



**REGULAR MEETING OF THE
CITY OF CONCORD
ZONING ADMINISTRATOR**

**9:00 a.m., Wednesday, October 26, 2016
PERMIT CENTER CONFERENCE ROOM
1950 Parkside Drive, Concord**

****PLEASE NOTE NEW MEETING LOCATION****

AGENDA

PUBLIC COMMENT PERIOD

(The public may speak on any item within the jurisdiction of the Zoning Administrator not listed on this agenda. Approximately 15 minutes is allocated for the Public Comment Period, and each speaker will be allowed approximately 3 minutes.)

HEARINGS:

- Betty's Large Family Day Care (PL16279 – MP)** – Application for a Minor Use Permit by Betty's Day Care to operate a day care facility for up to fourteen (14) children at 843 Madigan Avenue. The proposed project is Statutorily Exempt pursuant to CEQA Section 15274, Family Day Care Homes, which states that CEQA does not apply to the establishment or operation of a large family day care home which provides in-home care for up to 14 children, as defined in Section 1596.78 of the Health and Safety Code. Therefore, no environmental review is required. **Project Planner: Lorna Villa @ (925) 671-3176.**

ADJOURNMENT

Next Zoning Administrator's Meeting: November 9, 2016

In accordance with the Americans with Disabilities Act and California Law, it is the policy of the City of Concord to offer its public programs, services and meetings in a manner that is readily accessible to everyone, including those with disabilities. If you are disabled and require a copy of a public hearing notice, or an agenda and/or agenda packet in an appropriate alternative format; or if you require other accommodation, please contact the ADA Coordinator at (925) 671-3021, at least five (5) days in advance of the hearing. Advance notification within this guideline will enable the City to make reasonable arrangements to ensure accessibility.

Correspondence and writings received within 72 hours of the scheduled Zoning Administrator meeting that constitute a public record under the Public Records Act concerning any matter on the agenda is available for inspection during normal business hours at the Permit Center located at 1950 Parkside Drive, Concord. For additional information contact the Planning Division at (925) 671-3152.

APPEALS

Decisions of the Zoning Administrator may be appealed to the Planning Commission. Appeals and the required filing fee must be filed with the City Clerk within ten (10) days of the decision.

If you challenge any of the foregoing described actions in court, an appeal first of said actions to the Zoning Administrator, Planning Commission, and/or City Council (as applicable) in the manner and within the time period established in Development Code Chapter 18.510 (Appeals and Calls for Review) is required, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Zoning Administrator and/or Planning Commission (as applicable) at, or prior to, said public hearing.



REPORT TO ZONING ADMINISTRATOR

DATE: October 26, 2016

SUBJECT: BETTY'S LARGE FAMILY DAYCARE (PL16279 – MP)

Recommendation: Adopt Zoning Order No. 16-08 ZA (Exhibit A), approving a Minor Use Permit for Betty's Large Family Daycare Home (PL16279 – MP).

I. Introduction

A. Application Request

Application for a Minor Use Permit to operate a large family daycare home.

B. Location

The project site is located at 843 Madigan Avenue; APN 129-324-010.



C. Applicant
Beata Zieba
843 Madigan Avenue
Concord, CA 94518
(925) 349-4836

Owner
James Aberer
2821 Crow Canyon Road #210
San Ramon, CA 94583
(925) 820-6881

II. Background

On October 23, 2015, the applicant submitted a Minor Use Permit application (Exhibit B) to operate a large family day care home (also called family child care homes) to accommodate 14 children at 843 Madigan Avenue. Her business activities and schedule were also provided (Exhibit C), along with the site plan and floor plan of the property (Exhibit D). The applicant previously operated a large family day care on McElroy Court in Concord for up to 14 children (Facility Number 073407546, effective March 2012), issued by the Community Care Licensing Division (CCLD) of the California Department of Social Services (Exhibit E). According to the CCLD, the existing license is transferable to the new location (for up to 8 children). The applicant is applying for a license for a total of 14 children at the new location.

The Development Advisory Committee (DAC) reviewed the application and provided comments. On July 28, 2016, the application was deemed incomplete until additional information regarding the site plan and operations could be submitted. The additional information was provided on August 23rd and 30th and the project was deemed complete on August 31, 2016.

The Planning Division mailed a public notice on August 11, 2016, to the surrounding residents and property owners within 100 feet of the proposed family day care home regarding a neighborhood meeting to be held on August 23, 2016 for the proposed Minor Use Permit. Staff received a call from a neighbor residing prior to the meeting, citing concerns with traffic generated by the proposed residential child care facility. Mr. and Mrs. Del Bene, who reside on San Simenon, sent an email on August 21st (Exhibit F), expressing concern with traffic, the capacity of the daycare, and the change in atmosphere the commercial business will bring to the neighborhood. On August 23rd the neighborhood meeting was attended by the applicant, Beata Zieba, four neighbors, Toni Robertson, a representative from the Contra Costa Child Care Council, and Ms. Bene Chhabra an operator of a large family day care facility in Concord. One of the attending neighbors, who resides at 847 Madigan Avenue, spoke in support of the daycare. Concerns expressed at the meeting pertained to backyard noise, safety in crossing the street for drop off/pick up, devaluation of property value as a result of the large family daycare, and the adequacy of the house for 14 children.

On September 1, 2016, a public hearing notice was mailed indicating that the Zoning Administrator will not hold a public hearing unless one is requested. On September 11, 2016, a neighbor requested a public hearing on this item (Exhibit G). On October 14, 2016 notices advertising the hearing were forwarded to all property owners and persons residing within 100 feet of the proposed home day care facility providing notification of the October 26, 2016 public hearing on the subject item. Ms. Chhabra and Ms. Robertson who attend the neighborhood meeting but are not within the 100 foot radius were also sent a public hearing notice.

Family child care homes are regulated by the State of California. The California State Legislature has found that there are an insufficient numbers of family child care homes in California, and so has enacted legislation which addresses licensing and operations. The Community Care Licensing Division of the California Department of Social Services handles licensing, and the City is not involved in the licensing process. Licensing regulations address, among other things, health and safety issues related to the care and supervision of children from infancy to 12 years of age. Family

child care is provided in the licensee's home (owned or rented), and is considered a residential (not commercial) use of the property.

For a large family child care home, the maximum number of children allowed to be cared for when there is an assistant provider in the home (including children under age 10 who live in the home, and the assistant provider's children under age 10) is either:

- Twelve children, no more than four of whom may be infants, or
- Up to 14 children when one child is at least six years of age and one child is enrolled in and attending kindergarten or elementary school, and no more than three infants are in care.

State law limits a city's discretion in imposing land use restrictions on family child care homes. Large family child care homes must be classified as a permitted use of residential property for zoning purposes, but must pay a business tax/license as would any other business in the City of Concord. Although the City can require a Minor Use Permit, the City can only prescribe reasonable standards, restrictions, and requirements as they pertain to traffic, parking, noise, concentration, and certain State Fire Marshall regulations. The City of Concord's conditions¹ include providing an adequate off-street parking and loading area, minimizing noise impacts, providing an outdoor play area, maintaining a State license (requiring a Fire District clearance), and complying with applicable Building and Fire Codes. These conditions are fully described in the Development Code and are also identified in the "Analysis/Discussion" section of this staff report below. Per State law, if those conditions are met, then the City must grant the Minor Use Permit.

Before a decision is made on a large family day care home, notices must be sent to owners of record within a 100-foot radius of the property, and a hearing on the permit application is only held if requested by the applicant or another affected person. In this case, a public hearing was requested by Beverly May (Exhibit G) within the required time frame.

III. General Information

A. General Plan

The General Plan land use designation is Low Density Residential (LDR).

B. Zoning

The site is a residential single family home zoned Residential Single Family RS6. Section 18.200.050 of the Development Code requires that a Minor Use Permit be obtained in order to operate a large family day care home at the project site.

¹ Because the Legislature has found that family day care homes are a matter of statewide concern, State law controls over any conflicting language in a city's municipal code. The City is in the process of conforming Concord Municipal Code Section 122 (referred to herein as the Development Code) to State law.

C. CEQA Status

The proposed project is Statutorily Exempt pursuant to CEQA Section 15274, Family Day Care Homes, which states that CEQA does not apply to the establishment or operation of a large family day care home which provides in-home care for up to 14 children, as defined in Section 1596.78 of the Health and Safety Code. Therefore, no environmental review is required.

D. Site Description

| | | |
|--------------------------------|--|------------------------|
| Lot Size and Dimensions | 6,100 sq. ft. | 61 ft. x 100 (approx.) |
| Existing Improvements | Single-family residence, driveway and landscaping | |
| Topography | The parcel is relatively flat. | |
| Existing Vegetation | The property has typical residential landscaping with lawn and shrubs in front yard. | |

E. Surrounding Land Use

The site is part of the Vista Diablo subdivision (TR 2949), recorded in 1961, and is surrounded by the following uses:

| | Land Use | General Plan Designation | Zoning |
|--------------|-----------------|---------------------------------|---------------|
| North | Residential | Low Density Residential | RS6 |
| South | Residential | Low Density Residential | RS6 |
| East | Residential | Low Density Residential | RS6 |
| West | Residential | Low Density Residential | RS6 |

IV. Detailed Project Description

A. Description of Business

The proposed project would consist of a large family day care to provide care for up to 14 children. The applicant's requested hours of operation are from 7:00 a.m. to 6:00 p.m. Monday through Friday. The age of the children is anticipated to range from infants to five years of age. Drop off is from 7:00 a.m. to 10:00 a.m. and pick up will be from 4:00 p.m. to 6:00 p.m. The applicant currently provides care for 8 children and does not have any children of her own that would count towards the number allowed. The facility's description of business activities is provided in the applicant's business description (Exhibit C). Care for the 14 children will be provided by the applicant, Mrs. Zieba and her husband who both reside in the residence. The property's rear and right side yard is fenced in and is used as an outdoor play area. No signage or exterior improvements are proposed as part of the proposed project.

V. Analysis/Discussion**A. General Plan Consistency**

The project site's General Plan land use designation of Low Density Residential is intended for residential development at densities from 2.5 to 10 units per net acre.

Discussion

General Plan Policy LU-1.1.3 states that the City shall ensure that the scale, operation, and other characteristics of community facilities, including parks, schools, childcare facilities, religious institutions, and other public and quasi-public facilities enhance the character and quality of neighborhoods. In addition, General Plan Policy LU-1.1.4 requires the mitigation of residential uses from impacts of more intensive land uses through good site planning and/or appropriate operational measures. As discussed in detail below, the proposed project provides the required off-street parking and loading area to mitigate potential traffic and circulation impacts which detract from the character and quality of the neighborhood. For this reason, staff finds the proposed project consistent with the Low Density Residential land use designation and the applicable policies within the General Plan.

B. Zoning Consistency

As noted above, the zoning classification for the project site is RS6. A Minor Use Permit is required for large family day care homes within all RS zoning districts. In order for a Minor Use Permit to be approved, the findings contained within Section 18.435.060 of the Development Code must be made by the reviewing authority. Additionally, the specific findings related to large family day care homes included within Section 18.200.050 must also be made prior to approval. An analysis of the proposal relative to the required large family day care home general requirements and findings is provided below.

General Requirements. The following standards apply to all large family day care homes, child day care centers, pre-schools, and nurseries. Discussion of whether these standards are met is in *italics* after each standard.

(1) Parking and Loading. The following parking requirements shall be provided as per Section 18.200.050 (Parking and Loading):

- a. A minimum of one off-street parking space per employee;

The two employees reside at the house and will utilize the existing two-car garage.

- b. For large family day care homes, employee parking shall be in addition to the off-street parking required for the residential use. Driveways may be used for employee parking, provided the driveway is no less than 18 feet in length, measured from the property line or back of sidewalk whichever is less; and

The driveway length is approximately 23.5 feet long and approximately 15 feet wide.

- c. A safe area for pick-up and delivery of children shall be provided. This area shall only be allowed in a driveway, in an off-street parking area, or other on-site area with direct access to the facility

Pick-up and delivery area is available in the driveway which is accessible from Madigan Avenue. One on-site loading space would be required to serve as a safe drop-off area for pick-up and delivery of children. Since both employees reside at the project site, they utilize the two-car garage for parking leaving both spaces in the driveway available for drop off and pick up. The required off-street employee parking and pick-up/delivery area spaces would be provided in the home's driveway consistent with the requirements described above.

These requirements are in addition to the requirements of Development Code Section 18.160 (Parking, Loading, and Access). As noted above, two off-street parking spaces are required for the existing residential use pursuant to Section 8.160.040 of the Development Code. These spaces are provided in the existing garage.

- (2) **Noise.** The location of the facility, including outdoor play areas, shall be sited to minimize noise impacts on neighboring properties. Noise levels shall comply with the standards identified in the General Plan.

The outdoor play area is located in the rear and left side yard of the home and is screened by an approximately six-foot tall wooden fence, as noted in the applicant's site plan (Exhibit D) and photos (Exhibit H). In response to the noise concerns cited by the neighbors, the applicant indicated that she does not have noise generating toys in the back yard. Most of the activities will take place inside the home with outdoor play time limited to mid-day and late afternoon. Additionally, the business plan indicated that children will be taken outside in groups of 4 which will limit noise. Staff recommends Condition of approval #5 which requires the applicant to prepare and submit a written statement that identifies the expectations of the facility and its clients. Pursuant to General Plan Policy S-2.1.3, the anticipated noise increase from the proposed use, as conditioned, would be three dBA or less and is therefore considered insignificant and no mitigation is needed.

- (3) **Outdoor Play Areas.** Outdoor play areas shall be:

- a. Enclosed by a natural barrier, wall, solid fence, or other solid structure at least six feet in height; and

The outside play area is enclosed by a six-foot tall wooden fence.

- b. Adequately separated from driveways, streets, and parking.

The driveway, street and parking are separated by a 6-foot tall fence with a gate.

- (4) Building and Fire Codes.** All facilities shall comply with all applicable City, county, and state requirements including the Uniform Building Code and Fire Codes.

As part of the State licensing review process, the facility will contact Contra Costa County Fire Protection District to obtain the required fire safety clearance. Additionally, the Building Division will inspect the site upon submittal of plans to verify compliance with applicable building codes.

Findings. The following findings shall be made for approval of a Minor Use Permit for a large family day care home, child day care center, pre-school, or nursery school, in addition to the findings required in Section 18.435 (Minor Use Permits and Use Permits):

- (1) The facility meets all of the standards specified in this Section.**

Discussion

Based upon staff's review of the application materials, it was concluded that the proposed project is consistent with the standards specified in this section because an adequate on-site parking and loading area is provided, noise levels do not exceed the standards outlined within the General Plan, and an outdoor play area consistent with applicable standards is available. Further, the proposed project is required to comply with the applicable Uniform Building Code and Fire Codes.

- (2) The facility meets applicable state licensing requirements.**

Discussion

The existing large family day care home has been licensed (at two different locations in Concord) by the California Department of Social Services since October 18, 2006. The applicant has applied for a license at the current location.

- (3) Drop-off facilities avoid interference with traffic and promote the safety of children.**

Discussion

As shown on the site plan (Exhibit D) a drop-off area is provided within the site's driveway consistent with the standards identified in Section 18.200.050 (D) of the Development Code. The Transportation Division reviewed the site plan and circulation plan and expressed no concerns regarding traffic volume issues.

- (4) The facility meets applicable fire and building codes.**

Discussion

As discussed above, as part of the state licensing review process, the facility will receive a fire safety clearance from the Contra Costa Fire Protection District. Additionally, the Building

Division has reviewed the proposed project and recommended a condition of approval to ensure compliance with the Uniform Building Code.

Additional findings for large family day care homes are analyzed below.

(5a) The primary use of the home is as a residence.

Discussion

Based upon statements from the applicant, a telephone conversation with the property owner, and review of the available public information, staff concluded that the primary use of the home is a residence.

(5b) One off-street parking space is provided for each non-resident employee.

Discussion

The driveway length is approximately 23 feet which exceeds the minimum requirement that it be 18-foot length to be eligible for use as off-street employee parking. The property also has a second available parking space in the driveway, in addition to the 2-car garage. Sufficient off-street parking is available at the project site.

(5c) The facility avoids noise impacts to neighboring properties by design and layout of the site.

Discussion

As noted above, the outdoor play area is located behind a fence in the rear and side yard of the home and is screened by an approximately six-foot tall wooden fence. The applicant has indicated that most of the activities will take place inside the house. Outdoor play hours will be limited and children will be taken outside in groups of 4.

(5d) The facility is not within 300 feet of any other such licensed facility.

Discussion

Staff verified with the Department of Social Services that no other large family daycares are located within 300 feet of any other licensed facility.

The Review Authority may approve a Minor Use Permit application only after first making the following findings:

(1) The proposed use is allowed within the applicable Zoning District and complies with all other applicable provisions of the Development Code and CMC.

Discussion

The proposed large family day care use is allowed within the RS6 zoning district with an approved Minor Use Permit and complies with all other applicable provisions of the Development Code, including those discussed above, and the Concord Municipal Code.

(2) The proposed use is consistent with the General Plan and any applicable Specific Plan.

Discussion

As noted above, General Plan Policy LU-1.1.3 states that the City shall ensure that the scale, operation, and other characteristics of community facilities, including parks, schools, childcare facilities, religious institutions, and other public and quasi-public facilities enhance the character and quality of neighborhoods. In addition, General Plan Policy LU-1.1.4 requires the mitigation of residential uses from impacts of more intensive land uses through good site planning and/or appropriate operational measures. As discussed in detail above, the proposed project provides the required off-street parking and loading area to mitigate potential traffic and circulation impacts which detract from the character and quality of the neighborhood. Therefore, the proposed use is consistent with the site's low-density residential General Plan land use designation and other applicable policies regarding land use compatibility. There is no Specific Plan applicable to the project site.

(3) The design, location, size, and operating characteristics of the proposed activity are compatible with the existing and future land uses in the vicinity.

Discussion

The design, location, size, and operating characteristics of the proposed use are compatible with the existing and future land uses in the vicinity because, as discussed above, adequate off-street parking and a drop-off area is provided to avoid potential traffic, circulation, and pedestrian safety impacts. **Operational measures such as limiting the number of children outside at one time and requiring parent to utilize the driveway for drop off and pick up are being imposed by the Conditions of Approval to minimize noise and traffic impacts to the surrounding neighborhood.**

(4) The site is physically suitable for the type, density, and intensity of the proposed use, including access, utilities, and the absence of physical constraints.

Discussion

The site is physically suitable for the type, density, and intensity of the proposed use, including access, utilities, and the absence of physical constraints because, as discussed above, sufficient on-site area is available for an outdoor play area, parking, and drop-off area. Further, the driveway exceeds the 18-foot minimum length required by the Development Code and therefore can be utilized for parking and delivery purposes.

- (5) Granting the permit would not be detrimental to the public health, safety, or welfare of the persons residing or working in the subject neighborhood or materially detrimental or injurious to property or improvements in the vicinity and Zoning District where the property is located.**

Discussion

Granting the minor use permit for the proposed use will not be detrimental to the health, safety and general welfare of persons residing or working in the subject neighborhood or materially injurious to property or improvements in the vicinity and the Zoning District where the property is located because the project has been designed in a manner to maintain land use compatibility with the surrounding residential land uses. Moreover, the Community Care Licensing Division of the California Department of Social Services retains oversight of licensing matters and the Conditions of Approval address continuing compliance with Development Code standards. Lastly, State law considers the proposed large family day care home to be a residential use. As a residential use, the proposed use would be compatible with the surrounding single-family residential uses.

- (6) If the Review Authority determines that it is not possible to make all of the required findings for approval of the project as submitted or as modified with conditions, the application shall be denied. The specific basis for denial shall be established for the record.**

Discussion

In approving a Minor Use Permit, the Review Authority (here, the Zoning Administrator) may impose conditions including those that are deemed reasonable and necessary to ensure that the approval will comply with the findings required by Development Section 18.435.060(A) (Findings), and as such imposes the Conditions of Approval.

C. Neighborhood Comments

Staff received one letter opposing the proposed project as of the writing of this report (Exhibit F). The letters in opposition to the proposed project raises issues regarding traffic and concerns that the size of the home is not adequate for a large day care. As previously mentioned in this report, family child care homes are regulated by the State of California and limits the city's discretion in imposing land use restrictions. Large family child care homes must be classified as a permitted use in residential zoned property. The property complies with the required parking for both employees and drop-off/pick-up of the children. Additionally drop of and pick up time are staggered in the morning and the late afternoon and are not ongoing throughout the day.

VI. Fiscal Impact

The proposed project would have a negligible fiscal impact on the City.

VII. Public Contact

Notification was mailed to all owners and occupants of property within one-hundred (100) feet of the subject parcel, and has been published in the Contra Costa Times, as required by the Concord Municipal Code. The resident requesting a hearing was provided notice of the hearing ten days prior to the date by both mail and email. This item was also posted at the Civic Center and at the subject site at least 10 days prior to the public hearing.

VIII. Summary and Recommendations

As discussed in detail above, staff believes the required findings for a Minor Use Permit as well as specific findings related to large family day care homes can be made because the proposed project complies with the relevant provisions of the Development Code. Further, the proposed project is consistent with the applicable General Plan policies regarding land use compatibility and noise levels, as conditioned. Therefore, staff recommends that the Zoning Administrator adopt Zoning Order No. 16-08 ZA, approving Minor Use Permit PL16279 – MP, subject to the attached findings and Conditions of Approval.


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Planning Manager
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Exhibits:

- A - Zoning Order No. 16-08 ZA with Conditions of Approval
- B - Minor Use Permit Application dated July 8, 2016
- C- Applicant's Business Plan dated July 8, 2016 & August 23, 2016
- D- Applicant's site and floor plan dated July 8, 2016
- E - Childcare license for family day care home, Facility Number 073407546, effective December 2012), issued by the Community Care Licensing Division.
- F - Email comments dated August 21, 2016 from Mr. & Mrs. Del Bene.
- G - Email request for hearing dated September 11, 2016 from Ms. May
- H - Photos of Betty's Daycare

ZA ORDER NO. 16-08

OFFICE OF THE ZONING ADMINISTRATOR
CITY OF CONCORD
APPROVING MINOR USE PERMIT (PL16279-MP)

Applicant: Beata Zieba

Owner: James Aberer

Project Name: Betty's Large Family Day Care Home at 843 Madigan Avenue

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6 **WHEREAS**, on July 8, 2016, Beata Zieba submitted an application for a Minor Use Permit
7 (PL16279-MP) to allow a Large Family Day Care Home for up to 14 kids at 843 Madigan Avenue,
8 APN 129-324-010; and

9 **WHEREAS**, on August 31, 2016, the application was deemed complete for processing; and

10 **WHEREAS**, on August 23, 2016, a neighborhood meeting was conducted that was attended
11 by four neighbors, the operator of a local large family daycare, and a representative from Contra Costa
12 Child Care Council, attendees spoke both in support and in opposition to the project; and

13 **WHEREAS**, pursuant to the provisions of the California Environmental Quality Act (CEQA)
14 of 1970, as amended, the project is classified as Statutorily Exempt pursuant to Section 15274,
15 "Family Day Care Homes," and therefore no environmental review is required; and

16 **WHEREAS**, after giving all public notices required by State law and the Concord Municipal
17 Code, a public hearing was not requested by any affected person and no public comment was
18 received.

19 **NOW, THEREFORE, BE IT RESOLVED** that the Zoning Administrator does hereby
20 approve a Minor Use Permit (PL16279-MP) for Betty's Large Family Day Care Home subject to the
21 attached Conditions of Approval referenced in Attachment A, based on the following findings:

22 CEQA

23 1. Pursuant to the provisions of the California Environmental Quality Act (CEQA) of
24 1970, as amended, the project is classified as Statutorily Exempt pursuant to Section 15274, "Family
25 Day Care Homes," and therefore no environmental review is required.

26 Minor Use Permit

27 2. The facility meets all of the standards specified in Development Code Section
28

1 18.200.050(D) as outlined below.

2 (1) **Parking and Loading.** The following parking requirements shall be provided
3 in addition to the parking requirements in Division IV, Chapter 18.160
4 (Parking, Loading, and Access):

5 a. A minimum of one off-street parking space per employee. The two
6 employees reside at the residence and will utilize the existing two-car garage. If
7 a non-resident employee were employed, one of the two spaces in the existing
8 driveway could be designated for the employee.

9 b. For large family day care homes, employee parking shall be in addition
10 to the off-street parking required for the residential use. Driveways may be
11 used for employee parking, provided the driveway is no less than 18 feet in
12 length, measured from the property line or back of sidewalk whichever is less.
13 The existing two-car garage provides the required parking for the residential
14 use and employees as both employees reside at the residence. This allows the
15 two driveway parking spaces to be dedicated for drop-off/pick-up. The
16 driveway length (depth) is approximately 23 feet as measured from the back of
17 sidewalk.

18 c. A safe area for pick-up and delivery of children shall be provided. This
19 area shall only be allowed in a driveway, in an off-street parking area, or other
20 on-site area with direct access to the facility.

21 The required off-street pick-up and drop off area is provided by the existing
22 driveway.

23 (2) **Noise.** The location of the facility, including outdoor play areas, shall be sited
24 to minimize noise impacts on neighboring properties. Noise levels shall
25 comply with the standards identified in the General Plan. The outdoor play area
26 is located behind the home and is screened by an approximately six-foot tall
27 wood fence. Pursuant to General Plan Policy S-2.1.3, the anticipated noise
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1 increase from the proposed use is three dBA or less and is therefore considered
2 insignificant and no mitigation is needed.

3 (3) **Outdoor Play Areas.** Outdoor play areas shall be:

4 a. Enclosed by a natural barrier, wall, solid fence, or other solid structure
5 at least six feet in height. The outdoor play area is enclosed by an
6 approximately six-foot tall wood fence.

7 b. Adequately separated from driveways, streets, and parking.

8 The outdoor play area is secured and separated from the driveway,
9 street, and parking by an approximately 6-foot tall fence and gate.

10 (4) **Building and Fire Codes.** All facilities shall comply with all applicable City,
11 county, and state requirements including the Uniform Building Code and Fire
12 Codes. Fire District approvals are required as part of the Community Care
13 Licensing Division (CCLD of the California Department of Social Services).
14 Fire District and Building Permit approvals are also required as conditions of
15 the Minor Use Permit approval.

16 3. The facility meets applicable state licensing requirements as the applicant holds a valid
17 childcare license to operate a family day care home with a total capacity of 8 children (Facility
18 Number 073407546) issued by CCLD. The applicant currently has an application into CCLD for an
19 expansion to a Large Family Day Care with a maximum of 14 children.

20 4. Drop-off facilities avoid interference with traffic and promote the safety of children
21 because a drop-off area is provided within the site's driveway consistent with the standards identified
22 in Section 18.200.050(D) 1 of the Development Code.

23 5. The primary use of the home is as a residence.

24 6. One off-street parking space is provided for each non-resident employee. The facility
25 currently operates with two employees that reside at the residence. Any future non-resident employee
26 would be able to park within the driveway which exceeds the minimum 18-foot length requirement
27 prescribed within the Development Code.

1 7. The facility avoids noise impacts to neighboring properties by design and site layout.
2 The outdoor play area is located behind the home and will be screened by a six-foot tall wood fence.

3 8. The facility is not within 300-feet of any other such licensed facility.

4 9. The proposed large family day care use is allowed within the RS-6 zoning district with
5 an approved Minor Use Permit and complies with all other applicable provisions of the Development
6 Code, including those discussed above, and the Concord Municipal Code.

7 10. General Plan Policy LU-1.1.3 states that the City shall ensure that the scale, operation,
8 and other characteristics of community facilities, including parks, schools, childcare facilities,
9 religious institutions, and other public and quasi-public facilities enhance the character and quality of
10 neighborhoods. In addition, General Plan Policy LU-1.1.4 requires the mitigation of residential uses
11 from impacts of more intensive land uses through good site planning and/or appropriate operational
12 measures. As discussed in detail above, the proposed project provides the required off-street parking
13 and loading area to mitigate potential traffic and circulation impacts which detract from the character
14 and quality of the neighborhood. Therefore, the proposed use is consistent with the site's low-density
15 residential General Plan land use designation and other applicable policies regarding land use
16 compatibility. There is no Specific Plan applicable to the project site.

17 11. The design, location, size, and operating characteristics of the proposed use are
18 compatible with the existing and future land uses in the vicinity because, as discussed above, adequate
19 off-street parking and a drop-off area is provided to avoid potential traffic, circulation, and pedestrian
20 safety impacts. Operational measures will be implemented by the applicant and are being imposed by
21 the Conditions of Approval to minimize noise and traffic impacts to the surrounding neighborhood.

22 12. The site is physically suitable for the type, density, and intensity of the proposed use,
23 including access, utilities, and the absence of physical constraints because, as discussed above,
24 sufficient on-site area is available for an outdoor play area, parking, and drop-off area.

25 13. Granting the Minor Use Permit for the proposed use will not be detrimental to the
26 health, safety and general welfare of persons residing or working in the subject neighborhood or
27 materially injurious to property or improvements in the vicinity and the Zoning District where the
28

1 property is located because the project has been designed in a manner to maintain land use
2 compatibility with the surrounding residential land uses, the Community Care Licensing Division of
3 the California Department of Social Services retains oversight of licensing matters, and the Conditions
4 of Approval address continuing compliance with Development Code standards. Lastly, State law
5 considers the proposed large family day care home to be a residential use. As a residential use, the
6 proposed use would be compatible with the surrounding single-family residential uses.

7 14. In approving a Minor Use Permit, the Review Authority (here, the Zoning
8 Administrator) may impose conditions including those that are deemed reasonable and necessary to
9 ensure that the approval will comply with the findings required by Development Section
10 18.200.050(E) (Findings), and as such imposes the Conditions of Approval.

11 Based on the above findings, on October 26, 2016, the Zoning Administrator approved said
12 application subject to the Conditions of Approval, referenced as Attachment A.

13
14
15 _____
16 Frank Abejo
17 Zoning Administrator

17 Attachment:
18 A – Draft Conditions of Approval
19
20
21
22
23
24
25
26
27
28

1 **ATTACHMENT A**

2
3 **DRAFT**

4 **CONDITIONS OF APPROVAL**

5
6 **Betty's Large Family Day Care**

7 **Minor Use Permit (PL16279-MP)**

8 **THIS SITE IS LOCATED AT 843 MADIGAN AVENUE**

9 **APN 129-324-010**

10 **PERMIT DESCRIPTION**

- 11 1. These Conditions apply to and constitute the approval of a **Minor Use Permit (PL16279-MP)**
12 for a **Large Family Day Care for up to 14 children.**
- 13 2. Exhibits date-stamped received by the City of Concord on July 8, 2016 are approved and shall
14 be incorporated as Conditions of Approval.

15 **GENERAL CONDITIONS**

- 16 3. Applicant's failure to live in the home or the property/project site shall be cause for revocation
17 of the Minor Use Permit.
- 18 4. Applicant shall maintain in good standing a license issued by the Community Care Licensing
19 Division of the California Department of Social Services for a large family child care home at
20 the property/project site. Failure to do so shall be cause for revocation of the Minor Use
21 Permit. The applicant shall provide City's Planning Division with a copy of license once
22 obtained, and prior to operation of the large family day care.
- 23 5. The applicant shall prepare a written contract that outlines the expectations of clients, their
24 children, and employees with respect to the City's Child Day Care Facilities Ordinance, and
25 shall be responsible for ensuring the clients' compliance. The contract shall be submitted to
26 staff for review and approval (by November 15, 2016) and shall be distributed to all new
27 clients and employees and redistributed on an annual basis. The **contract and facility rules**
28 shall inform clients and employees of the following but shall not be limited to: 1) Obeying the
speed limit; 2) Parking in the driveway when dropping off and picking up children is required;
3) Clients cannot park on the street when dropping off and picking up children; 4) If parking is
not available in the driveway, clients should wait until a space becomes available in the
driveway, 5) To use caution when backing out of the driveway, and 6) To always keep
children within eyesight. *(PLNG)*

1 6. The applicant shall apply for a business license prior to conducting said business. *(PLNG, BLDG, ENGR)*

2
3 7. Prior to operation of the large family day care, applicant shall obtain approval from the Fire District, based on submittal of a completed Licensed Care Facility Fire Safety Application and Zoning Verification Form. *(CCCFPD)*

4
5 8. Prior to operation of the large family day care, applicant shall submit plans and obtain a Building Permit verifying compliance with the applicable building codes including, but not limited to:

- 6 - Smoke alarms per the *California Residential Code* (CRC) section R326.3.
- 7 - Portable fire extinguisher with 2A10BC rating.
- 8 - Fire alarm device per CRC section R326.5
- 9 - Enclosure for gas water heater to prevent children from making contact with it.
- 10 - Required fire barriers between I-4 and U occupancies.
- 11 - California Green Building Standard Code for existing buildings with additional conditioned spaces.

12
13 If you require further guidance in this area, please contact Ryan Pursley in the City's Building Division at (925) 671-3173

14 9. Prior to building permit issuance, the plans shall reflect all rooms and occupied spaces having ventilation (outside) air for the occupants and exhaust ventilation for product conveying and/or environmental air systems. *(BLDG)*

15
16 10. The Conditions are the responsibility of the applicant and all contractors. Compliance shall occur as specified in the Conditions or at one of the following project milestones:

- 17 a. With the submittal of Building Plans.
- 18 b. Prior to issuance of a Building Permit.
- 19 c. Prior to occupancy approval.

20
21 If timing for compliance is not specified, it shall be determined by the Divisions listed after the Condition. *(PLNG, BLDG, ENGR)*

22
23 11. Where a plan or further information is required, it is subject to review and approval by the applicable City Department/Division, as noted at the end of each Condition. The Division listed first shall be the primary contact for implementation of that Condition. *(PLNG, BLDG, ENGR)*

24
25 12. The project shall comply with all applicable Federal and State laws and Concord Municipal Code (CMC) requirements. *(PLNG, BLDG, ENGR)*

- 1 13. Minor modifications that are found to be in substantial conformance with the approved plans
2 may be approved administratively. Major modifications shall be approved by the applicable
3 decision making body. *(PLNG, ENGR)*
- 4 14. The Conditions of Approval shall be listed on a plan sheet that is included in the construction
5 drawings (Building Plans). *(PLNG, ENGR)*
- 6 15. One annotated copy of the Conditions of Approval specifying how each applicable condition
7 has been satisfied, shall be submitted as follows:
8 a. At the time Building Plans are submitted for plan check.
9 b. Prior to occupancy approval. *(PLNG, ENGR)*

8 **PARKING**

- 9 16. Parking shall comply with all applicable provisions of Article IV Division 3, "Parking,
10 Loading, and Access" of the Development Code as well as those requirements identified in
11 Development Code Section 18.200.050(D) regarding large family day care homes prior to
12 occupancy approval. No on-street parking shall be permitted for the facility. *(ENGR, PLNG)*
- 13 17. Pursuant to Development Code Section 18.200.050(D), a safe area for pick-up and delivery of
14 children shall be provided in a driveway, in an off-street parking area, or other on-site area
15 with direct access to the facility. *(PLNG)*

14 **NOISE**

- 15 18. The location of the facility, including outdoor play areas, shall be sited to minimize noise
16 impacts on neighboring properties and limited to specific time periods. Noise levels shall
17 comply with the standards identified in the General Plan throughout operation of the facility
18 under this Minor Use Permit. *(PLNG)*
- 19 19. The facility shall adhere to the following hours of operation to minimize any noise impacts.
20 Monday through Friday7:00 a.m. to 7:00 p.m. *(PLNG)*

21 **AGREEMENTS, FEES, BONDS**

- 22 20. Pay a Document Imaging fee to reimburse the City for implementation of the Document
23 Imaging and File Retention programs, prior to issuance of Certificate of Occupancy. *(PLNG)*

24 **OTHER/MISCELLANEOUS**

- 25 21. Comply with the requirements of the Contra Costa County Fire Protection District. Submit
26 three complete sets of plans and specifications, as appropriate, to the Fire District for review
27 and approval at:
28

1 Contra Costa County Fire Protection District
2 2010 Geary Road
3 Pleasant Hill, CA 94523

4 Plan review fees are assessed at that time. The City is not responsible for the collection of fees
5 or enforcement of requirements imposed by the Fire District. *(CCCFPD)*

6 22. The applicant shall defend, indemnify and hold harmless the City, its agents, officials, and
7 employees from any claim, action or proceeding brought by a third party to set aside, annul,
8 attack or otherwise void the permit. *(PLNG)*

9 23. The effective date of the permit and approval is **November 8, 2016**. *(PLNG)*

10 24. A request for a time extension to implement the **Large Family Day Care Facility** from the
11 expiration date of **November 8, 2017** can be considered if an application with required fee is
12 filed at least 10 days before the original expiration date, otherwise a new application is
13 required. A public hearing will be required for all extension applications, except those
14 involving only Design Review. Extensions are not automatically approved. Changes in
15 conditions, City policies, surrounding neighborhood, and other factors permitted to be
16 considered under the law, may require, or permit denial. *(PLNG)*

CITY OF CONCORD
 PLANNING DIVISION
 PHONE: (925) 671-3152
 FAX: (925) 671-3381



Community & Economic
 Development Department
 1950 Parkside Drive, M/S 53
 Concord, CA 94519-2578
 www.cityofconcord.org

APPLICATION FORM

Date Received by Planning
 7-8-16

- | | | | |
|--|--|--|--|
| <input type="checkbox"/> Preliminary Application | <input type="checkbox"/> Development Code Amendment | <input type="checkbox"/> Major Subdivision/Vesting Tentative Map | <input type="checkbox"/> Rezoning |
| <input type="checkbox"/> Administrative Permit | <input type="checkbox"/> Finding of Public Convenience | <input type="checkbox"/> Minor Exception | <input type="checkbox"/> Secondary Living Unit |
| <input type="checkbox"/> Animal Permit | <input type="checkbox"/> General Plan Amendment | <input type="checkbox"/> Minor Subdivision | <input type="checkbox"/> Sidewalk Café |
| <input type="checkbox"/> Building Move | <input type="checkbox"/> Heritage Tree Nomination | <input checked="" type="checkbox"/> Minor Use Permit | <input type="checkbox"/> Use Permit |
| <input type="checkbox"/> Certificate of Appropriateness | <input type="checkbox"/> Hillside Development Use Permit | <input type="checkbox"/> Planned Development Use Permit | <input type="checkbox"/> Variance |
| <input type="checkbox"/> Condominium Conversion Use Permit | <input type="checkbox"/> Landscape Project Application | <input type="checkbox"/> Protected Tree Removal | <input type="checkbox"/> Vacation/Abandonment of Property Rights |
| <input type="checkbox"/> Design & Site Development Review | | <input type="checkbox"/> Pumpkin & Christmas Tree Sales | <input type="checkbox"/> Vendor Permit |
| | | <input type="checkbox"/> Reasonable Accommodation | <input type="checkbox"/> Wireless Communication Facility |

PROJECT INFORMATION:

PROJECT NAME: LARGE FAMILY DAYCARE 129324010

PROJECT SITE ADDRESS/LOCATION: 843 MADIGAN AVE. CONCORD, CA 94518 ASSESSOR'S PARCEL NUMBER

PROJECT DESCRIPTION (Provide brief description and submit a more detailed description as an attachment.)
LARGE FAMILY DAYCARE - PROVIDER
BEATA ZIEBA

NOTE: All applicants are encouraged to hold a neighborhood meeting with nearby property owners and tenants early in the development review process. Planning Division staff will work with applicants to schedule the neighborhood meeting.

APPLICANT'S CONTACT INFORMATION (FAMILY DAYCARE)

PROPERTY OWNER'S CONTACT INFORMATION

| | |
|---|---|
| NAME/COMPANY: <u>BETTY'S CHILD CARE</u> | NAME/COMPANY: <u>* Jim Aberer (James)</u> |
| ADDRESS: <u>843 MADIGAN AVE.</u> | ADDRESS: <u>2821 Crown Canyon Rd #210</u> |
| CITY, STATE: <u>CONCORD</u> ZIP: <u>CA94518</u> | CITY, STATE: <u>San Ramon</u> ZIP: <u>94583</u> |
| BUSINESS PHONE: <u>925 349 4836</u> CELL: <u>925 577 8214</u> | BUSINESS PHONE: <u>820-6881</u> CELL: <u>997-4200</u> |
| FAX: _____ EMAIL: <u>westidb@6@yahoo.com</u> | FAX: _____ EMAIL: <u>jinahere@yaho.com</u> |

Agent Authorization Note: If the Applicant is not the Property Owner, then the Property Owner must sign below to authorize the Applicant as his/her official representative.

Beata Zieba, Owner, authorize * James Aberer III

to act as the official representative on my behalf for this project and in all matters relating to this application. I have read and agree with all of the above (application must be signed by property owner).

* James Aberer III
 Property Owner's Signature

* 05/01/16
 Date

FOR PLANNING DIVISION USE ONLY:

| FILE NAME: | | FEES | FIN. REV. CODE |
|------------------------------------|--|----------------|------------------|
| <u>Bettys Daycare</u> | | | |
| FILE NUMBERS: <u>PL16000279</u> | APPLICATION RECEIVED BY: PLANNER: <u>J.G.</u> | <u>730.00</u> | <u>INVOICE #</u> |
| ASSOCIATED FILES: | ENGINEER: | <u>250.00</u> | <u>128394</u> |
| | | <u>112.00</u> | |
| | | <u>1152.00</u> | |

Beata Zieba
843 Madigan Ave
Concord CA 94518
(925) 349-4836

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JUL 8 2016
PLANNING

Business Plan

Betty's Childcare
Licensee; Beata Zieba
Assistant; Wes Zieba

Days and hours of operation are Monday through Friday 7a.m. to 6:00 p.m.

Serving children 0-5 years of age

Large Family Child Care Home Licensed capacity (14) but only serving 12. We will not be doing school age care.

We have a large driveway for parking.

Drop off of children is 7:30 to 9:00 a.m.

Pickup of children begins by 4:00 and finishes by 6:00 p.m.

We offer two large playrooms with plenty of toys and age appropriate activities, available to all children.

We offer outside play for children by age.

Betty's Childcare
843 MADIGAN AVE.
COWCORD, CA 94518
925 349 4836

Drop offs and pick ups:

Drop offs start from 7:00am-10:00am

Pick ups start 3:30am-6:00pm

People working in the daycare:

2 (Provider: Beata Zieba, Assistant: Wieslaw Zieba)

Kids outside for playtime:

11:00am-12:30pm (4 kids at a time with similar ages)

Project Site located in:

Family daycare is in residential home.

There are no daycares within 300 feet of the project site.

Garage Info:

Attached to the house. 23 ½ Feet long by 19 Feet wide

Driveway size:

23 ½ Feet long by 15 Feet wide.

Wood fence 6 Ft. tall
in the backyard.

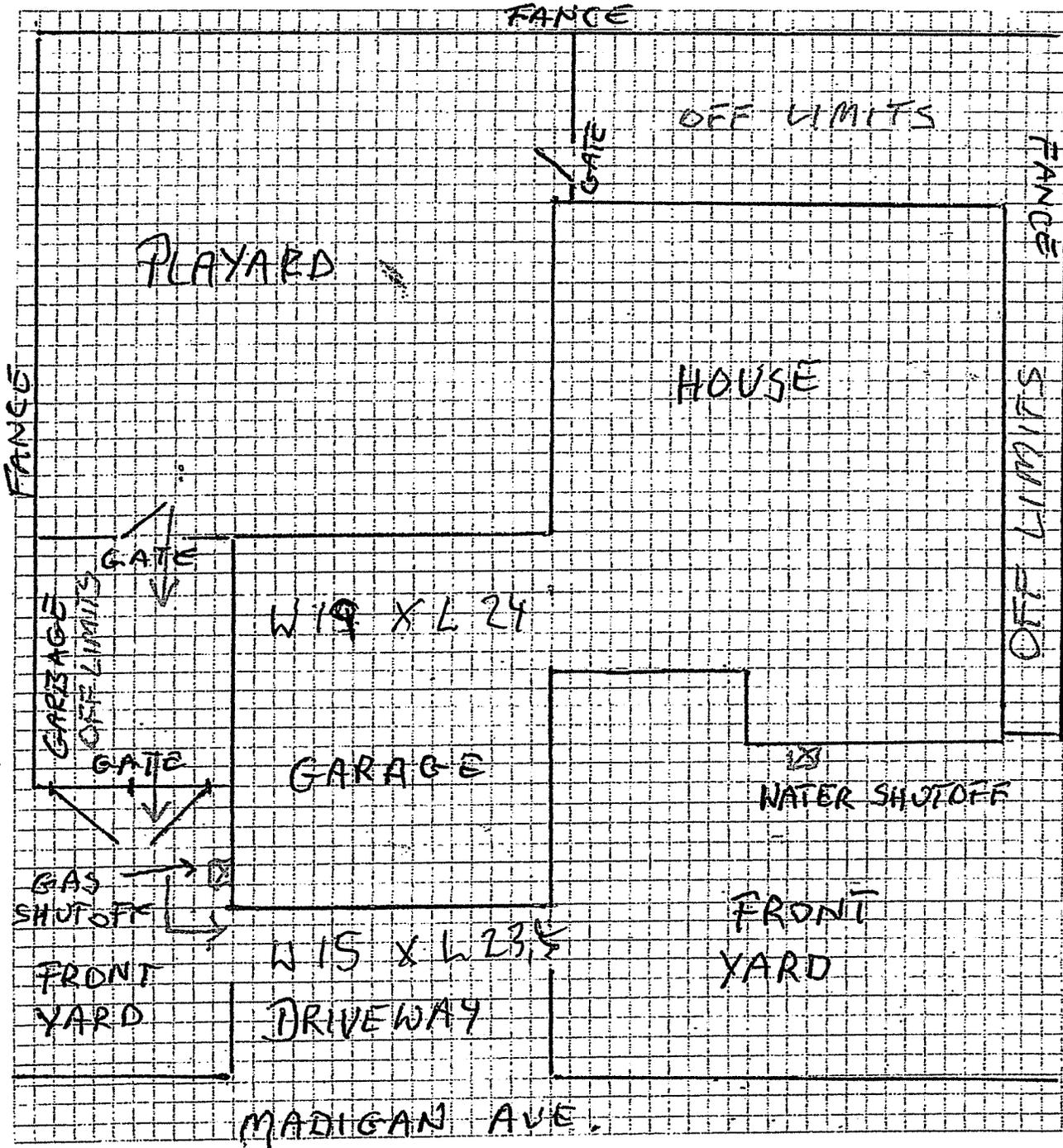
RECEIVED
AUG 23 2016
PLANNING

August 22 / 2016

FACILITY SKETCH (Yard) - Family Child Care Home

The yard sketch should show all buildings in the yard including the home (with no detail), garage and storage building. Include walks, driveways, play area, fences, gates. Please identify areas which will be "off limits" to children. Show any potential hazardous areas such as pools, garbage storage, animal pens, etc. Show the overall yard size. Try to keep the sizes close to scale. Use the space below.

FACILITY NAME: BETTYS CHILD CARE HOME ADDRESS: 843 MADIGAN AVE



RECEIVED

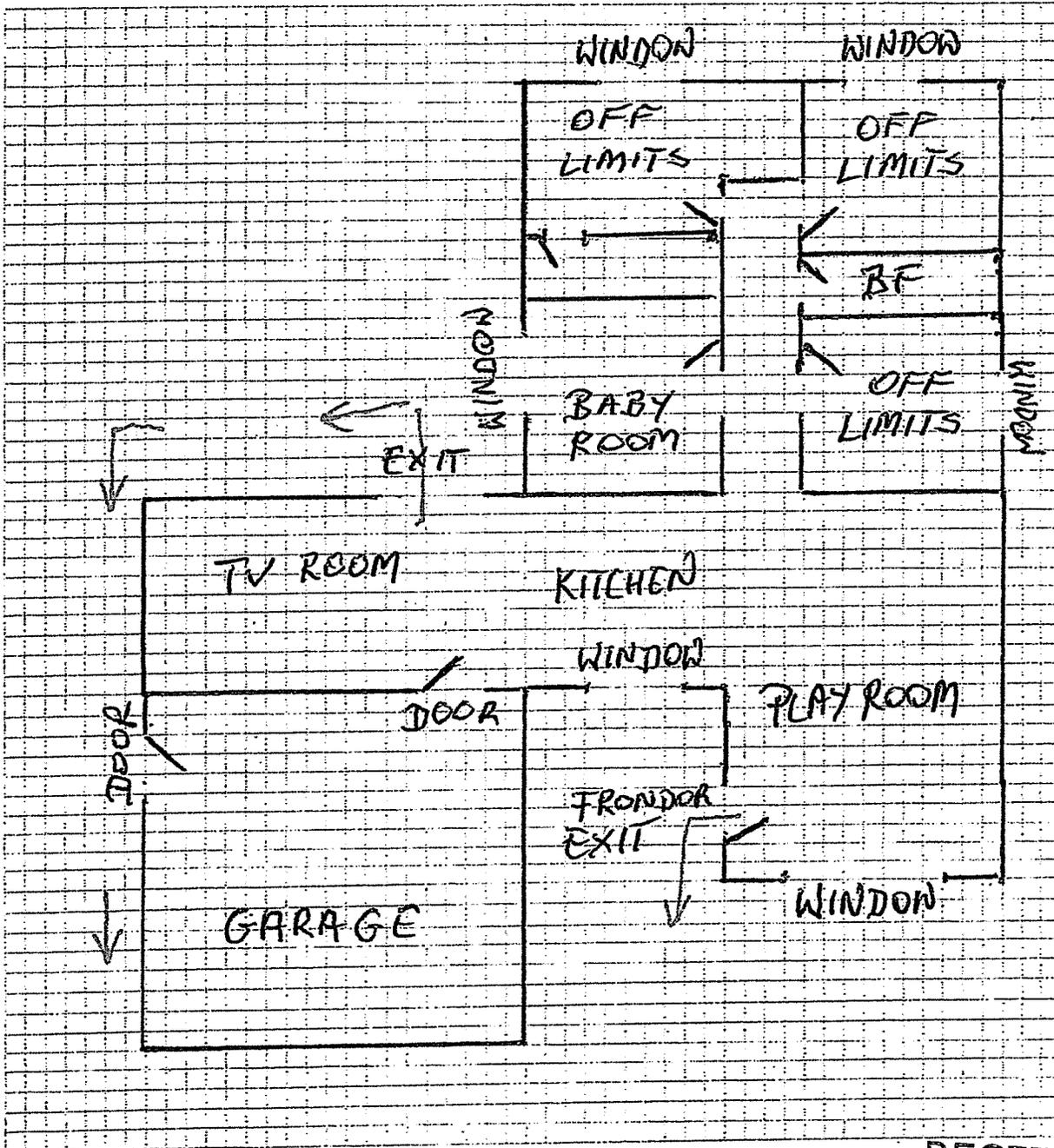
JUL 8 2016

PLANNING

FACILITY SKETCH (Floor Plan) - Family Child Care Home

Applicants are required to provide a sketch of the floor plan of the home or facility and outside yard. The floor sketch must label rooms such as the kitchen, bath, living room, etc. Please identify areas which will be "off limits" to children. Door and window exits from the rooms must be shown in case of an emergency (see Emergency Disaster Plan). Show room sizes (e.g. 8.5 x 12). Keep close to scale. Use the space below. See back for yard sketch.

FACILITY NAME: BETTYS CHILD CARE HOME ADDRESS: 843 MADIGAN AVE.



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JUL 8 2016

PLANNING

RECEIVED EXHIBIT E
AUG 23 2016

PLANNING



State of California

Department of Social Services

Facility Number: 073407546

Effective Date: 12/19/2012

Total Capacity: 14

In accordance with applicable provisions of the Health and Safety Code of California, and its rules and regulations; the Department of Social Services hereby issues

this License to

ZIEBA, BEATA

to operate and maintain a
FAMILY DAY CARE HOME

Name of Facility

ZIEBA, BEATA
852 MCELROY COURT
CONCORD, CA 94518

This License is not transferable and is granted solely upon the following:

MAX. CAP(WHEN THERE IS AN ASSISTANT PRESENT): 12 - NO MORE THAN 4 INFANTS.
CAP 14 - NO MORE THAN 3 INFANTS. 1 CHILD IN KINDERGARTEN OR ELEMENTARY
SCHOOL AND 1 CHILD AT LEAST AGE 6.

Client Groups Served:

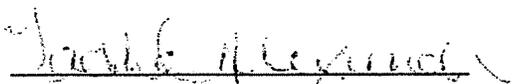
CHILDREN / INFANT

Complaints regarding services provided in this facility should be directed to:

CCLD Regional Office

(510) 622-2602

Jeffrey Hiratsuka
Deputy Director,
Community Care Licensing Division


Authorized Representative of Licensing Agency

POST IN A PROMINENT PLACE

Villa, Lorna

From: db-5@comcast.net
Sent: Sunday, August 21, 2016 3:11 PM
To: Villa, Lorna
Cc: Stearns, Susie
Subject: Betty's Large Family Day Care

In regards to the proposed "family day care" on 843 Madigan Avenue, I have grave concerns to this location and the number of children it can accommodate. I feel there are safety and health issues as well as putting the neighborhood at risk.

The center wants to hold up to 14 children. The traffic this will create is not fair to the neighbors, especially to the children living in the area and other residence who use the streets for walking and driving. The square footage of these homes are not big enough to accommodate this type of business.

Neighbors choose to live in this area that is zoned residential. This facility is a commercial business and it is not suited for this area.

"Home care" should be a place where children grow and thrive in a "home" atmosphere. This center is not a "home" it is a business, and it is not fair to neither the children nor the residence surrounding it.

Please consider the neighbors and neighborhood which are single family homes and not a commercial businesses.

Sincerely,
Donald and MaryAnn Del Bene

Villa, Lorna

From: Beverly May <meiwen_li@yahoo.com>
Sent: Sunday, September 11, 2016 4:30 PM
To: Villa, Lorna
Subject: BETTYS LARGE FAMILY DAY CARE CENTER

I am requesting a hearing on this issue and requesting that it be in the evening since early some of us are working during the day. I am sending this by email because I coul9 get it to you in 10 days since early I didn't see it until the 6th because of the holiday. Beverly May. 839 Madigan. Avenue. 925 6892349
Sent from Yahoo Mail on Android



Kasia Wojtunik



