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DATE: MAY 4, 2001
TO: MAYOR AND CITY COUNCIL
THRU: LLOYD HARRELL, CITY MANAGER *LH*
DOUG BALLARD, PLANNING AND DEVELOPMENT DIRECTOR *DB*
FROM: HANK PLUSTER, LONG RANGE PLANNING MANAGER
SUBJECT: ZCA01-0001 RESIDENTIAL CHILD CARE
Introduction of Ordinance No. 3240.

Request: Zoning Code Amendment establishing the requirements and procedures for residential child care.

Applicant: City of Chandler

SUMMARY/RECOMMENDATION

Planning Commission and Staff recommend amendment to the Zoning Code establishing definitions, requirements, and procedures relative to residential child care, along with a definition for "group home" and deletion of an existing fire sprinkler requirement for adult care facilities (already regulated by the Fire Code), all as contained in the attached (Exhibit "A"- draft text).

BACKGROUND

This item was heard by Planning Commission at the February 7th meeting and was continued to June 6th for the purpose of working through some Fire Code issues. In pursuit of Commission's direction, City Staff including the Fire Marshall and Building Official met collectively with several day care providers on March 6th. The result of that meeting was support for an "alternative materials and methods" procedure under the Fire Code, wherein the Fire Marshall has authority (under existing Code) to approve an alternative to fire sprinklers, such as a third party monitored smoke alarm system. Such approvals would be considered by the Fire Marshall on a case-by-case basis, and approvals would be subject to written conditions set forth by the Fire Marshall (see Exhibit "C", attached).

The providers are in support of the alternative materials and methods process, and hence Staff elected to bring this item forward sooner than the June 6th continuance date. To do so, Staff re-advertised an 1/8th-page display of the text amendment 30 days in advance of the May 2nd Commission hearing, and will subsequently withdraw the previous item from the June 6th Commission agenda and the June 28th Council agenda, respectively.

The residential child care issue was originally prompted last year, when Staff received a complaint that several existing child care businesses were being operated from homes that did

not have Use Permit approval from the City. Upon researching license approvals granted by the State (ADHS/Office of Child Care Licensure), Staff identified several providers that did not have Use Permit approvals. Upon meeting with them, individually and collectively, Staff resolved to clarify the definitions, requirements and procedures relative to this issue. Because the terms "residential child care", "in-home day care" and "group home" do not currently appear anywhere in the City Zoning Code, Staff concurred with the providers that such items needed to be clearly established in the Zoning Code. Hence the series of meetings over the ensuing months that have now resulted in support of the proposed amendment by the residential providers.

DISCUSSION

As defined in the proposed text amendment, the term "residential child care" is an accessory use within a single-family dwelling to provide child care and/or academic training for at least five (5) children, up to a maximum of ten (10) for compensation, and up to a maximum of fifteen (15) total, through the age of twelve (12) years old, for periods less than twenty-four (24) hours per day. By comparison, the term "in-home day care" is an accessory use within a single-family dwelling to provide child care on a regular or irregular basis, for a maximum of four (4) children, whether or not for compensation, through the age of twelve (12) years old for periods of less than twenty-four (24) hours per day. As drafted, care or academic training for five (5) or more children in a residence would trigger a Use Permit approval, while four (4) or fewer would not.

Beyond the definitions, the major point of this amendment relative to residential child care is to clearly establish the Use Permit requirements. The amendment specifies such items as capacity (10 maximum for compensation, 15 maximum total, mirroring State requirements); location (no closer than 1200 ft. from another facility or group home); fence screening; evidence of State licensing, etc., as outlined in the attached (Exhibit "A"). In addition, this amendment references compliance with the requirements of all other City Codes, such as the Building Code, Fire Code and City Business Licensing (City Staff is not recommending any changes to these codes).

For example, the City Fire Code requires fire sprinklers for occupancies of seven (7) or more children. Albeit **not a part of the Zoning Code**, this existing requirement (in place for the past ten years) had been a topic of concern for the residential child care providers. However, under the alternative materials and methods procedure in the Fire Code, the providers can offer a third party monitored smoke alarm system which can be approved by the Fire Marshall, upon finding that such a system satisfactorily complies with the intent of the Fire Code. Compliance with the Fire Code in this manner also satisfies the intent of the Building Code, which would otherwise require a more difficult set of building improvements (e.g., fire rated exterior building walls, distance separations, roof parapets, protected door/window openings, etc.; see memo from Development Services Manager, Exhibit "D").

The text amendment as currently drafted (Exhibit "A") has been updated to include the revised definitions of "residential child care", "in-home day care", "family", "group home", and "adult", as previously written by the City Attorney's Office. In addition, Staff has confirmed with the State/Office of Child Care Licensure that the City definitions of "residential child care" will not have any effect upon the licenses held by the residential providers.

Separate for the most part from the residential child care issue, Staff is also proposing an amendment to establish a definition for "group home", and that it, too, requires Use Permit approval in accordance with existing Zoning Code criteria. As set forth in Section 35-305(1), such criteria specifies consistency with the General Plan; access and pedestrian/vehicular circulation; off-street parking; compatibility with adjacent properties and property in the district; impact on public services; screening/buffering; signage; lighting; landscaping/storm water retention; and site/building design. Staff finds that while the City can not impose program rules upon group home operations (especially those run by the State), there are legitimate land use externalities of such uses which can be analyzed in accordance with the existing code criteria for Use Permits.

PUBLIC NOTICE

Staff posted a new 30-day advance legal ad (1/8-page display ad in the Arizona Republic, 3/28/01 edition). In addition to the previous group meetings held with local child care providers, Staff provided copies of the draft amendments for their prior review/comment. As requested by the providers, Staff also prepared a "translated" version of the code amendment, which also outlines the definitions, requirements and procedures (Exhibit "B").

COMMISSION VOTE

Motion to approve: In Favor: 7 Opposed: 0

At the May 2nd Commission hearing, a representative member of the residential providers (Sheila Schmidt) expressed her appreciation for all of the effort that the Commission and members of Staff have put into this issue, which have now produced a successful resolution.

RECOMMENDATION

Upon finding consistency with the Chandler General Plan and good planning practice, Planning Commission and Staff recommend approval of the Zoning Code amendment as set forth in the attached.

PROPOSED MOTION

I move to introduce and tentatively adopt Ordinance No. 3240, approving Zoning Code Amendment ZCA01-0001 RESIDENTIAL CHILD CARE, as set forth in Exhibit "A" and recommended by Staff.

Attachments:

1. Zoning Code text amendment (Exhibit "A")
2. Residential Child Care in the City of Chandler ("translated" version - Exhibit "B")
3. Fire Code "Alternative Materials and Methods" provision (Exhibit "C")
4. Memo from Development Services Manager (Exhibit "D")
5. Ordinance No. 3240