

**CITY OF MODESTO  
BOARD OF ZONING ADJUSTMENT  
NOTICE OF FIELD TRIP  
THURSDAY, OCTOBER 22, 2009 – 9:15 AM  
1010 TENTH STREET  
LOBBY (MAIN LEVEL/NEAR STAIRS)**

I. ROLL CALL

II. FIELD TRIP

There will be a field trip to allow the Board to view property to be discussed at the regular meeting later in the day. Interested parties may join the Board at any of the properties at the approximate times shown below. Statements on the merits of an application are inappropriate on a field trip and should be made at the regular meeting. The regular meeting is on October 22, 2009, 10:00 am in Chambers. The agenda for the regular meeting is attached.

9:20 am            Leave Tenth Street Place to view property

9:30 am            Property located at 1407 Scenic Drive (Shannon Miller)    Item A

III. ADJOURNMENT

Posted pursuant to Government Code Section 54956 on \_\_\_\_\_

by \_\_\_\_\_ on the bulletin board at Tenth Street Place.

**CITY OF MODESTO  
BOARD OF ZONING ADJUSTMENT AGENDA  
THURSDAY, OCTOBER 22, 2009  
BASEMENT CHAMBERS  
1010 TENTH STREET – MODESTO, CA**

I. ROLL CALL

II. APPROVAL OF MINUTES

Minutes of the regular meeting of September 24, 2009.

III. CONFLICT OF INTEREST DECLARATION

Board members and staff may now declare conflicts of interest for the purpose of determining if a quorum will be present to act on each item in the order shown on the agenda.

IV. CONSENT AND JOINT PUBLIC HEARING ITEMS

These items are judged by staff to be consistent with City policies, regulations, and the General Plan. The Chair will open consideration of the Consent/Joint Public Hearing items and will ask if any Board member or member of the audience wishes to discuss any item. If not, the Board, with one vote and without discussion, will adopt the findings and recommendations for each item as shown in the agenda report. If there is a request to discuss an item, that item will be handled as a separate matter in the order shown in the agenda.

Consent Items:

**Item A** PPR-09-002 – Plot Plan Approval of a Large-Family Child Day Care in an existing single-family residence, located at 1407 Scenic Drive; submitted by Shannon Miller  
Contact Info: Katharine Martin, 577-5267, [kamartin@modestogov.com](mailto:kamartin@modestogov.com)

Joint Public Hearing Items:

None.

V. PUBLIC HEARINGS

None.

VI. OTHER BUSINESS

**Item B** Approve Meeting Schedule for 2010

VII. ORAL COMMUNICATIONS

These matters may be presented by interested persons in the audience, staff or Commissioners (see Notice at end of agenda cover). Under State law, the Board may respond to matters being presented under this item only as follows:

- (a) Briefly respond to statements made or questions raised.
- (b) Ask a question for clarification.
- (c) Provide a reference to staff or other resources for factual information.
- (d) Request staff to report back at a subsequent meeting.
- (e) Finally, a Board member, or the Board itself, may take action to direct staff to place a matter of business on a future agenda.

VIII. MATTERS TOO LATE FOR THE AGENDA

These may be presented by members of the Board of Zoning Adjustment and staff, upon determination by a majority vote that an emergency exists, as defined by State law, or by a 2/3 vote that: 1) there is a need to take immediate action, and 2) that the need for action came to the City's attention after the agenda was posted.

IX. ADJOURNMENT

Copies of the agenda are on file at the Stanislaus Library Reference Room, 1500 I Street, Modesto, and in the Office of the Planning Division, third floor, 1010 Tenth Street, Modesto, CA. In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Board of Zoning Adjustment Secretary (209) 577-5267. Assistive listening devices are available upon request to the BZA Secretary. **Notification 48 hours prior to the meeting** will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

Notice: Persons who wish to speak to the BZA regarding any item on the printed agenda, including oral communications, are encouraged to sign in on a form provided at the meeting. The purpose of this list is to have your name and address should we need to provide additional information to you. Signing this form is optional to speakers.

Posted pursuant to Government Code Section 54954.2 on \_\_\_\_\_

by \_\_\_\_\_ on the bulletin board at Tenth Street Place.

**CITY OF MODESTO  
BOARD OF ZONING ADJUSTMENT  
STAFF REPORT**

**TO:** Chairperson Neumann and Members of the Board of Zoning Adjustment

**PREPARED BY:** Katharine Martin, Associate Planner  
Contact Info: 577-5267 [kamartin@modestogov.com](mailto:kamartin@modestogov.com)

**REVIEWED BY:** Steve Mitchell, Principal Planner

**APPROVED BY:** Patrick Kelly, Planning Division Manager

**DATE:** September 21, 2009

**SUBJECT:** PPR-09-002 – Plot Plan Approval of a Large-Family Child Day Care in an existing single-family residence, located at 1407 Scenic Drive; submitted by Shannon Miller

**RECOMMENDATION**

That the Board of Zoning Adjustment approve the proposed Large-Family Child Day Care located at 1407 Scenic Drive, subject to the conditions in the attached draft resolution.

**BACKGROUND**

Section 10-2.503(a) of the Modesto Municipal Code requires that a Large Family Day Care of up to fourteen children, as defined by the State of California's Health and Safety Code Section 1596.78(b) and provided by Section 1597.46, must first apply for and be granted Plot Plan approval by the Board of Zoning Adjustment (Board). The applicant currently has a California State Childcare license to operate and maintain a Large-Family Day Care of up to fourteen children, and has been operating at that capacity at the above location without Plot Plan Approval since June of 2009. To comply with Modesto Municipal Code Section 10-2.503(a), the operator has applied for Plot Plan approval in order to continue operation.

**PROJECT DESCRIPTION**

The applicant's residence is a single-family home on a 9,149-square-foot lot at the northeast corner of Scenic Drive and Sunnyside Avenue. The residence was built in 1920 and has two existing off-street parking spaces on a sub-standard driveway accessed from an existing curb-cut on Scenic Drive, indoor play areas, and a backyard play-set for outdoor play. The existing driveway from Scenic Drive does not meet City Standards for off-street residential parking. The front yard is currently unimproved bare ground except for a three-foot metal fencing along the Scenic Drive frontage, with plans for hardscape and landscape plantings at a later time. The north and east property lines are fenced with six-foot single-board wood fencing. Additional six-foot wood fencing has been installed in the yard approximately ten feet north of the residence.

Sunnyside Avenue is mostly unimproved with no curb, gutter, or sidewalk at the project location. There is an existing sidewalk on the Scenic drive frontage which ends at the corner of Scenic and Sunnyside (see attached Site Aerial Photo). Currently, clients park their vehicles for drop-off and pick-up of children on the property's Sunnyside frontage.

The hours of operation of the existing day care business are from 6:00 am to 6:00 pm with morning drop-offs generally occurring between 7:00 am and 8:00 am and afternoon pick-ups generally occurring between 2:30 pm and 6:00 pm. The average amount of time that parents spend in either activity is approximately five minutes.

The applicant does not propose any structural changes to the residence and does not intend to employ more than one attendant. The applicant does not propose to extend the business hours of operation and does not anticipate a change in drop-off or pick-up times.

## **ISSUES**

Modesto Municipal Code Section 10-2.503 limits review of a plot plan for a Large Family Day Care to a determination of the following:

- The provision of required parking spaces,
- The site plan precludes undue noise impacts on neighboring properties,
- Provision for appropriate drop-off and pick-up that does not impact the traffic level of service or safety characteristics of the streets in the vicinity.

Parking: The State of California requires one attendant in addition to the licensee for a Large Family Day Care, and per Modesto Municipal Code 10-2.2002(a)(5), it is required that for a family day care, one (1) additional space must be provided for each employee or attendant beyond two (2). The Day Care must meet, at minimum, the following parking requirements:

1. Two off-street parking spaces constructed to City Standards, set back a minimum of twenty (20) feet from the property line, per MMC 10-2.2002(a)(1) and 10-2.410(a);
2. Two additional parking spaces for employees, which may utilize a driveway to the off-street parking spaces, constructed to City Standards.

At this time, residents use the substandard driveway accessed from Scenic Drive and clients park on the property's unimproved frontage along Sunnyside Avenue. Since there is no paved driveway or parking area that meets City Standards, the site currently does not meet this requirement. However, with installation of a parking pad and driveway from the property's Sunnyside Avenue frontage, the requirement for residential and employee parking would be met. This is outlined in Condition No. 2 of the draft Resolution for Approval (Attachment No. 1)

Noise Impacts: The outside play times of the children are not in violation with the City's noise ordinances and the site plan does not indicate or propose equipment or activity that would cause the noise level to be louder or more raucous than an average family outside at play. Adjacent property owners have been notified of this item and no comments or concerns have been received by staff.

Traffic Impacts: The applicant's business hours are such that children are able to attend at various times of the day, with drop-offs and pick-ups staggered in broad intervals through the morning and afternoon. The applicant has instructed clients to park on the property's Sunnyside Avenue frontage, so that the flow on Scenic Drive is not impacted by client traffic.

Unimproved Condition of Sunnyside Avenue: As noted above, the Sunnyside Avenue frontage of the property lacks curb, gutter, and sidewalk. In the event an applicant proposes a new development or a substantial expansion of an existing development, the City may impose a requirement for installation of these street improvements.

## **GENERAL PLAN CONSISTENCY**

The Large Family Day Care Home is located in a predominately residential area designated MU (Mixed-Use) in the General Plan. The Mixed Use designation characterizes established areas within Modesto that have a mix of residential, commercial, professional office and institutional use. As Day Care Homes are allowed in residential areas, the proposal is therefore consistent with the General Plan.

## **ZONING CONFORMANCE**

The Large Family Day Care Home is located in the R-1 Low-Density Residential zone. The Municipal Code permits a Large Family Day Care Home in an R-1 Zone with plot plan approval.

## **ENVIRONMENTAL ASSESSMENT**

The proposed Large Family Day Care Home is categorically exempt from CEQA, in accordance with Guidelines Section 15274, which exempts the establishment or operation of a Large Family Day Care Home as defined by California Health and Safety Code Section 1596.78.

### **ATTACHMENTS (included with Commissioner's packets only)**

1. Draft Board of Zoning Adjustment Resolution – October 22, 2009
2. Statement of Exemption, EA/C&ED No. 2009-23
3. Large-Format Site Plan
4. Financial Interest Disclosure Form

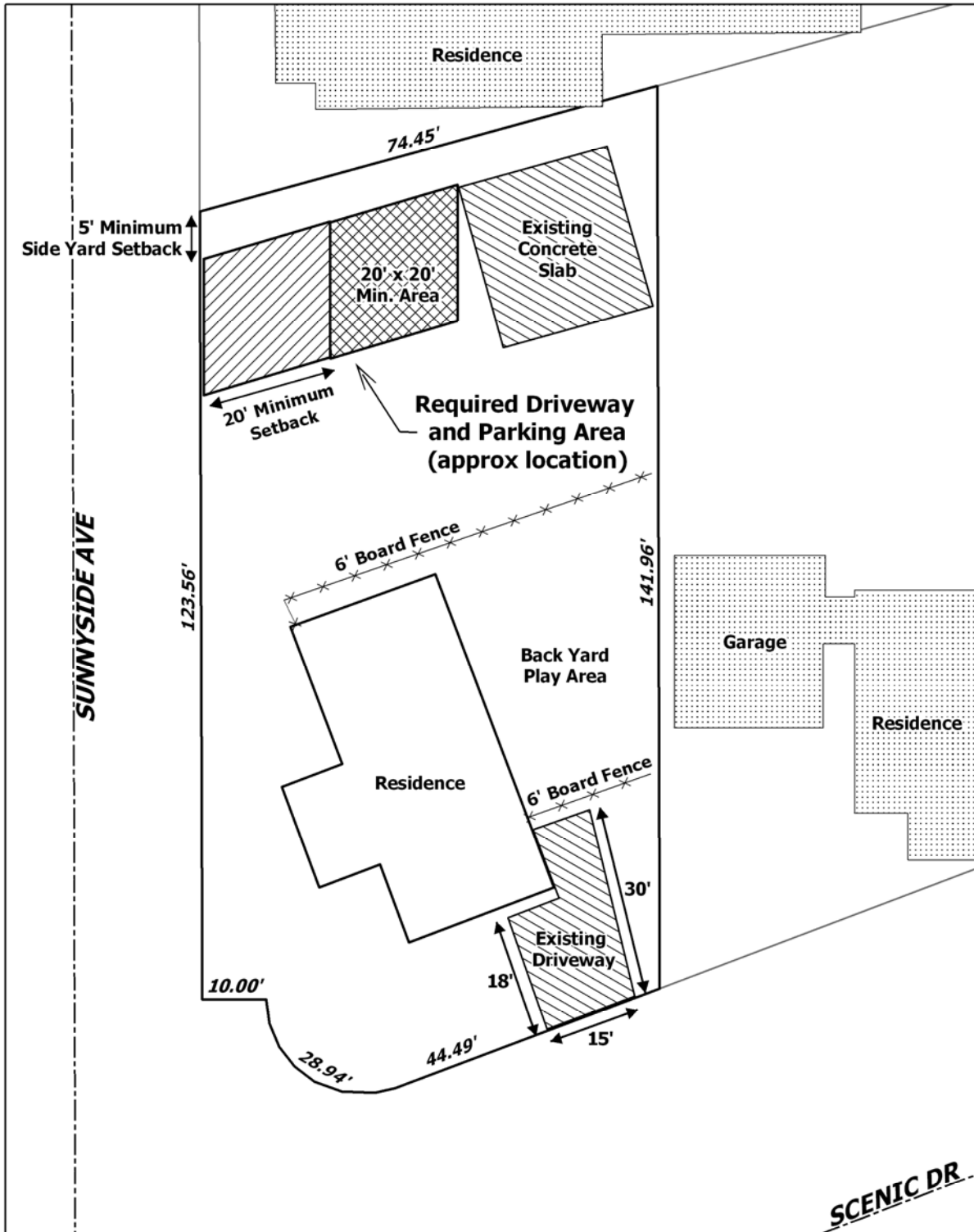


**AREA MAP OF PROPOSED PLOT PLAN REVIEW**

**1407 Scenic Drive**

PPR-09-002





**SITE PLAN OF PROPOSED PLOT PLAN REVIEW**

**1407 Scenic Drive**

PPR-09-002





**AERIAL PHOTO OF PROPOSED PLOT PLAN REVIEW AREA**

**1407 Scenic Drive**

PPR-09-002



BOARD OF ZONING ADJUSTMENT  
RESOLUTION NO. 2009-XX

A RESOLUTION APPROVING A PLOT PLAN FOR A LARGE FAMILY CHILD  
DAY CARE IN THE R-1 ZONE LOCATED AT 1407 SCENIC DRIVE (MILLER)

WHEREAS, Section 10-2.503(a) of the Modesto Municipal Code permits in an R-1 Zone a Large Family Day Care Home as defined by the State of California Health and Safety Code Section 1596.78 and provided by Section 1597.46, upon securing plot plan approval from the Board; and

WHEREAS, Shannon Miller has applied for approval of a plot plan for a Large-Family Child Day Care in the R-1 Zone, property located at 1407 Scenic Drive; and

WHEREAS, the plot plan and site plans for the project were reviewed by the Board of Zoning Adjustment at its meeting on October 22, 2009, in Chambers, Tenth Street Place, 1010 Tenth Street, Modesto, California, in accordance with Article 27 of the Modesto Municipal Code.

WHEREAS, this project is exempt under Section 15274 of the CEQA Guidelines which exempts the establishment or operation of a Large Family Day Care Home, which provides in-home care for up to fourteen children, as defined by California Health and Safety Code Section 1596.78.

NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Adjustment that it hereby finds and determines as follows:

1. The proposed Large Family Day Care Home is a residential use consistent with the uses, standards, and other provisions of the R-1 Zone;
2. The proposed Large Family Day Care Home is consistent with the Modesto Urban Area General Plan, because the use is consistent with the Mixed Use (MU) designation for the site;
3. The site plan precludes undue noise impacts on the surrounding neighborhood because the outside play times are not in violation of the City's noise ordinances and the site plan does not indicate or propose equipment or activity that would cause the noise level to be louder or more raucous than an average family outside at play;
4. Traffic level of service and safety characteristics of the streets in the vicinity are not impacted because the business hours are such that children are able to attend at various times of the day, with drop-offs and pick-ups staggered through the morning and afternoon;
5. With the addition parking required by Condition of Approval No. 2, adequate parking will be provided as required by Modesto Municipal Code 10-2.2002(a)(5) which governs that for a family day care, one (1) additional space must be provided for each employee or attendant beyond two (2);
6. This project is exempt from CEQA, pursuant to Section 15274 of the CEQA Guidelines, which exempts the establishment or operation of a Large

Family Day Care Home, which provides in-home care for up to 14 children, as defined by the State of California Health and Safety Code Section 1596.78.

NOW, THEREFORE, BE IT FURTHER RESOLVED by the Board of Zoning Adjustment that the plot plan for said Large-Family Child Day Care be approved subject to the following conditions:

1. All development shall conform to the site plan and floor plan of 1407 Scenic Drive, as amended in red and stamped approved by the Board of Zoning Adjustment on October 22, 2009;
2. Within 180 days of Plot Plan approval, adequate parking in the form of a two-car garage and/or parking area and two off-street guest parking spaces shall be provided, as required by Modesto Municipal Code Section 10-2.410(a) and 10-2.2002(a)(1);
3. The property owner and developer shall, at their sole expense, defend, indemnify and hold harmless the City of Modesto, its agents, officers, directors and employees, from and against all claims, actions, damages, losses, or expenses of every type and description, including but not limited to payment of attorneys' fees and costs, by reason of, or arising out of, this development approval. The obligation to defend, indemnify and hold harmless shall include but is not limited to any action to arbitrate, attack, review, set aside, void or annul this development approval on any grounds whatsoever. The City of Modesto shall promptly notify the developer of any such claim, action, or proceeding and shall cooperate fully in the defense.

The foregoing resolution was introduced at the regular meeting of the Board of Zoning Adjustment held on October 22, 2009, by \_\_\_\_\_, who moved its adoption, which motion was seconded by \_\_\_\_\_ and carried by the following vote:

Ayes:  
Noes:  
Absent:

BY ORDER OF THE BOARD OF ZONING ADJUSTMENT OF THE CITY OF MODESTO.

---

Patrick Kelly, Secretary