MEMORANDUM

PUBLIC WORKS - DEVELOPMENT SERVICES

DATE: July 2, 2014

TO: BOARD OF ADJUSTMENT District #4

FROM: Tom Drzazgowski – Deputy Chief Zoning Inspector

SUBJECT: **Co10(4)14-08 DAILEY – SOUTH LEON RANCH RD.**
Scheduled for public hearing on July 11, 2014.

LOCATION:
The subject site is located in the Rincon Valley. The property is not far from Rancho Del Lago. The property is approximately 1.05 acres and is zoned GR-1 (Rural Residential).

SURROUNDING ZONING / LAND USES:

North -	GR-1	Rural
West -	GR-1	Rural
South -	GR-1	Rural
East -	GR-1	Rural

PUBLIC COMMENT:
Three letters of protest were received as part of the child care permit process. One of the protests has been withdrawn in the last couple of days.

PREVIOUS CASES ON PROPERTY:
This case was originally processed as a child care application. As part of the child care application process, notices are sent to all property owners within three hundred feet of the child care operator's property. Three protests were received from property owners in the area. Recently one of the protests has been withdrawn in writing.

REQUEST:
When a protest is received during the child care application process, the case is sent to the Board of Adjustments to determine whether or not the child care permit should be approved.

TRANSPORTATION AND FLOOD CONTROL REPORT:
The Department of Transportation will not review this project. The Flood Control District will review this project as needed during the permit process.

BACKGROUND:
The property is located in a low density rural area where homes are located on a minimum of an acre. The property is located on a dirt road that appears not be maintained by Pima County.

In addition the property is near the Pantano Wash. The property has a manufactured home that was permitted in 2005.

During the child care permit process three letters of protest were received. The issues raised by the protests were the road being dirt and not maintained by the county, excessive traffic caused by the use and dirt. Copies of the protest letters have been included in the Board packet. The letter withdrawing one of the protests has also been included.

RECOMMENDATION:

Staff recommends **DENIAL** to the variance request. Staff believes that given the neighbor's concerns the request should not be approved. The increased traffic, generation of dust and other potential negatives is a concern for staff. Standard number eight listed below appears to justify denial of the request. Should the Board deny the request, the applicant is still permitted by right to run a child care home service for up to six children. Staff does not believe additional children should be permitted at this point. Staff believes that running the child care at six children would allow the owner to demonstrate to neighbors that the child care home service is not a negative to the community. The owner could then reapply in the future for an increase in the number of children allowed.

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Home Occupation Requirements

1. A home occupation permit is required to be obtained from the chief zoning inspector:

    a. The home occupation permit shall apply only to a full time occupant of the dwelling.

    b. If there is a change in use, a new home occupation permit shall be required.

2. The home occupation must be conducted within a dwelling or an accessory building of not more than two hundred square feet.

3. There shall be no public display of stock-in-trade upon the premises.

4. Not more than one nonresident of the premises is employed.

5. Not more than one-fourth of the floor area of one story of the main dwelling or an accessory building of not more than two hundred square feet in area shall be used for the home occupation.

6. No equipment or material associated with the home occupation shall be stored outdoors.

7. The residential character of the dwelling and subject property shall not be changed by said use.

8. Such occupation shall not cause any sustained, unpleasant, or unusual noises or vibrations, or noxious fumes or odors, or cause any traffic congestions in the immediate neighborhood.

9. All parking used in conjunction with the home occupation shall be on site and shall not include commercial parking features such as wheel stops, parking lanes or striping.

10. No more than one vehicle shall be used in conjunction with the home occupation. This vehicle shall not exceed eighteen feet in overall length and seven feet in overall height and must be parked on the private property. If the vehicle displays any advertising or other indication of the home occupation or any product or service, it shall be stored in a carport or garage, or shielded from view from any adjoining properties and the street by landscaping, fencing or any other suitable material.

11. Home occupations shall not provide overnight accommodations.

12. Home occupations shall serve no more than five clients in one day and no more than two clients at any one time.

13. The maximum sign area permitted shall not exceed two square feet. The maximum height of any ground sign shall be four feet.

14. The following uses shall not be permitted as home occupations:

    a. Auto repair and service.

    b. Veterinarian service, kennels, and pet grooming.

    c. Commercial food preparation.

    d. Mortuary or embalming service.

    e. Tattoo parlor.

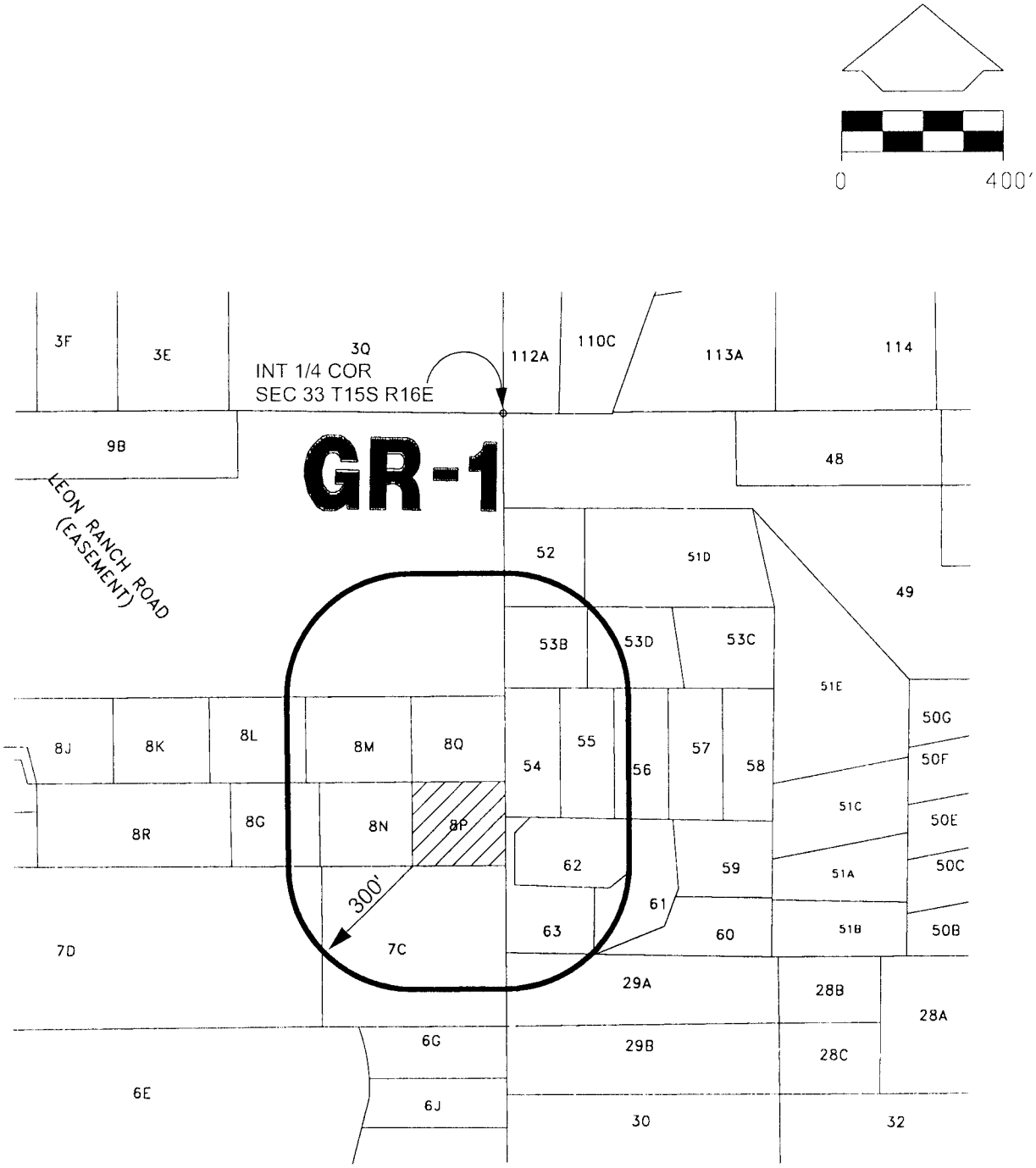
    f. Welding service.

    g. Any commercial use not customarily associated with home occupations as a secondary use.

Respectfully submitted,

Tom Drzazgowski
Deputy Chief Zoning Inspector

Co10(4)14-08 DAILEY - SOUTH LEON RANCH RD. Marilyn Dailey, on property located at **9445 S. Leon Ranch Rd.**, in the **GR-1** zone, **has made an application for child care home service for ten children and a written protest from a neighbor was received.** Section 18.09.030B of the Pima County Zoning Code states that in the GR-1 zone, a property owner may apply to the zoning inspector for a permit to allow child care home service for up to ten children. Prior the issuance of the child care home service for more then seven children, property owners within 300 feet of the subject property shall be notified by mail and given 15 days from the date of the mailing to file written protest. If a written protest is received, the board of adjustment shall hear the case.



Petition area

Notification area

BASE MAP 133

Notes CHILD CARE HOME SERVICE

Tax codes 205-90-008P

Date 05/15/14

Drafter DS

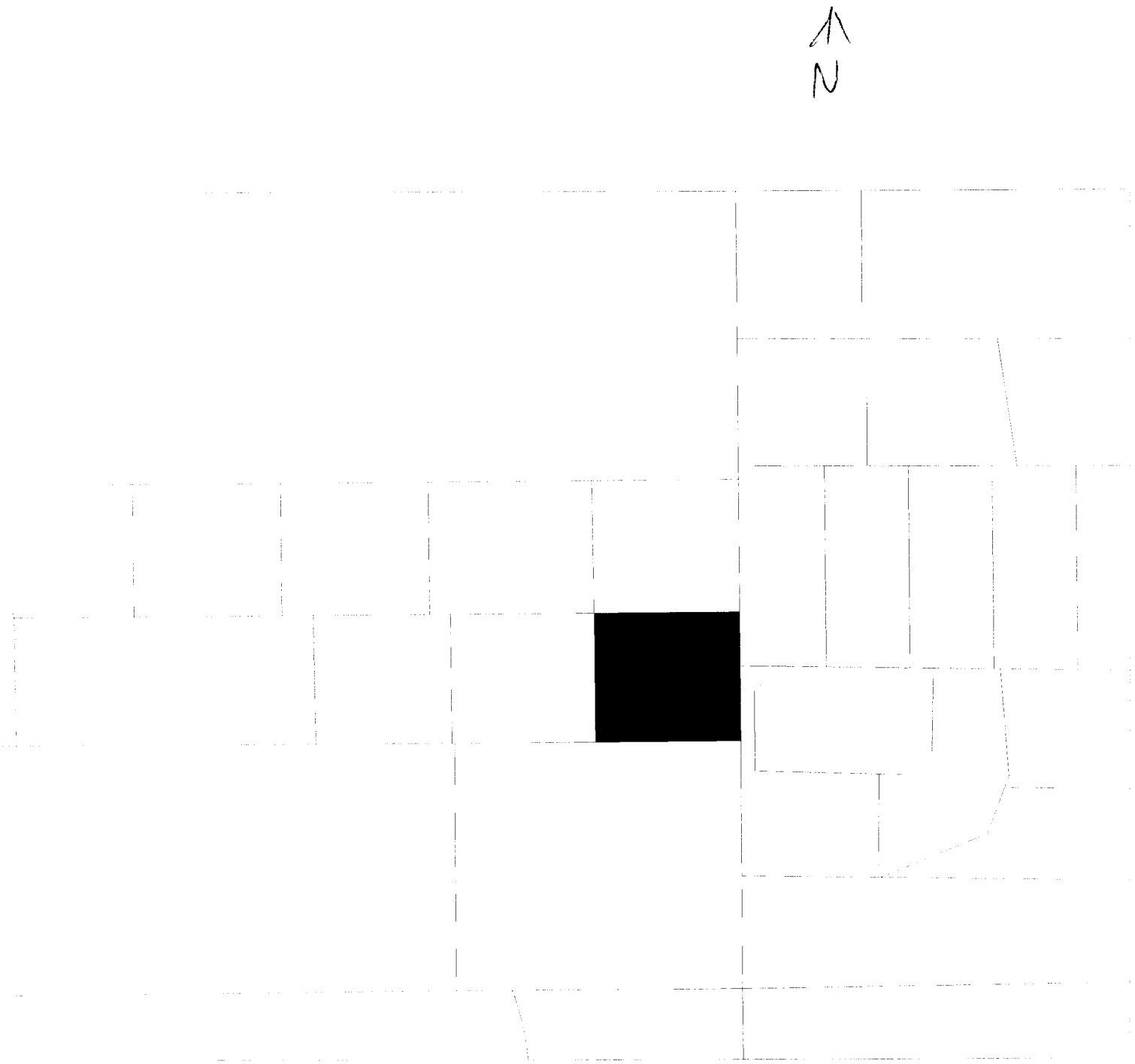
File no. P14ZE00014

DAILEY

S LEON RANCH RD (EASEMENT)

PIMA COUNTY DEVELOPMENT SERVICES DEPARTMENT

PLANNING DIVISION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Development Services

PIMA COUNTY
DEVELOPMENT SERVICES DEPARTMENT
201 N. Stone Ave., 1st Floor
Tucson, Arizona 85701-1207

May 22, 2014

NOTICE

This is to notify you that **Marilyn Dailey**, residing at ***9445 S. Leon Ranch Rd.***, has submitted an application for a child care home service for ten children between the hours of ***7:00 a.m. to 6:00 p.m.***. In accordance with the Pima County Zoning Code, child care home service is a home occupation providing compensated nonresidential care and must meet the following standards:

1. Child care shall be provided for no more that ten children.
2. No more that one vehicle, eighteen foot or less in overall length and seven feet or less in overall height, parked on private property, and stored in a carport or garage, or shielded from view from any adjoining properties by landscaping, fencing or any other suitable material, may be used in conjunction with the child care home service.
3. Outdoor activities and equipment area less than 25 feet from an adjacent residential use shall be screened by an opaque five foot fence or wall.
4. The child care home service is conducted within a dwelling.
5. No public display of stock-in-trade upon the premises.
6. Not more that one nonresident of the premises is employed.
7. The residential character of the dwelling is not changed by said use.
8. Such occupation does not cause any sustained or unpleasant or unusual noises or vibrations, or noxious fumes or odors, or cause any parking or traffic congestion in the immediate neighborhood.
9. All parking used in conjunction with the child care home service shall be on site, and shall not include commercial parking features such as wheel stops, parking lanes or striping.
10. The child care home service shall not provide overnight accommodations.
11. The maximum sign area permitted shall not exceed two (2) square feet and the maximum height of any ground sign shall be four feet.

If you have objection to the granting of a permit for child care home services, your written protest must be made to the Development Services Center, Zoning Enforcement Division, 201 N. Stone Avenue, 1st Floor, Tucson, AZ 85701 on or before June 2, 2014. A written protest must include the name and address of the person submitting the protest and the reason why the application does not meet the above listed standards.

If you have any questions concerning the application please call me at 724-6675.

Tom Drzazgowski
Deputy Chief Zoning Inspector

ZONING ENFORCEMENT DIVISION
201 N. Stone Avenue, 1st Floor
Tucson, Arizona 85701-1207
(520) 724-6675

APPLICATION FOR CHILD CARE HOME SERVICE (7 – 10 CHILDREN)

OWNER: MARILYN DAILEY **PHONE:** 520-647-0032

MAILING ADDRESS: 9445 S. LEON RANCH RD **CITY:** VAIL **ZIP:** 85641

AGENT ***(if not the owner)*****:** — **PHONE:** —

MAILING ADDRESS: — **CITY:** — **ZIP:** —

PROPERTY ADDRESS: 9445 S. LEON RANCH RD **TAX CODE:** _____

BUSINESS NAME: Little Wranglers Daycare **PHONE:** 520-647-0032

ZONE: _____ **LOT DIMENSIONS:** _____ **LOT AREA:** _____

NUMBER OF CHILDREN: 10 **PROPOSED HOURS OF OPERATION:** 7 AM – 6 PM M-F

THE FOLLOWING DOCUMENTS ARE REQUIRED:

1. **Site plan of lot, structure and play area with dimensions.**
2. **Letter of authorization** ***(if not the owner)***
3. **Signed Statement of Agreement** ***(form attached)***
4. **A zoning fee of $304.00 is required (Contact Enforcement Office at 740-6922 for fees)** ***Make check payable to Pima County Treasurer***

I the undersigned, represent that all the facts in this application are true to the best of my knowledge.

Signature of Applicant _____ **Date** 5-5-2014

(OFFICE USE ONLY)

Case # P14ZE00014 Zone: GM Base Map: _____ Received By: TD Date: _____

Conditions/Comments: 300 foot Notice

Previous Zoning Complaint Yes (No) Date: _____

Type Child Care 10 Children

Check # _____ Receipt # _____

Revised 07/16/09

Development Services

ZONING ENFORCEMENT DIVISION
201 N. Stone Avenue, 1st Floor
Tucson, Arizona 85701-1207
(520) 740-6922

CHILD CARE HOME SERVICE STATEMENT OF AGREEMENT

a. **Child care shall be provided for no more than** 10 **children** ***(state number of children);***

b. **No more than one vehicle, eighteen feet or less in overall length and seven feet or less in overall height, parked on private property, and stored in a carport or garage, or shielded from view from any adjoining properties by landscaping, fencing or any other suitable material, may be used in conjunction with the child care home service;**

c. **Outdoor activities and equipment area less than 25 feet from an adjacent residential use, shall be screened by an opaque five foot fence or wall;**

d. **The child care home service is conducted within a dwelling;**

e. **No public display of stock-in-trade upon the premises;**

f. **Not more than one nonresident of the premises is employed;**

g. **The residential character of the dwelling is not changed by said use;**

h. **Such occupation does not cause any sustained or unpleasant or unusual noises or vibrations, or noxious fumes or odors, or cause any parking or traffic congestion in the immediate neighborhood;**

i. **All parking used in conjunction with the child care home service shall be on site, and shall not include commercial parking features such as wheel stops, parking lanes or striping;**

j. **The child care home service shall not provide overnight accommodations;**

k. **The maximum sign area permitted shall not exceed two (2) square feet and the maximum height of any ground sign shall be four (4) feet.**

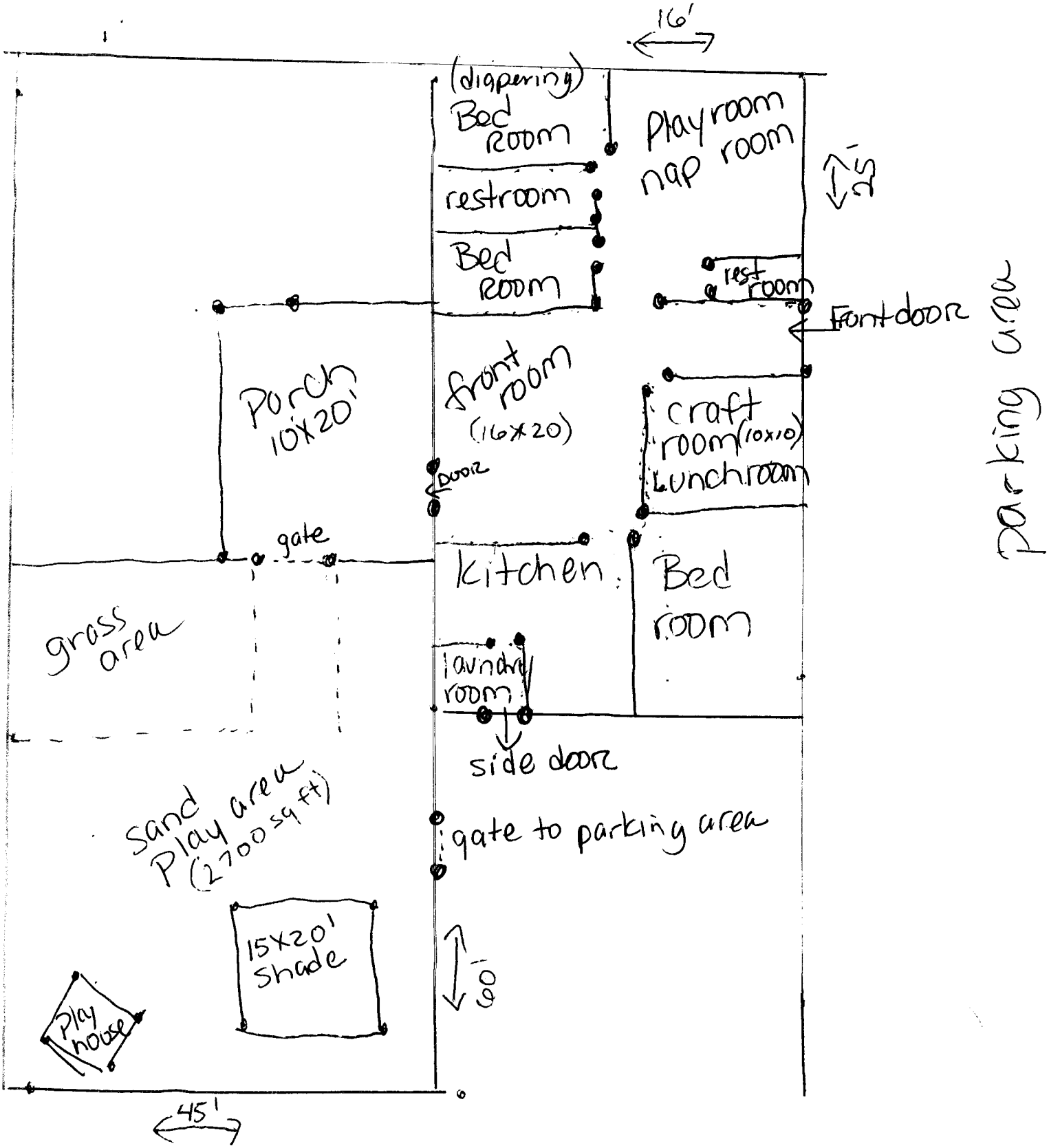
I, the undersigned, agree to meet the conditions of the Child Care Home Service and I understand that a violation of these requirements may void the approval.

Signature: MDP **Date:** 5-5-14

Print Name: Marilyn Dailey

Address: 9445 S. Leon Ranch Rd **City:** Vail **ZIP:** 85641

Revised 07/16/09


16'
(diapering)
Bed room
Playroom nap room
restroom
Bed room
rest room
Front door
Porch 10X20'
front room (16X20)
craft room (10x10) Lunchroom
door
gate
kitchen
Bed room
gross area
laundry room
side door
sand Play area (2700 sq ft)
gate to parking area
15X20' Shade
Play house
45'
parking area

To whom it may concern:

I, Melka Burkhart-Caccavale, resident and owner of 9452 S. Leon Ranch Rd Vail, Az 85641, object to Marilyn Dailey's in home day care for the following 3 reasons:

1. Health - The excessive dust created by the daycare traffic has caused numerous sinus, ear, eye & throat infections in my small children. Each child attending the daycare means 4 passes on the dirt road in front of my house.

2. Safety - The daycare clients disregard our posted speed limit signs. We have had multiple car accidents & incidents because of vehicles going too fast to make way when an on coming car approaches. Residents avoid using our road mornings & evenings for fear of being run off the road.

3. Financial - The additional traffic causes additional wear and tear on our little one-lane road. Ours is <u>not</u> a County maintained road. We, the residents, are responsible, out-of-pocket, for any and all road work. Currently, and for the last few months,

much of the road. We also have ruts at both of the turns into the two daycares on our road. Assuming each daycare has 10 kids each day, 5 days/week, there are at least 24,000 non-resident passes on our little single-lane dirt road. The costs for road and resulting vehicle repairs from driving on the washboard and ruts is a serious strain on our community.

Thank you for your time,

Michael Burkhart-Caccavale
9452 S. Leon Ranch Rd
Vail Az 85641
520-858-3545

Co16(4) 14-08

May 30, 2014

Pima County

Developmental Services center, Zoning Enforcement Division

201 N. Stone Ave., 1st Floor

Tucson Az. 85701 – 1207

Att: Tom Drazgowski

Deputy Chief Zoning Inspector

I am writing in response to Notice I received on May 29th. As per our phone conversation on this day , You informed me that you must receive my response by Monday May 2, 2014. Hopefully this will be received by such date.

"I DO NOT APPROVE" of Marilyn Dailey's Child care business at 9445 S. Leon Ranch Rd. that is across the street from my home at 9405 S. Leon Ranch Rd. Vail Az.85641

It has brought in excessive amount of traffic. We live on narrow dirt roads that are privately owned and maintained by owners. Excessive, plus careless drivers have caused serious problems. It states in our Private covenants, about home business rules:

Document Title Docket 11409

I just put in a call to you to see if I can Fax this response as I am not suppose to drive today due to a procedure I had on my spine. Our mail boxes are 1-1/2 miles from our home.

Regards,

Geraldine A. Simon

260-2073

647-0077

JUN 03 2014

Pima County Development Services Department
5/30/2014

To Tom Drzazgowski,

I object to Marilyn Daily getting a permit for child care home services. The location of her residence is 9445 South Leon Ranch Road, this is where she wants to have a child care home service. The road, Leon Ranch Road is a road that is maintained by the residents and property owners who live or have property on Leon Ranch Road. Marily Daily was asked in a meeting of the road maintenance organization if she would pay her bill for road maintenance. She said she would pay for road maintenance. Some time after the meeting she decided she did not have to pay for road maintenance. I understand she has not payed for road maintenance for some time. In my opinion it is unfair for people who live in the area, the people who have paid for road maintenance. She has refused to pay for road maintenance. A business with people driving on the road to her business would use the road more than the rest of the residents in the area. In my opinion a permit for Marilyn Dailys business should not be permitted.

Respectfully
James S. Connolly

P14ZE00014

received 5/30/14

6-26-14

To Tom Drazowski & whom it may concern,

I James S. Connolly agree to withdraw my objection to Marilyn Dailys request for a child care home service for ten children. As far as Im concerned I do not object to her having a permit for a childcare home service. She has said she will pay for the road maintenance dues she is responsible for paying. This is for 9445 S. Leon Ranch Rd.

Respectfully
James S. Connolly