

PUBLIC HEARINGS

**CITY COUNCIL
AUGUST 26, 2003**

To: Mayor and City Council

From: George J. Rodericks, City Manager

SUBJECT: Consideration of Conditional Use Permit No. 0551; Operation of a Large Family Day Care Home – Location: 9912 Colony Grove Lane (Kaja & Don Donikowski)

BACKGROUND

The applicants are requesting permission to operate a Large Family Day Care Home from a residential zone.

AUTHORITY

The California Health and Safety Code, Section 1597, regulates the operation and permitting of Large Family Day Care Homes. Relevant excerpts from the Code are attached as Exhibit "A." Specifically, the Code specifies that a city shall not prohibit large family day care homes on lots zoned for single-family dwellings, but shall do one of the following:

1. Classify these homes as a permitted use of residential property for zoning purposes;
2. Grant a nondiscretionary permit to use a lot zoned for a single-family dwelling to any large family day care home that complies with local ordinances prescribing reasonable standards, restrictions, and requirements concerning spacing and concentration, traffic control, parking, and noise control relating to such homes; or
3. Require any large family day care home to apply for a permit to use a lot zoned for single-family dwellings. The permit shall be granted if the large family day care home complies with local ordinances, if any, prescribing reasonable standards, restrictions, and requirements concerning spacing and concentration, traffic control, parking, and noise control relating to such homes. Any noise standards shall be consistent with local noise ordinances and shall take into consideration the noise levels generated by children. The City shall give notice of the proposed use by mail to all owners within a 100 foot radius of the exterior boundaries of the home.

The City's Zoning Code requires that any accessory use not expressly permitted may be permitted subject to a Conditional Use Permit. To be consistent with the City's Zoning Code, staff selected alternative three and required the applicant to submit a Conditional Use Permit.

Conditional Use Permits

In order to give the City's current zoning regulations the flexibility necessary to achieve the objectives of the Zoning Code, the City Council has the authority to permit conditional uses subject to the approval of a Conditional Use Permit. Because of their unusual characteristics, Conditional Use Permits require special review and consideration so that they may be located properly with respect to the objectives of the City's zoning regulations and with respect to their effects on surrounding properties. To achieve these objectives, the City Council is empowered to grant and to deny applications for conditional use permits and to impose reasonable conditions upon the granting of such permits. The City Council shall make the following findings before granting a Conditional Use Permit:

- 1) The project is in accord with the objectives of the Villa Park Zoning Code and the purpose of the Zone in which it is located.
- 2) The project is not detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.
- 3) The project complies with all applicable provisions of the Zoning Code.

Article 23-6.6 of the Villa Park Municipal Code requires a Conditional Use Permit for all accessory uses not expressly permitted.

FINDINGS

The subject property is located at 9912 Colony Grove Lane and is in the E4 Small Estate zoning district. The lot area is approximately 20,000 square feet and surrounding uses are residential.

The applicant is requesting permission to operate a Large Family Day Care Home from the residence. A City is expressly prohibited from denying such uses pursuant to the California State Health and Safety Code. However, the Code allows the City to impose reasonable conditions to address spacing and concentration, traffic control, parking, and noise control. Any noise conditions shall be consistent with local noise ordinances affecting single-family homes and shall take into consideration the noise levels generated by children.

The applicant's facility operates on a twenty-four hour basis and accepts children for care during those hours. However, primary operation of the facility is from the hours of 6 a.m. to 6 p.m., seven days a week. The facility is licensed by the State and has met all State Fire and State Health and Safety inspection requirements. The capacity of the facility is 14 children. A Business License has been submitted concurrently with this application for a Conditional Use Permit. State law specifies that the facility may care for more than 12 and up to 14 children subject to the following:

- 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 City has received complaints from neighboring property owners regarding operation of the facility. Therefore, staff has scheduled this Conditional Use Permit for a Public Hearing.

CEQA COMPLIANCE

This project is exempt from requirements of the California Environmental Quality Act.

FISCAL IMPACT

None.

STAFF RECOMMENDATION

Staff recommends approval of this application.

APPROVAL MOTION

Adopt Resolution No. 2003-2705, a Resolution of the City Council of the City of Villa Park approving Conditional Use Permit No. 0551, for operation of a Large Family Child Care Home, with conditions; Location: 9912 Colony Grove Lane.

RECOMMENDED ACTION

It is recommended that the City Council conduct a Public Hearing, review the application, and make appropriate findings thereto.

CONDITIONS OF APPROVAL

1. The use shall remain in compliance with the conditions of approval.
2. If the use is discontinued for a period of six-months, this Conditional Use Permit shall lapse and become void.
3. This Conditional Use Permit shall be reviewed annually by the City Manager and Community Development Committee to determine if the use remains compliant with the conditions of approval. If it is determined that the use is not compliant with the conditions of approval or the use has substantially changed, the Conditional Use Permit shall be revoked and/or resubmitted for review and approval.
4. Parking for any employees associated with the use shall be provided on the property and shall be utilized. There shall be no parking of employees allowed on the adjacent public street.

5. With the exception of any overriding conditions of approval through this Conditional Use Permit, all standards for operation of a Home Occupation under the City's Zoning Code shall apply.
6. Upon parking on the street for drop off purposes, clients shall be required to place a placard clearly visible in their window indicating their association with the Family Day Care Home.