

BOARD OF ZONING ADJUSTMENT
RESOLUTION NO. 2009-06

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 Ryan Swehla, who moved its adoption, which motion was seconded by John Bergman, and carried by the following vote:

Ayes: Bergman, Brandvold, Neumann, Pollard and Swehla
Noes: None
Absent: Grover and Saxton

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

Original, signed copy on file in CEDD
Patrick Kelly, Secretary