

MEETING DATE: February 10, 2016

PRESENTED BY: S. Perkins

## AGENDA ITEM SUMMARY REPORT

**APPLICATION NO.:** Use Permit 2-16 (formerly Minor Use Permit 3-15)

**FILE NUMBER(S):** UP 2-16

**APPLICANT:** Veronica Renteria

**OWNER:** Raul Yanez

**PROJECT:** Use Permit for the establishment of a Large Family Day Care Home inside an existing residence, which currently operates a Small Family Day Care business.

**LOCATION:** 211 McKinley Street, Fort Bragg, CA 95437

**APN:** 008-262-12

**LOT SIZE:** 0.24 acres (10,500 square feet)

**ZONING:** Low-Density Residential (RL)

**ENVIRONMENTAL DETERMINATION:** This project is exempt from CEQA per Statutory Exemption §15274(a) Family Day Care Homes, which exempts the establishment or operation of a large family day care home.

**SURROUNDING LAND USES:**

NORTH:	Residential
EAST:	Residential
SOUTH:	Residential
WEST:	Residential

**APPEALABLE PROJECT:** ☒ Can be appealed to City Council

## PROJECT DESCRIPTION

The project site is located on the west side of McKinley Street, approximately 80 feet south of the intersection with Alder Street (Attachment 1: Location Map). The applicant is requesting a Use Permit approval to establish a Large Family Day Care Facility. The applicant currently operates a Small Family Daycare Facility (six or fewer children) at this location, which is permitted by right (e.g. does not require a Use Permit). The project proposes no physical alteration to the residence or property (Attachment 2: Site Plan).

The application proposes to establish a Large Family Day Care Home on the property, which would allow seven to 14 children. The Inland Land Use and Development Code (ILDUC) defines a Large Family Day Care Home as “a day care facility in a single-family dwelling where an occupant of the residence provides day care for seven to 14 children, inclusive, including children under the age of 10 years who reside in the home.” The proposed use requires a Minor Use Permit in the RL zoning district. Additionally, the Community Care Licensing Division of the California Department of Social Services regulates and licenses child care operations, including Large Family Day Care Homes.

The ILUDC allows the Community Development Director to administratively review and approve or deny Minor Use Permit applications for Large Family Day Care Homes; however, a public hearing can be held at the request of the applicant or interested persons. As a result of a written request for a public hearing, this application type changed to a Use Permit for Planning Commission review.

Site Photo – 211 McKinley Street



## NEIGHBORHOOD CONCERNS

City staff sent notice of the pending Minor Use Permit application to property owners within 300 feet and tenants within 100 feet of the proposed project that the Community Development Director would take action on the application unless a written request for a public hearing was received prior to January 19, 2016. On January 8, 2016, Community Development staff received written requests for a public hearing from two residents of one nearby property. Additionally, staff received written concerns and phone calls from three other nearby property owners, though these did not result in the submission of a written request for a public hearing. As a result of the two written requests for a public hearing, the Community Development Department

placed the application on the February 10, 2016, Planning Commission agenda. Copies of the written correspondence are included in this report (Attachment 5: Community Correspondence).

To summarize, correspondence from nearby property owners raised the following concerns regarding the project:

1. McKinley Street is a very narrow street, and increased traffic and parking from the Large Family Day Care Home would create a problem for neighborhood residents.
2. The time of the business should be regulated, so that the sounds of vehicles stopping and starting for drop-off and pick-up does not create a nuisance.
3. The increased noise resulting from 14 children playing at the Large Family Day Care Home would negatively impact the neighborhood.
4. If the Large Family Day Care Home is permitted, additional businesses may be allowed in the neighborhood.
5. The residence on the property is too small for seven to 14 children.
6. Children playing up and down the street or sidewalk would be a nuisance to neighbors.

## CONSISTENCY WITH PLANNING POLICIES

**Land Use.** The project site is in the Low-Density Residential (RL) zoning district, which allows Large Family Day Care Homes with Minor Use Permit approval. The ILUDC includes Section 18.42.060(C) Standards for Large Family Day Care Homes. Applications for this use must be found consistent with this code section. The following analysis evaluates the project's consistency with the individual standards outlined for Large Family Day Care Homes.

### **18.42.060(C)(1) Location Requirements.**

*In order to avoid the concentration of intensive, non-residential land uses in residential neighborhoods, maintain residential character, and compatibility with adjacent residential uses, no large family day care home shall be located within 200 feet of an existing large family day care home, or child day care center. In no case shall a residential property be directly abutted by a large family day care center on two or more sides.*

Community Development staff contacted North Coast Opportunities to determine the location of other Large Family Day Care Homes and Child Day Care Centers in the City of Fort Bragg. There are seven such facilities in the City limits. None of the seven existing Large Family Day Care Homes or Child Day Care Centers are within 200 feet of the proposed project (Attachment 3: Proximity Map).

### **18.42.060(C)(2) Parking, drop-off area.**

*a. At least two off-street parking spaces shall be provided exclusively for dropping off and picking up children. The driveway may be used to provide the off-street parking required by Section 18.36.040 (Number of Parking Spaces Required) for a single-family dwelling, if the parking will not obstruct any required drop-off and pick up areas nor block any sidewalks or other public access. Alternative parking and drop-off arrangements may be required by the review authority based on traffic and pedestrian safety considerations.*

*b. A home located on a street with a speed limit of 30 miles per hour or greater shall provide a drop-off/pick-up area designed to prevent vehicles from backing onto the street (e.g. circular driveway).*

**18.36.040 Table 3-7 Parking Requirements by Land Use (Large family day care home).**

*Minimum: 2 spaces; may include spaces provided to fulfill residential parking requirements and on-street parking so long as it abuts the site.*

The ILUDC gives guidance for ensuring the safety of children dropped off and picked up from a Large Family Day Care Home, giving various options for on- and off-street parking. Section 18.36.040, which includes the parking requirement tables for all land uses, permits Large Family Day Care Homes to utilize two on-street parking spaces, abutting the parcel, to fulfill the parking requirement. The parcel has approximately 75 linear feet of frontage along McKinley Street, with approximately 50 continuous linear feet of frontage north of the existing driveway. An on-street parking space, as defined by the ILUDC, is 23 feet long. There is adequate space north of the driveway abutting the parcel to provide two on-street parking spaces for the drop-off and pick-up of children (Attachment 4: Site Photos).

The parking and drop-off requirements are intended to ensure the safety of children going to and from the Large Family Day Care Home. The on-street area north of the existing driveway and abutting the property meets the parking and drop-off standards for the proposed use; however, to guarantee the availability of the on-street spaces, staff recommends Public Works stripe the curb north of the existing driveway abutting the parcel as a “loading zone.” This would prevent others from parking in these required spaces by dedicating them for the safety of the children attending the Large Family Day Care Home.

The applicant has stated that many of the children who will be in her care are school aged, and that they arrive in the afternoon on a school bus and stay until their parents finish work. The school bus drops off children at the intersection of McKinley Street and Oak Street, not impacting traffic or parking on McKinley Street. However, her client population may change in the future.

Staff recommends Special Condition 1, requiring the applicant to notify City staff when and if the use ceases or is relocated, so that the striping would be removed.

**Special Condition 1: The property owner shall submit a request to the Public Works Department to stripe the space north of the existing driveway as a loading zone only. The property owner shall notify The Community Development Department if the Large Family Day Care Home ceases operation or relocates, so that the “loading zone” striping can be removed. Failure to hold a business license for the use, or failure to secure and maintain any and all State of California certifications and/or licenses for the Large Family Day Care Home shall mean the use has ceased.**

Alternatively, the Commission may determine that an off-street parking and drop-off area is more appropriate for the proposed use, due to traffic and parking concerns on McKinley Street. The City’s Public Works Department and the Police Chief reviewed the proposal to stripe a loading zone, and did not express traffic or parking concerns on McKinley Street. Public Works commented that there appears to be more than enough parking generally available during the day adjacent to and near the subject parcel, and striping the loading zone should not have any significant impacts to the neighborhood parking availability. The Police Chief concurred with Public Works’ analysis.

However, the Planning Commission may select Special Condition 1a as an alternative solution for the proposed use's parking and drop-off requirements. This condition would require the applicant to pave an area in the front setback of sufficient width and length to provide two standard parking spaces consistent with the ILUDC parking space dimension requirements.

**Special Condition 1a: Prior to issuance of a Use Permit for a Large Family Day Care Home, the applicant shall pave two (2) off-street parking spaces exclusively for dropping off and picking up children. The Applicant shall obtain a grading permit and an encroachment permit from the Department of Public Works to complete the changes to the sidewalk for the driveway apron prior to completion of the work.**

**18.42.060(C)(3) Outdoor activity areas.**

*a. Any side or rear setback areas intended for day care use shall be enclosed with a fence or wall to separate the children from neighboring properties.*

*b. Outdoor recreation equipment over eight feet in height shall not be located within a required side setback, and shall be set back a minimum of five feet from a rear property line.*

The backyard of the property is fully enclosed by a fence, separating the children from neighboring properties. The south side of the property contains a propane tank which is fenced and off-limits to children. The applicant proposes no outdoor recreation equipment with this application. Special Condition 2 is recommended to require the applicant to notify City staff if any outdoor recreation equipment over eight feet in height is planned for the property, so that staff can evaluate the equipment's consistency with the ILUDC.

**Special Condition 2: The property owner shall notify the Community Development Department prior to installing any outdoor recreation equipment over eight feet in height. At such time, the applicant shall submit for Community Development Department staff review a plot plan illustrating the equipment's distance from property lines to verify its consistency with ILUDC Section 18.42.060(C)(3).**

**18.42.060(C)(4) Noise.**

*Noise generated from the large family day care home shall not exceed the standards in the Municipal Code Chapter 9.44.*

Chapter 9.44 of the Municipal Code sets standards for appropriate noise levels in the City. For residential areas, Section 9.44.020(A) states that between the hours of 10:00 p.m. and 7:00 a.m. it is unlawful for any person within a residential zone to create, cause to be created or maintain sources of noise which cause annoyance or discomfort to a reasonable person of normal sensitiveness in the neighborhood. The proposed Large Family Day Care Home would be subject to this and all other City noise standards. Standard Condition 3 allows for the revocation of this Use Permit should the proposed use be conducted in such a way as to cause a public nuisance.

In addition to the citywide noise standards, staff recommends Special Condition 3 limiting the hours of the operation from 7:00 a.m. to 7:00 p.m. to reduce noise impacts to the surrounding neighborhood. This condition would prevent additional traffic, drop-off and pick-up noises created by the proposed use from occurring in the early morning and late evening hours.

**Special Condition 3: The Large Family Day Care Home shall operate only between the hours of 7:00 a.m. and 7:00 p.m. All pick up and drop off activities of children shall occur between 7:00 a.m. and 7:00 p.m.**

**18.42.060(C)(5) Additional Standards.**

*Each large family day care home shall comply with applicable building and fire codes, and standards adopted by the State and Social Services Department licensing requirements (California Code of Regulations, Title 22, Division 2).*

Operators of Large Family Day Care Homes must be licensed by the California Department of Social Services. State licensing regulates a myriad of aspects of the facility, including but not limited to the following:

- Criminal Record Clearance
- Child Abuse Central Index Screening
- Fire Safety Clearance (for Large Family Day Care Homes, fire safety clearance by the local fire authority is required)
- Inspection Authority
- Personnel Requirements
- Reporting Requirements
- Staffing Ratio and Capacity
- Operation and Facility Standards
- Immunization Requirements
- Admission Procedures

Staff recommends Special Condition 4, requiring the applicant to supply the City with verification of compliance with all required State licensing requirements prior to initiating operation of the Large Family Day Care Home.

**Special Condition 4: Prior to issuance of a Use Permit for a Large Family Day Care Home, the applicant shall provide the Community Development Department with documentation verifying compliance with all State of California licensing requirements for a Large Family Day Care Home, including fire safety clearance by the local fire authority (Fort Bragg Fire Department).**

Although State licensing requirements regulate site and facility standards including capacity and size, an approved Use Permit for a Large Family Day Care Home must also be consistent with the required findings for approval. ILUDC Section 18.71.060(F)(3) requires that “the design, location, size, and operating characteristics of the proposed activity are compatible with the existing and future land uses in the vicinity.” One of the neighborhood concerns relayed to City staff regarding the proposed use is the potential for children to create a nuisance by playing unsupervised in the neighborhood. In order to ensure the use does not create a nuisance in this way, staff recommends Special Condition 5, requiring that all children attending the Large Family Day Care Home be under full supervision by a caregiver when outside the home.

**Special Condition 5: At no time shall children attending the Large Family Day Care Home be off the property (211 McKinley Street) without the full supervision of a caregiver.**

Staff recommends that the project is consistent, with the recommended conditions of approval, with all specific standards for a Large Family Day Care Home, as outlined in ILUDC Section

18.42.060(C). Additionally, all findings of approval required to grant a Use Permit for the Large Family Day Care Home can be made.

## **PLANNING COMMISSION ACTION**

1. Hold a hearing, close the hearing, deliberate and approve Use Permit 2-16 (UP 2-16) subject to all standard and special conditions.

## **ALTERNATIVE ACTION**

1. Hold a hearing, close the hearing, deliberate without a decision, and revisit the application at the next scheduled meeting for a decision and the addition of any new findings.
2. Hold the hearing, and continue the hearing to a date certain if there is insufficient time to obtain all input from all interested parties. At the date certain, the Commission may then deliberate and make a decision.
3. Deny the Use Permit.

## **RECOMMENDATION**

Staff recommends approval of Use Permit 2-16 (UP 2-16) for the project based on the following findings and subject to the conditions cited below:

### **GENERAL FINDINGS**

1. The proposed project is consistent with the purpose and intent of the zoning district, as well as all other provisions of the General Plan, Inland Land Use and Development Code (ILUDC), and the Fort Bragg Municipal Code;
2. The design, location, size, and operating characteristics of the proposed activity are compatible with the existing and future land uses in the vicinity;
3. The site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire and medical) access and public services and utilities (e.g., fire protection, police protection, potable water, schools, solid waste collection and disposal, storm drainage, wastewater collection, treatment, and disposal, etc.), to ensure that the type, density, and intensity of use being proposed would not endanger, jeopardize, or otherwise constitute a hazard to the public interest, health, safety, convenience, or welfare, or be materially injurious to the improvements, persons, property, or uses in the vicinity and zoning district in which the property is located; and
4. For the purposes of environmental determination, the project is exempt from CEQA, pursuant to the California Environmental Quality Act (CEQA) 15301(l)(3) demolition and removal of existing facilities exemption and 15302(b) replacement of structures.

### **SPECIAL CONDITIONS**

1. The property owner shall submit a request to the Public Works Department to stripe the space north of the existing driveway as a loading zone only. The property owner shall notify The Community Development Department if the Large Family Day Care Home ceases operation or relocates, so that the "loading zone" striping can be removed. Failure to hold a

business license for the use, or failure to secure and maintain any and all State of California certifications and/or licenses for the Large Family Day Care Home shall mean the use has ceased.

- OR -

- 1a. Prior to issuance of a Use Permit for a Large Family Day Care Home, the applicant shall pave two (2) off-street parking spaces exclusively for dropping off and picking up children. The Applicant shall obtain a grading permit and an encroachment permit from the Department of Public Works to complete the changes to the sidewalk for the driveway apron prior to completion of the work.
2. The property owner shall notify the Community Development Department prior to installing any outdoor recreation equipment over eight feet in height. At such time, the applicant shall submit for Community Development Department staff review a plot plan illustrating the equipment's distance from property lines to verify its consistency with ILUDC Section 18.42.060(C)(3). The Large Family Day Care Home shall operate only between the hours of 7:00 a.m. and 7:00 p.m.
3. The Large Family Day Care Home shall operate only between the hours of 7:00 a.m. and 7:00 p.m. All pick up and drop off activities of children shall occur between 7:00 a.m. and 7:00 p.m.
4. Prior to issuance of a Use Permit for a Large Family Day Care Home, the applicant shall provide the Community Development Department with documentation verifying compliance with all State of California licensing requirements for a Large Family Day Care Home, including fire safety clearance by the local fire authority (Fort Bragg Fire Department).
5. At no time shall children attending the Large Family Day Care Home be off the property (211 McKinley Street) without the full supervision of a caregiver.

### **STANDARD CONDITIONS**

1. This action shall become final on the 11<sup>th</sup> day following the decision unless an appeal to the City Council is filed pursuant to ILUDC Chapter 18.92 - Appeals.
2. The use and occupancy of the premises shall be established and maintained in conformance with the requirements of this permit and all applicable provisions of the ILUDC.
3. The application, along with supplemental exhibits and related material, shall be considered elements of this permit, and compliance therewith is mandatory, unless an amendment has been approved by the City.
4. This permit shall be subject to the securing of all necessary permits for the installation, maintenance, operation, and removal of the existing storage tanks and structures as well as the installation, maintenance, and operation of the new storage tank from all agencies having jurisdiction over fuel storage tanks, including without limitation the Fort Bragg Fire District. This permit shall also be subject to full compliance with all city, county, state, and federal regulations regarding the installation, maintenance, operation, and removal of fuel storage tanks. All plans submitted with the required permit applications shall be consistent with this approval. All construction shall be consistent with all Building, Fire, and Health code considerations as well as other applicable agency codes.



5. The applicant shall secure all required building permits for the proposed project as required by the Mendocino County Building Department.
6. If any person excavating or otherwise disturbing the earth discovers any archaeological site during project construction, the following actions shall be taken: 1) cease and desist from all further excavation and disturbances within 25 feet of the discovery; 2) notify the Fort Bragg Community Development Department within 24 hours of the discovery; and 3) retain a professional archaeologist to determine appropriate action in consultation with stakeholders such as Native American groups that have ties to the area.
7. This permit shall be subject to revocation or modification upon a finding of any one or more of the following:
  - (a) That such permit was obtained or extended by fraud.
  - (b) That one or more of the conditions upon which such permit was granted have been violated.
  - (c) That the use for which the permit was granted is so conducted as to be detrimental to the public health, welfare, or safety or as to be a nuisance.
  - (d) A final judgment of a court of competent jurisdiction has declared one or more conditions to be void or ineffective, or has enjoined or otherwise prohibited the enforcement or operation of one or more conditions.
8. Unless a condition of approval or other provision of the Inland Land Use and Development Code establishes a different time limit, any permit or approval not exercised within 24 months of approval shall expire and become void, except where an extension of time is approved in compliance with ILUDC Subsection 18.76.070(B).

#### **ATTACHMENTS**

1. Location Map
2. Site Plan
3. Proximity Map
4. Site Photos
5. Neighborhood Correspondence