

Board of Zoning Adjustment

Staff Report

August 21, 2023



Case No:	23-CUP-0174
Project Name:	Busy Kidz Childcare
Location:	7007 Norlynn Drive
Owner(s):	Miriam Thompson
Applicant:	Miriam Thompson
Jurisdiction:	Louisville Metro
Council District:	23 – Jeff Hudson
Case Manager:	Joel Dock, AICP, Planning Supervisor

REQUEST(S)

- **Conditional Use Permit (CUP)** for Child Care Center (LDC 4.2.19)

CASE SUMMARY

A conditional use permit (CUP) for a child care center in a residential zoning district is proposed. The applicant will be requesting a license for a Type II child care facility from the Kentucky Department of Community Based Services, Division of Child care, which allows for the care of no more than 12 children, see Technical Review for detail. Operating hours proposed by the applicant are 7 AM – 6 PM, Monday through Friday. Parking for any non-resident employees, along with pick-up and drop-off will occur in the existing driveway and no parking will be occur on the street. An area for outdoor recreation is available in the rear yard and enclosed by a 6' privacy-style fence.

STAFF FINDING

The conditional use permit is adequately justified for approval based on staff's analysis contained in the standard of review. All standards of the conditional use permit are satisfied.

TECHNICAL REVIEW

- **Child Care (LDC Definition)** – Care for a child in a center or home that regularly provides full or part-time care, day and/or night, and includes developmentally-appropriate play and learning activities. This term includes nursery and kindergartens but does not include schools, care provided as an accessory to a school or provided during services conducted in a religious building or other exemption authorized by the Commonwealth of Kentucky. Child Care is further regulated by Kentucky Administrative Regulations Title 922 (922 KAR).
- **Child Care License Type II.** Child Care is licensed by the Kentucky Department of Community Based Services, Division of Child Care. The applicant will be applying for a Type II license. A licensed type II childcare facility is the primary residence where childcare is regularly provided for at least seven (7), but no more than twelve (12) children, including no more than (12) children related to the licensee. Resource:
<https://www.chfs.ky.gov/agencies/dcbcs/dcc/Pages/childcareproviderinfo.aspx>

STANDARD OF REVIEW FOR CONDITIONAL USE PERMITS

1. Is the proposal consistent with applicable policies of the Comprehensive Plan?

STAFF: The proposal is consistent with the Comprehensive Plan, Plan 2040. No changes in the exterior appearance of the residence which decrease compatibility with the area or the form district are proposed. The proposal advances the equitable distribution of community services and promotes neighborhoods that have access to the resources necessary to maintain health and well-being, including access to child care.

2. Is the proposal compatible with surrounding land uses and the general character of the area including factors such as height, bulk, scale, intensity, traffic, noise, odor, drainage, dust, lighting and appearance?

STAFF: The proposal is compatible with the area and form district as no changes are proposed to the residence which changes the exterior appearance.

3. Are necessary on-site and off-site public facilities such as transportation, sanitation, water, sewer, drainage, emergency services, education and recreation adequate to serve the proposed use?

STAFF: Necessary public facilities to accommodate the proposed child care center are available, including transportation, sanitation, water, sewer, drainage, emergency services, education and recreation.

4. Does the proposal comply with the following specific standards required to obtain the conditional use permit requested?

Child and Adult Care Centers may be allowed in the R-R, R-E, R-1, R-2, R-3, R-4, R-5, U-N, R-5A, R-5B, R-6, PRD, R-7, TNZD, M-1, M-2, and M-3 districts upon granting of a Conditional Use Permit and in compliance with the listed requirements:

A. Existing Residential Structure

1. The structure shall remain, or property improved so that the exterior design and ornamentation is residential in character and compatible with the immediately surrounding neighborhood and form district(s).
2. Should the structure remain, there shall be no alterations or improvements which would impair future use of the structure as a primary residence.
3. Associated off-street parking shall not be located between the principal structure and the front property line or within the street side yard setback, except on driveways leading to the home, rear yard, or garage.
4. Outdoor activities shall be limited to the rear yard, except that corner lots may utilize the street side yard. No play equipment in excess of 4' in height is allowed in the required street side yard of the form district.

B. Industrial Zoning Districts – Standards Not applicable

...

C. Drainage Control – Preliminary plan approval must be received by the Louisville Metro Sewer District (MSD).

D. Fence – A fence shall enclose all areas for outdoor activity.

E. Signs – In residential zoning districts, there shall be allowed one non-illuminated attached business sign not to exceed 4 square feet in area, regardless of the form district. No changing image signs shall be permitted.

F. Hours – No outdoor activities shall occur between the hours of 9 P.M. and 7 A.M., except for pick-up/drop-off.

G. Buildings – All buildings and structures shall conform to the requirements of the zoning and form district in which they are located.

H. The use shall be in compliance with all applicable regulations as administered by the Kentucky Cabinet for Health and Family Services.

STAFF: The proposed conditional use complies with each of the lettered standards of the conditional use permit standards. The existing residential structure will not be modified in a manner which prevents future use as a residence and the license Type II, which will be required, requires that the home remain the primary residence of the operator. The applicant is the primary resident and modifications will not prevent future use as a residence. The applicant will be installing hard-wired smoke detectors and exit signage to comply with licensing requirements of the State. Outdoor activities will occur in the rear yard as shown on the site plan, which is enclosed by a 6' in height privacy-style fence. The current driveway maintained on the subject property will be utilized for pick-up and drop-off, as well as any non-resident employee parking. No signage is proposed. Any new signage will need to comply with the standards of the conditional use permit. Preliminary plan approval from Transportation Planning and MSD has been received. Hours of operation will be from 7 AM – 6 PM.

REQUIRED ACTIONS

- **Conditional Use Permit (CUP)** for Child Care Center (LDC 4.2.19)

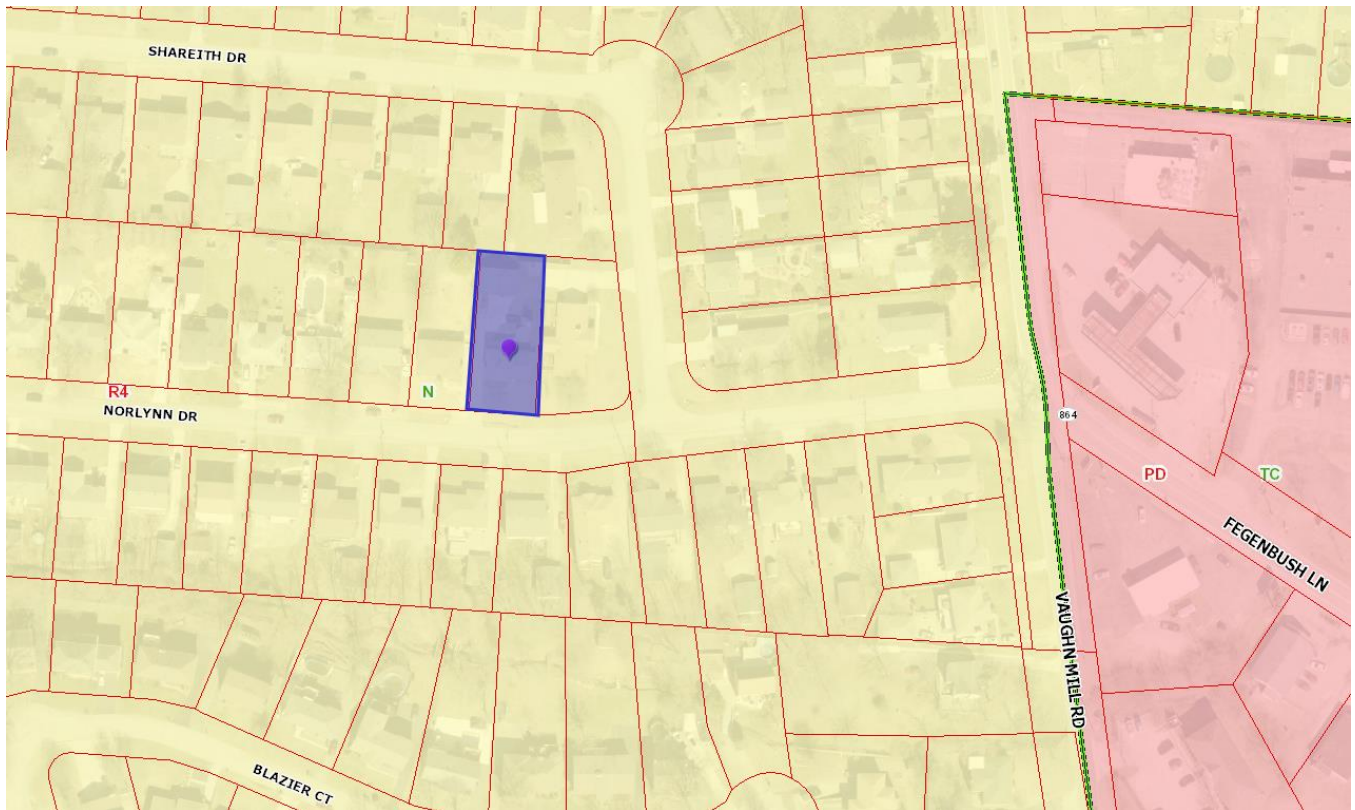
NOTIFICATION

Date	Purpose of Notice	Recipients
8/4/23	Hearing before BOZA	1 st and 2 nd tier adjoining property owners and residents Registered Neighborhood Groups in Council District 23
8/4/23	Sign Posting	Sign Posting

ATTACHMENTS

1. Zoning Map
2. Aerial Map
3. Proposed Conditions of Approval

1. Zoning Map



2. **Aerial Map**



3. Proposed Conditions of Approval

1. The site shall be developed in strict compliance with the approved development plan (including all notes thereon). No further development shall occur on the site without prior review and approval by the Board.
2. The Conditional Use Permit shall be "exercised" as described in KRS 100.237 within two years of the Board's vote on this case. If the Conditional Use Permit is not so exercised, the site shall not be used for a child care center until further review and approval by the Board.
3. The child care center shall be limited to a maximum of 12 children.
4. Passenger pick-up/drop-off shall occur in the driveway of the residence as designated on the approved plan. No pick-up/drop-off shall occur in the right-of-way.