



# County of San Mateo

## Inter-Departmental Correspondence

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**Department:** PLANNING AND BUILDING

**File #:** 23-163

Board Meeting Date: 3/28/2023

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**Special Notice / Hearing:** 10-day publication notice

**Vote Required:** Majority

**To:** Honorable Board of Supervisors

**From:** Steve Monowitz, Community Development Director

**Subject:** Amendment of Chapter 22.2, "Child Care Centers" of the Zoning Regulations, applicable to the County's Coastal Zone. County File Number: PLN 2020-00014

**RECOMMENDATION:**

Public hearing to consider amendment of Chapter 22.2, "Child Care Centers" of the Zoning Regulations:

- A) Open public hearing
- B) Close public hearing
- C) Recommendation to:
  1. Adopt an ordinance amending the County Ordinance Code, Division VI, Part One (Zoning Regulations) Chapter 22.2 (Child Care Centers) to adopt the California Coastal Commission's suggested modifications, previously introduced to the Planning Commission on January 25, 2023, and waive reading of the ordinance its entirety; and
  2. Adopt a resolution acknowledging receipt of the California Coastal Commission resolution of conditional certification of the County's Child Care Centers Regulations; agreeing to issue Coastal Development Permits subject to the Child Care Centers Regulations, and the Local Coastal Program, incorporating the California Coastal Commission's modifications; and directing submittal of the amended Child Care Center Regulations to the Executive Director of the California Coastal Commission for review.

**BACKGROUND:**

Report Prepared By: Camille Leung, Project Planner, 650/363-1826

Applicant: San Mateo County Planning and Building Department

Location: San Mateo County's Coastal Zone

Public Notification: Ten (10) business day advanced notification for the hearing was mailed to child care centers within the County and interested parties, and a 1/8th-page notice for the hearing posted in a newspaper (San Mateo Times and Half Moon Bay Review) of general public circulation.

Environmental Evaluation: On May 4, 2021, the Board of Supervisors adopted the Negative Declaration for the ordinance repealing Section 6401.2 of the San Mateo County Ordinance Code (Zoning Regulations) and adopting a new Chapter 22.2 of the Zoning Regulations to regulate child care centers.

### **DISCUSSION:**

On May 4, 2021, the Board of Supervisors adopted an ordinance adding the new Chapter 22.2, "Child Care Centers" of the Zoning Regulations, repealing Section 6401.2. (General Provisions Relating to Large Family Day Care Homes) and amending the text of the County Zoning Regulations for various zoning districts for consistency with the new regulations.

Per State law, amendments to the County's zoning regulations applicable in the Coastal Zone, and amendments to the County's Local Coastal Program (LCP), cannot take effect until they are reviewed and certified by the California Coastal Commission. The Coastal Commission considered the County's amendments on October 14, 2022, and conditionally certified the amendments, with the following minor modifications:

- Update Table 2 to clearly state that a conversion of a single-family residence to a child care center constitutes an intensification of use requiring a Coastal Development Permit (CDP) (see Coastal Commission Staff Report, Suggested Modifications 1 and 2, provided as Attachment D to this board memorandum); and
- Clarify that State density bonus law provisions related to child care centers will only apply after submission and certification of the County's separate LCP amendment regarding density bonus provisions (see Coastal Commission Staff Report, Suggested Modification 3, Attachment D).

The modifications proposed by the Coastal Commission are described in more detail in Section A, below. A proposed ordinance accepting and adopting the Commission's modifications is provided as Attachment A.

On January 25, 2023, the Planning Commission reviewed the proposed modifications and recommended that the San Mateo County Board of Supervisors adopt the ordinance amending the County's adopted Chapter 22.2, "Child Care Centers" of the Zoning Regulations applicable to the County's Coastal Zone to accept and incorporate the Coastal Commission's requested modifications.

In order for the certified regulations to take effect, the County Board of Supervisors must acknowledge receipt of the Coastal Commission's action, accept and adopt the requested modifications to the Zoning Regulations and the Local Coastal Program, as certified by the California Coastal Commission, and agree to issue coastal development permits subject to the modified regulations.

Staff has prepared an ordinance amending the County's adopted Chapter 22.2, "Child Care Centers" of the Zoning Regulations applicable to the County's Coastal Zone to incorporate modifications suggested by the California Coastal Commission in the Commission's conditional certification of the

County's recently adopted regulations.

A. COASTAL COMMISSION MODIFICATIONS

The Coastal Commission requested the following modifications in its conditional certification of the County's updated regulations:

1. A CDP is Required for Conversion of a Single-Family Residence to a Child Care Center (Coastal Commission's Suggested Modifications 1 and 2)

The County's adopted regulations (Table 2 of Section 6420.4.2) establish specific permitting requirements for child care centers. The prior, now repealed, regulations only applied to Large Family Day Care Homes. The adopted regulations also ease restrictions for a child care center to locate within an existing building of a similar use in terms of purpose, intensity, and parking needs (such as commercial and institutional buildings) or within structures supporting compatible uses (such as single- and multiple-family residential); and allow expansion of such buildings when certain environmental and locational criteria are met. The updated regulations also allow child care centers to operate pursuant to a ministerial permit when the center would be located: 1) within existing buildings, with limited expansion, in areas zoned or designated by the General Plan for Commercial or Institutional, or Commercial/Residential Mixed Use land uses; 2) within converted single-family residences on parcels 10,000 sq. ft. or larger and zoned for Single-Family Residential within the Coastal Zone; or 3) within existing or expanded institutional buildings or public facilities.

The Coastal Commission requested that Section 6420.4.2 be amended to require a CDP to convert a single-family residence to a child care center. The Coastal Commission concluded that, because a child care center is not a primary permitted use in residential zoning districts, a conversion from a single-family residence to a child care center is an intensification of use requiring a Coastal Development Permit.

Staff notes that Section 6420.3 of the regulations will continue to allow Small Family Day Care Homes (allows up to 8 children) and Large Family Day Care Homes (allows up to 14 children) as a permitted use incidental to a primary permitted residential use. Small and Large Family Day Care Homes are distinct from child care centers, which are the subject of the Coastal Commission modification.

2. Application of State Density Bonus Law Provisions to Child Care Centers is Subject to Review and Certification of Separate Density Bonus LCP Amendment (Coastal Commission's Suggested Modification 3)

The County's adopted regulations, Section 6420.5, incentivize the creation of new child care centers in the unincorporated County by establishing two new incentive programs, and incorporating incentives provided by the State, including the State density bonus law provisions. However, Coastal Commission staff correctly note that, to date, while adopted by the Board of Supervisors, the County's Density Bonus regulations (referenced by the Coastal Commission as LCP Section 6440 and referenced by staff as Section 6440, pertaining to the same body of regulations), do not apply in the County unincorporated areas within the coastal zone as the County has not amended its LCP to incorporate updates to State Density Bonus law. Within the Coastal Zone, State laws such as the

Density Bonus Law must be incorporated into an LCP, and receive Coastal Commission certification, prior to taking effect. Accordingly, it is premature to apply the County's proposed density bonus provisions to child care centers prior to a full evaluation of LCP density bonus amendments. The requested modification clarifies that State density bonus law provisions will only apply to child care centers after the County's density bonus LCP amendment is certified, and only to the extent that those certified density bonus provisions apply to child care centers.

The Coastal Commission requests that Section 6420.5 be amended to read as follows (underlined text indicates requested modification):

a. *State Density Bonus Provisions for CCCs in Effect at the Time of Application:*

*When an applicant proposes a project that meets the requirements of the State Density Bonus Law, the County shall follow the provisions of State law to determine the applicable density bonus and additional concession(s) or incentive(s). Examples of projects that qualify under State Law include but are not limited to: (1) a housing development including a child care facility (Government Code Section 65915(h)) and (2) a minimum 50,000 sq. ft. commercial or industrial development including a child care facility (Section 65917.5). Within the coastal zone only: State Density Bonus Law provisions associated with Zoning Regulations Chapter 22.6 (or its successor) shall only apply to child care center development if (1) Zoning Regulations Chapter 22.6 is updated and certified by California Coastal Commission after October 14, 2022; and (2) the so certified Chapter 22.6 allows for its application to child care center development.*

## COASTAL COMMISSION REVIEW AND ACTION

As described above and detailed in Attachment C, in order for the conditionally certified amendments to take effect, the Board of Supervisors must acknowledge receipt of the resolution of certification, including the suggested modifications, accept and adopt the modifications, and agree to issue coastal development permits subject to the approved amendment. Once this action is completed, the amended regulations will be submitted to the Coastal Commission for the Executive Director's determination of the adequacy of the County's actions, and should the amended regulations be found adequate, the Coastal Commission will submit notice of certification with the Secretary of the Resources Agency.

## ALTERNATIVES

The alternatives to the Board of Supervisors adoption of an ordinance amending the County's adopted Chapter 22.2, "Child Care Centers" of the Zoning Regulations applicable to the County's Coastal Zone, is for the Board of Supervisors to not adopt the proposed amendment. Should the modifications be rejected, the proposed update to child care regulations would not take effect in the coastal zone.

## B. ENVIRONMENTAL REVIEW

The proposed amendment would reduce the scope of permitted uses authorized by the Child Care Centers Ordinance (now Chapter 22.2, "Child Care Centers" of the Zoning Regulations) from that evaluated in the adopted Negative Declaration. Therefore, the environmental impacts of the amended ordinance would be less than the level of impact identified in the adopted

Negative Declaration. As a result, no additional environmental review is required for County adoption of the proposed ordinance.

In addition, the Coastal Commission process of reviewing LCP amendments has been certified by the Secretary of Natural Resources as being functionally equivalent to a California Environmental Quality Act (CEQA) review, thereby exempting LCP amendments from CEQA review by local governments.

The County Attorney's Office has reviewed the proposed amendments to Chapter 22.2, "Child Care Centers" of the Zoning Regulations, and the resolution as to form.

**FISCAL IMPACT:**

Nominal cost associated with continued implementation of the application processes of Chapter 22.2, "Child Care Centers" of the Zoning Regulations by the Planning and Building Department.

**ATTACHMENTS**

- A. Ordinance accepting and adopting Coastal Commission modifications, including Child Care Center Regulations in redline/strikethrough
- B. Resolution Acknowledging Receipt of the California Coastal Commission Resolution of Conditional Certification of the County's Child Care Centers Regulations; Agreeing to Issue Coastal Development Permits Subject to the Child Care Centers Regulations, and the Local Coastal Program, incorporating the California Coastal Commission's Modifications; and Directing Submittal of the Amended Child Care Centers Regulations and the Local Coastal Program to the Executive Director of the California Coastal Commission for Review
- C. Coastal Commission Notification of Action on Local Coastal Program Amendment
- D. Coastal Commission Staff Report on San Mateo County LCP Amendment Number LCP-2-SMC-22-0004-1 (Child Care Centers)