

July 9, 2003

**Honorable Chairman and Members of the  
Hermosa Beach Planning Commission**

**Regular Meeting of  
July 15, 2003**

SUBJECT:            CONDITIONAL USE PERMIT 03-8  
  
LOCATION:            1120 FIRST STREET  
  
APPLICANT:         PATRICIA TURNER  
  
REQUEST:            TO ALLOW A LARGE FAMILY DAY CARE HOME.

**Recommendation**

Approve the request by adopting the attached resolution.

**Background**

The Planning Commission approved a Conditional Use Permit for a large family day care home for the same applicant at 1150 First Street in March, 1997. The applicant has been operating at that location since that time, but now has moved to 1120 First Street where she plans to continue to operate a licensed day care home.

In 1984 the State Legislature adopted The Child Day Care Facilities Act (Day Care Act) with clearly stated policy that family day care homes for children must be situated in normal residential surroundings. Further, the legislature declared, "this policy is to be of statewide concern with the purpose of occupying the field to the exclusion of municipal zoning, building and fire codes and regulations." Therefore, the City's discretion in reviewing the subject case is limited to the areas as prescribed in the Day Care Act.

The applicant is submitted this request pursuant to Section 17.08.020 of the Hermosa Beach Zoning Ordinance, which requires a C.U.P. for a large day care home. The City's zoning requirements, however, are not consistent with State Law, established by the Day Care Act (as set forth in the State Health and Safety Code Sections 1596.78 and 1597.44 - 15.97.465) with respect to hearing procedures, permitting and review procedures, and the maximum number of children. The C.U.P. hearing process is inconsistent as State Law specifically states that no public hearing is required unless requested by the applicant or an affected person. Permitting procedures are inconsistent because the general review and approval requirements for granting the C.U.P., including a required condition for 6 parking spaces, go beyond the scope of review allowed by State Law. Also, the State Law was amended allowing up to 8 children in small family day care homes, and up to 14 in large day care home. Nevertheless, the City Attorney's position is that the procedure provided in the Municipal Code must be followed until it has been changed, and such change requires more time than the applicant has available given her plans.

**Analysis:**

Staff is proposing an ordinance to bring the City's Zoning Ordinance into conformance with State Law, for your consideration as a separate agenda item. Until this ordinance is adopted, and since the provisions of the State Law preempt local requirements, the Commission must review the subject case pursuant to applicable State Law. A public hearing will be held only if the item is requested to be pulled from the consent calendar by the applicant or any affected person.

State Law specifically limits local review of large family day care to a review for compliance with local provisions for spacing and concentration, traffic control, parking, and noise control. Section 17.40.100 of the Hermosa Beach Zoning Code sets forth the only local conditions for approval of a C.U.P. for a large day care home, and including a requirement for 6 on-site parking spaces in addition to the two required for the residence, and compliance with home occupation standards of Section 17.08.020(F). Pursuant the Section 17.40.100, the Commission may waive said conditions when deemed appropriate.

In evaluating the required conditions for approval, staff believes most would either not be considered reasonable or would go beyond the allowed scope of review, in accordance with the provisions of the Child Day Care Act. For example, the requirement for 6 additional parking spaces is excessive when considering that parents typically only stay for a short time to pick-up or drop-off their children. It is doubtful that even with 12 or 14 children that more than three might arrive at one time. The City only requires 1 parking space per 7 children for a commercial day nursery, and other cities surveyed were either the same or less<sup>1</sup>. Also the standards for home occupations are not applicable to this type of facility and/or go clearly beyond the scope allowed by State Law. Further, the applicant has maintained a similar day care home nearby with no complaints received by the City.

In sum, given the lack of reasonable standards within the Zoning Code, and the current inadequacy of the Zoning Code as it relates to the subject use and operation of the day care home, staff believes the Commission can waive relevant parking and operation standards of the Zoning Code and grant the requested large family day care home as requested.

In order to address some possible neighborhood concerns about the operation of the facility, it should be noted that the State, through the Department of Social Services, Community Care Licensing, regulates the operation of the day care home through its licensing procedure, and enforcement of State Laws. This responsibility includes enforcing regulations regarding the internal operations including facility/employee checks, and more broadly may involve responding to and working with neighbors to resolve complaints about noise, parking and traffic and any other issues relating to the safety and care of the children.

---

Ken Robertson,  
Senior Planner

---

Sol Blumenfeld, Director  
Community Development Department

---

<sup>1</sup>The attached survey prepared by the City of Burbank in 1996, shows that the typical parking ratio for large family day care whether based on number of employees or children, or a combination, would yield a requirement of 1-3 spaces.

### Attachments

1. Proposed Resolution

- 
2. Excerpts from H.B. Code, and from State Law
  3. Location Map
  4. Correspondence



1120 First Street

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29

**RESOLUTION NO. 03-**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HERMOSA BEACH, CALIFORNIA APPROVING A CONDITIONAL USE PERMIT FOR A LARGE FAMILY DAY CARE HOME AT 1120 FIRST STREET**

The Planning Commission of the City of Hermosa Beach does hereby resolve and order as follows:

Section 1. An application was filed by Patricia Turner to operate a large family day care facility pursuant to State Law for up to 14 children at 1120 First Street

Section 2 The Planning Commission conducted a public hearing to consider the application on July 15, 2003, at which testimony and evidence, both written and oral, were presented to and considered by the Planning Commission.

Section 3. Based on the evidence received at the public hearing, the Planning Commission makes the following findings:

1. The applicant is proposing to operate a large family day care facility pursuant to State Law regarding child care facilities (Chapters 3.4, 3.5 and 3.5 of Division 2 of the Health and Safety Code).
2. The City's Zoning Ordinance requires a Conditional Use Permit to operate a large family day care home. Standard conditions listed as a pre-requisite for operating such a facility are either not consistent with State Law, or contain required conditions for the permitting and operation of such facilities which would not be considered reasonable in accordance with State Law.
3. The Planning Commission therefore waives all the required conditions of the Zoning Ordinance pertaining to large family day care homes for the subject proposal.

Section 4. Based on the foregoing findings, the Planning Commission approves a large family day care home at 1120 First Street.

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

**CERTIFICATION**

I hereby certify that the foregoing Resolution P.C. 03- is a true and complete record of the action taken by the Planning Commission of the City of Hermosa Beach, California at their regular meeting of July 15, 2003.

\_\_\_\_\_  
Peter Hoffman, Chairman

\_\_\_\_\_  
Sol Blumenfeld, Secretary

\_\_\_\_\_  
July 15, 2003

Date

Cupr1120-1st