



Legislation Details (With Text)

File #: 21-2216 **Version:** 1 **Name:** SUP21-05: Special Use Permit
Type: Evidentiary Hearing **Status:** Agenda Ready
File created: 9/7/2021 **In control:** City Council Regular Meeting
On agenda: 9/27/2021 **Final action:**
Title: SUP21-05: Special Use Permit to allow a Child Care Center to locate in a Single-Family 10 (SF-10) zoning district, to be located at 4770 Lakewood Dr. (REID # 0405140604000), totaling 0.48 acres ± and being the property of Fadhl S. Alhobishi

Sponsors:

Indexes:

Code sections:

Attachments: 1. Plan Application, 2. SUP21-05 Aerial Notification Map, 3. SUP21-05 Zoning Map, 4. SUP21-05 Land Use Map, 5. Subject Property, 6. Surrounding Properties, 7. Site Plan

Date	Ver.	Action By	Action	Result
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TO: Mayor and Members of City Council

THRU: Telly C. Whitfield, Ph.D. - Assistant City Manager
Dr. Gerald Newton, AICP - Development Services Director
Taurus Freeman, MPA - Planning & Zoning Division Manager

FROM: Craig M. Harmon, Planner II, CZO

DATE: September 27, 2021

RE:
SUP21-05: Special Use Permit to allow a Child Care Center to locate in a Single-Family 10 (SF-10) zoning district, to be located at 4770 Lakewood Dr. (REID # 0405140604000), totaling 0.48 acres ± and being the property of Fadhl S. Alhobishi

COUNCIL DISTRICT(S):

6 - Christopher Davis

Relationship To Strategic Plan:

Strategic Operating Plan FY 2022

Goals 2026

Goal II: Responsive City Government Supporting a Diverse and Viable Economy

- Objective 2.1 - To ensure a diverse City tax base
- Objective 2.4 - To sustain a favorable development climate to encourage business growth.

Goal III: City Investment in Today and Tomorrow

- Objective 3.2 - To manage the City's future growth and strategic land use.
- Objective 3.3 - To sustain a favorable development and business climate through timely and accurate construction review and building inspection services

Goal IV: Desirable Place to Live, Work and Recreate

- Objective 4.3 - To improve mobility and connectivity through sidewalk, trail, and bike lane investments
- Objective 4.4 - To provide a clean and beautiful community with increased green spaces
- Objective 4.5 - To ensure a place for people to live in great neighborhoods

Executive Summary:

Evidentiary Hearing

During an Evidentiary Hearing, the burden of demonstrating that an application complies with applicable review and approval standards of this Ordinance is on the applicant, which shall be demonstrated by competent, material, and substantial evidence. The burden is not on the City or other parties to show that the standards have not been met by the applicant.

As defined by the Unified Development Ordinance (UDO), a Child Care Center is a commercial or non-profit use licensed by the State where, at any one time, three or more children under the age of 13 receive child care in a building other than a residence on a regular basis from persons other than their guardians, full-time custodians, or persons related to them by blood, marriage, or adoption. Such uses may also involve the provision of educational services in preparation for elementary school. This definition does not include incidental child care, cooperative arrangements among parents, or drop-in or short-term child care provided while parents work part-time or participate in other activities on the premises (e.g., churches, shopping malls, hotels, health spas).

Background:

Owner: Fadhl S. Alhobishi

Applicant: Mark Candler

Requested Action: SUP - Child Care Center

Properties Addresses: 4770 Lakewood Dr

Council District: 6 - Christopher Davis

Status of Properties: Vacant House

Size: Approximately 0.48 acres

Adjoining Land Use & Zoning:

- North - SF-10 - Vacant
- South - SF-10 - Single-Family Homes
- West - SF-10 - Single-Family Homes
- East - R10 - Single-Family Homes

Letters Mailed: 69

Land Use Plan: Low Density

Additional Reviews:

Technical Review Committee (TRC) - A preliminary review was conducted on July 21, 2021 as part of the Special Use Permit application process. In general development comments were received, but specific comments were also provided. Specific comments included:

1. Fire - Has spoken to the applicant. Since this is a change of occupancy, an architect needs to submit plans.

2. Zoning - Use is required to have 4 parking spaces plus one per employee on the largest shift. A 500 foot separation is required between the use and any bar, nightclub, and adult entertainment.
3. Traffic Services - A new driveway permit may be needed.

A full TRC review will be conducted if the Special Use Permit approved.

Issues/Analysis:

History

The existing home was constructed in 1956 and is approximately 2,982 square feet. The home is currently vacant.

Surrounding Area

To the north, south and west of the subject property is the City of Fayetteville SF-10 zoning. To the east is zoned R10 in Cumberland County's jurisdiction. The property is located in the City of Fayetteville's City Limits. The property to the north is a vacant field, the rest of the surrounding properties are all single family residential.

Special Use Permit Request

The applicant is requesting a Special Use Permit to operate a Child Care Center at 4770 Lakewood Drive. According to the application submitted by the applicant. The operation hours for the facility will be 6:00am to 7:00pm Monday through Saturday. The facility will be able to accommodate approximately 25 clients. The only site improvements will be a chain link fence surrounding a small child play area in the rear yard. The outdoor play area will be approximately 4,800 square feet.

This use is compatible with the overall area and will not detract from the overall area.

Land within the City is generally classified by the Unified Development Ordinance (UDO) to be within one of a number of base zoning districts. Land may be reclassified to one of a number of comparable zoning districts in accordance with Section 30-2.C.

The SUP must meet the following findings of facts:

(1) The special use complies with all applicable standards in Section 30-4.C, Use-Specific Standards;

1. Child Care Centers (Non-Residential) in Any District

Child Care Centers (non-residential) including pre-schools, shall be licensed as a child care center by the State and comply with all State regulations for child care centers. Child care centers in any district except the DT Downtown District shall meet the following standards. Child care centers located in the DT zoning district are exempt from the following standards except as specifically noted below.

a. Separation

Child care centers shall be located at least 500 linear feet from the following uses:

1. Adult entertainment; This site is more than 500 linear feet from such uses.
2. Bar, nightclub, or cocktail use. This site is more than 500 linear feet from such uses.

b. Parking Area, Vehicular Circulation, and Drop-Off and Pick-Up

The parking areas and vehicular circulation for the child care center shall be designed to:

1. Enhance the safety of children as they arrive at and leave the facility; and
2. Provide a designated pickup and delivery area that includes at least one parking space per 20 children and is located adjacent to the child care center in such a way that children do not have to cross vehicular travel ways to enter or exit the center. Submitted site plan meets this standard.
3. In the DT Downtown District, the City Manager must approve a designated drop-off and pick-up area that, based the maximum capacity of the center as licensed by the State, mitigates traffic congestion and provides for access to the child care center in such a manner that children do not have to cross vehicular travel ways to enter or exit the center. Not in the Downtown District.

c. Accessory Uses

If allowed as an accessory use to a Retail Sales and Service or Office use, the heated floor area of a child care center shall not exceed 20 percent of the heated floor area of the principal use. Not an accessory use.

d. Outdoor Play Areas

1. Outdoor play areas shall be provided, and shall:
 - A. Be located to the side or rear yard areas; To be located in the rear.
 - B. Be completely enclosed by a fence that is at least four feet in height; Play area will be fenced.
 - C. Be safely segregated from parking, loading, or service areas; and Parking will be in the front yard, while the play area will be in the back yard.
2. Outdoor play areas adjacent to a residential lot shall be screened by a six-foot solid fence or wall along with a ten-foot-wide landscaping buffer with evergreen shrubs capable of reaching six feet in height at maturity, planted six feet on-center. Must meet this requirement during TRC review.

e. Capacity Information

Applications or site plans associated with a child care center shall indicate the maximum number of children, proposed hours of operation, and size of the outdoor play area. The center shall have capacity for up to 25 children, according to the application and the it will operate from 6am to 7pm Monday - Friday with additional hours available on Saturday.

2. Child Care Centers (Non-Residential) in Residential Districts

In addition to meeting the standards of 30-4.C.3(a)(1) above, child care centers (non-resident) in residential districts shall meet the following standards:

a. Minimum Lot Size

A child care center (non-resident) shall be located upon a lot of 20,000 square feet in area or more. Lot in question is 20,908

b. Location

1. If not located in a stand-alone building, a child care center shall be segregated (including the restrooms) from the remaining portion of the building in which it is located. Center will be located in a stand-alone building.
2. New child care centers shall be located on a designated major or minor thoroughfare street. Lakewood Drive is designated by the city as a minor thoroughfare.

c. Separation

Child care centers (non-resident) within any residential district shall be at least 1,000 linear feet from any other child care center (non-resident) except as follows. Centers operated in schools, churches and on university campuses in a residential district are exempted from this spacing requirement and will not be considered in the separation requirements for other centers. There has been no evidence provided that another child care center is within 1,000 feet of this structure.

d. Outdoor Play Areas

Child Care Centers (non-resident) in residential districts shall not be operated for outdoor play activities after 8:00 p.m. Hours of operation will end at 7pm.

According to the information provided in and with the application, it appears that the application meets all of the Use-Specific Standards for a Child Care Center.

(2) The special use is compatible with the character of surrounding lands and the uses permitted in the zoning districts(s) of surrounding lands;

According to the application the proposed use is compatible with the overall area as it is a use that can support the adjacent neighborhoods.

(3) The special use avoids significant adverse impact on surrounding lands regarding service delivery, parking, loading, odors, noise, glare, and vibration;

Based on the application, the current site is existing and any additions to the site will have to meet the requirements of the UDO. The site has sufficient on-site parking adjacent to the building.

(4) The special use is configured to minimize adverse effects, including visual impacts of the proposed use on adjacent lands;

According to the applicant, the site is already developed and has been in the area since 1956 and will maintain the look of a residential property.

(5) The special use avoids significant deterioration of water and air resources, wildlife habitat, scenic resources, and other natural resources;

According to the applicant, attached site plan and Cumberland County aerial photography, this property is already developed and the proposed site plan demonstrates how this property meets the requirements of the UDO.

(6) The special use maintains safe ingress and egress onto the site and safe road conditions around the site;

According to the applicant and the site plan, this property is located on a minor thoroughfare road and will provide ingress and egress points as shown on the site plan and as approved by NCDOT to accommodate the proposed use.

(7) The special use allows for the protection of property values and the ability of neighboring lands to develop the uses permitted in the zoning district; and

According to the applicant, the proposed development will protect property values and the ability of neighboring lands to develop the uses permitted in the zoning district. No additional documentation has been submitted showing that property values would be negatively affected.

(8) The Special use complies with all other relevant City, State, and Federal laws and regulations.

The applicant will be required to meet all applicable standards.

Budget Impact:

This action should result in no increase in City services.

Options:

- 1) Approval of the SUP with any conditions listed above (Recommended).
- 2) Approval of the SUP with additional conditions.
- 3) Approval of the SUP without conditions.
- 4) Denial of the SUP

Recommended Action:

OPTION 1

I move to APPROVE the Special Use Permit (SUP) to allow a child care center as indicated by the attached site plan subject to all other conditions identified in and conforming to the current Unified Development Ordinance standards as presented by staff, based on the standards of the City's development code and the evidence presented during this hearing. And that the application is consistent with applicable plans because: (1) the development is located in a Single Family 10 (SF-10) zoning district and (2) that this use complies with the findings listed and (3) the proposed permit is in the public interest because the proposed SUP does fit with the character of the area.

[Applicable to Motion to Approve] If approved, this Special Use Permit shall become effective upon the approval of its Order of Findings by the City Council. The SUP shall expire one year from its

effective date if a building permit is not issued within that time.

*For a motion to approve, all eight findings below must be met:

- (1) The special use will comply with all applicable standards in Section 30-4.C, Use-Specific Standards; [insert supporting facts]
- (2) The special use is compatible with the character of surrounding lands and the uses permitted in the zoning district(s) of surrounding lands; [insert supporting facts]
- (3) The special use avoids significant adverse impact on surrounding lands regarding service delivery, parking, loading, odors, noise, glare, and vibration; [insert supporting facts]
- (4) The special use is configured to minimize adverse effects, including visual impacts of the proposed use on adjacent lands; [insert supporting facts].
- (5) The special use avoids significant deterioration of water and air resources, wildlife habitat, scenic resources, and other natural resources; [insert supporting facts]
- (6) The special use maintains safe ingress and egress onto the site and safe road conditions around the site; [insert supporting facts].
- (7) The special use allows for the protection of property values and the ability of neighboring lands to develop the uses permitted in the zoning district; [insert supporting facts]
- (8) The special use complies with all other relevant City, State, and Federal laws and regulations. [insert supporting facts]

OPTION 2

I move to DENY the Special Use Permit (SUP) to allow a child care center as indicated by the attached site plan, as presented by staff, based on the standards of the City's development code and the evidence presented during this hearing. And that the application does not meet the finding(s) of fact listed below. More specifically finding(s) #_____.]

[Applicable to Motion to Deny] If denied this action shall become effective upon the approval of its Order of Findings by the City Council.]

* For a motion to deny only one of the findings shown below needs to not apply.

- (1) The special use will comply with all applicable standards in Section 30-4.C, Use-Specific Standards; [insert supporting facts]
- (2) The special use is compatible with the character of surrounding lands and the uses permitted in the zoning district(s) of surrounding lands; [insert supporting facts]
- (3) The special use avoids significant adverse impact on surrounding lands regarding service delivery, parking, loading, odors, noise, glare, and vibration; [insert supporting facts]
- (4) The special use is configured to minimize adverse effects, including visual impacts of the proposed use on adjacent lands; [insert supporting facts].
- (5) The special use avoids significant deterioration of water and air resources, wildlife habitat, scenic resources, and other natural resources; [insert supporting facts]
- (6) The special use maintains safe ingress and egress onto the site and safe road conditions around the site; [insert supporting facts].
- (7) The special use allows for the protection of property values and the ability of neighboring lands to develop the uses permitted in the zoning district; [insert supporting facts]
- (8) The special use complies with all other relevant City, State, and Federal laws and regulations. [insert supporting facts]

Attachments:

1. Application
2. Aerial Map

3. Zoning Map
4. Land Use Plan Map
5. Subject Properties
6. Surrounding Properties
7. Site Plan