

## CASE STUDY #1: CONDITIONAL USE FOR EARLY CHILD EDUCATION (ECE) FACILITIES

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### OREGON CHILD DEVELOPMENT COALITION (OCDC) JOSE PEDRO CHILD CARE FACILITY

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- » **Type of provider:** Early and Migrant Head Start Child Care Provider
- » **Provider location:** Cornelius, OR
- » **Project overview:** A 17,000-square-foot facility that serves approximately 180 children in the infant, toddler, and preschooler age ranges. The facility includes 12 classrooms, an on-site commercial kitchen, indoor studios for preschool-age children, outdoor creative play areas for age-appropriate play spaces, and on-site office space for approximately 25 site and countywide child care staff.

Looking to expand their services, the Oregon Child Development Coalition (OCDC) began searching for available land in Cornelius. Like many rural and agricultural communities statewide, available land that would allow for child care on-site was rare, but OCDC eventually purchased a four-acre parcel.

The base zoning for the parcel allowed for low-density residential uses outright, with a Type III Conditional Use requirement for any school-related uses (including child care). Given the 120-day codified timeline for conditional use review and the limited window to apply for and allocate federal Health and Human Services project funding, OCDC immediately submitted the application.

Although public testimony was broadly understanding of the need for child care services in this largely agricultural community, there was also a general

perception that placing this type of use in a residential neighborhood would increase traffic congestion, on-site parking overflow onto adjacent streets, noise to abutting properties, and an unacceptable level of disturbance in the neighborhood. On this basis, the application was initially denied by the City's planning staff, citing too many impacts to the surrounding area.

Given the essential need to expand services, OCDC appealed this decision to the planning commission. In the appeal, OCDC provided an additional comprehensive traffic analysis showing that peak traffic counts and flow patterns at the subject site were well within the ability of the neighborhood collector standard. Based on this additional study presented, the planning commission approved the conditional use on appeal and the project was ultimately permitted and built.

**The conditional use and appeal process added approximately six months to the permitting process and risked project funding during a critical juncture in its development. Fortunately, the project survived the additional land use review scrutiny. Overall, conditional use requirements can make developing new facilities for early child care services more difficult than uses that are permitted outright or with prescriptive limitations in place.**

## CASE STUDY #2: PLUMBING CODE IMPACT ON EARLY CHILD CARE EDUCATION FACILITIES

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### OREGON CHILD DEVELOPMENT COALITION (OCDC) HERMISTON HEAD START FACILITY

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- » **Type of provider:** Early Head Start
- » **Provider location:** Hermiston, OR
- » **Project overview:** A 12,000-square-foot facility offering eight classrooms and indoor and outdoor play areas for infants, toddlers, and preschool-age children.

The Oregon Child Care Development Coalition (OCDC) operates more than 25 facilities statewide, mostly featuring classroom pairs that share a common core with shared toilet rooms for the toddler and preschool age groups. These toilet room designs typically include a half wall, plus half-height toilet partitions for each water closet so staff can monitor the children from either classroom and easily assist if the children need help with toilet training.

This layout has been used almost universally for many decades and is found in many widely used child care design

guidelines. Since these children are very young and have not yet developed the need for greater privacy, this is a good solution to meet their needs without compromising their safety or privacy. However, it is not directly supported in the State building code requiring the local building official to review and approve the configuration during plan review. The code does allow for a single open water closet for use in child care toilet rooms, but realistically these toilet rooms need closer to four water closets and lavatories to serve all the children in the classrooms. In practice, most building officials have understood the efficiency of the semi-open shared toilet rooms arrangement.

However, in the case of OCDC's Hermiston facility, the local building department did not allow this configuration for the children's shared toilet rooms, citing a loss of privacy for the toddlers and preschool-age children. The code gives some discretion on layout to the local officials, so OCDC was ultimately required to redesign the common core for that project. In addition to adding project costs, this configuration requires much greater staff attention and time to attend to the children's toileting needs, which takes away from other tasks and priorities in the classroom.

**Local officials must review and approve any deviation from a strict adherence to the code requirements for toilet room designs for child care settings. This puts the discretion on the local official who, by right, can deny this configuration if they feel it is at odds with the intent of the code and the local community standards. In practice, this puts an undue burden on both the local building official and the child care providers, who may face greater obstacles in designing common sense solutions to meet the needs of very young children in those settings.**

## CASE STUDY #3: CONSOLIDATING MULTIPLE CERTIFIED FAMILY CHILD CARE HOMES ONTO A SINGLE SITE

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### FOUR DAY CARES ON A SINGLE LOT

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- » **Type of provider:** Certified family child care home
- » **Provider location:** Portland, OR
- » **Project overview:** Four certified family child care homes on a single lot, housed within a triplex and a detached single-family home.

Two Portland-based child care providers encountered barriers when attempting to consolidate their four certified family care homes (two in detached single-family rental homes and two in single-family homes they owned) into a single commercial center.

The search for a suitable commercial space for the center brought to light several challenges, particularly related to a required change of occupancy. The provider toured numerous potential

locations but found that very few had the required E occupancy rating, which is essential for operating a child care center. They identified a promising space where a child care center was allowed under current zoning regulations, but the building's occupancy would need to be changed. After consulting with the city, they learned there was no guarantee the change could be approved and the initial process could cost between \$27,000 and \$50,000. After determining they could not afford to take on this level of risk and financial investment, they decided not to pursue expanding into a center and to remain as certified family homes. The providers noted that the only viable spaces for centers, outside of building something new, are former school buildings with the existing necessary E occupancy rating.

The providers then explored other options, including two duplexes where teachers would reside in one unit and utilize the other unit for child care. At the time, the city did not allow for a residential unit to be utilized only for child care; someone must reside in the home as well. The providers then found a single family-home on a double lot for sale and considered briefly exploring the possibility of rezoning the lot to commercial in order to build a center. However, they found that process would take too long and cost too much. Ultimately, the providers built a triplex next to the existing home, where each housing unit is a condo and maintains a separate provider license. This approach allowed them to consolidate their business onto one site as originally intended, but this process still uncovered several barriers and ultimately places limitations on their ability to further expand their business.

- ◆ **Triplex units:** Due to site constraints, the units needed to be small to fit three on site and provide enough space for a classroom in each unit. The small one-bedroom apartment can limit the pool of people who may want to live there. Additionally, the building code did not allow for total separation of the residential space and the classroom, so they were required to provide access between them. The providers were informed that Portland has an additional provision in its building code prohibiting a

residential unit from having two full kitchens, so the classroom is limited to a kitchenette that does not include a kitchen range.<sup>93</sup>

- ◆ **Capped capacity:** The single-family home + triplex arrangement limits the provider to the four certified family licenses on the site, so their capacity is capped to 64 kids, which also limits the amount of revenue the business can generate. The providers found that a residential mortgage is more expensive than leasing a center space, possibly as much as just one of their mortgages. Therefore, the ongoing costs are higher than a center, and their gross income is capped because of their limit of four licenses.
- ◆ **Financing:** The providers found it was very difficult to find a bank that understood using a Small Business Association loan for a business in a residential unit. Banks they met with often tried to equate it to an elderly care home.
- ◆ **Toilets:** To have sixteen children in a certified family home, there must be two toilets in the classroom. However, if there are only fifteen children, only one toilet is required. Therefore, the second toilet the providers were required to add is essentially for one child.<sup>94</sup>

**After navigating several challenges, such as finding a suitable space, navigating zoning restrictions, and securing financing, the providers ultimately found a path for consolidating their business onto one site. However, this arrangement still poses limitations on their ability to further expand their business due to capacity constraints, and they likely incurred more costs compared to buying or leasing a suitable center space.**

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<sup>93</sup> The triplex meets the definition of a “townhome” in the building code, so it was constructed in accordance with the Oregon Residential Specialty Code.

<sup>94</sup> This rule is currently under review for potential revision.

## CASE STUDY #4: LOCATING A CHILD CARE CENTER ON A CHURCH PROPERTY

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### CHILD CARE IN CHURCH'S ACCESSORY STRUCTURE

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- » **Type of provider:** Certified family child care home
- » **Location:** Outside the urban growth boundary
- » **Project overview:** Provider wants to locate and expand existing child care business into a certified child care center in an accessory building on a church property.

A provider would like to expand her business to become a certified child care center. A church agreed to let her use a secondary building on their property that was originally built as a classroom annex in the 1960s. However, the property is located outside the urban growth boundary and is zoned Rural Residential. Rural zoning classifications have significant limitations placed on them based on state statutes and administrative rules for development outside of urban growth boundaries. The Rural Residential zoning classification essentially only allows the development of low-density residential with a five-acre minimum lot size.

The provider was required to submit a Type I lawful existing use determination since the church and the classroom are not permitted uses per current zoning. This required the provider to obtain property records to demonstrate that the use was legally established and to determine if the classroom space had been used for child care. While county staff had access to these records, the provider was required to submit a public records request, only to submit them back to another county department. This process also required fees the provider was not expecting.

Original building plans labeled the accessory building as an Education and Administrative Building, with classrooms labeled (among other rooms). The records also indicated that the most recent occupancy classification for the accessory building was Group A-3 (church assembly) and B (businesses and offices). The building official noted that regardless of what the actual uses were when construction was completed, the most recent classification of A-3 does not align with a certified family child care center, which would require Group E occupancy. The provider was notified that building permits are required when an existing building undergoes a change of occupancy or a change of use, cited under the Oregon Structural Specialty Code 105.1, and that she would likely need to hire a designer to prepare floor plans and other necessary documentation for the county to review.

**Despite the accessory building's prior documented use as an educational space, the provider faced several barriers that have caused unexpected expenses and delays, including obtaining records, hiring an attorney to help navigate the process, and eventually hiring a designer to prepare and submit for a building permit.**