

Board of Zoning Adjustment Staff Report

May 7, 2018



Case No.	18CUP1030
Project Name	CUP Modification
Location	1933 W. Madison Street
Owner	Love & Prayer Childcare LLC
Applicant	Love & Prayer Childcare LLC
Jurisdiction	Louisville Metro
Council District	4 – Barbara Sexton Smith
Case Manager	Beth Jones, AICP, Planner II

REQUEST

Modification of Conditional Use Permit to allow a daycare center to operate in an R-6 zoning district (LDC 4.2.19)

CASE SUMMARY / BACKGROUND

The applicant was granted a CUP to operate a daycare center on the site in 2011 (B-16038-11). Condition of Approval #5 limits the number of employees on site at any given time to three. Condition of Approval #6 permits up to 20 children to be served on the site at any given time.

According to state statutes, the number of permitted children to be served is based on the square footage of the facility, and the number of required staff is based on the number of children served. The facility is now serving up to 20 children as previously permitted by the CUP; a maximum of eight staff will be on site at any given time. The applicant is requesting a modification of Condition of Approval #5 to accommodate additional required staffing levels.

Two parking spaces are accessible via Stone Alley at the rear of the site. The property frontage is set aside for pick-up/drop-off by users of the facility. On-street parking sufficient to accommodate up to six vehicles appears to be available in the vicinity. The number of parking spaces required may be initially determined by and later modified by BOZA at the request of the owner of the premises (LDC 4.2.19.E.).

Transit stops on W. Muhammad Ali and Dr. W.J. Hodge Street serve Routes 19, 21 and 22. According to the applicant, previous and current staff members use transit services rather than driving personal vehicles to work.

STAFF FINDING

The applicant's request meets the standard of review for the requested CUP modification.

Based upon the information in the staff report, the testimony and evidence provided at the public hearing, the Board of Zoning Adjustment must determine if the proposal meets standards as established by the Land Development Code for modifying the existing Conditional Use Permit.

TECHNICAL REVIEW

No outstanding technical issues remain to be resolved.

INTERESTED PARTY COMMENTS

No neighborhood meeting is required for CUP Modification requests. Staff has received no comments regarding the proposal.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR CONDITIONAL USE PERMIT

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

STAFF: The modification is consistent with Comprehensive Plan policies regarding use as a daycare center.

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

STAFF: The modification makes no changes to the existing site or structure.

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: The subject property is served by existing public utilities and facilities. The proposal will not create substantial additional requirements for the site, with the possible exception of parking.

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

Day Care Facilities may be allowed in the R-R, R-E, R-1, R-2, R-3, U-N, R-5A, R-5B, R-6, and R-7 districts upon the granting of a Conditional Use Permit and in compliance with the listed requirements.

A. Signs - There shall be allowed one non-illuminated sign identifying the name and use, which sign shall be limited in size to four square feet and be placed on the building.

STAFF: The applicant is proposing no changes to existing conditions.

B. Residential Structure - The structure shall remain or shall be constructed so that the exterior design and ornamentation is residential in character and compatible with the immediate neighborhood, so that there is no evidence from the street that the use is other than residential (except for the sign).

STAFF: The applicant is proposing no changes to existing conditions.

C. Alterations or Improvements to the Structure - Where such a use is permitted in a structure which has been used as a residence, the permittee shall make no substantial alterations or improvements to the structure which would impair the structure's use as a residence at a later time.

STAFF: The applicant is proposing no changes to existing conditions.

D. On-Site Drop-off and Pick-up Area - An on-site area shall be provided where passengers from automobiles may safely exit the automobile and enter the building and vice versa. The design of this area must be approved by the appropriate agency responsible for transportation planning.

STAFF: The property frontage is set aside for pick-up/drop-off by users of the facility.

E. Parking Spaces - The appropriate number of parking spaces shall be provided for members of the day care center staff. The number of parking spaces required pursuant to this section shall be determined by the Board of Zoning Adjustment, and may thereafter be modified by the Board of Zoning Adjustment by petition from the owner of the premises granted a Conditional Use Permit or upon recommendation from the zoning inspector or other authorized personnel after an annual inspection of the premises or other such inspection. The parking layout must be approved by the appropriate agency responsible for transportation planning.

STAFF: Available on- and off-street parking and transit service is sufficient to accommodate the maximum staff of eight per shift.

F. Drainage Control - The development plan shall have the approval of the appropriate agency responsible for surface drainage control.

STAFF: The applicant is proposing no changes to existing conditions.

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

STAFF: The applicant is proposing no changes to existing conditions.

H. Fence - A fence with a minimum height of 4 feet shall be erected around the outdoor play area.

STAFF: The applicant is proposing no changes to existing conditions.

I. Alterations or Improvements to the Property – Where such a use is permitted on a lot with an existing residential structure; the residential character of the lot shall not be disturbed by exterior changes to the property that are visible from the public street. Off-street parking shall not be located within the front and/or street-side yards. Drop- off and pick-up shall not be located in front yard and/or street-side yard of the existing residential structure, except for driveways approved by Metro Public Works.

STAFF: The applicant is proposing no changes to existing conditions.

J. Conditional use permits for Day Care Facilities in R-4 and R-5 zoning districts issued prior to the effective date of this ordinance (March 9, 2011) may continue to operate as authorized under the approved conditional use permit. Upon request by an applicant, such conditional use permits may be modified in any manner the Board determined, in its discretion, to be appropriate.

STAFF: As the site is located in an R-6 zone, this condition does not apply.

NOTIFICATION

Date	Purpose of Notice	Recipients
None Required	Hearing before BOZA	1st and 2nd tier adjoining property owners Registered Neighborhood Groups for Council District 4
		Sign Posting

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Existing Conditions of Approval
4. Proposed Conditions of Approval

1. Zoning Map



2. Aerial Photograph



3. Existing 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 by and approval of the Board.
2. The Modified 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 daycare center without further review by and approval of the Board.
3. Proposal is subject to full construction plans being submitted to the Department of Public Works for traffic and MSD for storm water approvals. Once those have been approved, the plan is subject to Inspections, Permits and Licenses for building/parking permits.
4. The daycare shall be open Monday through Friday, 6:00a.m. to 12:00 midnight with 2 shifts 6:00 a.m. to 4:00 p.m. and 4:00 p.m. to 12:00 midnight.
5. The maximum number of employees on site at any given time shall be 3.
6. The maximum number of kids on site at any given time shall be 20.

4. 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 by and approval of the Board.
2. The Modified 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 daycare center without further review by and approval of the Board.
3. Proposal is subject to full construction plans being submitted to the Department of Public Works for traffic and MSD for storm water approvals. Once those have been approved, the plan is subject to Inspections, Permits and Licenses for building/parking permits.
4. The daycare shall be open Monday through Friday, 6:00a.m. to 12:00 midnight with two shifts, 6:00 a.m. to 4:00 p.m. and 4:00 p.m. to 12:00 midnight.
5. The maximum number of employees on site at any given time shall be eight.
6. The maximum number of kids on site at any given time shall be 20.