

Appeal Request Letter

Applicants: **Delaram Mousavi – Nima Rafibakhsh**
County File: **#CDLP23-02020**

CONTRA COSTA COUNTY

Aug 22, 2024

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**APPLICATION & PERMIT
CENTER**

Dear Honorable Members of the Board of Supervisors of Contra Costa County,

We are writing to formally appeal the decision made by the Planning Commission on August 14, 2024, to reduce the capacity of our Child Care Center project.

Throughout this process, we have listened carefully to the concerns and opinions expressed during our hearings with the Zoning Administrator and the Planning Commission over the last four years. We respect and acknowledge the right of our neighbors to express their concerns and opinions about our project. While we do not fault them for voicing their views, we were disappointed by some of the comments made by the Planning Commission. These remarks were unexpected and, in our opinion, did not reflect a fair and objective assessment of our project.

We respectfully request that the Board of Supervisors overturn the Planning Commission's ruling on limiting the capacity of our project for the following reasons:

1. **Lack of Justification for Capacity Limitation:** The Planning Commission's decision to reduce the capacity of our project from 48 to 30 children was made without providing a clear rationale. Commissioner Amin, who proposed the reduction, relied on the staff's initial recommendation of 30 children, even after the Zoning Administrator had reversed that suggestion. This recommendation was based on the fact that our current license allows us to care for 14 children, and staff deemed doubling that number to 30 as "plenty more than what we currently care for." However, this reasoning lacks a solid foundation, especially since our project meets all county requirements, including those related to traffic and parking.
2. **Disregard for Project Compliance:** Our proposal for 48 children has successfully passed all necessary county requirements. If childcare is recognized as a critical need in the Bay Area, the commissioners should provide a clear explanation for limiting the capacity of a project that addresses this need. The commissioners' insistence on reducing the number of children without substantive support suggests an overreach of the land-use permitting process, encroaching on matters typically governed by state regulations.

3. **Premature Focus on Final Capacity:** The final capacity of our childcare facility will ultimately be determined by the California Department of Social Services (CDSS) once the facility is ready to be operated. The CDSS will assess the building's layout and usable square footage after all necessary revisions and modifications are completed during the Building Permit process. Therefore, imposing a restrictive capacity at this early stage limits our flexibility to adapt to potential changes and does not align with the appropriate role of the land-use permitting process, which should focus on land use rather than operational details that fall under state jurisdiction.
4. **Inconsistent Decision-Making:** Commissioner Donna Allen, who supported our project during our initial application in 2020, voted against it during the recent hearing. The architectural plan currently under consideration was initially proposed and supported by the Commission, including Commissioner Allen. It is unclear what has changed in our project to warrant this shift in position.

This project, though modest in scale, aims to address the significant childcare shortage in the Bay Area. Our intent has always been to contribute positively to the community, benefiting not only our immediate neighborhood but also countless families who rely on quality childcare services. Despite our best efforts, we have encountered numerous obstacles over the past four years, which have been both discouraging and disheartening.

Our ultimate goal is to establish a non-profit childcare facility for children with special needs, and this project is a critical step toward achieving that vision. However, the ongoing challenges we face in this process not only dissuade us but also send a discouraging message to others who are committed to providing essential services to the community.

We believe that the Planning Commission's decision to limit the capacity of our project is unsupported by evidence. We respectfully urge the Board of Supervisors to overturn this decision and grant our application for a childcare center with a capacity of 48 children.

Thank you for your consideration.

Sincerely,



Delaram Mousavi, M.Ed



Nima Rafibakhsh, PhD

August 26, 2024

CONTRA COSTA COUNTY

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APPLICATION & PERMIT
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Board of Supervisors
30 Muir Road
Martinez, CA 94553

Re: CLDP 23-02020
Subj: Appeal of Approval by Zoning Administrator

Members of the Board of Supervisors,

Per Contra Costa County Ordinance Code Division 26.2.24 – Appeals, we formally appeal the Planning Commission’s ruling on August 14, 2024, granting approval for Land Use Permit CLDP23-02020 at 3001 Woodlawn Drive, Walnut Creek for a childcare facility up to 30 children.

We urge the Board of Supervisors to reconsider this decision based on several significant concerns, as outlined in detail below, using the County’s seven key criteria to ensure that a project aligns with community standards and does not negatively impact the surrounding neighborhood. While our appeal at the Planning Commission level was denied, we believe that there was significant concern from members of the commission that all the criteria were met and that the proposed project would not have significant impacts on the community. This appeal is submitted with the understanding that the proposed project, while perhaps meeting certain technical requirements, does not align with the broader goals and values of our community, and poses several risks that have not been adequately addressed.

1. Consistency with the General Plan

While the proposed daycare may technically align with the County’s General Plan, it is crucial to recognize that the General Plan, first developed in 1991, was created with broad strokes and lacks the nuance to address the specific characteristics of our neighborhood, which was developed in the early 1960s. The plan does not sufficiently account for the unique qualities of our community, which have been preserved for over 60 years. A more detailed review of how this project fits within the overarching goals of the General Plan, particularly concerning the preservation of established residential neighborhoods should be conducted.

2. Zoning Compliance

While the project may be compliant with existing zoning laws, this compliance should not override the fundamental character of the neighborhood. We recognize that the surrounding neighborhood is in general a mix of residential, commercial, and industrial. Our neighborhood, of Woodlawn Drive, Ludell Drive, Oberon Drive, and the attached courts has been strictly residential for over 60 years. The proposed daycare represents a commercial use that is out of place in a residential area characterized by single-family homes with open front yards. The introduction of a commercial entity, particularly one that would require perimeter fencing of the entire front yard and modifications to the property, including the construction of a parking lot and placement of regulatory signs is incompatible with the long-standing residential nature of the community.

3. Neighborhood Compatibility

The proposed daycare is not compatible with the character of the surrounding neighborhood. Converting one of the properties to a commercial business will significantly alter the appearance and character of our neighborhood. All properties on Woodlawn Drive, Ludell Drive, Oberon Drive, and the adjacent cul-de-sacs are single-family dwellings with open front yards. This development has existed in this manner for over six decades, fostering a quiet, family-oriented environment. Converting one of these homes into a commercial business with no residents and no front yard would significantly alter the neighborhood's character, disrupt the cohesive residential atmosphere, and introduce an unwelcome level of commercial activity.

4. Traffic and Safety Impacts

Ben Larson, a neighborhood resident on Ludell Drive, has provided us with the following regarding the traffic and safety impacts:

As a former Transportation Engineer with extensive experience in the Bay Area, including work with Fehr & Peers, I have been directly involved in numerous traffic impact assessments for development projects. This expertise compels me to express significant concerns regarding the transportation implications of the proposed daycare at 3001 Woodlawn Drive.

The Contra Costa Transportation Analysis Guidelines, updated on June 23, 2020, clearly outline the operational standards that must be applied to ensure that development projects do not negatively impact the county's transportation facilities. As stated in Section B, page 17, "When evaluating the effects of development projects on the performance of the unincorporated County's transportation facilities, the County applies operational standards to ensure the levels of growth and development provided in the County General Plan Land Use Element are sufficiently accommodated. Applicants may be required to prepare a LOS operational analysis if any of the following apply to a proposed project:

- Development project that generates 100 or more net new peak hour vehicle trips;
- Development project that adds 50 or more net new peak hour vehicle trips to an intersection;
- Project that creates safety or operational concerns."

While the current trip generation estimates for the proposed daycare reportedly fall below the 100-trip threshold, it is reasonable to question whether this threshold would indeed be exceeded if the full scope of the project were properly accounted for. With the newly introduced limit of 30 students, this becomes less of an issue, but the project is still likely to meet the other two thresholds that necessitate a more thorough operational analysis:

1. **Intersection Impact:** The project's location at the southeast corner of Woodlawn Drive and Mayhew Way, combined with the proposed traffic circulation plan, suggests that even a reduced trip generation calculation would likely result in over 50 additional vehicle trips passing through the adjacent intersection during peak hours. This increase would strain an intersection that already experiences considerable traffic, exacerbating congestion and increasing the likelihood of accidents. Site-distance for cars turning left onto Mayhew Way from Woodlawn Drive due to parked or queuing cars accessing the site would also present safety concerns.

Safety and Operational Concerns: The proposed one-way driveway with limited parking spaces presents a significant risk of vehicles queuing back from the Mayhew Way ingress onto the heavily

traveled collector road. This scenario could create dangerous conditions, particularly during peak drop-off and pick-up times. Furthermore, vehicles exiting the property onto Woodlawn Drive would likely face queuing issues at the stop-controlled intersection, potentially leading drivers to disregard the proposed right-turn-only guidance and instead cut through the neighborhood via Oberon Drive. Such behavior would not only disrupt the residential tranquility but also increase the risk of traffic incidents within the neighborhood. The project would nearly double the number of trips estimated for a neighborhood of this size.

In summary, the proposed daycare's traffic and safety implications have not been fully or accurately assessed. A more precise and comprehensive analysis is essential to understanding the true impact of this project on our community's transportation infrastructure. The concerns outlined here must be addressed before any further consideration is given to the approval of this project.

5. Environmental Impact

The environmental impact of the proposed daycare is another critical concern. Of particular importance is the drainage culvert along Mayhew Way, where the project proposes the construction of a sidewalk. This culvert has a history of flooding, posing a risk to nearby homes. It is unclear how the project intends to mitigate this issue while constructing the sidewalk, and there has been no sufficient analysis of the potential environmental impacts on the local drainage system. Additionally, there is potential for localized increased air pollution due to increased traffic congestion, and cars idling during drop off and pick up times.

6. Public Health and Safety

While the project may not pose direct public health and safety risks beyond those related to traffic, the concerns raised in the traffic analysis should not be dismissed. The potential for increased congestion and the introduction of a commercial entity into a quiet residential area could indirectly contribute to safety concerns, particularly for children, pets, and pedestrians in the neighborhood. This is an active community, many residents are frequently out on the neighborhood streets walking, running, biking, and playing. The potential added traffic throughout the neighborhood is dangerous to all us who use the streets for our activities.

7. Nuisance Considerations

The proposed daycare is likely to create a significant nuisance in the neighborhood. Increasing the number of children significantly would generate a considerable amount of noise in an otherwise peaceful area. The neighboring homes are in close proximity to the property, and the increase in noise due to children and traffic raises serious concerns about the quality of life for existing residents.

While the applicant's plans do not currently address parking lot lighting, it would seem some measure of lighting is required. This will affect those of us that have direct lines of sight to the proposed parking lot area, including many of the condos on Mayhew Court. Also, 30 vehicles entering and exiting the property twice a day will have headlights flashing in our back windows and the front windows of the neighbors across the street, particularly during the winter months when it is dark for longer periods of time.

Also, the applicants have not provided adequate plans for managing everyday nuisances, such as trash collection, which is currently collected on Woodlawn Drive. The potential impact on the aesthetics and functionality of the neighborhood should not be underestimated.

Conclusion

While the need for childcare in Contra Costa County is undeniable, the proposed location for this daycare is not suitable for commercial use. The applicants themselves likely recognize the sensitivity of location, as they have not proposed such a facility in their own residential area and point to examples of much larger properties on major roadways. Our neighborhood has been carefully maintained for over six decades as a purely residential area, and introducing a commercial entity of this nature would disrupt the community's character, safety, and quality of life.

We respectfully request that the Board of Supervisors reconsider the approval of this land use permit, taking into account all our concerns raised in this appeal. The proposed daycare at 3001 Woodlawn Drive is incompatible with the surrounding neighborhood and poses several risks that have not been adequately addressed. The community's voice must be heard in this matter, and I trust that the County will give due consideration to the legitimate concerns of its residents.

Thank you for your attention to this matter.



Jason Martin & Christina Greystone
3007 Woodlawn Drive
562-397-4651