

**COUNTY OF SONOMA**  
**PERMIT AND RESOURCE MANAGEMENT DEPARTMENT**

2550 Ventura Avenue, Santa Rosa, CA 95403  
(707) 565-1900 FAX (707) 565-1103

---

**DATE:** August 25, 2009 at 2:10 p.m.  
**TO:** Board of Supervisors  
**FROM:** Cynthia Demidovich, Project Planner  
**SUBJECT:** UPE07-0117, [REDACTED]

**Action of the Board of Zoning Adjustments:**

At its regularly scheduled meeting on June 11, 2009, the Board of Zoning Adjustments (BZA), with a 5-0 vote, approved the request for a Use Permit for property owner [REDACTED] to increase a small family day care facility of eight children to a large family day care facility for up to 14 children on a 1.5 acre parcel located at 4700 Stoetz Lane, Sebastopol; APN 074-041-011; Zoning DA (Diverse Agriculture), B6-20 acre density, SD (Scenic Design); Supervisorial District No. 5.

On June 19, 2009, an appeal of the decision was filed with the Board of Supervisors by the property owner/applicant, [REDACTED]

**Background:**

The property owner/applicant has been operating an existing small family day care facility for up to eight children for 18 years on the project site. On October 18, 2007, the applicant applied for a Use Permit to increase the use of the day care facility to 14 children. A notice of waiver of a public hearing for a Use Permit was posted on December 17, 2007, and two letters of opposition were sent to the Permit and Resource Management Department (PRMD). The required hearing fee was submitted by the applicant on February 22, 2008. Based on neighbor concerns regarding noise impacts associated with the existing and proposed day care and compliance with the General Plan noise criteria, staff requested a Sound Study in February 2008. The applicant objected to the Sound Study because of the cost involved. Although the Sound Study was never submitted, staff addressed the noise issues with Conditions of Approval and forwarded the request to the Board of Zoning Adjustments for review and direction.

**ISSUES DISCUSSED AT THE PUBLIC HEARING**

**Issue #1:** Noise

**Discussion**

Brad Alper, a neighbor who protested the waiver of a public hearing, stated that he supported approval of the Use Permit for the large family day care facility but with conditions requiring a

sound wall and limited outdoor activities because the noise generated by the current day care operation is excessive and has compatibility issues with the surrounding neighborhood.

The applicant explained that construction of a sound wall was not financially feasible and that her small family day care had been in operation for 18 years without a complaint about noise. She indicated that noise from the children was not excessive and that the children were supervised at all times. She also indicated that there was a demand for large family day care facilities in Sonoma County. She requested that the BZA approve the Use Permit to increase the existing small family day care facility from eight to 14 children.

Donna Roper, Director of River Coast Children Services, Joe Wilson, Director of California Child Care Campaign, several neighbors, clients, former clients, employees, and former employees testified in support of the Use Permit approval to increase the small family day care facility from eight to 14 children. They felt that restricting the children's outdoor activities was excessive and unreasonable. They felt that construction of a sound wall was unreasonable and it would not be financially feasible for the property owner to construct. They indicated that there was a large demand for family day care facilities in Sonoma County and encouraged the BZA to approve the Use Permit.

#### Resolution #1

The PRMD Project Review Health Specialist advised the BZA that he reviewed other Sound Studies prepared for similar day care facilities and determined that the noise would not meet General Plan standards and required the sound wall. He also stated that a sound wall could be constructed with inexpensive outdoor rated 3/4 inch plywood. The BZA felt that since a Sound Study was not provided as requested, they did not have the appropriate data to determine noise would meet General Plan standards. A Use Permit requires a finding of compatibility and the General Plan noise standards apply to all discretionary permits. Therefore, they were in favor of requiring the construction of a sound wall as a Condition of Approval to meet the noise standards in the General Plan. The BZA felt that the Project Review Health Specialist should conduct a site visit to determine the best location for the sound wall prior to construction. The BZA also felt that an equivalent alternative to a sound wall could be allowed if the applicant provided staff with a Sound Study that recommends an equivalent alternative. Once the Sound Study with the recommended equivalent alternative was submitted to PRMD the condition for the sound wall could be eliminated. Condition #4 was modified as follows (modified language is in bold text):

“Prior to project operation, the applicant shall construct six-foot tall sound walls at two locations on the property as follows: 1) a 100 foot long segment near the eastern edge of the property centered on the playground area, and 2) beginning at the northwest corner of the garage and extending westerly for about 25 feet to the northwest property line, and thence northerly along the property line past the daycare cottage to a point opposite the northwest corner of the main house. **Prior to the construction of the sound wall, the applicant shall apply for Site Review by the Project Review Health Specialist to determine the appropriate location and extent of the sound wall.** The sound wall shall be a solid core wall with no gaps or openings at the base or any other portion of the wall, shall be constructed of outdoor rated 3/4 inch plywood, cement and cinder block,

brick and mortar, precast concrete walls, cast in place concrete, architectural glass block and mortar or building quality rock and mortar or equivalent alternative, and shall not weigh less than three pounds per square foot of facing. **An equivalent alternative to a sound wall shall be allowed if the applicant provides staff with a Sound Study prepared by a qualified noise consultant that recommends an equivalent alternative. Once the Sound Study with the recommended equivalent alternative is provided to PRMD the condition for the sound wall can be eliminated.**”

Resolution #2

Staff advised the BZA that new State law allows large family day care facilities to meet conditions for health and safety and this includes noise standards. In addition, the recent State law implied that a family day care facility must be treated as a single family residence. The BZA determined that the proposed project was subject to the General Plan Noise Standards and added the following Condition of Approval to be placed on the proposed project:

“Noise shall be controlled in accordance with the following as measured at the exterior property line of any affected residential or sensitive land use:

Hourly Noise Metric <sup>1</sup> , dBA	Daytime (7 a.m. to 10 p.m.)	Nighttime (10 p.m. to 7 a.m.)
L <sub>50</sub> (30 minutes in any hour)	50	45
L <sub>25</sub> (15 minutes in any hour)	55	50
L <sub>08</sub> (5 minutes in any hour)	60	55
L <sub>02</sub> (1 minute in any hour)	65	60

<sup>1</sup> The sound level exceeded n% of the time in any hour. For example, the L<sub>50</sub> is the value exceeded 50% of the time or 30 minutes in any hour; this is the median noise level. The L<sub>02</sub> is the sound level exceeded 1 minute in any hour.

Resolution #3

The BZA was not in favor of restricting the children’s outdoor play times. Condition of Approval #6 was modified as follows (strike out is modified language):

“This Use Permit allows the applicant to increase a small family day care home from eight to 14 children. The permitted hours of operation are Monday through Friday 7:00 a.m. to 6:00 p.m. The use shall be operated in accordance with the proposal statement and site plan located in File No. UPE07-0117 as modified by these conditions. ~~The children are limited to outside activities to one (1) hour maximum four (4) times a day.~~”

**ISSUES RAISED WITH APPEAL**

**Issue #1:** Noise Standards

Condition of Approval #4 and #5 ensures that the proposed project will meet the exterior noise standards of the General Plan. The applicant would like these two conditions removed from the proposed project. Condition #4 requires the construction of a sound wall. The applicant feels this will not be financially feasible.

Condition of Approval #5 requires the applicant to meet the General Plan noise standards which requires the exterior noise level to be 65dBA at the fence line of the project site. The applicant is concerned that if she is required to meet the noise General Plan standards it would set a precedent for all future large day care facilities. She feels this standard would be impossible for future day care providers to meet.

In addition to the above listed conditions the applicant is requesting that the Use Permit be approved with no conditions including all the standard conditions attached to the project. This would include conditions to test well water for contaminants; accessibility requirements in the Building Code; maintaining all state licensing and the hours of operation.

### **ALTERNATIVES**

Alternatively the Board could approve the Use Permit eliminating Condition of Approval #4 requiring the construction of a sound wall. The Board could require the large day care facility to meet the General Plan noise standards at the property boundary lines, as required in Condition of Approval #5. To ensure that the large day care activities remain compatible with the surrounding community the Board could also condition the project to require a one-year review with PRMD. The results of the review would be forwarded to the BZA for a public hearing and potential modification of the Use Permit Conditions of Approval if necessary. The following language is recommended for this additional condition if determined appropriate by the Board:

“The applicant shall submit an application for a one-year operational review. A public hearing will be conducted by the BZA to address any issues that may have arisen from the operation of the large family day care facility. The review will allow for modification of the conditions or revocation of the Use Permit if deemed necessary by the hearing body.”

The range of alternatives for the Board include:

1. Deny the appeal and approve the Use Permit as recommended by the BZA.
2. Uphold the appeal and approve the Use Permit with no conditions as requested by the applicant/appellant.
3. Deny the appeal and approve the Use Permit with modified conditions eliminating Condition of Approval #4 which is construction of a sound wall but retain the noise standards.
4. Deny the appeal and approve the Use Permit with modified conditions eliminating Condition of Approval #4 and #5 but require a 1-year review.

August 25, 2009  
UPE07-0117  
Page 5

In preparation for updating the Zoning Code to streamline the permitting process for large family day care facilities staff reviewed large family day care Ordinances in other jurisdictions. The Ordinances had provisions for controlling noise which included the construction of a sound wall and hours of operation.

**List of Attachments:**

Draft Board of Supervisors Resolution

EXHIBIT A: Draft Conditions of Approval

EXHIBIT B: Appeal Form

EXHIBIT C: Letters of Concern

EXHIBIT D: Board of Zoning Adjustments Resolution No.09-009

EXHIBIT E: Board of Zoning Adjustments Minutes dated June 11, 2009

EXHIBIT F: Board of Zoning Adjustments Staff Report dated June 11, 2009

Resolution Number

County of Sonoma  
Santa Rosa, California

August 25, 2009  
UPE07-0117 Cynthia Demidovich

RESOLUTION OF THE BOARD OF SUPERVISORS, COUNTY OF SONOMA, STATE OF CALIFORNIA, DENYING THE APPEAL, THEREBY UPHOLDING THE USE PERMIT GRANTED TO [REDACTED], FOR PROPERTY LOCATED AT 4700 STOETZ LANE, SEBASTOPOL; APN 074-041-0110.

WHEREAS, the applicant, [REDACTED], filed a Use Permit application with the Sonoma County Permit and Resource Management Department to increase a small family day care home of 8 children to a large family day care home for up to 14 children on a 1.5 acre parcel located at 4700 Stoetz Lane, Sebastopol; APN 074-041-0110; Zoned DA (Diverse Agriculture), B6-20 acre density, SD (Scenic Design Regulations); Supervisorial District 5; and

WHEREAS, at its regularly scheduled meeting on June 11, 2009, the Board of Zoning Adjustments, with a 5-0 vote, approved the request, and

WHEREAS, on June 19, 2009, an appeal of the approval was filed with the Board of Supervisors by the applicant, [REDACTED] and

WHEREAS, in accordance with the provisions of law, the Board of Supervisors held a public hearing on August 25, 2009, at which time all interested persons were given an opportunity to be heard; and

WHEREAS, the project is categorically exempt from environmental review pursuant to CEQA section 15274(a), which allows the operation of a large family day care center for up to 14 children; and

NOW THEREFORE BE IT RESOLVED that the Board of Supervisors makes the following findings:

1. The use, as conditioned, is consistent with the Diverse Agricultural General Plan land use designation and the Diverse Agriculture zoning district regulations as a large family day care center is allowed with an approved Use Permit.
2. Two sound walls shall be constructed on-site to mitigate the noise generated by the day care center.
3. The establishment, maintenance and operation of the expanded day care center to 14 children will not, under the circumstances of this particular case, be detrimental to the health, safety, peace, comfort and general welfare of persons residing or working in the neighborhood of such use, nor be detrimental or injurious to property and improvements in the neighborhood or the general welfare of the area because no new construction is proposed; noise is to be mitigated with the construction of sound walls; and the hours of out door play time are limited to assume compatibility with the neighborhood.
4. The project is categorically exempt from environmental review pursuant to CEQA Section 15274(a), which allows the exemption for the operation of a large family day care home which provides in-home care for up to 14 children.

Resolution #  
August 25, 2009  
Page 2

BE IT FURTHER RESOLVED that the Board of Supervisors denies the appeal and upholds the Use Permit, subject to the Conditions of Approval in Exhibit "A", attached hereto.

BE IT FURTHER RESOLVED that the Board of Supervisors designates the Clerk of the Board as the custodian of the documents and other material which constitute the record of proceedings upon which the decision herein is based. These documents may be found at the office of the Clerk of the Board, 575 Administration Drive, Room 100-A, Santa Rosa, California 95403.

SUPERVISORS VOTE:

Brown:	Kerns:	Zane:	Carrillo:	Kelley:
	Ayes:	Noes:	Absent:	Abstain:

SO ORDERED.



5. Noise shall be controlled in accordance with the following as measured at the exterior property line of any affected residential or sensitive land use:

Hourly Noise Metric <sup>1</sup> , dBA	Daytime (7 a.m. to 10 p.m.)	Nighttime (10 p.m. to 7 a.m.)
L50 (30 minutes in any hour)	50	45
L25 (15 minutes in any hour)	55	50
L08 (5 minutes in any hour)	60	55
L02 (1 minute in any hour)	65	60

<sup>1</sup> The sound level exceeded n% of the time in any hour. For example, the L50 is the value exceeded 50% of the time or 30 minutes in any hour; this is the median noise level. The L02 is the sound level exceeded 1 minute in any hour.

6. If noise complaints are received from nearby residents, and they appear to be valid complaints in PRMD's opinion, then the applicant shall hire a qualified consultant to conduct a Noise Study to determine the current noise status of the project and recommend additional mitigation measures. The applicant shall implement any additional mitigation measures. A copy of the Noise Study shall be submitted to the Project Review Health Specialist within sixty days of notification from PRMD that a noise complaint has been received.

**PLANNING:**

"The conditions below have been satisfied" BY \_\_\_\_\_ DATE \_\_\_\_\_

7. This Use Permit allows the applicant to increase a small family day care home from eight to fourteen children. The permitted hours of operation are Monday through Friday 7:00 a.m. to 6:00 p.m. The use shall be operated in accordance with the proposal statement and site plan located in File No. UPE07-0117 as modified by these conditions.
8. It shall be stated in all childcare contracts that all parents shall obey all traffic laws and be aware of traffic impacts to the surrounding neighborhood.
9. This use shall be maintained and operated in conformance with all applicable county, state, and federal statutes, ordinances, rules, and regulations. Any necessary permits from State agencies for the operation of a large family day care shall be secured prior to increasing the day care to over eight children and submit evidence to PRMD. A violation of any applicable statute, ordinance, rule or regulation shall be a violation of the Use Permit, subject to revocation.
10. Development on this parcel is subject to the Sonoma County Fire Safe Standards and shall be reviewed and approved by the County Fire Marshal/Local Fire Protection District. Said plan shall include, but not be limited to: emergency vehicle access and turn-around at the building site(s), addressing, water storage for fire fighting and fire break maintenance around all structures. Prior to occupancy, written approval that the required improvements have been installed shall be provided to PRMD from the County Fire Marshal/Local Fire Protection District.
11. Prior to building permit issuance or prior to exercising this approval, whichever comes first, the property owner(s) shall execute and record a Right-to-Farm declaration on a form provided by PRMD.
12. At the time of submitting a building permit application, the applicant shall submit to PRMD a Condition Compliance Review fee deposit (amount to be determined consistent with the ordinance in effect at the time). In addition, the applicant shall be responsible for payment of any additional compliance review fees that exceed the initial deposit (based upon hours of staff time worked) prior to final inspection being granted.
13. Any proposed modification, alteration, and/or expansion of the use authorized by this Use Permit

shall require the prior review and approval of PRMD or the Board of Zoning Adjustments, as appropriate. Such changes may require a new or modified Use Permit and additional environmental review.

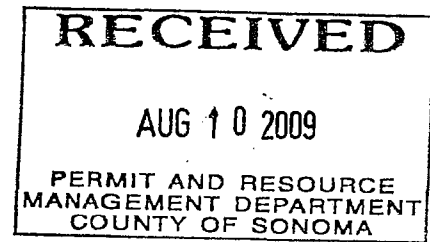
14. The Director of PRMD is hereby authorized to modify these conditions for minor adjustments to respond to unforeseen field constraints provided that the goals of these conditions can be safely achieved in some other manner. The applicant must submit a written request to PRMD demonstrating that the condition(s) is infeasible due to specific constraints (e.g. lack of property rights) and shall include a proposed alternative measure or option to meet the goal or purpose of the condition. PRMD shall consult with affected departments and agencies and may require an application for modification of the approved permit. Changes to conditions that may be authorized by PRMD are limited to those items that are not adopted standards or were not adopted as mitigation measures or that were not at issue during the public hearing process. Any modification of the permit conditions shall be documented with an approval letter from PRMD, and shall not affect the original permit approval date or the term for expiration of the permit.

The owner/operator and all successors in interest, shall comply with all applicable provisions of the Sonoma County Code and all other applicable local, state and federal regulations.

15. This permit shall be subject to revocation or modification by the Board of Zoning Adjustments if:  
(a) the Board finds that there has been noncompliance with any of the conditions or (b) the Board finds that the use for which this permit is hereby granted constitutes a nuisance. Any such revocation shall be preceded by a public hearing noticed and heard pursuant to Section 26-92-120 and 26-92-140 of the Sonoma County Code.
16. In any case where a Use Permit has not been used within two (2) year after the date of the granting thereof, or for such additional period as may be specified in the permit, such permit shall become automatically void and of no further effect, provided however, that upon written request by the applicant prior to the expiration of the two year period the permit approval may be extended for not more than one (1) year by the authority which granted the original permit pursuant to Section 26-92-130 of the Sonoma County Code..

08/10/2009

Cynthia Demidovich  
2550 Ventura Ave  
Santa Rosa, CA 95403



Dear Ms. Demidovich

Please attach this letter to the staff report pertaining to [REDACTED] appeal of the conditions to her recently approved use permit.

[REDACTED] states in her appeal form that: **"The ambient sound levels in rural areas make it impossible for a daycare to comply with noise standards."** This is an important point. I have chosen to live in a rural area precisely because of the low ambient sound levels. Many of us in rural areas left the city because we did not want to be subject to noise generated by, traffic, neighborhoods, schools daycares, etc. There are areas where the right to generate excessive noise should be protected and other areas, such as where [REDACTED] daycare is located, where excessive noise is not appropriate. It is important that those of us who choose to live in the country have our rights to comfortably enjoy our properties protected.

When [REDACTED] applied for a use permit from the county she signed a checklist of performance standards, one of which states that: **"Noise emanating from a large family daycare home or childcare facility shall not exceed 60 decibels on the A scale measured at the property line."** Additionally, she has offered to allow me to install a "decibel reader" and has stated that "60+ [decibels] is too much." It is clear that [REDACTED] has been aware of the 60 decibel limit for some time. What is not clear is why she now opposes the 60 decibel limit that she previously agreed not to exceed.

The conditions attached to [REDACTED] Use Permit are, for the most part, things that she is already required to do. The addition of a sound wall will make [REDACTED] business comply with the zoning as well aiding her business in fitting in with the rural character of the area where her business is located.

[REDACTED] has gone to great lengths to portray this normal process as an effort by others [and me specifically] to close down her business. This is absolutely false. It is not my desire to see [REDACTED] daycare shut down. I merely want to exercise my right to comfortably enjoy my property without being subject to the excessive noise generated by a business that is not in compliance with zoning.

All of the wrangling to date could have easily been avoided if [REDACTED] would have simply made it a practice of reducing the noise generated by her business just as nearly every other daycare in Sonoma County does. Respecting her neighbors is far less expensive than a sound wall or noise study. Also, the energy required to reduce the volume on her radio and to keep the children's yelling and screaming to a minimum is far less than the energy she has expended these past several years fighting the state, the Sonoma County PRMD, the sheriff's department, and her neighbors.

A conditional use permit will provide the guidelines as well as the impetus for [REDACTED] to successfully operate her business and will serve to protect the rights of those of us who moved to this area to specifically because of its low ambient noise level.

Signature next page

4708 Stoetz Ln.

Sebastopol, CA 95472

7/8/2009

**Permit and Resource Management Department**

ATTN: Cynthia Demidovich

2550 Ventura Ave

Santa Rosa, CA 95403

Dear Ms. Demidovich,

It has come to my attention that [REDACTED] has stated in writing that I am, "an old man with significant hearing loss." This is absolutely false. My hearing is excellent and I regularly hear the screaming of children in her yard as well as her loud music.

If any of your staff wishes to call or visit me to confirm how well I can hear I am happy to speak with them.

Sincerely,

[REDACTED]

Albert Bello

Resolution Number 09-009

County of Sonoma  
Santa Rosa, California

June 11, 2009  
UPE07-0117 Cynthia Demidovich

RESOLUTION OF THE BOARD OF ZONING ADJUSTMENTS,  
COUNTY OF SONOMA, STATE OF CALIFORNIA, GRANTING A  
USE PERMIT TO [REDACTED], FOR PROPERTY LOCATED AT  
470 STOETZ LANE, SEBASTOPOL; APN 074-041-0110.

WHEREAS, the applicant, [REDACTED], filed a Use Permit application with the Sonoma County Permit and Resource Management Department to increase a small family day care home of 8 children to a large family day care home for up to 14 children on a 1.5 acre parcel located at 470 Stoetz Lane, Sebastopol; APN 074-041-0110; Zoned DA (Diverse Agriculture), B6-20 acre density, SD (Scenic Design Regulations); Supervisorial District 5; and

WHEREAS, in accordance with the provisions of law, the Board of Zoning Adjustments held a public hearing on June 11, 2009, at which time all interested persons were given an opportunity to be heard; and

WHEREAS, the project is categorically exempt from environmental review pursuant to CEQA section 15274(a), which allows the operation of a large family day care center for up to 14 children; and

NOW THEREFORE BE IT RESOLVED that the Board of Zoning Adjustments makes the following findings:

1. The use, as conditioned, is consistent with the Diverse Agricultural General Plan land use designation and the Diverse Agriculture zoning district regulations as a large family day care center is allowed with an approved Use Permit.
2. Two sound walls shall be constructed on-site to mitigate the noise generated by the day care center.
3. The establishment, maintenance and operation of the expanded day care center to 14 children will not, under the circumstances of this particular case, be detrimental to the health, safety, peace, comfort and general welfare of persons residing or working in the neighborhood of such use, nor be detrimental or injurious to property and improvements in the neighborhood or the general welfare of the area because no new construction is proposed; noise is to be mitigated with the construction of sound walls; and the hours of out door play time are limited to assume compatibility with the neighborhood.
4. The project is categorically exempt from environmental review pursuant to CEQA Section 15274(a), which allows the exemption for the operation of a large family day care home which provides in-home care for up to 14 children.

BE IT FURTHER RESOLVED that the Board of Zoning Adjustments hereby grants the requested Use Permit, subject to the Conditions of Approval in Exhibit "A", attached hereto.

BE IT FURTHER RESOLVED that the Board of Zoning Adjustments designates the Secretary as the custodian of the documents and other material which constitute the record of proceedings upon which the Board's decision herein is based. These documents may be found at the office of the Sonoma County Permit and Resource Management Department, 2550 Ventura Avenue, Santa Rosa, CA 95403.

BE IT FURTHER RESOLVED that the Board of Zoning Adjustments' action shall be final on the 11<sup>th</sup> day after the date of the Resolution unless an appeal is taken.

THE FOREGOING RESOLUTION was introduced by Commissioner Davis, who moved its adoption, seconded by Commissioner Bennett, and adopted on roll call by the following vote:

Commissioner Bennett	Aye
Commissioner Cook	Aye
Commissioner Murphy	Aye
Commissioner Davis	Aye
Commissioner Williams	Aye

Ayes: 5      Noes: 0      Absent: 0      Abstain: 0

WHEREUPON, the Chair declared the above and foregoing resolution duly adopted; and

SO ORDERED.

# SONOMA COUNTY BOARD OF ZONING ADJUSTMENTS

## EXHIBIT A

### Final Conditions of Approval with Corrected Condition #4 7-30-09

**Date:** June 11, 2009  
**Applicant:** [REDACTED]  
**Address:** 4700 Stoetz Lane, Petaluma

**File No.:** UPE07-0117  
**APN:** 074-041-011

**Project Description:** Request for a minor Use Permit to increase a small family day care home of 8 children to a large family day care home for up to 14 children on a 1.5 acre parcel.

---

**Prior to commencing the use, evidence must be submitted to the file that all of the following non-operational conditions have been met.**

#### **BUILDING:**

1. The applicant shall apply for and obtain building related permits from the Permit and Resource Management Department (PRMD). The necessary applications appear to be, but may not be limited to, site review, building permit, and grading permit.
2. Prior to initiation of the approved use, the project shall comply with the accessibility requirements set forth in the most recent California Building Code (CBC), as determined by the PRMD Building Division. Such accessibility requirements shall apply to all new construction and remodeling and, where required by the CBC, to retrofitting of the existing structure.

#### **HEALTH:**

"The conditions below have been satisfied" BY \_\_\_\_\_ DATE \_\_\_\_\_

#### **PRIOR TO PROJECT OPERATION:**

##### Water:

3. Prior to project operation, the applicant shall provide the Project Review Health Specialist with the bacteriological (E. Coli and total coliform) arsenic and nitrate analysis results of a sample of the well water tested by a California State-certified lab. If the analysis shows contamination, the applicant will be required to treat the well per County requirements and re-test the well. If the contamination cannot be cleared from the well, destruction under permit of this Department may be required. Copies of all laboratory results must be submitted to the Project Review Health Specialist.

##### Noise:

4. Prior to project operation, the applicant shall construct six-foot tall sound walls at two locations on the property as follows: 1) a 100 foot long segment near the eastern edge of the property centered on the playground area, and 2) beginning at the northwest corner of the garage and extending westerly for about 25 feet to the northwest property line, and thence northerly along the property line past the daycare cottage to a point opposite the northwest corner of the main house. Prior to the construction of the sound wall, the applicant shall apply for Site Review by County Environmental Health Specialist to determine the appropriate location and extent of the sound wall. The sound wall shall be a solid core wall with no gaps or openings at the base or any other portion of the wall, shall be constructed of outdoor rated 3/4 inch plywood, cement and cinder block, brick and mortar, precast concrete walls, cast in place concrete, architectural glass block and mortar or building quality rock and mortar or equivalent alternative, and shall not weigh less than three pounds per square foot of facing. An equivalent alternative to a sound wall shall be allowed if the applicant provides staff with a sound study that recommends an equivalent alternative. Once the sound study with the recommended equivalent alternative is provided to PRMD the condition for the sound wall can be eliminated.
5. Noise shall be controlled in accordance with the following as measured at the exterior property line of any affected residential or sensitive land use:

Hourly Noise Metric <sup>1</sup> , dBA	Daytime (7 a.m. to 10 p.m.)	Nighttime (10 p.m. to 7 a.m.)
L50 (30 minutes in any hour)	50	45
L25 (15 minutes in any hour)	55	50
L08 (5 minutes in any hour)	60	55
L02 (1 minute in any hour)	65	60
<sup>1</sup> The sound level exceeded n% of the time in any hour. For example, the L50 is the value exceeded 50% of the time or 30 minutes in any hour; this is the median noise level. The L02 is the sound level exceeded 1 minute in any hour.		

Limit exceptions to the following:

- a. If the ambient noise level exceeds the standard in Table NE-2, adjust the standard to equal the ambient level, up to a maximum of 5 dBA above the standard, provided that no measurable increase (i.e. +/- 1.5 dBA) shall be allowed.
- b. Reduce the applicable standards in Table NE-2 by five dBA for simple tone noises, noises consisting primarily of speech or music, or for recurring impulsive noises, such as pile drivers and dog barking at kennels.
- c. Reduce the applicable standards in Table NE-2 by 5 decibels if the proposed use exceeds the ambient level by 10 or more decibels.
- d. For short term noise sources which are permitted to operate no more than six days per year, such as concerts or race events, the allowable noise exposures shown in Table NE-2 may be increased by 5 dB. These events shall be subject to a noise management plan including provisions for maximum noise level limits, noise monitoring, complaint response and allowable hours of operation. The plan shall address potential cumulative noise impacts from all events in the area.
- e. Noise levels may be measured at the location of the outdoor activity area of the noise sensitive land use, instead of the exterior property line of the adjacent noise sensitive land use where:
  - 1) The property on which the noise sensitive use is located has already been substantially developed pursuant to its existing zoning, and
  - 2) There is available open land on those noise sensitive lands for noise attenuation.

This exception may not be used on vacant properties which are zoned to allow noise sensitive uses.

6. If noise complaints are received from nearby residents, and they appear to be valid complaints in PRMD's opinion, then the applicant shall hire a qualified consultant to conduct a Noise Study to determine the current noise status of the project and recommend additional mitigation measures. The applicant shall implement any additional mitigation measures. A copy of the Noise Study shall be submitted to the Project Review Health Specialist within sixty days of notification from PRMD that a noise complaint has been received.

**PLANNING:**

"The conditions below have been satisfied" BY \_\_\_\_\_ DATE \_\_\_\_\_

7. This Use Permit allows the applicant to increase a small family day care home from eight to 14 children. The permitted hours of operation are Monday through Friday 7:00 a.m. to 6:00 p.m. The use shall be operated in accordance with the proposal statement and site plan located in File No.

UPE07-0117 as modified by these conditions.

8. It shall be stated in all childcare contracts that all parents shall obey all traffic laws and be aware of traffic impacts to the surrounding neighborhood.
9. This use shall be maintained and operated in conformance with all applicable county, state, and federal statutes, ordinances, rules, and regulations. Any necessary permits from State agencies for the operation of a large family day care shall be secured prior to increasing the day care to over eight children and submit evidence to PRMD. A violation of any applicable statute, ordinance, rule or regulation shall be a violation of the Use Permit, subject to revocation.
10. Development on this parcel is subject to the Sonoma County Fire Safe Standards and shall be reviewed and approved by the County Fire Marshal/Local Fire Protection District. Said plan shall include, but not be limited to: emergency vehicle access and turn-around at the building site(s), addressing, water storage for fire fighting and fire break maintenance around all structures. Prior to occupancy, written approval that the required improvements have been installed shall be provided to PRMD from the County Fire Marshal/Local Fire Protection District.
11. Prior to building permit issuance or prior to exercising this approval, whichever comes first, the property owner(s) shall execute and record a Right-to-Farm declaration on a form provided by PRMD.
12. At the time of submitting a building permit application, the applicant shall submit to PRMD a Condition Compliance Review fee deposit (amount to be determined consistent with the ordinance in effect at the time). In addition, the applicant shall be responsible for payment of any additional compliance review fees that exceed the initial deposit (based upon hours of staff time worked) prior to final inspection being granted.
13. Any proposed modification, alteration, and/or expansion of the use authorized by this Use Permit shall require the prior review and approval of PRMD or the Board of Zoning Adjustments, as appropriate. Such changes may require a new or modified Use Permit and additional environmental review.
14. The Director of PRMD is hereby authorized to modify these conditions for minor adjustments to respond to unforeseen field constraints provided that the goals of these conditions can be safely achieved in some other manner. The applicant must submit a written request to PRMD demonstrating that the condition(s) is infeasible due to specific constraints (e.g. lack of property rights) and shall include a proposed alternative measure or option to meet the goal or purpose of the condition. PRMD shall consult with affected departments and agencies and may require an application for modification of the approved permit. Changes to conditions that may be authorized by PRMD are limited to those items that are not adopted standards or were not adopted as mitigation measures or that were not at issue during the public hearing process. Any modification of the permit conditions shall be documented with an approval letter from PRMD, and shall not affect the original permit approval date or the term for expiration of the permit.  
  
The owner/operator and all successors in interest, shall comply with all applicable provisions of the Sonoma County Code and all other applicable local, state and federal regulations.
15. This permit shall be subject to revocation or modification by the Board of Zoning Adjustments if:  
(a) the Board finds that there has been noncompliance with any of the conditions or (b) the Board finds that the use for which this permit is hereby granted constitutes a nuisance. Any such revocation shall be preceded by a public hearing noticed and heard pursuant to Section 26-92-120 and 26-92-140 of the Sonoma County Code.

In any case where a Use Permit has not been used within two (2) year after the date of the granting thereof, or for such additional period as may be specified in the permit, such permit shall become automatically void and of no further effect, provided however, that upon written request by the applicant prior to the expiration of the two year period the permit approval may be extended for not more than one (1) year by the authority which granted the original permit pursuant to Section 26-92-130 of the Sonoma County Code..

# Sonoma County Board of Zoning Adjustments DRAFT MINUTES

Sonoma County Permit and Resource Management Department  
2550 Ventura Avenue, Santa Rosa, CA 95403  
(707) 565-1900 FAX (707) 565-1103

---

Date: **June 11, 2009**  
Meeting No.: **09-006**

## ROLL CALL

### Commissioners

Don Bennett  
Paula Cook  
Dennis Murphy  
Pamela Davis  
Bob Williams, Chair

### Staff Members

Jennifer Barrett  
David Hardy  
Cynthia Demidovich  
Traci Tesconi  
Francine Archer  
David Hurst, Chief Deputy County Counsel

---

**1:00 PM** Call to order  
**Approval of Minutes** - None

---

## REGULAR CALENDAR

---

<b>Item No. 2</b>	<b>Time:</b> 1:30 p.m.	<b>File:</b> UPE07-0117
<b>Applicant:</b> [REDACTED]		<b>Staff:</b> Cynthia Demidovich
<b>Env. Doc.:</b>	Categorical Exemption	
<b>Proposal:</b>	Request for a minor Use Permit to increase a small day care center from 8 children to a large day care center with up to 14 children.	
<b>Location:</b>	4700 Stoetz Lane, Graton	
<b>APN:</b>	074 041 011	<b>Sup. Dist:</b> 5
<b>Zoning:</b>	DA (Diverse Agriculture), B6-20 acre density, SD (Scenic Design Regulations)	

Cynthia Demidovich summarized the written staff report which is incorporated herein by reference.

**Questions from Commissioners:** **Chair Williams** asked for specifications regarding a sound wall in this situation. **Deputy Director Barrett** responded that the sound wall for a land use situation such as this is line of sight. For a day care facility that includes outdoor activity, it is usually six feet. **Chair Williams** asked if the Environmental Specialist went out to the property for a site visit. **Staff Demidovich** stated she believed he had done so. **Commissioner Cook** asked what the cost of a sound study would be so that she could compare that to the potential construction cost of a sound wall. **Staff Demidovich** said she had contacted a consultant to obtain the cost of a study for this project (it would be done as a one-time intermittent noise event) and that cost ranged from \$5,000 to \$8,000. If looking at a project with heavy equipment were involved, then it would be \$10,000 to \$12,000 for a sound study.

**Public Hearing Opened:** 1:40 p.m.

DRAFT

**Speakers:** [REDACTED] applicant. **Ms.** [REDACTED] stated that she had been told by the County that they did not have to accept the findings of a sound study so the applicant had not done one. **Ms.** [REDACTED] said she thought a sound wall would cost more than a sound study but she had not checked into it. **Ms.** [REDACTED] gave an historical outline of her daycare facility, which has been in the same location for 18 years. In 2001, she had a small family daycare center and in increased the size in 2006, with the State's permission. **Ms.** [REDACTED] stated that no one at the County told her to get a permit for a large daycare facility at that time. A neighbor, Brad Alper, told her that she needed to obtain a permit to have over seven children and this was the first she'd ever heard of this. **Ms.** [REDACTED] stated that now the County is requiring permitted usage and she said she has done all she can for the last 2 ½ years in order to cooperate, and has always provided any requested or necessary documentation to the County. **Ms.** [REDACTED] described a typical day for the facility (children in the yard from 10 a.m. - 12 p.m., then lunch rest period, return to yard around 2:30 or 3 p.m. until 4:30 p.m.). The applicant stated that neighbor allegations of children being unsupervised and screaming hours on end was simply untrue, that said neighbor had made an anonymous call to licensing alleging this. The applicant stated that no parents, visitors, licensing personnel, child development specialists, RCCS personnel, or Department of Agriculture had ever witnessed the children in her care being unsupervised. **Ms.** [REDACTED] stated that the children are involved in the following activities: growing their own greens and helping to support a local farm, picking their own fruit during the year, helping with the care and socialization of pups for Canine Companions. She is a professional in every aspect of her work, from keeping her costs low to accommodating low-income families, becoming bilingual, supplying out of pocket a professionally prepared pre-school program, and assuring that the children graduating from her care are completely ready for kindergarten. **Ms.** [REDACTED] said she did not understand why neighbors are concerned that 12 children would be excessively loud while eight children were fine. She said that play noises are the only noises that the children are making and she does not understand why suddenly the noise is an issue with the neighbors, noting that the local agricultural traffic makes far more noise than the children.

**Commissioner Murphy** stated that this was an active agricultural area and then asked applicant if there had ever been any problems with neighbors engaged in agricultural activities wanting to use regulated pesticides. **Ms.** [REDACTED] stated that she had asked one neighbor about use of sprays on his crops, but the neighbor had responded that he only used sulfur on his grapes. **Commissioner Murphy** stated that in active agricultural areas, one of the prime concerns for the Commission are issues that might impact these lands. **Commissioner Cook** asked applicant if there were other staff on site. **Ms.** [REDACTED] responded that anytime she has over seven children, she always has another adult on the premises. She stated that she follows all the licensing rules.

**Donna Roper**, Director of River Coast Children Services (RCCS) - helps parents find affordable child care in West County. **Ms. Roper** said that currently there are only two centers available to all the children who live in the unincorporated areas of Sonoma County and parents who need to work rely on these large family child daycare centers. She reiterated **Ms.** [REDACTED] comment that in the past the large family child care programs were not required by PRMD to get permits. She stated that there are currently 3,000 kids on the waiting list in Sonoma County. She supports the project.

**Joe Wilson** - Director of California Child Care Campaign. Says conditions imposed for the sound wall and restricting the hours of outdoor play are excessive and unreasonable and inconsistent with other communities efforts to encourage child care facilities. He stated that more daycare centers are needed in Sonoma County and that \$90 million dollars per year in economic activity is estimated to be generated by child care.

The following neighbors, clients and former clients, employees and former employees testified in support of **Ms.** [REDACTED] daycare facility: **David Ostroff, Lacy Andrews, Nick Dyer, [REDACTED] Carol Gerst, Nina Janhouston, Jessica Huston, Jonathan Hakalo, Vela Millen, Julie Grange, Armando Bautista, Gerald Gerst, Tim Cuesty.**

These supporters of the project stated that sound walls are an unreasonable condition and would be prohibitive financially for **Ms.** [REDACTED]. The above-listed supporters stated that the noise of the children had never been a problem or an issue. **Ms. Millen**, one of the above supporters, also stated that there had never been a site visit by the Environmental Specialist from PRMD.

**Brad Alper**, neighbor, appealed the Waiver of Use Permit. **Mr. Alper** supported Use Permit approval for **Ms.** [REDACTED] but stated that approval should be with the conditions for the sound wall and limitation on outdoor play activity as recommended by PRMD staff. **Mr. Alper** stated that the noise of the children is excessive. He said that probably because of topography, he and one other 86-year old neighbor are most impacted. **Mr. Alper** stated that he had previously tried to talk to **Ms.** [REDACTED] regarding the noise issue but they had been unable to straighten out their

differences. **Mr. Alper** provided a copy of Ms. [REDACTED] daycare log from November 29, 2004, the day he attempted to speak to Ms. [REDACTED] regarding the noise issue. Ms. [REDACTED] log confirmed that she did not feel it necessary to attenuate the sounds from the facility. **Mr. Alper** then told her that their area was zoned for agriculture and that her child care license, therefore, limited the number of children she could care for at one time to seven, that her license for up to 14 children was a community care license but did not apply in an agricultural zone. Ms. [REDACTED] response to Mr. Alper was that he should not tell her how to run her own business. **Mr. Alper** further read from Ms. [REDACTED] daycare log in which it was confirmed that Ms. [REDACTED] had turned up her stereo volume and this further aggravated the problem. The situation escalated to the point where the 86 year neighbor called the Sheriff numerous times. On several visits to the property, the Sheriff was unable to confirm the noise; when the Sheriff returned and witnessed the excessive noise, he ticketed Ms. [REDACTED]. **Mr. Alper** stated that he is still in support of Ms. [REDACTED] business but only if conditioned by staff. **Mr. Alper** stated that there needs to be a way for neighbors most impacted by the loud sounds to be protected. **Mr. Alper** requested that the Commission approve the project as recommended and in this way provide Ms. [REDACTED] with sufficient guidelines to operate her business successfully.

[REDACTED] - [REDACTED] husband, stated that when Brad Alper moved into the neighborhood he had been the one to rally to get dump site shut down. **Mr. [REDACTED]** said that he Mr. Alper had developed a problem with the [REDACTED] but he did not know what that problem was. **Mr. [REDACTED]** requested approval of the Use Permit with no added conditions.

[REDACTED] applicant, stated that the sound wall is not financially feasible. She said that she has been in this location 18 years without noise complaint.

**Public Hearing Closed:** 2:25 p.m.

**Commission Discussion:** **Chair Williams** asked staff if PRMD's Environmental Specialist had gone out to the site to inspect the property for sound wall requirements. **Staff Demidovich** suggested that Jon Tracy, PRMD's Environmental Specialist, be called to the hearing to verify if he had personally visited the site.

**Deputy Director Barrett** stated that Sonoma County noise standards were relatively strict. The distance, topography and duration of noise all make a difference. **Deputy Director Barrett** said that Jon Tracy, PRMD's Environmental Health Specialist, told her that it might be difficult for children playing outdoors to meet this standard. **Deputy Director Barrett** said that it is a rural area standard to keep things quiet and that a noise study would have been beneficial to demonstrate geometry of the play yard location; without that noise study, **Mr. Tracy** stated that he would be using his best judgment as to what would be needed based on his experience with other daycare facilities.

**Commissioner Bennett** asked if Staff Tracy had considered a shrubbery barrier. **Deputy Director Bennett** responded that usually you need a solid barrier with no gaps to attenuate noise and that the county usually does not consider shrubbery to be attenuating because it deflects the noise in all different directions. **Deputy Director Barrett** stated that the State did require that we allow daycare by right for six or fewer children, and that seven or more children has historically required a Use Permit. **Deputy Director Barrett** said that more recently there has been a new State law that says that large family daycare facilities can be permitted and they can require conditions for health and safety, including noise standards, but that the process has to allow for an administrative approval. **Deputy Director Barrett** said this process was followed in this situation. PRMD staff had posted a Waiver of Hearing notice for this Use Permit and received a protest from Mr. Alper, a neighbor. **Deputy Director Barrett** stated that this was the reason for the hearing today. **Deputy Director Barrett** said the County is going to look at streamlining permitting for daycare because there is currently a big demand for daycare in the county. **Deputy Director Barrett** stated that had a sound study been conducted as requested, there would have been data for the Commission to review on the measurement of noise.

**Jon Tracy**, Environmental Health Specialist. **Staff Tracy** said he did not do a site visit; he estimated from aerial photos and compared to other daycare facilities on Santa Rosa Avenue in Santa Rosa. **Commissioner Davis** asked staff Tracy what the specifications for a sound wall might be. **Staff Tracy** stated that the sound wall has to weigh three pounds per square inch and that 3/4" plywood would suffice. **Commissioner Davis** asked staff Tracy how we determine if complaints in the future are justified. **Staff Tracy** responded that this would take coordination between Code Enforcement and Project Review.

**Commissioner Murphy** asked staff Tracy how the septic system was evaluated. **Staff Tracy** responded that this was a difficult issue because State law says that daycare facilities do not need to be evaluated for in-home daycare for septic system upgrades. Staff Tracy stated that there really should be an evaluation of this facility and that an

investigation would only take place if something went wrong with the system. **Commissioner Murphy** asked if PRMD can condition inspections of conditions for failure and what is the approximate equivalent for 14 children with potentially 14 parents visiting once per day. Staff Tracy responded that the equivalent would be at least that of one (1) more bedroom. **Deputy Director Barrett** stated that state law requires that daycare facilities be treated the same as single family homes in terms of inspections, except for Health and Safety issues. **Deputy Director Barrett** stated that the applicant might be asked if they would be willing to have the facility in a monitoring program so that they could avoid future failure of the septic system. **Staff Tracy** said the monitoring program involves annual fees and applicant would be required to inspect three times per year with the county coming out to inspect one time per year. **Staff Tracy** said this creates an additional fee and paperwork burden.

**Commissioner Murphy** stated that the primary goal in DA (Diverse Agricultural) zones is to protect agriculture. **Commissioner Murphy** said although daycare centers are allowed, he has concerns regarding their location in agricultural areas and told the applicant that they must be aware of impact on neighbors. **Commissioner Murphy** questioned the conclusion of the evaluation of estimated car trips per day generated by the daycare facility, that his count was 56 rather than 28. **Deputy Director Barrett** said that analysis should not be based on number of children in daycare, but must be evaluated in terms of the fact that the Use Permit goes with the land in the future and, therefore, with a different entity that might acquire the Use Permit. **Deputy Director Barrett** stated that the trips per day should be evaluated on estimates of the largest single day for traffic. **Deputy Director Barrett** stated that the maximum we could estimate on trips per day is 60 (with four employees and 14 children) and that the number is probably underestimated in the staff report. **Commissioner Murphy** asked if there would be a traffic mitigation fee associated with this latter number and **Deputy Director Barrett** responded yes, that the fee would be based on what is called an ADT, which are ITE estimates.

**Commissioner Davis** said she visited the site and at that time it was quiet. She stated that she appreciated the value of good daycare and outdoor play.

**Commissioner Davis** motioned to approve the Use Permit with the condition for the sound wall, to remove the condition limiting outside activities to one (1) hour maximum four (4) times per day, and to add standards related to noise (Table NE-2) as a condition. **Commissioner Bennett** seconded the motion.

**Chair Williams** requested further discussion on the type of sound wall being required. **Chair Williams** requested that staff make a site visit to determine what would adequately address this issue prior to construction. **Commissioner Bennett**, although not in favor of the sound wall requirement, said he would support the requirement for the sound wall because the applicant had not done the noise study as requested and the Commission, therefore, did not have any other data with which to evaluate the necessity for the sound wall. **Commissioner Bennett** agreed that staff needed to do a site visit prior to construction. **Commissioner Cook** supported the site visit as well but expressed concern regarding potential cost.

**Deputy Director Barrett** offered phrasing for the condition: "Prior to construction of the fence applicant shall apply for a site site review by the county Environmental Health Specialist to determine the appropriate location and extent of the fencing." All Commissioners agreed with the condition phrasing.

**Commissioner Davis** stated that she was sensitive to the conflict in the neighborhood but that she would hope that both sides could put an end to the friction.

**Commissioner Murphy** stated he, also, supported the removal of the condition limiting outdoor play activity times and expressed his concern with inability to regulate the septic system. **Commissioner Murphy** stated that he would like some language included that enabled PRMD to check for anticipated failure of the septic system.

██████ applicant, stated that the license for daycare is typically set up for overflow. Many of the children just come during after school hours. The number of children at any given time varies each day and they have not had any problem with the septic system, that they were careful with water.

**Staff Tracy** stated that PRMD does not have original building permits for the property and concluded that the house, therefore, was either built prior to 1963 or without permits. **Deputy Director Barrett** said that the applicant will have to obtain building permits because there was a change of occupancy, but that septic permits might not be included because the main changes in the building code revolve around accessibility. **Commissioner Murphy** recommended that if any of the buildings built post-1963 are not currently permitted on an approved septic system that there is a

problem and he was unprepared to vote to approve a project that might have a health and safety issue.

**Chair Williams** requested confirmation of his understanding that the applicant had the option of either building the sound wall based on site inspection specifications or producing a noise study. **Deputy Director Barrett** asked if the Chair wanted an amendment to the sound wall condition allowing the applicant to produce a noise study which would determine the extent of the fencing (sound wall). **Deputy Director Barrett** stated that it was staff's opinion that the sound study would cost about as much as the fencing. **Deputy Director Barrett** stated that the timeline for completing the conditions was "prior to operating the use" but in this case we are legalizing an existing use. **Deputy Director Barrett** said that the state recently adopted laws which implied that the daycare centers must be treated like single family residences. County Counsel had confirmed this interpretation. **Staff Tracy** said that short of complaint of septic failure in the future, PRMD cannot investigate. **Commissioner Murphy** said that he did not want the applicant to be bound in perpetuity to a monitoring program on the septic system because he felt the annual fees would be onerous for them, but his concerns remain. **Deputy Director Barrett** asked Staff Tracy if AB885 will require monitoring reports in the future. **Staff Tracy** responded that this legislation had gone back to Sacramento for rewriting. **Deputy Director Barrett** stated that the thrust of that legislation was to require applicants and owners to complete annual inspections and upgrades as necessary. **Commissioner Murphy** withdrew his opposition to this particular septic system problem but requested that the county look at this issue again .

**Changes in draft conditions:**

- Delete restriction in Conditions #6 restricting the outdoor activity hours.
- Add Noise Standards condition (Table NE2).
- Require applicant to apply for site review by PRMD's Environmental Health Specialist to determine appropriate location and extent of fencing, and to also allow an equivalent alternative if applicant wants to produce a sound study which determines something different, then the sound wall condition can be eliminated.

**Action:** **Commissioner Davis** moved to approve the minor Use Permit subject to modified conditions of approval. Motion seconded by **Commissioner Bennett** and passed with a 5-0 vote.

Appeal Deadline: 10 days

Resolution #: 09-009

Bennett: S/aye	Cook: aye	Schaffner: aye	Davis: M/aye	Williams: aye
Ayes: 5	Noes: 0	Absent: 0	Abstain: 0	

# Sonoma County Board of Zoning Adjustments S T A F F R E P O R T

Sonoma County Permit and Resource Management Department  
2550 Ventura Avenue, Santa Rosa, CA 95403  
(707) 565-1900 FAX (707) 565-1103

---

**FILE:** UPE07-0117  
**DATE:** June 11, 2009  
**TIME:** 1:30 p.m.  
**STAFF:** Cynthia Demidovich

Appeal Period: 10 calendar days

## SUMMARY

**Applicant:** [REDACTED]

**Location:** 4700 Stoetz Lane, Sebastopol  
APN 074-041-011 Supervisorial District No. 5

**Subject:** Use Permit

**PROPOSAL:** Request for a Use Permit to increase a small day care center from 8 children to a large day care center up to 14 children.

**Environmental Determination:** Categorical Exemption (Section 15274(a) the operation of a large family day care facility for up to 14 children)

**General Plan:** DA (Diverse Agriculture) 20 acre density

**Ord. Reference:** 26-88-020(n)(18)

**Zoning:** DA (Diverse Agriculture), B6-20 acre density, SD (Scenic Design)

**Application Complete for Processing:** February 29, 2009

**RECOMMENDATION:** Approve the request to approve the Use Permit to increase the day care center to 14 children.

## ANALYSIS

### Background:

The applicant has been operating an existing small family day care center for up to eight children for several years on the project site. On October 18, 2007, the applicant applied for a Use Permit to increase the use of the day care center to 14 children. A notice of waiver of a public hearing for a Use Permit was posted on December 17, 2007, and two letters of opposition were sent to the Permit and Resource Management Department (PRMD). The required hearing fee was submitted by the applicant on February 22, 2008. Based on neighbor concerns regarding noise impacts associated with the day care and compliance with the General Plan noise criteria, staff requested a Noise Study in February 2008. Although the Noise Study was never submitted, staff is forwarding the request to the Board of Zoning Adjustments (BZA) for review and direction.

### Project Description:

The applicant is proposing to increase the existing small day care center from eight children to 14 children. In addition to the applicant there will be one full-time and one part-time employee. The hours of operation

will be Monday thru Friday from 7:00 a.m. to 6:00 p.m.

**Site Characteristics:**

The 1.54 acre parcel is located on Stoetz Lane, a rural County-maintained asphalt road with no gutters, curbs, or sidewalks. The parcel is gently sloped to the southwest and is landscaped with various trees, shrubs, and a lawn. The project site is improved with an existing single family dwelling, detached garage, detached 420 square foot day care structure, and a swimming pool. The lot is served by a private well and septic system. There are six existing parking spaces and a turn around located near the garage on the project site.

**Surrounding Land Use and Zoning:**

The parcels in the surrounding area are zoned DA (Diverse Agriculture), B6-20 acre density, SD (Scenic Design), and BR (Biotic Resource). The surrounding parcels are developed with single family dwellings, and range in size from 1.48 acres to 27.18 acres.

**DISCUSSION OF ISSUES**

**Issue #1:**      General Plan Consistency

The project site is designated DA (Diverse Agriculture), 20 acre density land use in the General Plan. A large family day care is consistent with the DA land use designation. There are no General Plan Planning Area policies that apply to the subject site. Consistency with the General Plan Noise Element is discussed below in Issue #3.

**Issue #2:**      Zoning Ordinance Consistency

The project site is zoned DA (Diverse Agriculture), 20 acre density, and SD (Scenic Design). The DA zoning designation allows large family day care center with an approved Use Permit. A large family day care home is allowed to have a maximum of 14 children per the State of California.

**Issue #3:**      Noise

Staff requested that a Noise Study be provided for the proposed project since two letters were received from neighbors concerned about the level of noise generated from the existing eight child day care center. Staff requested that a Noise Study be provided to analyze noise impacts associated with a 14-child day care and include any necessary mitigations to assure compliance with the General Plan Noise Standards. The Noise Study was not provided by the applicant due to the additional expense. Staff is recommending approval subject to standard noise mitigations that would limit outdoor activities and provide sound attenuations.

Staff is recommending the construction of two sound walls intended to mitigate noise levels to meet the General Plan Noise Standards. The first sound wall should be approximately 100 feet long and located near the eastern property boundary line centered on the playground area. The second sound wall should be approximately 25 feet long and located near the northwest property boundary line past the day care cottage to a point opposite the northwest corner of the primary dwelling unit. The placement of the sound walls is dictated by close location of single family dwellings located on adjacent parcels. In addition, the project was conditioned that if any valid noise complaints are received from nearby residents, the applicant shall have a Noise Study prepared by a qualified consultant to monitor and prepare a report submitted to the Project Review Environmental Health Specialist for review. Such a Noise Study may require additional noise mitigations or referral to the BZA for modifications to the Use Permit.

**Issue #4:**      Traffic

Stoetz Lane is a dead-end public road maintained by the County of Sonoma. According to the General Plan it is considered a local road with a Level of Service "C" or better. The access to Stoetz Lane is directly off of Harrison Grade Road, also a local road with higher volumes of traffic than Stoetz Lane but

has a Level of Service "C" or better. The proposed project will generate 28 vehicle trips by the children's parents plus four trips for the employees (total: 32 daily trips). The existing day care center generates 20 daily trips. Therefore, the project generates an increase of 12 additional trips. Thirty two daily trips to the site is not significant in relation to existing traffic.

There are six existing parking spaces and a turn around located near the garage on the project site. The on-site area available for parking and traffic circulation is sufficient for the proposed project.

**Issue #5:** Neighbor Concerns

The neighbors expressed concerns of untreated wastewater traveling off-site on to Stoetz Lane. On September 21, 2009, the applicant applied for a Building Permit (BLD07-4775) to re-connect the wastewater from the laundry machine to the existing septic system. On October 8, 2007, the Building Inspector conducted a site visit and determine that the wastewater line from the laundry machine was re-connected to the existing septic system. The Building Permit was finalized on October 8, 2007. There is no wastewater flowing off of the project site.

**Issue #6:** Environmental Review

Staff is recommending the use of a Categorical Exemption for this project. Section 15274(a) allows the exemption for the operation of a large family day care home which provides in-home care for up to 14 children. No physical changes will be caused by this project. The only change in the existing use is an increase from 8 to 14 children.

**STAFF RECOMMENDATION**

Approve the Use Permit to increase the day care center from 8 to 14 children, subject to conditions in Exhibit A.

**ALTERNATIVE**

Request the applicant to prepare a Noise Study and return to the BZA at a future public hearing. The Noise Study should analyze the project in terms of consistency with General Plan Noise Standards with any Mitigation Measures.

**FINDINGS FOR RECOMMENDED ACTION**

1. The use, as conditioned, is consistent with the Diverse Agricultural General Plan land use designation and the Diverse Agriculture zoning district regulations as a large family day care center is allowed with an approved Use Permit.
2. Two sound walls shall be constructed on-site to mitigate the noise generated by the day care center.
3. The establishment, maintenance and operation of the expanded day care center to 14 children will not, under the circumstances of this particular case, be detrimental to the health, safety, peace, comfort and general welfare of persons residing or working in the neighborhood of such use, nor be detrimental or injurious to property and improvements in the neighborhood or the general welfare of the area because no new construction is proposed; noise is to be mitigated with the construction of sound walls; and the hours of out door play time are limited to assume compatibility with the neighborhood.
4. The project is categorically exempt from environmental review pursuant to CEQA Section 15274(a), which allows the exemption for the operation of a large family day care home which provides in-home care for up to 14 children.

**LIST OF ATTACHMENTS**

- EXHIBIT A: Draft Conditions of Approval
- EXHIBIT B: Proposal Statement
- EXHIBIT C: Vicinity Map
- EXHIBIT D: Zoning Map
- EXHIBIT E: Site Plan
- EXHIBIT F: Aerial Photo
- EXHIBIT G: Letters Requesting a Public Hearing (2)
- EXHIBIT H: Letters of Support (5)
- EXHIBIT I: Draft Resolution

Background information is on file at:

County of Sonoma Board of Supervisors Office  
575 Administration Drive, Room 100A  
Santa Rosa, CA 95403

It can be viewed and/or copies requested during regular business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday. Call (707) 565-2241 for more information.