

# ZONING ADMINISTRATOR DECISION LARGE FAMILY DAYCARE FACILITY



**DECISION NO. 2015-025**

**HEARING DATE:** September 30, 2015

**DECISION DATE:** October 6, 2015

**FILE NO.:** PLFD15-002

**SUBJECT:** A request to establish a Large Family Daycare home, with State License approval, for up to 14 children located at 1928 S. Sultana Avenue, within the R1 (Low Density Residential) zoning district. (APN: 1050-391-32)

**STAFF**

**RECOMMENDATION:**  Approval     Approval subject to conditions     Denial

**PART A: BACKGROUND & ANALYSIS**

MARIA CHAVEZ, herein after referred to as “the applicant,” has filed an application requesting approval of a Large Family Day Care, described as follows:

**(a) Project Setting:** The project site is comprised of 0.169 acre of land located at 1928 S. Sultana Avenue. Existing land uses, General Plan and zoning designations, and specific plan land uses on and surrounding the project site, are as follows:

|              | <i>Existing Land Use</i>  | <i>General Plan Designation</i> | <i>Zoning Designation</i> | <i>Specific Plan Land Use</i> |
|--------------|---------------------------|---------------------------------|---------------------------|-------------------------------|
| <i>Site</i>  | Single Family Residential | Low Density Residential         | R1                        | n/a                           |
| <i>North</i> | Single Family Residential | Low Density Residential         | R1                        | n/a                           |
| <i>South</i> | Agricultural Residential  | Low Density Residential         | AR                        | n/a                           |
| <i>East</i>  | Agricultural Residential  | Low Density Residential         | AR                        | n/a                           |
| <i>West</i>  | School                    | Low Density Residential         | R1                        | n/a                           |

**(b) Project Description & Analysis:** The applicant currently operates a small family day care program within the home. The applicant has been approved by the State of

Approved By:

-1-

    RZ     Principal Planner

California to operate a large family day care as stated: Maximum Capacity (when there is an assistant present): 12 children – no more than 4 infants; 14 children, with no more than 3 infants; 1 child in kindergarten or elementary school and 1 child at least age 6 according to State License #364830671. The proposed hours of operation are from 4:00 a.m. to 7:00 p.m.

The City of Ontario Ordinance that regulates large family day care facilities is consistent with the State's regulations pertaining to approval. The City requires compliance with thirteen standards in order to operate a day care facility. In compliance with state laws, property owners within 100 feet of the proposed day care use were notified to solicit input from local residents. The large family day care license is administratively approved unless an affected owner requests a hearing on the matter. The ordinance states that if there are no requests of a hearing by any of the affected property owners within a ten (10) day notice, the Zoning Administrator may approve the request.

On June 26, 2015, staff received a letter from the Delgado residence, located to the north of the proposed daycare, in opposition of the proposed Large Family Daycare (See Exhibit D). The letter did not request a public hearing, but expressed concerns with noise, parking, trespassing, and vandalism that is allegedly occurring with the applicants current Small Family Daycare.

The Planning staff inspected the project site on September 28, 2015. Upon inspection, staff found that the existing house to be in good condition, and that all the areas where the children will use, are also in a safe and well maintained condition, including the kids' bedrooms, class room area, bathroom, and backyard area. Staff did observe that the project site and the Delgado residence both back onto the Ontario Christian School recreation fields and that both sites are located just south of Sultana Elementary School. It is staff belief that the noise issues raised by the Delgado residence can be attributed to the Ontario Christian School and children playing in recreation fields. In addition, the parking and trespassing issues may be a result of students loitering in the area and from parents dropping off and picking up students at Sultana Elementary School during morning and afternoon peak times.

Staff attempted to contact the Delgado residence via telephone but could not make contact. Staff left messages, informing the Delgado residence to contact the Planning Department to discuss their concerns. Unfortunately no contact was ever made by the Delgado residence. However, the conditions of approval for the proposed Large Family Daycare, takes into account the Delgado's concerns pertaining to noise, wall height, and parking. In addition, six (6) months following commencement of the approved use, the Planning Department will conduct a review of the approved Large Family Day Care, to ensure its operation is not impacting adjacent residential uses. If staff determines that the operation of the daycare is impacting the surrounding residential uses, staff may recommend to the Zoning Administrator to recondition the application and/or request a public hearing to address impacts and solicit input from surrounding residents. Staff recommends approval subject to conditions.

**PART B: RECITALS**

WHEREAS, the City of Ontario has received a request for a Large Family Day Care approval as described in Part A, above; and

WHEREAS, Ontario Municipal Code Section 9-1.0405(g) provides that the Zoning Administrator has the responsibility and authority to review and act upon Large Family Day Care centers; and

WHEREAS, all members of the Development Advisory Board of the City of Ontario were provided the opportunity to review and comment on the requested Large Family Day Care, and no comments were received opposing the proposed use; and

WHEREAS, not less than 10 days prior to the date of the herein stated decision, the City gave notice, by mail, to all property owners within a 100-foot radius of the exterior boundary of the subject site, as shown on the latest equalized assessment roll of the County of San Bernardino; and

WHEREAS, one (1) written correspondence in opposition to the proposed large family day care home has been received; and

WHEREAS, Planning Staff attempted to contact the party in opposition via telephone but could not make contact. Staff left messages, but unfortunately no contact was ever made; and

WHEREAS, the issues and concerns raised in the written correspondent have been addressed in the project's conditions of approval; and

WHEREAS, the Zoning Administrator has not received a request to conduct a public hearing regarding the proposed large family day care home; and

WHEREAS, all legal prerequisites to the adoption of this Decision have occurred.

**PART C: THE DECISION**

NOW, THEREFORE, it is hereby found, determined and resolved by the Zoning Administrator of the City of Ontario as follows:

- (a) All facts set forth in this Zoning Administrator Decision are true and correct.
- (b) The Zoning Administrator hereby finds and determines that the project identified in this Decision is statutorily exempt from the requirements of the California

Environmental Quality Act of 1970, as amended, and the Guidelines promulgated thereunder, pursuant to Section 15274 of the State CEQA Guidelines.

(c) Based upon the findings and conclusions set forth in Parts A, B and C above, the Zoning Administrator hereby approves File No. PLFD15-002, subject to the conditions of approval attached hereto and incorporated herein by this reference.



APPROVED by the Zoning Administrator of the City of Ontario on this 6th day of October, 2015.



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Scott Murphy  
Zoning Administrator



## CONDITIONS OF APPROVAL

**DATE:** September 30, 2015

**FILE NO.:** PLFD15-002

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1) The applicant shall have obtained, or applied for, all required state licenses and permits to operate the facility. A City permit shall not be issued until the applicant presents satisfactory evidence that state permits and licenses have been secured.

2) Only one (1) employee who resides away from the provider's home may work at the day care center at any given time.

3) Off-street parking for the dwelling unit must be provided in accord with Article 30.

4) Any large family day care home located on a standard or divided arterial street as identified in the Master Plan of Streets and Highways must provide a circular driveway or equivalent for use as a drop-off-pick up area.

5) Exterior play areas shall not be located within any required setback area and shall be fenced with a minimum 6-foot high fence.

6) A day care center may be located in an area in which the measurable noise level does not exceed a CNEL of 65 dBA.

7) The operator shall obtain all necessary governmental permits. A City permit shall not be granted until all state and/or County permits have been secured.

8) At least two of the children shall be at least 6 years of age.

9) No more than three infants shall be cared for during any time when more than 12 children are being cared for.

10) The licensee notifies shall notify parents that the facility is caring for two additional school age children and that there may be up to 13 or 14 children in the home at one time.

11) The licensee shall obtain the written consent of the property owner when the family day care home is operated on property that is leased or rented.

12) The license shall inform and ensure parents drop off the children in the driveway or on the street in front of the home. The license shall monitor at all times that parents dropping off or picking children are not blocking or uses driveways of the adjacent residences.

13) The children shall recreate and /or play within the designated are of the rear yard and may at no time be allowed to play or loiter in the front yard area of the home during the daycare business hours. Children in the play area shall be supervised at all times, to ensure noise levels are kept to an acceptable level, and that they do not climb neighboring walls or property trees and throw toys or debris over walls to neighboring properties.

14) Six (6) months following approval of the Large Family Day Care, the Planning Department will conduct an on-site review of the approved Large Family Day Care, to ensure its operation is not impacting adjacent residential uses. If staff determines that the operation of the daycare is impacting the surrounding residential uses, staff may make the recommendation to the Zoning Administrator to recondition the application and/or request a public hearing to address impacts and solicit input from surrounding residents.

### Exhibit A – Location Map

1928 S. Sultana Avenue  
APN: 1050-391-32



Exhibit B – Site Plan

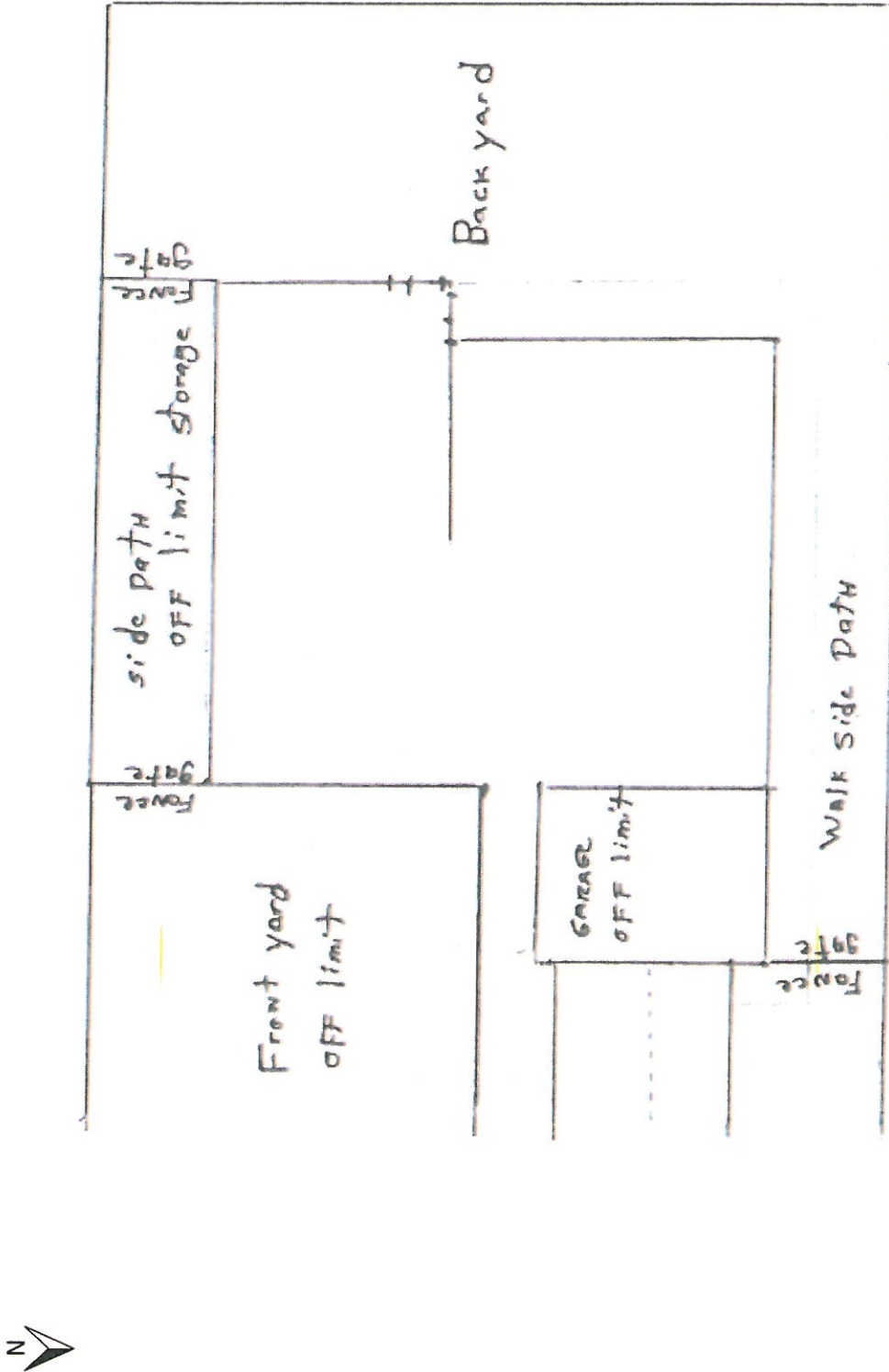
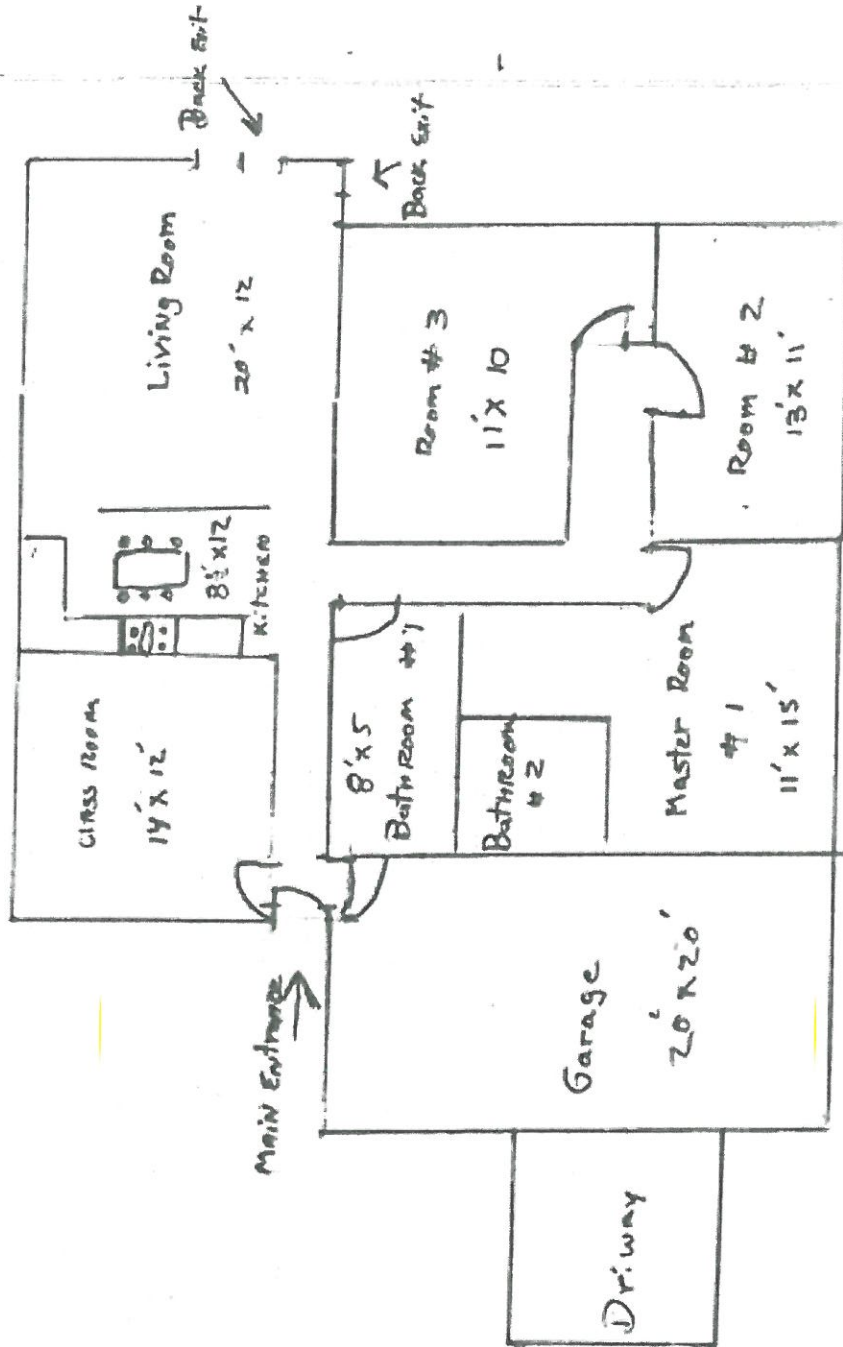
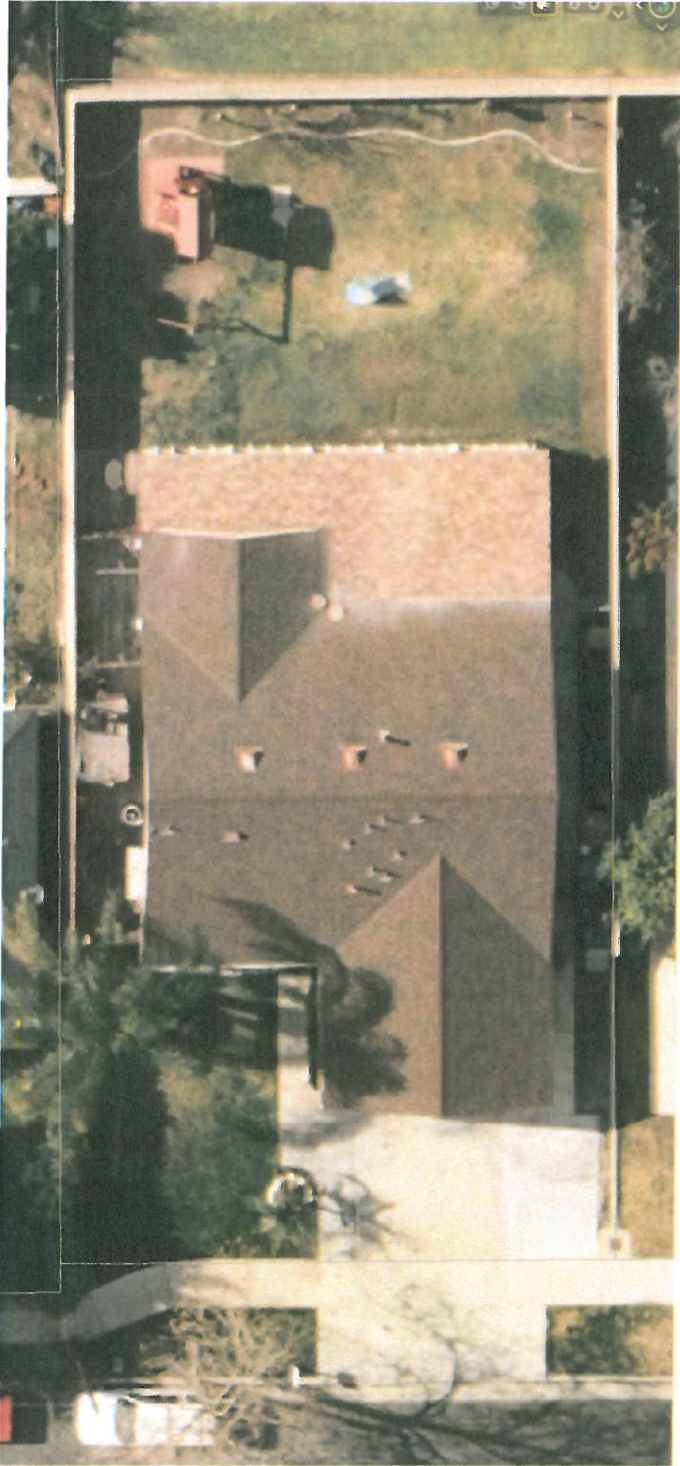




Exhibit C – Floor Plan



**Exhibit D – Aerial**



**Exhibit D – Correspondent 1 of 2**

Dear Danny Chen:

June 26, 2015

RE: NOTICE OF REQUEST TO OPERATE A LARGE FAMILY DAY CARE HOME FILE NO.  
PLFD 15-002

As residents and property owners of 1922 S Sultana Ave, Ontario CA 91761 we are not in agreement with the the neighbors (1928 S Sultana Ave, Ontario, CA 91761) request to operate a large family day care home.

We currently have a few issues with the neighbor operating a day care that concern noise, parking, trespassing, and vandalism.

The neighbors and their children (both legitimate and day care attendees) currently make a lot of noise that include, constant yelling, crying, boys fighting, music playing, and other disturbing loud noises that do not allow us to feel relaxed or at ease in our home. When someone works at night they are not able to sleep because of all the noise the neighbors children constantly make through out most of the day; why should we have to suffer with the decisions and consequences of other actions in our own home. We live in a residential area near other schools whose children do not make as much noise or cause as much trouble as the neighbors do.

The neighbors because of their home business or day care have created on multiple occasions an unwelcome and uncomfortable living situation with regard to cars parking in our garage lot, and in front of our garage lot. The neighbors guest or customer have come to their house and either parked in our own garage lot, and blocking our cars inside of our garage, and/or have parked with trucks in front of our garage lot not allowing access into or out of our own garage lanes and property. The street is public property and anyone can park on it, however, our personal garage lot lanes are not and it is not right or fair to block our access into and out of our own home.

In addition to trespassing our drive way the neighbors children constantly climb the trees in front of our house or climb the trees that are close to the fence that separates our back yards. Moreover, the children outside are constantly unsupervised and climbing our trees, peeking over and taunting our large dogs, and/or vandalizing our back yard. The children throw rocks, trash, sticks and other items in our back yard damaging and trashing our property. There seems to currently be too many children in the neighbors home to properly supervise, since, they are usually left outside in the backyard unattended. The actions of the children can cause an accident with regard to them falling into our property in the back yard, them hurting our pets with the stone and trash throwing, or them falling off the trees that they climb while outside on their own. This is a great unnecessary liability that should not continue or expand.

To begin with we were not informed about the neighbor wanting to start a home business that has come to affect us in our daily lives. We did live in a residential area not a shopping center where it is expected to have above average noise levels and constant car traffic. Not many people want or would like to live next to a loud, troubling noise center. We have been very patient with this whole situation hoping these issues will resolve them selves instead of expanding themselves even further. There are plenty of business centers around town that can host this type of business more appropriately with larger space and facilities that will benefit the children.

**Exhibit D – Correspondent 2 of 2**

We are not the only ones with these issues on hand. Some of the other neighbors have commented to us similar problems as well. Our other neighbors are mainly Spanish speakers who also have been very patient with this whole situation and we do not find it appropriate nor just for us to receive a notice in English and with such short notice to be able to respond too about this property's intentions. Why was this letter sent out so late leaving only 3 business days notice to act or comment on this very close to home issue. Our other neighbor, mostly Spanish speaking individuals, have probably not yet read nor understand the notice sent out. This is an unjust situation, we as everyone else have busy lives and 3 days notice might not be enough time to act.

The neighbors are a nice family that we have lived next to for a few years now, however, their home business has created issues that we might not always personally approach them with but it does not mean that they are not there. We have not always brought up these issues with the neighbors because we hoped they would resolve them selves or them being problems of managing a new business that will be resolved but this has not been the case. Currently finding out that they now wish to extend their home business with more children is a problem that has forced us to speak out on. We hope this does not create a misunderstanding in our relationship with the neighbors but their business has also come to affect us and our property not only personally but also financially since not many people wish to buy a house next to a loud troublesome day care.

We look forward to hearing from you soon and before July 1<sup>st</sup> to further discuss this situation via telephone.

*F. Delgado,*  
*Rosa Delgado*  
Delgado Family  
1922 S Sultana Ave Resident/Owner  
909- 241-7865

