

**AGENDA REPORT  
PLANNING AND ZONING COMMISSION MEETING  
May 19, 2022**

**SUMMARY**

A request by Anderson Engineering (applicant), on behalf Sunshine Family Home Center LLC (owner), seeking approval of a major PD amendment and design adjustment related to sidewalk construction. The intent is to allow the existing site to be used as a "Family day care center". The subject property is located northeast of the intersection of Holly Avenue and Andy Drive and is addressed 2207 Holly Avenue. **(Case #156-2022)**

**DISCUSSION**

In 2009, the property was rezoned to O-P (Planned Office District) to allow minimal commercial activity in a residential context. Previously, the building was occupied by a church and was repurposed to be used as a funeral home. As of 2020, the building was again repurposed to facilitate a commercial day care which was not permitted per the 2009 rezoning. At this time, the owner desires to revise the Statement of Intent (SOI) to legalize the current use of the property thereby resolving their zoning compliance with the state licensure.

The existing zoning was granted under a 'Simplified O-P' zoning that did not require a development plan. That option is not available within the UDC adopted in 2017. Revising allowed uses on PD zoned property constitutes a major amendment which requires concurrent approval of a Planned Development Plan. While a PD Plan is submitted with this application to comply with current requirements, the owner does not intend to develop or redevelop the site in any fashion. Any future development would require an additional major amendment to the planned district.

The existing zoning ordinance allows for all R-1 uses in addition to a mortuary, minus a crematory. R-1 zoning in 2009 allowed a daycare center with conditions that the subject site is the operator's private residence and the use is limited to no more than six children. Currently, the owner lives off-site and currently has a state license for 39 children. The request is to essentially allow a commercial daycare instead of a home-based daycare by removing these conditions. Aside from a planned district, this type of daycare would be allowed by-right in R-MF (Multi-family dwelling) or any mixed-use district. It should be noted that the Funeral home use would only be permitted by-right in M-C (Mixed-use Corridor).

Although daycare centers are more active throughout the week than a funeral home, their peak traffic is less impactful when comparing funeral processions to day-to-day operations of the daycare. The proposed daycare use is directly serving to the neighborhood in which it is located which is strongly supported by Columbia Imagined's policy to support Livable and Sustainable Communities. At its current scale, the daycare use is more cohesive with the surrounding residential area than other office or commercial uses. The proposed use change, at its existing neighborhood-scale, would have minimal impact compared to what is presently allowed.

The existing zoning ordinance and SOI specifically did not require design parameters for the planned district and allowed for several reduced setbacks. The proposed revised SOI carries over the 35' height restriction, minimum 25% open space requirement, and maximum building footprint. It also carries over reduced setbacks where applicable; 2.5' interior side yard and reduced 3' setback for parking adjacent to residential which is also addressed via a design exception shown on the PD plan. Sufficient parking is provided on site to meet the minimum UDC standards for a daycare center and is shown on the PD plan. While denoted with striping on the PD plan, no new parking areas are being proposed.

The setbacks for street frontages and the rear yard are all 25' which is consistent with surrounding R-1 zoning. The establishment of the 25' front yard setback does create a legal, non-conformity as the existing building would encroach into the front yard. Any building expansion would not be able to exacerbate the non-conformity or encroach any further into the required front yard. Additionally, any expansion would require a major PD amendment to revise the PD plan and statement of intent.

The proposed development plan serves as the preliminary plat and meets the minimum requirements of the UDC. The existing building, parking lot, and landscaping are to remain. Sidewalks are required along both the Holly Avenue and Andy Drive frontages. The applicant is proposing to construct the sidewalk along Holly Avenue, connecting it to the eastern sidewalk, but requests a design adjustment from the requirement to construct sidewalk along Andy Drive which is discussed in greater detail below.

The existing facility currently has direct access to Holly Avenue. No additional right-of-way dedication for either street is required except for a corner truncation where these two streets intersect. The corner truncation and standard 10' utility easements are shown on the plan.

As no development or redevelopment is proposed, a landscape plan is not required. The 2009 ordinance established that the existing screening on the eastern property line was wooded and sufficient for a commercial property adjacent to residential which, aside from the parking setback addressed below, is still compliant with the UDC today. The northern property line requires a level 3 screening buffer containing an 8' tall fence and 10' landscape buffer. The applicant requested a partial waiver from this requirement.

As previously mentioned, the applicant is requesting two design exceptions to the underlying zoning requirements, which would otherwise require BOA approval if not for the PD plan request. Additionally, the applicant is requesting one design adjustment from the subdivision requirements given the PD Plan serves as the preliminary plat. The requests are noted below.

***Design Exception from 29-4.3(g)(1): Residential setback***

The applicant has requested an exception to the requirement that "No parking shall be permitted within six (6) feet of an adjoining lot containing a single- or two-family use". This requirement would have the effect of making the existing parking on the eastern property line a legal, non-conformity. It's important to note that the existing parking is setback 3' from the residential property and was previously granted this 3' variance under the existing O-P zoning ordinance due to existing conditions and screening

The applicant requests an alternative parking setback of 3' rather than the 6' required by 29-4.3(g)(1) as to maintain the parking in its currently permitted state. If the full 6' is required, any future site work regarding parking would need to address the existing conditions on this portion of the site including parking layout, drive aisle, driveway, and building footprint. The eastern property line is landscaped and heavily wooded thus providing a natural, vegetative buffer between the parking and the residential property to the east. The provision of 3 additional feet of buffer is not a significant benefit when considering existing conditions. Staff supports the requested design exception.

***Design Exception from 29-4.4(e) and Table 4-4.4: Property edge buffering***

The applicant has requested an exception to the requirement that this commercial property provide a level 3 screening buffer adjacent to the residential property to the north. The level 3 buffer requires an 8' screening device and landscape buffer along the northern property boundary. The boundary currently contains a chain-link fence and 6' wooden privacy fence. The level 3 buffering requirement would require both fences to be removed and replaced with an 8' tall fence in addition to a 10' wide vegetative buffer.

As an alternative, the applicant proposes a level 2 buffer containing a 6' tall fence and 4' wide vegetative buffer. The existing privacy fence would remain but the chain-link fence would be replaced with fencing similar to what exists today. The applicant would install a 4' vegetative buffer containing planting materials consistent with 29-4.4(e) of the UDC.

While there is a screening benefit to the residential property in replacing the chain-link fence with a 6' screening device, there is not a significant benefit to replacing the existing 6' fence with a slightly taller fence. Vegetative buffers are required to be installed on the applicant's side of the screening device. There currently isn't enough room to provide a 10' wide vegetative buffer between the existing parking lot and fence as the narrowest portion is approximately 5' wide. There is, however, room to provide a 4' wide landscape strip which is consistent with a level 2 buffer. If a 10' buffer was required, significant site work would be required to reconfigure the existing parking lot. The proposed level 2 screening buffer brings the site further into compliance with the code and can be allowed via the design exception and PD process. Staff supports the requested design exception given the existing conditions and additional work required to accommodate the level 3 screening and buffering requirement.

***Design Adjustment from 29-5.1(d): Sidewalks***

Sidewalk construction on the site's two roadway frontages is required per the UDCs subdivision standards. The applicant seeks to have the installation of sidewalk along the site's 270' of Andy Drive frontage waived. The applicant is proposing to construct sidewalk along their Holly Avenue frontage. The requested waiver has been evaluated based upon five criteria as required by Section 29-5.2(b)(9) of the UDC.

**(i)The design adjustment is consistent with the city's adopted comprehensive plan and with any policy guidance issued to the department by council;**

Overall, sidewalks are consistent with the City's Comprehensive Plan goals regarding 'Livable and Sustainable Communities' and 'Mobility, Connectivity, and Sustainability' thus waiver of sidewalk would not be consistent with the Plan. Andy Drive is an improved street with curb and gutter which deems Policy Resolution 48-06A as not applicable. **NOT SUPPORTED**

**(ii)The design adjustment will not create significant adverse impacts on any lands abutting the proposed plat, or to the owners or occupants of those lands;**

Construction of sidewalk would connect to existing sidewalk on Holly Avenue. A waiver of the sidewalk would remove the obligation to provide direct pedestrian connectivity which could hamper future projects that propose to construct sidewalks in the area. **NOT SUPPORTED**

**(iii)The design adjustment will not make it significantly more difficult or dangerous for automobiles, bicycles, or pedestrians to circulate in and through the development than if the subdivision standards of section 29-5.1 were met;**

Installation of sidewalk in this area would extend pedestrian connectivity to Andy Drive where it is currently lacking. In general, the lack of sidewalks does present a danger to pedestrians. **NOT SUPPORTED**

**(iv)The design adjustment is being requested to address a unique feature of the site or to achieve a unique design character, and will not have the effect of decreasing or eliminating installation of improvements or site features required of other similarly situated developments; and**

The applicant cites existing slope and elevation different from the street curb to on-site parking as unique features. The applicant states constructing sidewalk along this frontage will require significant regrading and installation of a retaining wall.

Per Public Works, there would be minimal grading south of the existing curb cut on Andy Drive. Construction north of the driveway would require some grading and a short retaining wall. These are not unique features. Waiver of this request could be seen as inconsistent when requiring construction of improvements for developments with similar site features. **NOT SUPPORTED**

**(v)The design adjustment will not create adverse impacts on public health and safety.**

As previously stated, a waiver of sidewalk construction on Andy Drive would waive the requirement to directly connect sidewalk to the pedestrian network. In general, the lack of sidewalks presents a danger to pedestrians. **NOT SUPPORTED**

The design adjustment is not consistent with any of the five criteria detailed in 29-5.2(b)(9) as evaluated by staff and is not supported by Public Works.

### ***Conclusion***

Relevant internal staff and external agencies have reviewed the proposed PD plan and find that, with the exception of the requested design exceptions and design adjustment, it meets the technical requirements of the PD district and the UDC.

While staff supports the revised statement of intent and requested design exceptions, the requested design adjustment is not supported. This waiver is a technical requirement for the PD Plan associated with platting. The PD Plan cannot be recommended for approved without being revised to show sidewalk construction or having a design adjustment granted. Additionally, the SOI and PD Plan must be approved together.

### **RECOMMENDATION**

Deny the requested design adjustment, PD Plan to be known as *Sunshine Early Care and Education Center*, and the associated design exceptions to Section 29-4.3(g)(1), 29-4.4(e), and Table 4-4.4.

Alternatively, if the Commission finds that the criteria for the design adjustment are met and the waiver is granted then the SOI, PD Plan, and design exceptions may be approved.

### **SUPPORTING DOCUMENTS (ATTACHED)**

- Locator maps
- PD Plan
- Statement of Intent
- Design Adjustment Worksheet
- O-P Ordinance (2009)

## **SITE CHARACTERISTICS**

<b>Area (acres)</b>	1.49
<b>Topography</b>	Generally flat
<b>Vegetation/Landscaping</b>	Trees lining eastern property line
<b>Watershed/Drainage</b>	Bear Creek Watershed
<b>Existing structures</b>	Church building, adapted for funeral home

## **HISTORY**

<b>Annexation date</b>	1962
<b>Zoning District</b>	O-P (Planned Office District)
<b>Land Use Plan designation</b>	Employment
<b>Previous Subdivision/Legal Lot Status</b>	Unplatted

## **UTILITIES & SERVICES**

All utilities and services provided by the City of Columbia.

## **ACCESS**

<b>Holly Avenue</b>	
<b>Location</b>	South
<b>Major Roadway Plan</b>	None
<b>CIP projects</b>	None
<b>Sidewalk</b>	None; Sidewalk located directly to the East

<b>Andy Drive</b>	
<b>Location</b>	West
<b>Major Roadway Plan</b>	None
<b>CIP projects</b>	None
<b>Sidewalk</b>	None

## **PARKS & RECREATION**

<b>Neighborhood Parks</b>	Albert-Oakland Park, 1/3-mile NW; Kyd Park, ¼-mile W
<b>Trails Plan</b>	Existing Bear Creek Trail, 1/3-mile NW; Proposed COLT RR Trail, 900' SE
<b>Bicycle/Pedestrian Plan</b>	None

## **PUBLIC NOTIFICATION**

All property owners within 200 feet and City-recognized neighborhood associations within 1,000 feet of the boundaries of the subject property were notified of this pending request on April 22, 2022. 32 postcards were distributed.

Report prepared by Brad Kelley

Approved by Patrick Zenner