

DATE: July 6, 2005

TO: John Szerlag, City Manager

FROM: Brian P. Murphy, Assistant City Manager/Services  
Mark Stimac, Director of Building and Zoning

SUBJECT: Enforcement Activities Regarding Non-Permitted  
Group Day Care Homes in Single Family Residential Zoning

In the spring of 2004 we received a complaint regarding a day care facility being operated within a Single Family Residential Zoning District in the City of Troy. Investigation of the complaint showed that this facility was licensed by the State of Michigan to care for between 7 to 12 children. This type of facility license is known as a Group Day Care Facility. The Troy Zoning Ordinance, in Section 10.25.02, does provide for Family Day Care Homes caring for up to 6 children as a Use Subject to Special Conditions in the Single Family Zoning Districts. There are no provisions of the Troy Zoning Ordinance that would allow for a Group Day Care Home within the setting of a single family residence.

As a result of our contacts the operator of that facility has requested that the Troy Zoning Ordinance be modified to allow for these types of uses in Single Family Zoning Districts. The Troy Planning Commission has been considering a proposed text amendment to the ordinance that may allow for these larger day care facilities as a Use Subject to Special Use Approval. That text amendment (ZOTA 214) is set for public hearing on August 9, 2005.

In doing the research for the text amendment we found through a website of the State licensing agency that there are in fact 19 of these types of facilities with licenses located in the City of Troy. While these other facilities could be equally in violation of the Troy Zoning Ordinance as the first one found as a result of the complaint received, we did not send out additional violations pending the outcome of the Planning Commission's work. Because of other text amendments with higher priorities that have been placed before the Planning Commission, the time frame for their work on the possible amendment for day care homes has extended for more than a year.

In addition there is currently legislation working its way through the State legislature that would amend the State Law regarding the way that cities would review and approve Group Day Care Facilities. We are also working with the State agencies that deal with

the approval of licenses for these facilities to more closely look at the zoning and building code implications of their process of reviewing and approving licenses.

The Director of Building and Zoning has within his powers the discretion to establish a reasonable time frame for violations of ordinance provisions to be corrected. In exercising that discretion, the impact on the public health, safety, and welfare, as well as an estimate of what time a reasonably diligent person would need to make the correction are taken into consideration. Initially we determined that 90 days was a sufficient amount of time to reduce the amount of children that were cared for at the facility. However, shortly after that notice was sent out the owner began the process of working with the Planning Commission to look at revising the ordinance. As such, I determined that no additional enforcement action be taken until the Planning Commission completed their work on the proposed ordinance amendment. The scope of the research has also expanded to look at State zoning enabling legislation and State licensing policy.

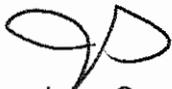
In accordance with your direction, a letter will be sent to all licensed group day care centers indicating that:

1. A violation may currently exist.
2. No additional enforcement action will be taken at this time because the Planning Commission is considering making a recommendation to City Council, which may make group day care centers allowable in residential districts.
3. Additionally, the State of Michigan could legislatively allow group day care centers in residential areas.
4. The group day care center licensee will be kept advised of this matter and invited to the Planning Commission meeting where the issue will be discussed on August 9, 2005

Prepared by: Mark Stimac, Director of Building and Zoning

#### NOTE TO MAYOR AND COUNCIL:

My directive to Brian and Mark as stated above is more expedient than suspending the ordinance because a public hearing would first need to be held by the Planning Commission to do so. And this process is already in the works with a public hearing by the Planning Commission on the ordinance per se August 9, 2005. In any event, the outcome is the same as no further enforcement action will be taken until this matter is resolved by City Council or the State of Michigan decides to allow group day care centers in residentially zoned areas.



John Szerlag,  
City Manager