

PLANNING COMMISSION REPORT
Regular Agenda – Public Hearing Item:

PC Staff Report
04/20/2009

ITEM NO. 4 SPECIAL USE PERMIT FOR DAY CARE; 1023 HIGHLAND DR (SLD)

SUP-2-2-09: Consider a Special Use Permit for a Day Care Center at 1023 Highland Drive. Submitted by ABC Imagination Center, for Richard R. Pine, property owner of record.

STAFF RECOMMENDATION: Staff recommends approval of SUP-02-02-09, a Special Use Permit for a Day Care Center use located at 1023 Highland Drive, based upon the findings presented in the body of the staff report and subject to the following conditions:

1. Execution of a Site Plan Performance Agreement.
2. Publication of an ordinance per Section 20-1306(j).
3. Applicant shall provide a revised site plan to show the following changes:
 - a. Show and note that fence shall comply with section 20-507 for a minimum 4' fence of the outdoor play area.
 - b. Show and note approved parking:
 - i. either expanded driveway pavement per staff approval or
 - ii. execution of a shared parking agreement with the school or
 - iii. note approval of a variance for reduced parking granted by the Board of Zoning Appeals.
 - c. Add a note that states that a maximum of 12 children are allowed at a given time.
 - d. Add a note that a change in provider shall require re-approval by the City Commission.

Applicant's Reason for Request: *To open a daycare in a non owner occupied residence*

KEY POINTS

- Structure is an existing residence.
- Property is located adjacent to public elementary school.
- Property is located within existing developed neighborhood.

FACTORS TO CONSIDER

- Procedural requirements of Section 20-1306; Special Use Permits.

ASSOCIATED CASES/OTHER ACTION REQUIRED

- Publication of a Special Use Permit ordinance per Section 20-1306(j).
- Permit approval from the Douglas County Health Department for "group home day care" maximum care of up to 12 children below the age of 12 years of age.

PUBLIC COMMENT RECEIVED PRIOR TO PRINTING

Phone inquiries from adjacent property owners requesting explanation of the proposed use.

ATTACHMENTS

- Area Map
- Site Plan

GENERAL INFORMATION

Current Zoning and Land Use:	RS7 (single-dwelling residential) District; existing dwelling.
Surrounding Zoning and Land Use:	RS7 (Single-dwelling residential) District to the north, south and west. Existing dwellings. GPI (General Public Institution) District to the east. Hillcrest Elementary School.

Summary of Special Use

The property is located on the west side of Highland Drive in the Hillcrest Neighborhood and across the street from the Hillcrest Elementary School. The property is developed with single-dwelling detached residence with an attached single-car garage. The proposed use is for the operation of a Day Care Center.

A Day Care Home, Class A is defined as an accessory use where the provider is the resident occupant of the home. A Day Care Home, Class B is also an accessory use to an occupied residence where the provider is not the resident of the home. Both are limited to not more than the care of 12 individuals.

The proposed use is not a Day Care home by definition because the use is not an accessory use to an occupied residence. Further, this is no residential use proposed for the dwelling in conjunction with the Day Care use. The proposed use will be the primary use of the residence. Therefore, a Special Use Permit is required for operation.

Day Care uses are defined in section 20-1720 of the Development Code as:

20-1720 DAY CARE Uses providing care, protection and supervision for children or adults on a regular basis away from their primary residence for less than 24 hours per day. There are 3 types of [Day Care](#) uses:

- (1) Day Care Home, Class A The care of 12 or fewer individuals as an [Accessory Use](#) to an occupied residence in which the occupant is the primary provider of the care, not including the care of members of the provider's own [Family](#). "Primary provider" means an individual who has the ongoing responsibility for the health, safety and well-being of individuals in care.*
- (2) Day Care Home, Class B The care of 12 or fewer individuals as an [Accessory Use](#) to an occupied residence in which the occupant is not the primary provider of the care, not including the care of members of the provider's own [Family](#). "Provider" means an individual who has the ongoing responsibility for the health, safety and well-being of individuals in care.*
- (3) Day Care Center The care of 13 or more individuals. Typical uses include: [Day Care Centers](#) for children or adults, preschools, play groups, kindergartens not operated by public schools, and other establishments offering care to groups of children or adults for part or all of the day or night, with specific exclusion of temporary or seasonal religious instructional schools, including summer Bible school and church school classes.*

SITE SUMMARY

	Existing	Proposed	Change
Property Area (sq ft):	7,425	7,425	-
Building Area (sq ft):	1,038	1,038	-
Paved Area (sq ft):	721	721	-
Total Impervious Area (sq ft):	5,666	5,666	-
Total Pervious Area (sq ft):	1,759	1,759	-

Site Plan Review:

The purpose of the site plan is to document the existing conditions on the property and address minimum design standards related to the operation of the proposed Day Care Center use. The applicant does not propose any physical changes to the site. The existing rear yard would be used for the outdoor play area and must be fenced accordingly. The site plan shows an existing fence that is less than the required 4' height. The fence will need to be altered to comply with the required 4' fencing requirements of the development code for Day Care Centers.

Parking

The property was developed as a detached residence with a single-car garage and driveway. This space would typically accommodate the required two off street parking spaces for a residential use.

Parking for a Day Care Center is required at one space per 1.5 employees plus four (4) additional spaces. The immediate plan would include only one provider (1 off-street parking space). If only one employees/provider is required, the total required off-street parking is 5 spaces. If the total number of employees increases to three then a total of 6 off-street parking spaces would be required.

The site currently only accommodates two spaces (1 garage space and 1 driveway space). The site plan, as proposed does not provide the adequate number of parking spaces.

Parking options include:

1. Adding additional pavement to the site with a variance from the BZA to allow stacked parking.
2. Securing shared parking from the school and executing a shared parking agreement.
3. Seeking a variance from the Board of Zoning Appeals to allow for reduced parking for the use.

Review and Decision-Making Criteria (20-1306(i))

1. WHETHER THE PROPOSED USE COMPLIES WITH ALL APPLICABLE PROVISIONS OF THIS DEVELOPMENT CODE

The proposed use is permitted in the RS zoning districts with a Special Use Permit. Special conditions associated with Day Care Center uses include the provision of a minimum 4' fence of the outdoor play area per section 20-507 (2). The existing fencing may be modified to add additional height that is secured to the existing structure so as to prevent entrapment. The site plan would need to be revised to add a note and detail to show how the fence requirement will be met.

Off-street parking must be accommodated through either site improvements, variance approval or shared parking. These elements would be shown on a revised site plan if the proposed use is approved.

Staff Finding – The proposed use, as conditioned, is compliant with all applicable provisions of the Development Code.

2. WHETHER THE PROPOSED USE IS COMPATIBLE WITH ADJACENT USES IN TERMS OF SCALE, SITE DESIGN, AND OPERATING CHARACTERISTICS, INCLUDING HOURS OF OPERATION, TRAFFIC GENERATION, LIGHTING, NOISE, ODOR, DUST AND OTHER EXTERNAL IMPACTS

The proposed daycare will occupy an existing residence but will not have a residential component. The structure is intended to be used only for the Day Care activity. No physical alterations are proposed. There is no change in the structural compatibility with the surrounding residences.

The property is located across from an existing elementary school. No evening hours are proposed for the Day Care. Typically a Day Care would be in operation during daytime/work time hours [7:30 A.M. to 5:30 P.M.] then closed when most residents would be actively residing in their homes. The proximity to the elementary school is intended to accommodate both before and afterschool care for Hillcrest Elementary school students. Hillcrest Elementary School starts at 8:45 A.M. and dismisses at 3:45 P.M. The proposed day care center is consistent with the school hours.



2008-09 SCHOOL HOURS

SCHOOL	START	HALF-DAY KINDERGARTEN				DISMISS	Wednesday EARLY DISMISS*	HALF-DAY DISMISS
		AM DISMISS		PM START				
		Wed.	Wed.	Wed.	Wed.			
Broken Arrow	8:00	11:10	10:20	11:50	11:10	3:00	1:30	11:15
Cordley	8:45	Full-Day Kindergarten**				3:45	2:15	11:55
Deerfield	8:00	11:10	10:20	11:50	11:10	3:00	1:30	11:15
Hillcrest	8:45	Full-Day Kindergarten**				3:45	2:15	11:55
Kennedy	8:00	Full-Day Kindergarten**				3:00	1:30	11:15
Langston Hughes	8:45	11:55	11:05	12:35	11:55	3:45	2:15	11:55
New York	8:45	Full-Day Kindergarten**				3:45	2:15	11:55
Pinckney	8:00	Full-Day Kindergarten**				3:00	1:30	11:15
Prairie Park	7:50	Full-Day Kindergarten**				2:50	1:20	11:00
Quail Run	8:45	11:55	11:05	12:35	11:55	3:45	2:15	11:55
Schwegler	8:45	Full-Day Kindergarten**				3:45	2:15	11:55
Sunflower	8:45	11:55	11:05	12:35	11:55	3:45	2:15	11:55
Sunset Hill	8:00	11:10	10:20	11:50	11:10	3:00	1:30	11:15
Wakarusa Valley	7:50	11:00	10:10	11:40	11:00	2:50	1:20	11:00
Woodlawn	8:00	Full-Day Kindergarten**				3:00	1:30	11:15

Traffic generation would be limited by the total number of children for which care is provided. The applicant has indicated that they will be seeking a group home day care license, confirmed by the Douglas County Health Department. The maximum number of children allowed to be enrolled in such a program is 12 or 10 with up to 3 infants. This day time portion activity would be no different from a more traditional home Day Care where the provider is the resident of the home and allowed without a Special Use Permit. Staff recommends that the maximum number of children be limited to not more than 12 at any given time. Any proposal to increase the total number of children on-site shall require a new public hearing with notice to surrounding property owners.

Staff Finding – The proposed use is compatible with adjacent uses.

3. WHETHER THE PROPOSED USE WILL CAUSE SUBSTANTIAL DIMINUTION IN VALUE OF OTHER PROPERTY IN THE NEIGHBORHOOD IN WHICH IT IS TO BE LOCATED

Approval of the request will not alter the base zoning district. A Day Care Home is an allowed use in the existing zoning district. The structure will retain its residential appearance and may be used for a residence in the future.

Staff Finding –The proposed use will not cause a substantial diminution in the value of surrounding property.

4. WHETHER PUBLIC SAFETY, TRANSPORTATION AND UTILITY FACILITIES AND SERVICES WILL BE AVAILABLE TO SERVE THE SUBJECT PROPERTY WHILE MAINTAINING SUFFICIENT LEVELS OF SERVICE FOR EXISTING DEVELOPMENT

The property is located within the City of Lawrence. Public sewer and water are available to the site. No changes in utility service are required. Trash service will continue as residential service.

Staff Finding –Public safety, transportation and utility services are currently available and a sufficient level of such services is available to support the proposed use.

5. WHETHER ADEQUATE ASSURANCES OF CONTINUING MAINTENANCE HAVE BEEN PROVIDED

Staff Finding –The site plan will function as the enforcement document to assure that maintenance and use of the property is consistent with the approval.

6. WHETHER THE USE WILL CAUSE SIGNIFICANT ADVERSE IMPACTS ON THE NATURAL ENVIRONMENT

The property is developed with an existing residence and driveway. No physical changes to the site are proposed other than the addition of fencing and possibly pavement to accommodate the off-street parking requirements. The Day Care Center use is limited to not more than 12 children. The activity is comparable to common residential activity in the neighborhood.

Staff Finding – The proposed use will not cause significant adverse impacts on the natural environment.

7. WHETHER IT IS APPROPRIATE TO PLACE A TIME LIMIT ON THE PERIOD OF TIME THE PROPOSED USE IS TO BE ALLOWED BY SPECIAL USE PERMIT AND, IF SO WHAT THAT TIME PERIOD SHOULD BE.

Approval of the request will not alter the base RS7 zoning district. Approval of the request is specific to this property. Further, section 20-1306 (l) provides procedures to amend, suspend, or revoke an approved Special Use Permit. A license from the state is required in addition to a Special Use Permit. As a licensed group day care home an annual inspection is required by the Health Department.

Staff Finding – A time limit on the use is not necessary since other mechanisms are in place to address changes or compliance concerns of the use. Staff does recommend that the use be restricted to the provider named in the application. Changes in the provider, property owner, or the number of children for which care is provided shall require approval by the CC or approval of a new Special Use Permit.

Conclusion

The proposed Special Use Permit site plan proposes to establish a non-residential, Day Care Center for up to 12 children in the RS7 (Single-Dwelling Residential) District. The proposed use will not result in any visible change to the site other than fencing improvements of the rear yard and possibly driveway expansion. Changes to the ownership, provider or number of children should be reviewed to assure the character of the surrounding neighborhood is not harmed.