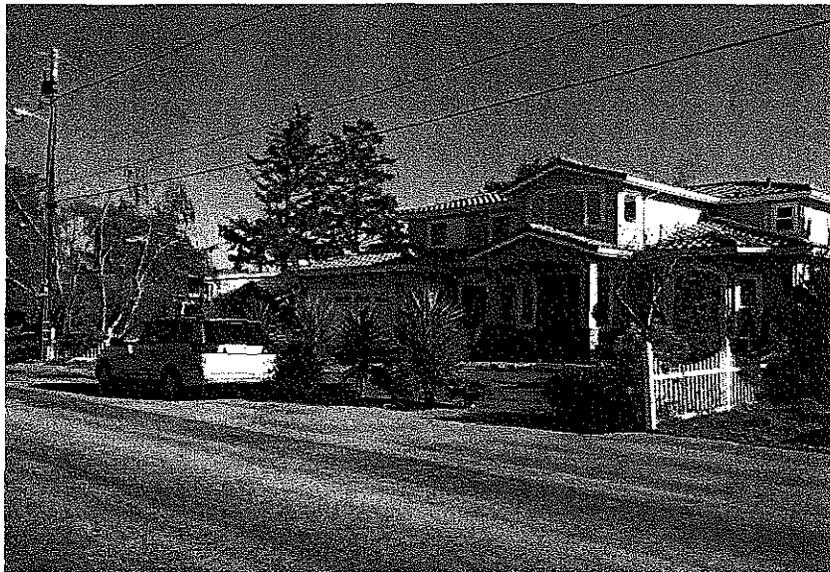
During the previous hearing, people have raised the issue of traffic speed on Cordilleras Ave, without any formal or direct incident with our parents. However, we understand and share their concerns and have hand out little flyers to our families, reminding them that the speed limit is 25 miles per hour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

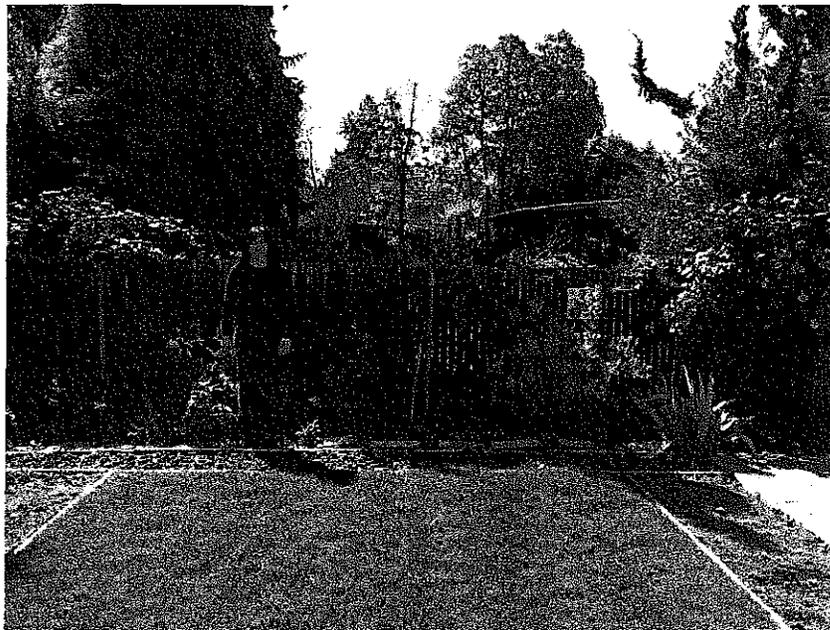
We would like to point out that no complains associate to noise have been made against the daycare.



### **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

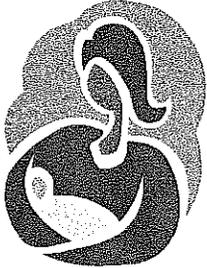
neighbor on how to resolve this. We propose to share the cost of a new fence.



**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 posed 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

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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

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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**

Grant Jasmin  
1378 Cordilleras Ave.  
Sunnyvale, CA 94087

Re: File # 2012-7045; Use permit to allow a large Family Daycare

Planning Commission  
City of Sunnyvale

Dear planning commission.

I strongly urge you to deny this application for a waiver to allow a large family daycare at 1372 Cordilleras.

There is another large family daycare within 300 feet and another at about 305 feet away. The staff report indicates there is yet another large family day care 3 blocks away and Nimitz Elementary school is two blocks away. There is no need for another large family daycare in the neighborhood. Please enforce the existing rule and deny the application for a waiver of the rule.

The existing day care facility, in my opinion, already constitutes a public nuisance. Automobile traffic has increased noticeably since the current day care began operation. Parking has also become a problem as parents pick up and deliver their children. Noise has also become a problem and an annoyance. I have lost the quiet enjoyment of my property. The fence between my patio and the playground at the current day care is only 4 feet high. People regularly look over the fence to see what I am doing when I am in my back yard. Granting a waiver to allow a large family daycare would surely multiply these problems.

The intersection at Cordilleras and Cascade is uncontrolled, 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 daycare. Granting a waiver to allow a large family daycare at 1372 Cordilleras would multiply the risk to pedestrians and other drivers.

The Municipal Code forbids operation of a large family day care within 300 feet of an existing large family day care. There is another large family day care within 300 feet of 1372 Cordilleras. There is no good reason to Waive the rule. I urge you to enforce the law and deny the application for a waiver of the rule.

Sincerely,

From: "Chet Hee" [REDACTED]  
Date: Mar 11, 2012 7:36 PM  
Subject: 1372 Cordilleras Ave Project  
To: <ncaliva@ci.sunnyvale.ca.us>

Dear Ms. Caliva,

Thank you for the opportunity to comment on the proposed large daycare at 1372 Cordilleras Ave.

We **strongly oppose** the approval of a variance 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

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. This is already happening.

**From the applicant:**

"With at least one car in the driveway it doesn't seem 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 oppose the project.

"Most new children will be siblings, 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 months 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.

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](mailto: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.