

STAFF REPORT ON PETITION FOR ZONE MAP AMENDMENT

MAR 2014-4: KID'S HOUSE

DESCRIPTION

Zone Change: From a Single Family Residential (R-1C) zone
To a Professional Office (P-1) zone

Acreage: 1.083 Net (1.219 Gross) Acre

Location: 1449 – 1451 Bryan Avenue

EXISTING ZONING & LAND USE

<u>Properties</u>	<u>Zoning</u>	<u>Existing Land Use</u>
Subject Property	R-1C	Day Care Center
To North	R-1C	Regional Detention Basin
To East	R-1C	Church
To South	R-1C	Single Family Residential
To West	R-1C	Single Family Residential

URBAN SERVICES REPORT

Roads – Bryan Avenue is a minor arterial that connects Loudon Avenue (to the southwest, very near North Limestone) to East New Circle Road (KY 4). As the roadway crosses New Circle Road, Bryan Avenue becomes Bryan Station Road (KY 57). The subject property is located on the north side of Bryan Avenue, across from and between its intersections with two local residential streets, Meadow Park and Emerson Drive. The signalized intersection of Bryan Avenue/Bryan Station Road and New Circle Road is approximately 600 feet to the northeast of the property.

Curb/Gutter/Sidewalks – Curb, gutters and sidewalks exist along the north side of Bryan Avenue, including the frontage of the subject property; however, these facilities have not been constructed across the street. No further improvements are expected in association with the proposed zone change, as there are no physical changes proposed to this site.

Storm Sewers – The subject property is located within the Cane Run watershed. A regional detention basin was constructed to the rear of the subject property, across the McCloy Alley right-of-way, which helps to manage stormwater. As a result, there are no known flooding problems in this immediate area.

Sanitary Sewers – The subject property is located within the Cane Run sewershed, and it is serviced by the Town Branch sewage treatment facility. Since no changes are planned for the existing child care center, no change in sanitary sewer demand is expected with the requested zone change. If the property were to redevelop with a more typical professional office use, capacity of the sanitary sewer system would need to be evaluated at that time.

Refuse – The Urban County Government provides refuse collection to residences within this portion of the Urban Service Area on Tuesdays, although commercial developments oftentimes hire private refuse collection contractors for more frequent collection.

Police – The property is located within the Central Sector and is served by the Central Sector Roll Call Center. This police station is located on Goodwin Drive near the intersection of Winchester Road and Industry Road, about one mile to the southeast of the subject property.

Fire/Ambulance – The nearest fire station is Station #2, located on New Circle Road near Meadow Lane. The fire station is less than ½ mile to the southeast of the subject property.

Utilities – All utilities, including electric, gas, water, telephone, and cable service currently serve this area and the subject property.

COMPREHENSIVE PLAN AND PROPOSED USE

The 2013 Comprehensive Plan's mission statement is to "provide flexible planning guidance to ensure that development of our community's resources and infrastructure preserves our quality of life, and fosters regional planning and economic development." The mission statement notes that this will be accomplished while protecting the environment, promoting successful, accessible neighborhoods, and preserving the unique Bluegrass landscape that has made Lexington-Fayette County the Horse Capital of the World.

The subject property is located within the boundary of the Central Sector Small Area Plan (CSSAP) and Subarea "D", adopted by the Planning Commission in April 2009. The CSSAP makes no specific land use or corridor recommendations for the Bryan Avenue area, but does encourage the development of neighborhood service nodes that offer a variety of products and services (Principle #2: Redevelopment and Investment, Goal #1). The petitioner proposes to rezone the property in order to become fully compliant as a commercial child care center, because the use is non-conforming in the current zone.

CASE REVIEW

The petitioner has requested a zone change from a Single Family Residential (R-1C) zone to a Professional Office (P-1) zone for slightly more than one acre of property located at 1449 and 1451 Bryan Avenue.

The subject property is located on the north side of Bryan Avenue, southwest of its signalized intersection with East New Circle Road. The property is located across Bryan Avenue, directly between two intersections with local residential streets that run from the south and connect to Bryan Avenue (Meadow Park and Emerson Drive). The property is surrounded by Single Family Residential (R-1C) zoning, although the land uses vary within the immediate area. The right-of-way of McCloy Alley and a regional detention basin border the site to the north, single family residences exist to the south and west, and a church borders the property to the immediate east. The adjacent church provides off-street parking for this use. Further to the east are highway service business land uses, such as a Ken Towery's Center (tire sales and automobile repair), a Walgreen's drug store, and a Chevron gas station.

The petitioner proposes rezoning the subject property to a P-1 zone in order to bring the existing child care center into compliance with local zoning regulations at the request of the agency that oversees child care in the Commonwealth of Kentucky. The child care center was first granted approval from the Board of Adjustment in 1977 as a conditional use in the R-1C zone for the care of a maximum of 60 children. Since that time, the Zoning Ordinance was modified to make child care centers a conditional use only when accessory to a church, school or private club. This change to the Ordinance decades ago made the child care center on the subject property a legal non-conforming use. In 2005, the Board of Adjustment granted approval for the child care center to care for 60 children on each of two, 9-hour shifts, with a limit of 83 children during any overlap periods. No enrollment increase was proposed, which is still the case, and the Board's approval was used to demonstrate to the state that local zoning regulations were being adhered to. According to the applicant, the state agency has continued to question the compliance with local zoning regulations, as recently as 2013, even though the number of children cared for has not changed over the years since it was first approved by the Board of Adjustment.

The subject property is located within the boundary of the Central Sector Small Area Plan (CSSAP) and more specifically, Subarea "D", which was adopted by the Planning Commission in April 2009, and incorporated into the 2013 Comprehensive Plan. The CSSAP makes no specific land use or corridor recommendations for the Bryan Avenue area near New Circle Road, but does encourage the development of neighborhood service nodes that offer a variety of products and services (Principle #2: Redevelopment and Investment, Goal #1).

The applicant contends that the proposed P-1 zoning is appropriate and the existing R-1C zoning is not appropriate. The staff agrees with this assessment. First, the existing use has been located on the property for over 35 years, making it a stable land use, and it is unlikely to relocate. The P-1 zoning will bring the land use into compliance with the local zoning regulations again, as requested by the state oversight agency. Also, the child care center, combined with the adjoining church use, create an appropriate transition from the more intense highway service business uses along New Circle Road to this neighborhood. The child care center is a step down in land use as it adjoins single-family residential dwellings. The child care center, along with the church and several other small businesses along the Bryan Avenue corridor, create a neighborhood service node for the Castlewood and Meadow Park neighborhoods in this portion of the Central Sector, as recommended in Principle #2, Goal #1 of the CSSAP.

The Staff Recommends: **Approval**, for the following reasons:

1. The Central Sector Small Area Plan (CSSAP), adopted by the Planning Commission in 2009, and incorporated into the 2013 Comprehensive Plan, encourages the development of neighborhood service nodes that offer a variety of products and services (Principle #2: Redevelopment and Investment, Goal #1). The existing child care center provides a necessary neighborhood service for the immediate area, and helps to implement that recommendation.
2. The proposed Professional Office (P-1) zoning is appropriate, and the existing Single-Family Residential (R-1C) zoning is inappropriate, for the following reasons:
 - a. The existing use has been located on the property for over 35 years; thus, it is a stable land use and is unlikely to relocate.
 - b. A child care center is a principal permitted use in the P-1 zone; thus, the rezoning will bring the use into compliance with the local zoning regulations as it was in 1977, as requested by the state oversight agency.
 - c. The child care center, combined with the adjoining church use, create an appropriate transition from the more intense highway service business uses along New Circle Road. The child care center is a step down in land use as it adjoins single-family residential dwellings.
 - d. The child care center, along with the church and several other small businesses along the Bryan Avenue corridor, create a neighborhood service node for the Castlewood and Meadow Park neighborhoods in this portion of the Central Sector.
3. This recommendation is made subject to the approval and certification of ZDP 2014-18: KID'S HOUSE, prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.

TLW/BJR/WLS

3/5/14

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