

1. LITTLE BEGINNERS CHILD DEVELOPMENT CENTER ZONING MAP AMENDMENT & LITTLE BEGINNERS CHILD DEVELOPMENT CENTER (FKA GRACE APOSTOLIC CHURCH) ZONING DEVELOPMENT PLAN

- a. MARC 2014-9: LITTLE BEGINNERS CHILD DEVELOPMENT CENTER (6/29/14)* – petition for a zone map amendment from a Single Family Residential (R-1B) zone to a Planned Neighborhood Residential (R-3) zone, for 0.91 net (1.00 gross) acre, for property located at 474 Stone Road. A conditional use permit is also requested with this zone change.

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 petitioner proposes to rezone the subject property in order to establish a child care center to care for 85 children on the property. A conditional use permit has also been requested as part of this zone change.

The Zoning Committee Recommended: Approval, for the reasons provided by staff.

The Staff Recommended: Approval, for the following reason:

1. The proposed Planned Neighborhood Residential (R-3) zoning is appropriate and the existing Single Family Residential (R-1B) zoning is inappropriate, for the following reasons:
 - a. The subject property is surrounded by residential zoning; thus, the proposed R-3 zone is compatible with the adjacent zoning. Other zoning categories that permit child care centers, such as a Professional Office (P-1) or Neighborhood Business (B-1) zone, could permit more intense commercial uses at this location.
 - b. The proposed child care center, similar to the church, acts as an appropriate buffer and transitional land use between the residential neighborhoods to the west and north, and the Kentucky Utilities facility to the south.
 - c. The R-1B zoning is inappropriate because the site has never been used for a residential use, and no more than one single family residence could be located on the site without construction of a public street. The site is currently underutilized, and if it remained zoned R-1B that would continue to be the case. Absorbing vacant and underutilized land inside of the Urban Service Area is consistent with the 2013 Comprehensive Plan.
 - d. A child care center is a beneficial and necessary neighborhood service for this portion of the Urban Services Area.
 - e. Rezoning the property to an R-3 zone will allow a greater number and variety of uses on the site that can act as a buffer between the Kentucky Utilities facility to the south and the single-family residential uses to the north and west.
2. This recommendation is made subject to the approval and certification of ZDP 2014-39: Little Beginners Child Development (fka Grace Apostolic Church), prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.

b. REQUESTED CONDITIONAL USE

1. Child Care Center

The Staff Recommends: Approval, for the following reasons:

- a. A child care facility at this location, operated under typical days and times, should not adversely affect the subject or surrounding properties. A church has existed at this location for about 50 years, and the similar use of a child care center should not cause a problem if it continues as the principal use of the property. The existing building, the parking, and other facilities can easily accommodate the proposed use.
- b. All necessary public facilities and services are available and adequate for the proposed use, including sanitary sewer service available in this area under the Capacity Assurance Program.

This recommendation of approval is made subject to the following conditions:

1. Provided the Urban County Council rezones the subject property R-3; otherwise, any Planning Commission action of approval is null and void.
2. Should the property be re-zoned to R-3 by the Council, it shall be developed according to the submitted Zoning Development Plan, or as further amended by the Planning Commission.
3. All necessary permits shall be obtained from the Division of Building Inspection prior to any construction; and prior to occupancy of the new facilities a Zoning Compliance Permit and a Certificate of Occupancy shall be obtained from the Division of Planning and the Division of Building Inspection, respectively.
4. The parking lot and driveways shall be paved, with spaces delineated, and landscaped in accordance with Articles 16 and 18 of the Zoning Ordinance, with a minimum of 14 off-street parking spaces.

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5. Signage shall comply with Article 17 of the Zoning Ordinance for this use.
 6. That the hours of operation be from 6:00 am to 6:00 pm, Monday through Friday.
 7. A fenced and screened play area shall be established on the property that is no less than 2,125 square feet in size.
 8. That the child care center be limited to a maximum enrollment of eighty five (85) children, or as allowed by the State based on the square footage of the building. Should the applicant desire to accommodate any more than 85 children in the future, approval will be required by the Board of Adjustment.
- c. ZDP 2014-39: LITTLE BEGINNERS CHILD DEVELOPMENT (FKA: GRACE APOSTOLIC CHURCH) (6/29/14)*
- located at 474 Stone Road. (Moore Surveying)

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:

1. Provided the Urban County Council rezones the property R-3; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
3. Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
4. Building Inspection's approval of landscaping and landscape buffers.
5. Urban Forester's approval of tree inventory map.
6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Division of Waste Management's approval of refuse collection locations.
8. Denote construction access location.
9. Complete exterior dimensions of building on plan.
10. Denote height of building (in feet).
11. Denote floor area of structure(s) in site statistics.
12. Denote proposed and existing easements on plan.
13. Addition of tree protection information.
14. Addition of street frontage in site statistics.
15. Addition of building line setback on plan.
16. Delete note #1.
17. Clarify street cross-section for Stone Road.
18. Denote Planning Commission's approval of the Conditional Use Permit on plan.
19. Resolve extent of improvements for entrance (apron) to the approval of the Division of Traffic Engineering.

Zoning Presentation: Ms. Wade presented the staff report, explaining that the subject property is surrounded on three sides by single family residential zoning, with R-1B to the south, and R-1C to the north and west. Across the railroad to the east are areas of B-4 and I-1 zoning, with a Kentucky Utilities facility to the south. To the north and west are the Open Gates and Stonegate subdivisions.

Ms. Wade displayed several photographs of the subject property, noting that the existing structure, which was constructed in the 1950s, was previously used as a church. There was an approved conditional use permit for the site, which has been vacant for approximately a year. The petitioner has purchased the property and proposes to remodel the existing building for use as a childcare center for up to 85 children. The petitioner is requesting a conditional use permit for a childcare facility, which will require the construction of a play area on the property, as part of this application. The petitioner is also proposing to construct some right-of-way improvements to Stone Road, as such improvements have already been provided to the north and south of the subject property. Ms. Wade noted that there is an existing parking area on the property, with an area of open space to the rear.

Ms. Wade said that the petitioner contends that the existing R-1B zoning is inappropriate for the subject property, and the proposed R-3 zone is appropriate. The petitioner noted, as part of their justification, that the subject property has never been used for a single-family residence; it has always contained a church, which is a semi-public use. The petitioner believes that the property is underutilized, since it is vacant; and they contend that the proposed R-3 zone will allow for a greater number of conditional uses, all of which would provide appropriate buffers between the existing single-family residences to the north, and the Kentucky Utilities facility to the south. The R-3 zone would also continue to allow residential use at this location. Ms. Wade explained that the staff noted in their report that, beyond the adjoining properties, Stone Road has a mixture of land uses, including mini-warehouses, a private school, and small-lot industrial uses near New Circle Road. The staff believes that, although the loss of a church could be detrimental to the neighborhood, the addition of a childcare facility could be an asset by improving the livability of this portion of the county and providing a family-oriented service. The petitioner also contended that the proposed R-3 zone is consistent with the surrounding land uses, and with the 2013 Comprehensive Plan. Ms. Wade stated that, although no residential use is planned for the subject property, the R-3 zone is appropriate because it is compatible with the surrounding zoning. The staff believes that a P-1 or B-1 zone would be more intense than would be desirable at this location, given its proximity to single-family residences. She said that the staff and the Zoning Committee recommended approval of this request, for the reasons as listed in the staff report and on the agenda.

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Commission Question: Mr. Penn asked how the Kentucky Utilities property was zoned. Ms. Wade answered that it was zoned R-1B, and noted that utilities are not required to adhere to local zoning regulations.

Development Plan Presentation: Ms. Gallt presented the staff recommendation for the corollary zoning development plan, referring to a rendered copy of the plan. She stated that the existing building is north of the Kentucky Utilities site, with existing off-street parking located in the rear.

Ms. Gallt stated that the Subdivision Committee reviewed the plan, and recommended 19 conditions for its approval, as listed on the agenda. Conditions #8 through #15 refer to small corrections needed to the plan; #16 refers to a note that does not need to be included on the plan, since it was filed as a Final Development Plan; #17 refers to a street cross-section that the staff believes was mislabeled; and condition #19 refers to improvements to the street and driveway apron. Ms. Gallt said that there was some discussion at the Subdivision Committee meeting about needed improvements to Stone Road, including the need to connect the existing sidewalk system. There was also discussion about the driveway apron, which is only 22' wide. The Division of Traffic Engineering would prefer for the driveway apron to be widened, in order to provide a sufficient turning radius. The staff believes that it would be appropriate to add a note to the plan to resolve that issue prior to issuance of a Certificate of Occupancy for the new childcare facility.

Commission Question: Ms. Plumlee asked if the issue of Capacity Assurance for the property should be addressed at this time. Mr. Sallee answered that the staff had checked the sewer capacity bank for the area, and learned that it is one of the banks that currently has a positive balance. He noted that there will probably be an increase in flow as part of the conversion of the property from a church to a childcare center, but the bank was not close to its base number.

Mr. Owens asked if the cross-section as depicted on the plan includes a sidewalk. Ms. Gallt responded that the street cross-section as depicted does include a sidewalk. The staff would like for the existing road improvements on either side of the property to be extended along its frontage as well.

Conditional Use Presentation: Mr. Emmons presented the staff report on conditional use, reiterating that the petitioner is requesting a conditional use permit in order to operate a childcare center in the existing building on the subject property. He said that, until approximately a year ago, a church had operated on the property since 1965. The last time a church was approved for this address by the Board of Adjustment (BOA) was in 1980, when the addition to the rear of the structure was constructed.

Mr. Emmons stated that the existing building is approximately 4,000 square feet in size. The petitioner is proposing to construct a 2,000 square-foot outdoor play area, to be located to the north side of the building. The childcare center is proposed for 85 children, a number that is limited by State regulations regarding the interior space of the building, as well as the size of the outdoor play area, which is governed by the Zoning Ordinance. Mr. Emmons noted that, when the staff report was written, the petitioner had not provided any information about the proposed hours of operation for the childcare facility. The staff assumed that the facility would have typical Monday through Friday, 6:00 a.m. to 6:00 p.m. hours, so they made their recommendation of approval subject to a condition outlining those hours. The staff has since conferred with the petitioner, who indicated that they are in agreement with that condition, since those are their proposed hours of operation. Mr. Emmons stated that the staff is recommending approval, for the reasons as listed on the agenda and in the staff report, subject to the eight conditions as listed.

Petitioner Presentation: Nathan Billings, attorney, was present representing the petitioner, Simon Said, who was also present. He stated that the petitioner was proposing an alternative to the redevelopment of the property for residential use, and noted he is in agreement with the staff recommendation, with the exception of the infrastructure improvements along Stone Road. He explained that the petitioner's surveyor passed away just prior to the Subdivision and Zoning Committee meetings three weeks earlier. Mr. Billings was not part of the surveyor's discussions with the Division of Traffic Engineering staff with regard to the improvements, but the petitioner would like to avoid the added expense of constructing those improvements if at all possible. Mr. Billings said that the petitioner would comply, however, if the Planning Commission should choose to require the improvements.

Commission Questions: Mr. Penn asked if there would be any security issues associated with the vacant portion to the rear of the subject property, given its proposed use as a childcare center. Mr. Billings answered that there was a 6' fence in place on that portion of the property, up to the rear of the parking area. Mr. Penn asked how the petitioner proposed to use that vacant portion of the property in the future. Mr. Said answered that the rear portion of the property could be fenced to provide an additional play area. Mr. Billings added that there were no plans to subdivide the property or further develop the rear portion.

Mr. Owens asked if the petitioner would be willing to construct sidewalks and improve the driveway apron according to the staff's recommendations. Mr. Billings answered that the petitioner would like to avoid the additional cost

of constructing those improvements; however, since sidewalks exist on both sides of the subject property, the petitioner would be agreeable to constructing the improvements.

Staff Rebuttal: Ms. Wade clarified that, in the justification for the proposed zone change, the petitioner indicated that they were willing to construct the infrastructure improvements. She added that, on the submitted development plan, the play area is proposed to the north of the building, rather than to the rear of the parking lot. If the petitioner intends to change the location of the play area, the development plan will need to be modified to reflect those changes.

Citizen Comment: There were no other citizens present wishing to comment on this zone change.

Zoning Action: A motion was made by Ms. Blanton, seconded by Ms. Plumlee, and carried 7-0 (Berkley, Brewer, Mundy, and Wilson absent) to approve MARC 2014-9, for the reasons provided by staff.

Conditional Use Action: A motion was made by Ms. Blanton, seconded by Ms. Plumlee, and carried 7-0 (Berkley, Brewer, Mundy, and Wilson absent) to approve the requested conditional use, for the reasons provided by staff, subject to the eight conditions as recommended by staff.

Development Plan Action: A motion was made by Ms. Blanton, seconded by Ms. Plumlee, and carried 7-0 (Berkley, Brewer, Mundy, and Wilson absent) to approve ZDP 2014-39, subject to the 19 conditions as recommended by staff.

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