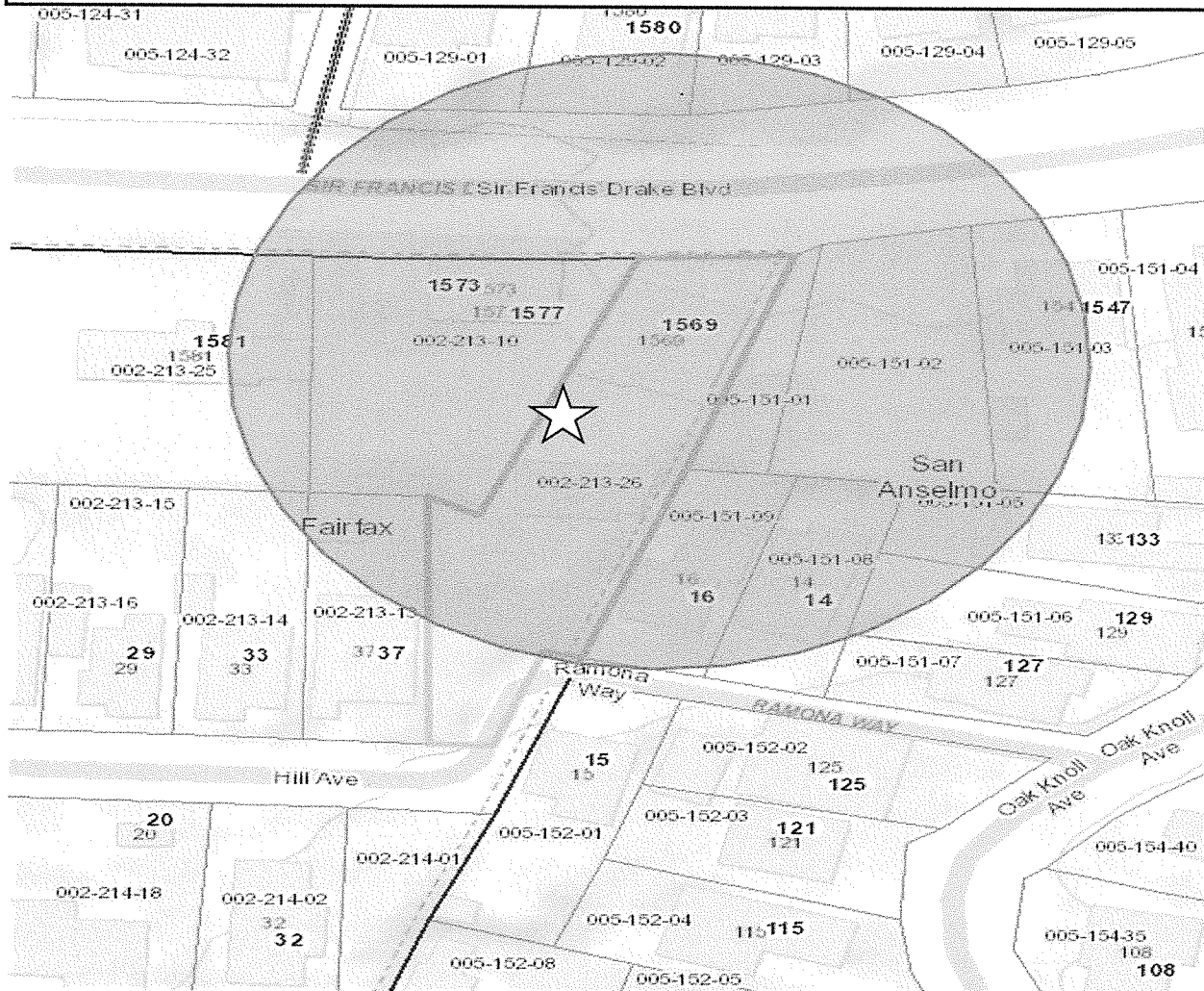


# TOWN OF FAIRFAX STAFF REPORT

## Department of Planning and Building Services

**TO:** Planning Commission  
**DATE:** May 18, 2017  
**FROM:** Linda Neal, Principal Planner  
**PROJECT:** Expansion/conversion of a daycare facility into an accessory structure  
**ACTION:** Use Permit, Design Review and Height Variance;  
Application # 05-17  
**ADDRESS:** 1569 Sir Francis Drake Blvd.; Assessor's Parcel #'s 002-213-11,  
002-213-12 and 005-151-01  
**ZONING:** Highway Commercial (CH) and Residential RD 5.5-7  
**APPLICANT:** Shelby Green  
**OWNER:** Gerald Segale  
**CEQA STATUS:** Categorically exempt, § 15301(a)



**1569 Sir Francis Drake Boulevard**

## **BACKGROUND**

Assessor's Parcel #'s 002-213-11 and 002-213-12 are located within the Town of Fairfax and are currently developed with a residential dwelling unit and a barn. These parcels were merged into one property by the Town in 1984. The Town of Fairfax granted a Use Permit for the 1,337 square-foot daycare facility on the parcels in 2005. The facility currently serves 20 children and has three full time teachers with two aids that visit the center once a week. The number of children currently being served complies with the required interior and exterior per child area ratios required by the State of California Department of Social Services Community Care Licensing Division

Assessor's Parcel # 005-515-01 to the east is vacant and located within the Town of San Anselmo. AP # 002-213-11 fronts on Sir Francis Drake Boulevard and is zoned. AP # 002-213-12 fronts on Hill Avenue and is located within the Residential RD 5.5-7 Zone. The parcel in San Anselmo is zoned for residential use. All three parcels are under common ownership. The Fairfax parcels are street-to-street lots with the front of the site located on Sir Francis Drake Boulevard and the rear of the site fronting on Hill Avenue.

The residential building and barn were constructed prior to the Town's incorporation which occurred in 1931.

The structure located west of the site used to be a hair salon and has been recently purchased for use as a restaurant/deli. The structures to the south of the site are single-family residences located on Hill Avenue in Fairfax Ramona Way in San Anselmo.

Access to the site is located upon the San Anselmo parcel while the existing parking spaces are provided on the Fairfax Parcel.

There is a 1,487 square-foot outdoor play area located to the rear (the south side) of the barn. The play area is fenced for the children's safety.

## **REQUIRED DISCRETIONARY PERMIT**

The Use Permit, Design Review and Height Variance applications encompass converting the 660 square-foot barn on the site to a first-floor daycare room with a half-bathroom and kitchenette area and construction of a 371 square-foot office/bathroom on the second floor. The bathroom on the second floor would require the installation of a roof dormer. Access to the building access will be provided by the addition of a 135 square-foot entry porch. Both the dormer and the entry porch are proposed on the south side of the barn.

## DISCUSSION

### Conditional Use Permit

The purpose of the Highway Commercial Zone is to allow a variety of service, retail and wholesale businesses with long operating hours, diversity of building size and type and short term parking. The Highway Commercial Zone is designed to cater to automobile traffic rather than to pedestrian traffic. The buildings are more dispersed than in the central commercial zone and allow greater vehicular access.

The purpose of the Conditional Use Permit is to allow the proper integration into Fairfax of uses which may be suitable only in certain locations in Town or in a zone or only if such uses are designed or laid out on the site in a particular manner. In consideration of an application for a Conditional Use Permit, the Commission shall give due regard to the nature and condition of all adjacent uses and structures, to the physical environs of the proposed use, and to all pertinent aspects of the public health, safety and general welfare.

Day care centers are listed as a conditional use in the Highway Commercial Zone and uses of an educational nature are listed as a conditional use in the Residential RD 5.5-7 Zone. Therefore, the use of the site as a daycare in 2005 required a Use Permit from the Town of Fairfax and the currently proposed expansion into the barn structure requires a modification of that Use Permit.

The proposed expansion would allow the center to serve an additional 15 children and the number of teachers/owners/aides needed to serve those children would increase to seven (3 teachers, 2 aides and 2 owners).

When the Use Permit was originally approved for the business a Use Permit was also granted by the Town of San Anselmo. The San Anselmo Use Permit restricted use of the San Anselmo parcel for a driveway and 3 parking spaces, all that could be permitted based on the historic use of the site and due to the zoning of the parcel for residential use by the Town of San Anselmo. San Anselmo's Planning Department has confirmed that this parcel may not be used as a full parking lot for the facility because that would require a general plan and zoning change and the San Anselmo Town Code requires that parking lots be surfaced with concrete or asphalt (San Anselmo Municipal Code 9-3.102) which conflicts with San Anselmo's own storm-water ordinance. San Anselmo has confirmed that the continued use of the site for the driveway entrance and for 2 -3 parking spaces can continue but indicated that the 2005 Use Permit has expired and must be re-approved.

Arrival and departure times will be staggered and modes of transportation to and from the site will be varied (see Attachment B – applicant's supplemental information).

A commercial business is located to the west of the site while residences are located to the south and east of the site. Most of the commercially zoned property in Fairfax is located immediately adjacent to residentially zoned areas. Noise from children playing is the most common complaint the Town receives in conjunction with other daycare centers in Fairfax. However, daycare centers usually operate during the day.

Occasionally there is an evening meeting or performance. When reviewing a Use Permit it is often helpful for the Commission to review the list of permitted uses which do not require a Use Permit from the Town and could have more significant impacts on the surrounding areas. The following uses are permitted within the Highway Commercial Zone:

Building supplies and lumber yards  
Butcher shops  
Laboratories  
Packing and crating businesses  
Public parks  
Warehouses  
(For a complete list see Town Code § 17.50.040)

The proposed modification to the existing Use Permit will have less impacts on the neighboring uses than other permitted uses in the Highway Commercial CH Zone District.

*Project not Required to Obtain Traffic Impact Permit*

The applicant has provided two spread sheets showing the current and proposed drop off and pick up patterns for the school. These show that the number of cars visiting the site on a daily basis will not reach the 100 average daily trips necessary to make this use permit modification subject to the Traffic Impact Ordinance [Town Code § 17.30.050(2)]. Note that the original use permit also was not subject to the Traffic Impact permit process.

*Parking*

Town Code § 17.096.120(B)(2) requires that 1 parking space be provided for each 200-square-foot of gross floor space. The proposed modification requires the provision of 11 parking spaces based on this section of the code. The site currently accommodates 8 parking spaces, 3 within San Anselmo's boundaries and 5 on the Fairfax portion of the site.

The applicant proposes relocating 1 of the parking spaces from the front of the main building to the rear of the site where it will be accessed off of Hill Avenue. An additional 1 space will also be provided in this location for a total of 9 on-site parking spaces, 2 short of the 11 required by the code.

If this were a permitted use, a parking variance would be required to decrease the required on-site parking by one space. However, Town Code § 17.096.120(C)(2) allows the parking requirements to be varied by the terms and conditions of the use permit approving a conditional use.

The Town staff is unaware of any complaints about this daycare facility with regards to parking or about the lining up of parents dropping/picking up children in such a manner that traffic on Sir Francis Drake Boulevard is impacted. The two spaces proposed to be accessed off of Hill Avenue should not negatively impact traffic in the Hill Avenue

neighborhood. The applicant has shown in the supplemental information that drop-off and pick-up times are staggered to avoid having too many vehicles parking on the site at any one time and that the children, staff and parents are encouraged to walk or bike to the center. Additionally, there are 3 on-street parking spaces which can be used on a first come first serve basis by this business and any other business in this block of Sir Francis Drake Boulevard. Therefore, staff has made the determination that an exception to the parking requirements could be granted for this use permit modification.

If parking does become a problem for this use in the future, the use permit can be revisited to identify additional conditions or modifications to decrease the impact of the business on parking in this area of the Town.

### Design Review

Although probably built in the early 1900's the barn is not listed on any historic building registry and it has been significantly modified within the last 20 years with a new slab foundation, new siding, new barn door, a new roof and new structural stability improvements. Therefore, there are no historical preservation conditions that apply to the building.

In order to approve a Design Review Permit for expansion/modification of the structure the Town Code requires the Commission to review the project for compliance with the Design Review Criteria listed in Town Code § 17.020.040(A) through (N).

The addition of the dormer and front entry porch the barn would add to the exterior articulation structure. The positioning of the additions would be at the rear of the structure and they will not impact the visual appearance of the barn from the street. Therefore, staff believes the proposed expansion would result in a well composed structure with minimal impact on the site or the neighboring properties and with no impact on the streetscape view of the site. The new exterior materials would either compliment or match those of the existing building. Therefore, the proposed project complies with the Design Review criteria.

### Accessory Building Height Variance

Town Code § 17.096.090(B) limits the height of accessory structures in the Highway Commercial CH Zone to no more than 15-feet and no more than 1-story. One could make the argument that the proposed conversion of the barn structure to a daycare playroom and office result in the accessory building becoming an ancillary building for the main use rendering it no longer an accessory building. However, the Fairfax Town Code does not include language that allows this type of argument to be made so this discussion includes the provision of an accessory building Height Variance for the proposed use.

The project will increase the number of stories in the barn to 2 but will not increase the height of the existing building nor will it disturb any additional undisturbed areas of the site. Therefore, the impacts of the dormer and front porch additions will be minimal and findings for the approval of the height variance can be made. These findings are included in the resolution recommending approval of the project (Attachment A).

## Other Agency/Department Comments/Conditions

### Ross Valley Fire Department

1. A fire sprinkler system shall be installed throughout both buildings that complies with the requirements of the National Fire Protection Association 13 and local standards. A permit for the system installation is required from the Ross Valley Fire Department prior to using the barn for the expanded daycare center.
2. A fire alarm system shall be installed throughout both the buildings which complies with the requirements of the National Fire Protection Association 72 and local standards. A permit for the system installation is required from the Ross Valley Fire Department prior to using the barn for the expanded daycare center.
3. Fire extinguishers shall be provided for both buildings with a minimum of 2A10BC rated fire extinguishers provided for each 3,000-square-foot and every 75-feet of travel.
4. Approved address numbers a minimum of 6-inches in height shall be placed on all existing buildings above the doorway or in such a position as to be plainly visible and legible from the street or road fronting the property. The barn shall have continually illuminated sign in compliance with Ross Valley Fire Standard #205.
5. The applicant may propose alternate materials or methods in accordance with Section 103.3.

### Ross Valley Sanitary District

1. A private sewer lateral permit is required from the District for the proposed use. The lateral permit requirements will depend on the fixture count calculated during the permitting process.
2. If the existing lateral is adequately sized the applicant will have the option of installing a new lateral or testing the existing lateral in the presence of a District Inspector who determines if it complies with all current District standards.

The Planning Department received no comments or conditions for the project from the Fairfax Police, Building or Public Works Departments or the Marin Municipal Water District.

## **RECOMMENDATION**

Move to approve the modification to Use Permit Application # 05-17 based on the findings and subject to the conditions in the attached Resolution No. 17-20.

## **ATTACHMENTS**

Attachment A – Resolution No. 17-20

Attachment B - Applicant's supplemental information

Attachment C - Email from a member of the public

Attachment D – Revised parking plan





## RESOLUTION NO. 17-20

### **A Resolution of the Fairfax Planning Commission Approving the Use Permit Modification, Design Review Permit and Height Variance for the expansion of the Daycare Facility at 1569 Sir Francis Drake Boulevard**

**WHEREAS**, the Town of Fairfax received an application to expand the Caterpillar Academy daycare center at 1569 Sir Francis Drake Boulevard on July 22, 2016; and

**WHEREAS**, the Planning Commission held a duly noticed Public Hearing on May 18, 2017 at which time all interested parties were given a full opportunity to be heard and to present evidence, and at which time the Planning Commission approved the Use Permit Modification and Design Review Permit; and

**WHEREAS**, based on the documentary evidence in the record, as well as testimony at the public hearing, the Planning Commission has determined that the applicant has met the burden of proof required to support the findings necessary for the Project's requested discretionary permits.

**WHEREAS**, the Commission has made the following findings:

#### Recommended Findings

1. The project is supported by General Plan Policy LU-7.1.1: The existing "village character of the commercial center of the Town, designated at the Town Center Area, shall be maintained and enhanced. Additional commercial development outside of the designated Town Center Area shall be discouraged except for limited neighborhood-serving uses.
2. The approval of the use permit shall not constitute a grant of special privilege and shall not contravene the doctrines of equity and equal treatment because: a) daycare centers and educational facilities are listed as permitted conditional uses in both the CH Zone and the RD 5.5-7 Zone; b) mitigation measures have been included in the business operating procedures to minimize the impact of vehicles entering and exiting the site on through traffic on Sir Francis Drake Boulevard; and, c) daycare facilities and grade schools are typically found in and around residential neighborhoods.
3. The proposed daycare use will have minimal impacts on nearby residences and businesses and represent a less intensive use than many of the permitted uses in the Highway Commercial Zone. Therefore, the development and use of property as approved under the use permit shall not cause excessive or unreasonable detriment to adjoining properties or premises, or cause adverse physical or economic effects thereto, or create undue or excessive burdens in the use and enjoyment thereof, any or all of which effects are substantially beyond that which might occur without approval or issuance of the use permit.

4. Approval of the use permit is not contrary to those objectives, goals or standards pertinent to the particular case and contained or set forth in any Master Plan, or other plan or policy, officially adopted by the City. (see # 1 above)
5. The proposed use will not require the erection of any new building and therefore, it will not increase the development density or height of buildings on the site. Drop-off and pick-up schedules and modes of transportation will be varied to minimize the impact on traffic traveling Sir Francis Drake Boulevard. Therefore, approval of the use permit will result in equal or better development of the premises than would otherwise be the case. In addition, the shortage of daycare facilities in Marin County has been documented by the Marin Department of Health and Welfare and therefore, said approval is in the public interest and for the protection or enhancement of the general health, safety or welfare of the community.
6. The proposed additions/modification to the barn structure will add to the articulation of the south side while the use of materials that will compliment the existing exterior materials and preservation of the structures northern exterior will preserving the appearance from the street. Therefore, the project is in compliance with the Design Review criteria listed in Town Code § 17.020.040.

#### Recommended Conditions

1. The new parking improvements shall be installed prior to operation of the expanded facility.
2. The applicant shall comply with the Town Noise Ordinance, Chapter 8.16 of the Town Code.
3. The applicant shall reapply for the required use permit for the portion of the property located within the San Anselmo city limits and shall comply with all the conditions placed upon Use Permit U-0506 by the Town of San Anselmo.
4. Any modifications of these conditions of approval or the approved plans must be approved by the Planning Commission.
5. The applicant shall comply with any and all conditions of approval of the Ross Valley Fire Department, Marin Municipal Water District, Ross Valley Sanitary Service and Building and Public Works Departments of the Town of Fairfax.
6. The applicant shall maintain the premises in a neat manner at all times during construction.
7. The applicant and all project contractors shall comply with all applicable local, county, state and federal laws and regulations. Local ordinances which must be

complied with include, but are not limited to, the Noise Ordinance, the Environmentally Acceptable Packaging Materials Ordinance, the Garbage and Rubbish Disposal Ordinance, the Stormwater Management and Discharge Control Program Ordinance and the Clean Indoor Air and Health Protection Ordinance;

8. The applicant and its heirs, successors, and assigns shall, at its sole cost and expense, defend with counsel selected by the Town, indemnify, protect, release, and hold harmless the Town of Fairfax and any agency or instrumentality thereof, including its agents, officers, commissions, and employees (the "Indemnitees") from any and all claims, actions, or proceedings arising out of or in any way relating to the processing and/or approval of the project as described herein, the purpose of which is to attack, set aside, void, or annul the approval of the project, and/or any environmental determination that accompanies it, by the Planning Commission, Town Council, Planning Director, Design Review Board or any other department or agency of the Town. This indemnification shall include, but not be limited to, suits, damages, judgments, costs, expenses, liens, levies, attorney fees or expert witness fees that may be asserted or incurred by any person or entity, including the applicant, third parties and the Indemnitees, arising out of or in connection with the approval of this project, whether or not there is concurrent, passive, or active negligence on the part of the Indemnitees. Nothing herein shall prohibit the Town from participating in the defense of any claim, action, or proceeding. The parties shall use best efforts, acting in good faith, to select mutually agreeable defense counsel. If the parties cannot reach agreement, the Town may select its own legal counsel and the applicant agrees to pay directly, or timely reimburse on a monthly basis, the Town for all such court costs, attorney fees, and time referenced herein, provided, however, that the applicant's duty in this regard shall be subject to the Town's promptly notifying the applicant of any said claim, action, or proceeding.
9. The applicant shall comply with all applicable local, county, state and federal laws and regulations. Local ordinances which must be complied with include, but are not limited to: the Noise Ordinance, Chapter 8.20, Polystyrene Foam, Degradable and Recyclable Food Packaging, Chapter 8.16, Garbage and Rubbish Disposal, Chapter 8.08, Urban Runoff Pollution Prevention, Chapter 8.32 and the Americans with Disabilities Act.
10. Any changes made to the exterior of the building, including but not limited to new lighting, new signs, planters, etc, comply with the design review regulations of the Town Code, Chapter 17.020, and be approved by the Fairfax Design Review Board (when required).

**NOW, THEREFORE BE IT RESOLVED**, the Planning Commission of the Town of Fairfax hereby finds and determines as follows:

1. The approval of the Use Permit and Design Review Permit can be approved and can occur without causing significant impacts on neighboring businesses or residences.

The foregoing resolution was adopted at a regular meeting of the Planning Commission held in said Town, on the 18th day of May 2017, by the following vote:

AYES:  
NOES:  
ABSTAIN:

\_\_\_\_\_  
Chair Fragoso

Attest:

\_\_\_\_\_  
Linda Neal, Principal Planner

## Caterpillar Academy Transportaion and Pick up/Drop off policy

Caterpillar Academy School works with our families to help reduce traffic congestion during pick up and drop off times. We offer flexible scheduling so that families can pick the time of care to suit their needs. This means that we do not have 15 families dropping their children off at the same time. Arrival and departure times are staggered throughout the day so that we tend to only have 2-4 people dropping off or picking up at any one time.

We also offer a 10 min flex to the daily schedule. If a family comes 5 minutes early, then they pick up 5 minutes early. If they drop off 10 minutes late then they can pick up 10 minutes late. (Between the hours of 7:30am – 5:30pm) This further reduces the number of families that are dropping off or picking up at the same time.

On average it takes parents between 2 and 5 minutes to help their child transition into the school each day. At pick up it can take between 5 and 10 minutes to check in with a teacher and collect belongings.

We also encourage any family or employee living close to the school to walk or ride bikes. We have a place for strollers or bikes to stay during the time the child is at school so that a parent can commute via bus after dropping their child off. There is a bus stop near by the school building. A bike





SEP 27 2016

RECEIVED

Dear Linda Neal,

We have received your letter requesting the additional information and the incomplete status of our application.

The Title Report and the floor plan are included in this packet.

The additional information is as follows:

1. There are currently 20 children enrolled at our school but they do not all attend at the same time. Our maximum number is based on a per day limit of 18 children at one time. We keep the number below 16 at one time/ per day.

We expect the expansion to provide space for an additional 15 children.

2. The current number of vehicle trips is around 22. About 11 families pick up and drop off each day. Four of our families walk or ride bikes to school for pick up and drop off. The expansion will likely add an additional 10 vehicles to our school. At the very max our school will have 30 vehicles arriving and departing twice a day. Pick up and drop off times vary during the day so there are only 3 – 4 cars parking in our lot at one time. Typical drop off and pick up last about 10 minutes.
3. We employ 3 teachers and 2 aids (that visit us one day a week each). There is no more than 6 employee/ owner vehicles on site at one time. The max number of teachers are here between 1pm and 3pm. Two of the owners are able to bike/ walk to school.
4. We have not spoken to the town of San Anselmo at the time of this letter but will be contacting them this week to inquire about any concerns that the expansion may hold for them.

Please let us know if you require any additional information, lists of our enrolled families, or copies of correspondence with the town of San Anselmo.

Thank you for all your attention to our application,

~Shelby Green  
The Caterpillar Academy





## Michelle Levenson

---

**From:** Garrett Toy  
**Sent:** Wednesday, May 10, 2017 8:16 AM  
**To:** Michelle Levenson  
**Subject:** FW: 1569 SFD, Application #17-20

fyi

**From:** Kathy [mailto:k-flores@comcast.net]  
**Sent:** Tuesday, May 09, 2017 5:12 PM  
**To:** Garrett Toy <gtoy@townoffairfax.org>  
**Cc:** Michele Gardner <mgardner@townoffairfax.org>; Kathy Flores <k-flores@comcast.net>  
**Subject:** Fwd: 1569 SFD, Application #17-20

This is my second email asking for answers.

Thank you- Kathy

Sent from my iPhone

Begin forwarded message:

**From:** Kathy Flores <k-flores@comcast.net>  
**Date:** May 6, 2017 at 7:39:53 PM PDT  
**To:** "lneal@townoffairfax.org" <lneal@townoffairfax.org>  
**Cc:** Garrett Toy <gtoy@townoffairfax.org>, Kathy Flores <k-flores@comcast.net>  
**Subject:** 1569 SFD, Application #17-20

Good evening,

Today we received Town of Fairfax Planning Commission Public Notice Hearing for Thursday 5/18/17, requesting the barn structure of 660' to be converted to an additional day-care space with offices above.

The Old Tavern, aka Beauty Bar, has been sold, and from what I hear is going to be a Beer Garden.

First of all, an additional Day Care should not be opened next to a Beer Garden! Period! This is absolutely not a good combination.

Secondly, if a new second story office space is going above the Day Care where is the parking? Is there enough parking for parents and staff to park along with the Beer Garden clients?

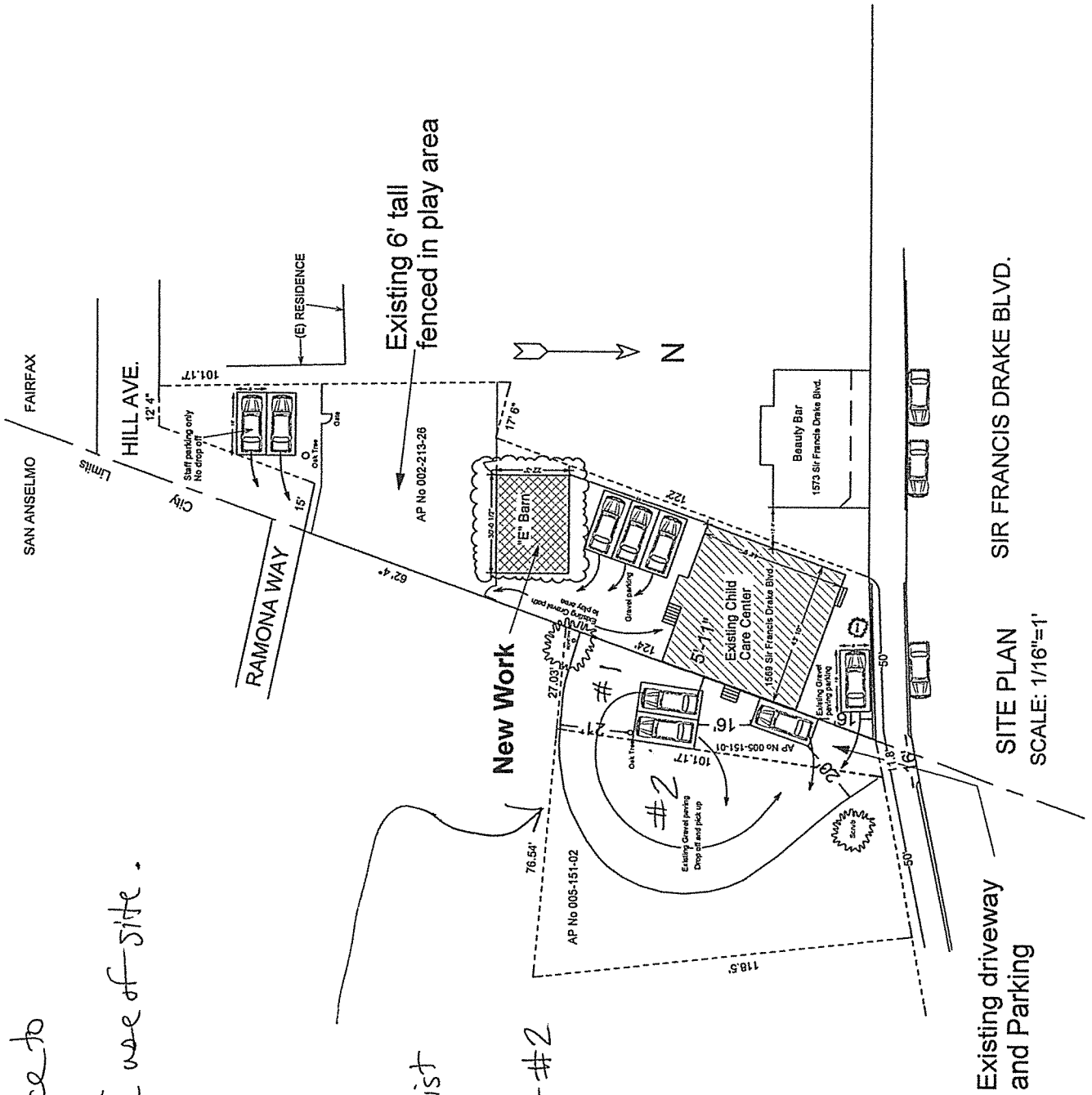
Thank you,

ATTACHMENT C

Kathy Flores  
14 Claus Circle

# Revised Parking Plan

ATTACHMENT **D**



SIR FRANCIS DRAKE BLVD.

SITE PLAN  
SCALE: 1/16"=1'

Existing driveway and Parking

1/23/16  
Addition of one space to lot #1 OK under prior approval/historic use of site.

Driveway use in drip line of tree will require arborist report.  
Use of vacant lot #2 for access is permitted as accessory use of site.  
Eris Seni