Minutes
Zoning Administrator Meeting
December 1, 2016

Staff Present
Kevin Thompson, Zoning Administrator
Michelle Johnson, Associate Planner
Tim Eriksen, Director of Public Works
Cathy Elawadly, Recording Secretary

Others Present
Amber Sublet
John Bailey

1. CALL TO ORDER
Zoning Administrator Thompson called the meeting to order at 11:00 a.m. in Conference Room No. 3, Ukiah Civic Center, 300 Seminary Avenue, Ukiah, California.

2. SITE VISIT VERIFICATION - Confirmed the site visit.

3. APPROVAL OF MINUTES – The minutes from the September 29, 2016 meeting are included for review and approval.

Zoning Administrator Thompson approved the October 20, 2016 and October 24, 2016 minutes, as submitted.

4. COMMENTS FROM AUDIENCE ON NON-AGENDA ITEMS

5. APPEAL PROCESS
Zoning Administrator Thompson read the appeal process. For matters heard at this meeting the last day to appeal with the City Clerk is December 12, 2016 at 5:00 p.m.

6. VERIFICATION OF NOTICE – Confirmed by Staff.

7. PUBLIC HEARINGS
7A. Rogina’s Rompers Preschool Program request for a Minor Use Permit for a Large Family Daycare at 530 Washo Drive. An application has been received from Amber Sublet on behalf of Rogina’s Rompers Preschool Program for a Minor Use Permit to allow a large family daycare to operate within an existing single family residence at 530 Washo Drive, APN 179-294-17. City File Number: 2203 UP-ZA.

Zoning Administrator Thompson:
- Seeing no one present other than staff and the applicant at the meeting dispensed with the staff report.

PUBLIC HEARING OPENED: 11:03 a.m.

Amber Sublet:
- Reviewed the staff report and she had no questions or comments regarding staff's analysis and is fine with the draft Findings in attachment 1 and draft Conditions of Approval in attachment 2 of the staff report.

PUBLIC HEARING CLOSED: 11:04 a.m.

Zoning Administrator Thompson:
- Has visited the site.
- Daycare facilities provide for a valuable service to the community.
- Agrees with staff’s analysis and findings and conditions of approval.
Zoning Administrator Thompson approved Minor Use Permit for a Large Family Daycare at 530 Washo Drive, File No.: Munis 2203-UP-ZA based on the Findings in attachment 1 and subject to the Conditions of Approval in attachment 2 of the staff report.

ATTACHMENT 1

FINAL FINDINGS – USE PERMIT FINDINGS

LARGE FAMILY DAYCARE TO PROVIDE CARE FOR UP TO FOURTEEN (14) CHILDREN
530 WASHO DRIVE / APN 179-294-17
MINOR USE PERMIT – LARGE FAMILY DAYCARE
CITY FILE NUMBER: 2203 UP-ZA

The following findings are supported by and based on information contained in this staff report, the application materials and documentation, and the public record.

1. The proposed project, as conditioned, is consistent with the goals and policies of the General Plan as described in the staff report.

2. The proposed project, as conditioned, is consistent with the uses R-1 zoning district standards. The R-1 zoning district allows a large family daycare with approval of a Use Permit.

3. The proposed project, as conditioned, is consistent with the development standards for the R-1 zoning district as described in the staff report.

4. The proposed project, as conditioned, is compatible with surrounding land uses and shall not be detrimental to the public's health, safety and general welfare based on the analysis included in Tables 2 and 3 of the staff report, including the following:

   A. Based on information from Community Care Licensing there are no other daycares adjacent to the subject property; therefore, there is not an overconcentration of large family daycares in the neighborhood.

   B. Two onsite parking spaces are located on the property and two are available during the day for use by parents dropping off and picking up children. There are five parking spaces along the parcel frontage and additional street parking available in the immediate neighborhood. With the condition requiring staggered pickup and drop-off times, this will provide adequate parking for the daycare.

   C. Drop off and pick up times will be staggered throughout the day. Given two on-site parking spaces, parents dropping-off and picking-up children can pull off the street to park. As such, the additional vehicles from the daycare would not create a traffic hazard or substantially increase vehicle trips.

   D. Fencing. The property is fenced on all four sides with a six-foot redwood fence and complies with the location; height and fencing type required in the zoning ordinance (see attachment 3, Site Plan, Parent drop-off schedule and Photos).

   E. Draft condition of approval number 4 has been added to limit outside play time to no more than two hours a day between the hours of 9:00 a.m. and 4:30 p.m. in the effort to minimize noise disturbance to the neighbors and to make the use compatible with the surrounding single-family land uses.
F. The project has been reviewed by the Fire Marshal, Police Department, Building Official, and Public Works and any requirements have been included as conditions of approval.

G. The project is required to comply with all federal, state and local laws.

H. The project promotes the public health, safety, and welfare by providing a licensed in home daycare within the City of Ukiah.

5. The proposed project is statutorily exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Article 18 Section 15274 (a) in that CEQA does not apply to the establishment or operation of a large family daycare home, which provides in-home care for up to fourteen children as defined in Section 1596.78 of the Health and Safety Code.

6. Notice of the proposed project was provided in the following manner as required by the Zoning Ordinance:
   - posted in three places on the project site on November 16, 2016;
   - mailed to property owners within 300 feet of the project site on November 16, 2016;

ATTACHMENT 2

FINAL CONDITIONS OF APPROVAL – MINOR USE PERMIT

LARGE FAMILY DAYCARE TO PROVIDE CARE FOR UP TO FOURTEEN (14) CHILDREN
530 WASHO DRIVE / APN 179-294-17
MINOR USE PERMIT – LARGE FAMILY DAYCARE
CITY FILE NUMBER: 2203 UP-ZA

1. Approval is granted for the operation of a large family daycare to provide care for up to fourteen (14) children based on the project description submitted to the Planning and Community Development Department and date stamped October 21, 2016 and as shown on the site plan date stamped October 21, 2016, except as modified by the following conditions of approval.

2. Hours of operation for the large family daycare are limited to Monday through Thursday 8:00 a.m. to 4:30 p.m.

3. The drop-off times shall be staggered between the hours of 8:00 a.m. and 9:30 a.m. and the pick-up times shall be between 3:00 p.m. and 4:30 p.m.

4. Outside play time for the children shall be limited to no more than two hours a day between the hours of 9:00 a.m. and 4:30 p.m.

5. During outside play times the day care provider shall monitor the noise level of the children so as to not adversely impact the surrounding neighbors. If necessary, the day care provider shall take measures to quiet the children which may include bringing the children indoors.
6. All parents picking up or dropping off the children shall turn off car engines and walk the children into the day care home.

7. Parents dropping off and picking up children shall park in the driveway when available as to not add to traffic congestion on Washo Drive.

8. The operator of the Large Family Daycare shall provide an informational handout to parents/clients informing them of conditions of approval 2 through 8.

9. In the future, should recreation equipment exceeding eight feet in height be installed in any yard area intended for daycare use, the equipment shall not be closer than five feet from the rear or side property lines.

10. Prior to the operation of the large family daycare, the owner shall apply for and be issued a City of Ukiah Business license.

11. Conversion of the garage to living space requires approval of an amendment to this Use Permit and application for and approval of a building permit.

12. During the hours of operation of the large family daycare, the driveway shall remain available for the parking of two vehicles.

13. The operation of the Large Family Daycare shall comply with the City of Ukiah Noise Ordinance.

14. The day care provider/property owner Amber Sublet shall acknowledge by signing the conditions of approval that she understands the conditions of approval for operation of the large family daycare at this location.

Standard City Conditions of Approval

15. Business operations shall not commence until all permits required for the approved use, including but not limited to business license, tenant improvement building permit, have been applied for and issued/finaled.

16. No permit or entitlement shall be deemed effective unless and until all fees and charges applicable to this application and these conditions of approval have been paid in full.

17. The property owner shall obtain and maintain any permit or approval required by law, regulation, specification or ordinance of the City of Ukiah and other Local, State, or Federal agencies as applicable. All construction shall comply with all fire, building, electric, plumbing, occupancy, and structural laws, regulations, and ordinances in effect at the time the Building Permit is approved and issued.

18. A copy of all conditions of this Use Permit shall be provided to and be binding upon any future purchaser, tenant, or other party of interest.

26. This Use Permit may be revoked through the City’s revocation process if the approved project related to this Permit is not being conducted in compliance with these stipulations and conditions of approval; or if the project is not established within two years of the effective date of this approval; or if the established use for which the permit was granted has ceased or has been suspended for 24 consecutive months.

This approval is contingent upon agreement of the applicant and property owner and their agents, successors and heirs to defend, indemnify, release and hold harmless the City, its agents, officers, attorneys, employees, boards and commissions from any claim, action or proceeding...
brought against any of the foregoing individuals or entities, the purpose of which is to attack, set
aside, void or annul the approval of this application. This indemnification shall include, but not be
limited to, damages, costs, expenses, attorney fees or expert witness fees that may be asserted
by any person or entity, including the applicant, arising out of or in connection with the City’s
action on this application, whether or not there is concurrent passive or active negligence on the
part of the City. If, for any reason any portion of this indemnification agreement is held to be void
or unenforceable by a court of competent jurisdiction, the remainder

7B. Keehn Residence Courtyard request for a Minor Fence Height Variance at 1210
Myszka Place. An applicant has been received from Karen Keehn for a Minor Variance
to allow a five feet high fence within the side and front setback at a single family
residence at 1210 Myszka Place, APN 001-201-08. City File No.: 2255 VAR-ZA.

Associate Planner Johnson:
- Gave a staff report as provided for on pages 1-4 of the staff report and accompanying
  site plans:
  - The applicant requests approval of a minor variance from the required front &
    side-yard setback for a five-foot high fence within the Planned Development
    Residential District (PD-R) zoning district.
  - Applicant requests to construct a five-foot redwood fence within the front and
    side-yard setbacks which exceeds the maximum height requirement by two feet
    wherein the maximum height within the setback is three feet.
  - The intent of the fence is to provide a security barrier for her husband who
    suffers from dementia as well as to deter trespass onto her property.
  - The proposed fence variance project essentially transpired after-the-fact when
    the applicant starting building the fence without knowing what the setbacks were
    for the property that is zoned Planned Development Residential (PD-Residential)
    and was also not aware of the fence height requirement.
  - Approval of a variance requires that certain Findings be made to substantiate
    project consistency more fully explained in Table 1 of the staff report.
  - Confirmed the applicant has no intension of expanding the fence and/or building
    an additional fence other than what has already been constructed and is existing.
  - Recommends Zoning Administrator approval to allow encroachment into the front
    and side-yard setback for a five-foot high fence based on the draft Findings in
    attachment 1 and subject to the draft Conditions of Approval in attachment 2 of
    the staff report.

PUBLIC HEARING OPENED: 11:12 a.m.

John Bailey:
- Resides on Highland Avenue.
- Has observed there are people in the neighborhood that have children including himself.
- Is of the opinion the fence height is a safety hazard.
- Is of the opinion the five-foot height is not accurately represented. The fence is located on
  a retaining wall which adds to the height considerably and as such, finds there is a line-
  of-site obstruction at the stop sign located at Myszka Place and Highland Avenue. If one
  is coming from the other direction heading southerly on Highland Avenue at this stop sign
  there is not much view and believes this type of situation is a safety hazard to children,
  particularly because Myszka Place is essentially a hill and a person cannot see beyond
  the fence at this viewpoint. The fence fronting Myszka Place and corresponding height
  might be acceptable if the fence were not so opaque and lower allowing for better
  visibility.
- Is of the opinion a variance should be granted for an eight-foot high fence since that is
  the total distance from the grade of the sidewalk up. The back part of the fence is not a
concern to him but rather the fencing at the corner of the lot that interferes with line-of-sight and is a safety hazard.

Associate Planner Johnson:
- The proposed variance project has been reviewed by the Public Works Department since the subject property is on a corner lot where a vision triangle has to be maintained. Public Works reviews projects of this nature to make certain a fence would not obstruct the vision triangle from the street.

Associate Planner Johnson:
- Mr. Bailey has concerns as one approaches the stop sign at Myszka Place and Highland Avenue from Myszka Place of not being able to see beyond the fence.

John Bailey:
- The project request is for a five-foot variance but when looking at the grade the fence height is closer to eight feet.
- Would like for the fence to be more transparent.
- Is concerned about vehicles southbound where if a child is coming down the hill toward Highland Avenue from Myszka Place they may not see the vehicle because of the fence height and if a child did not see the vehicle, the vehicle would not have time to react.

Director of Public Works Eriksen:
- Highland Avenue is considered to be a ‘through street’ and there is no requirement that allows for vision provisions as it pertains to side streets. It is only traffic-controlled streets that have vision requirements where the speed of the street is controlled.

Associate Planner Johnson:
- The stop sign comes after the fence. It is not the retaining wall that is the question but rather the fence and the stop sign comes after the fence. Understands with regard to this particular project Highland Avenue being a through street the vision triangle rule does not apply to the project and is not a consideration.
- The height of the five-foot fence begins at the top of the retaining wall. While the fence appears to be eight feet in height the subject property is irregularly shaped and slopes such that the PD-R zoning district requires a retaining wall be constructed based upon the slope.
- Talked about the residential property adjacent to the applicant’s property where the side-yard setback requirements are the same. The vision triangle rule does not apply in this case either.

John Bailey:
- Continues to have concerns about the fence height as it pertains to safety, particularly for children.

Associate Planner Johnson:
- Related to the concern for safety recommends seeking approval from the City Traffic Engineering Committee to be able to post child safety signs where appropriate in the area and explained how to go about this process.
- No argument can be made to substantiate denial of the project because the vision triangle rule does not apply.

PUBLIC HEARING CLOSED: 11:28 a.m.

Zoning Administrator Thompson:
- Has visited the site.
- Agrees with staff’s analysis and findings and conditions of approval.
Zoning Administrator Thompson approved Minor Use Permit for a Minor Fence Height Variance at 1210 Myszka Place, No.: Munis 2255-VAR-ZA based on the Findings in attachment 1 of the staff report and subject to the Conditions of Approval in attachment 2 of the staff report.

8. ADJOURNMENT
There being no further business, the meeting was adjourned at 11:29 a.m.

Cathy Elawady, Recording Secretary

Attachment 1

FINAL VARIANCE FINDINGS TO ALLOW THE REDUCTION IN THE FRONT & SIDE-YARD SETBACK FOR A FIVE-FOOT-HIGH FENCE WITHIN THE (PD-RESIDENTIAL) PLANNED DEVELOPMENT RESIDENTIAL ZONE

The following findings are supported by and based on information contained in this staff report, the application materials, and the public record.

1. The following special circumstances apply to the subject property; therefore, the strict application of the code will deprive the property owner privileges enjoyed by other properties within the (PD-Residential) Planned Development Residential zone.
   a) The subject property is located on a corner lot large with established redwood trees to the west and had a significant grade that has been reduced with a retaining wall. The surrounding properties have similar reduced setbacks based on the irregular shape, size constraints and characteristics of the parcels (see attachment 4; Photo).
   b) The residence was built on the northeast side of the parcel as a result of the irregular shaped parcel, significant slope and existing mature trees. Based on the location of the residence and security requirements proposed by the applicant a three-foot-high fence would not be feasible (see attachment 4; Photo).

2. The issuance of this variance will not constitute a grant of special privilege based on the following:
   a) Other properties within this neighborhood and within the (PD-Residential) Planned Development Residential zoning district have reduced setbacks that do not comply with current zoning ordinance regulations (see attachment 4; Photo).

3. The granting of this variance will not be detrimental to the surrounding property owners based on the following:
   a) The proposed fence will improve the structure’s appearance.
   b) Based on the location of the house courtyard is located on the Myszka Place frontage. The granting of this variance will allow a barrier between the street and kitchen courtyard. Therefore, the privacy of the neighbors will not be compromised but increased.
c) The proposed variance will not decrease existing parking, thus not intensifying existing parking use.

d) The proposed variance has been reviewed by Building, Public Works and the Fire Department and any comments received have been attached.

The proposed project is exempt from the provisions of CEQA pursuant to CEQA Guidelines Section 15305, Class 5(a) minor alterations in land use limitations based on the following.

a. The project involves minor alterations in land use limitations which do not result in the creation of any new parcels; specifically, this project involves a variance from the front and side yard setbacks.

b. The project is not located within an environmentally sensitive area, no water courses, wildlife, wildlife habitat, floodway or flood plain or other environmentally sensitive areas are present.

Attachment 2

**FINAL VARIANCE CONDITIONS OF APPROVAL TO ALLOW THE REDUCTION IN THE FRONT & SIDE-YARD SETBACK FOR A FIVE-FOOT-HIGH FENCE WITHIN THE (PD-RESIDENTIAL) PLANNED DEVELOPMENT RESIDENTIAL ZONE**

1. Variance approval is granted for a 5 feet high fence within the front and side yard setbacks. This is to allow privacy and security as described in the project description and shown on the plans submitted to the Community Development and Planning Department and date stamped November 02, 2016.

2. Except as otherwise specifically noted, this variance shall be granted only for the specific purposes stated in the action approving the variance and shall not be construed as eliminating or modifying any building, use, zoning or other requirements except as to such specific purposes.

3. This approved variance may be revoked through the City's revocation process if the approved project related to the Permit is not being conducted in compliance with the stipulations and conditions of approval; or if the project is not established within two years of the effective date of approval; or if the established and use for which the permit was granted has ceased or has been suspended for twenty-four (24) consecutive months.

**Standard City Conditions of Approval**

4. No permit or entitlement shall be deemed effective unless and until all fees and charges applicable to this application and these conditions of approval have been paid in full.

8. The property owner shall obtain and maintain any permit or approval required by law, regulation, specification or ordinance of the City of Ukiah and other Local, State, or Federal agencies as applicable. All construction shall comply with all fire, building, electric, plumbing, occupancy, and structural laws, regulations, and ordinances in effect at the time the Building Permit is approved and issued.

9. This approval is contingent upon agreement of the applicant and property owner and their agents, successors and heirs to defend, indemnify, release and hold harmless the City,
its agents, officers, attorneys, employees, boards and commissions from any claim, action or proceeding brought against any of the foregoing individuals or entities, the purpose of which is to attack, set aside, void or annul the approval of this application. This indemnification shall include, but not be limited to, damages, costs, expenses, attorney fees or expert witness fees that may be asserted by any person or entity, including the applicant, arising out of or in connection with the City's action on this application, whether or not there is concurrent passive or active negligence on the part of the City. If, for any reason any portion of this indemnification agreement is held to be void or unenforceable by a court of competent jurisdiction, the remainder of the agreement shall remain in full force and effect.