

STAFF REPORT

July 27, 2000

UOR #00UR025 - Use on Review to allow a Child Care Center

ITEM 34

GENERAL INFORMATION:

PETITIONER	Sara and Blair Anhorn
REQUEST	UOR #00UR025 - Use on Review to allow a Child Care Center
LEGAL DESCRIPTION	South 156.52 feet of Lot C of the SW1/4 of the SE1/4 of Section 24, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 1.5 Acres
LOCATION	2710 North Haines Avenue
EXISTING ZONING	General Commercial
SURROUNDING ZONING	
North:	General Commercial
South:	General Commercial
East:	General Commercial (PCD)
West:	Low Density Residential
PUBLIC UTILITIES	City Sewer and Water
REPORT BY	Bill Lass

RECOMMENDATION: Staff recommends that the Use on Review to allow a Child Care Center be approved with the following stipulations:

Engineering Division Recommendations:

1. Prior to Planning Commission approval of the Use on Review, a revised site plan shall be submitted identifying the future shared access at the southwest corner of the property;
2. Prior to issuance of a building permit, the petitioner shall provide evidence of an easement filed with the Pennington County Register of Deeds Office for the shared access easement at the southwest corner of the subject property;
3. Prior to issuance of a building permit and subject to Engineering Division approval, the petitioner shall submit a revised site plan identifying the public sidewalk to be installed where this property abuts Haines Avenue. Prior to issuance of a Certificate of Occupancy for the building, the sidewalk shall either be installed or financial surety posted to cover the installation with installation occurring within one paving season;
4. Prior to issuance of a building permit, the petitioner shall provide a topographic and grading plan subject to review and approval of the Engineering Division;

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5. Prior to issuance of a building permit, the petitioner shall submit a site drainage plan for review and approval showing all on-site drainage being directed to on-site inlets and then piped to the Haines Avenue storm sewer system;
6. Prior to issuance of a building permit, the petitioner shall pay the required Haines Avenue Drainage Basin development fees;
7. Prior to issuance of a building permit, the petitioner shall submit calculations showing that the existing water and sewer service lines are adequately sized to accommodate the proposed facility;

Fire Department Recommendations:

8. Prior to City Council approval of the Use on Review, the existing underground fuel tanks shall have been removed subject to approval of the Fire Department;
9. Prior to City Council approval of the Use on Review, all required soil tests shall have been completed with the results provided to the Fire Department for review and approval;
10. Prior to City Council approval of the Use on Review, the petitioner shall provide documentation that the South Dakota Department of Environment and Natural Resources has approved of all soil tests;
11. Prior to issuance of a building permit, the petitioner shall submit plans calling for fire alarms and/or sprinkler systems as required by the Building and Fire Codes;
12. Prior to Planning Commission consideration of this Use on Review, the petitioner shall identify all fire hydrants on the east side of Haines Avenue and located within five hundred feet of the subject property. Based upon this information, the Fire Department may require the installation of additional fire hydrants upon issuance of a building permit.

Building Inspection Division Recommendations:

13. Upon application for a building permit, the petitioner shall provide three sets of building plans for review and approval;
14. Upon application for a building permit, the petitioner shall provide plans for the parking and drainage facilities stamped by a professional engineer;
15. A building permit shall be obtained prior to any construction;
16. A Certificate of Occupancy shall be obtained prior to building occupancy;

Pennington County Air Quality Department Recommendations:

17. Prior to any surface disturbance, the petitioner shall receive an air quality permit;

Urban Planning Division Recommendations:

18. Prior to City Council approval of the Use on Review, the subject property shall be free of all wood and debris so as to comply with the City nuisance ordinance - subject to review and approval of the Code Enforcement Officer;
19. Prior to Planning Commission approval of the Use on Review, a revised parking plan shall be submitted identifying compliance with all requirements of the Off-Street Parking Ordinance including the following: (a) Number of parking spaces: A minimum number of parking spaces for the day care center shall be one space per full-time equivalent staff

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- member plus one-tenth of a space per child. The number of parking spaces required for the tree-trimming business shall be computed at the rate of 2.10 parking stalls per every 1,000 square feet of floor area (not including vehicle storage areas). (b) Paving: All parking and circulation areas shall be paved including the driveway access to the two rear buildings. If vehicle access is not to be provided to one or both of the two rear buildings then the site plan shall identify the installation of permanent curbing to prevent vehicle access to these structures. (c) Handicapped Parking: One handicapped parking space and associated access aisle per every twenty-five (25) required regular spaces shall be shown on the site plan. (d) Parking lot lighting shall be identified on the site plan; (e) Curbing must be provided where the parking lot abuts sidewalks or the public right-of-way; (f) The two parking stalls located at the southeast corner of the subject property shall be eliminated as they conflict with the relocated entrance to the property; (g) The four parking spaces shown at the front of the building shall be removed unless a new site plan is submitted showing that the stalls meet the minimum stall dimensions of the Off-Street Parking Ordinance. If the stalls are removed then "No Parking" signs shall be posted in this area and that area converted to landscaping; (h) The three parking stalls adjacent to the play area shall be signed and used only for employee parking; (i) Sidewalks or a pedestrian corridor shall be provided adjacent to all parking stalls. Curbing, curb stops, bollards or a similar mechanism shall be installed to protect pedestrians from vehicles.
20. As per the requirements of the General Commercial Zoning District, only the office for the tree-trimming business can be operated from this site. The only equipment or vehicles allowed on-site for the tree trimming business shall be those customarily associated with a single-family residence. This means that no trucks larger than a pick-up shall be allowed on site. All equipment storage in conjunction with the tree-trimming business shall be indoors only. Furthermore, no transporting or storage of timber shall take place on the site;
 21. Any expansion of the existing tree-trimming business or the day care center or any other change in use of the property shall require a Major Amendment to this Use on Review;
 22. Prior to issuance of a building permit, the petitioner shall submit evidence of State Licensure for the Day Care Center from the South Dakota Department of Social Services;
 23. The Use on Review shall be granted for a period of twelve months, subject to review and renewal;
 24. All applicable health, safety, building and fire codes shall be continually met including the provisions of Chapter 17.50.150 (Child Care Centers) of the City Code;
 25. The maximum number of children to be cared for at this facility shall be fifty-three (53) unless a lesser number is set by the State of South Dakota. In the event the State license allows a lesser number of children then this State-identified threshold shall be the maximum number of children;
 26. This Use on Review shall automatically expire if the use is not undertaken and completed within two years of the date of approval by the City Council, or if the use as approved has ceased for a period of two years;
 27. All fencing around the outside play area shall be a minimum of forty-two inches (42") in height;

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28. Prior to issuance of a Certificate of Occupancy, all parking and circulation areas shall be paved and striped or financial surety posted for the improvements and the improvements completed within one paving season;
29. Prior to issuance of a building permit, the site plan shall be revised to reflect outdoor play area of at least fifty feet per child (as set by approved capacity);
30. Prior to issuance of a building permit, a revised landscape plan shall be submitted identifying the provision of 59,440 landscape points. If the undeveloped portion of the lot is to provide a portion of landscape points, then the petitioner shall return this portion of the property to an undeveloped, natural-state landscape. No more than 50% of the required landscape points may be provided via the undeveloped portions of the property. Prior to issuance of a Certificate of Occupancy, all landscaping shall be installed or financial surety posted to cover the cost of the installation with installation occurring within one planting season;
31. This Use on Review is approved with the understanding that either or both of the two existing rear buildings may be removed from the property in the future; and,
32. This Use on Review is approved with the understanding that the two rear buildings may be modified by moving the doorways from the south end of the buildings to the north end of the buildings.

GENERAL COMMENTS: This Use on Review has been submitted to open a child care center in an existing 2,600 square foot vacant commercial building. According to information submitted by the petitioner (see attached letter), the child care center is to serve fifty-five to sixty children with a possible expansion in the future. The ages of the children is expected to range from four to fourteen years old. The facility will operate twenty-four hours per day, six days a week. The facility will employ twelve to fifteen full time staff and several additional part-time staff persons. To the rear of the building to be used for the day care center are two other smaller steel buildings, each of which is approximately 1,650 square feet. The eastern-most of these two smaller buildings is currently used by a tree-trimming company while the other building is vacant. The subject property on which these three buildings is located is zoned General Commercial. The property to the north of subject property is the location of K&K Sheet Metal while the property to the south and east is currently undeveloped. Haines Avenue abuts the property along its eastern border with a residential subdivision located across Haines Avenue.

STAFF REVIEW: Staff has reviewed this proposed Use on Review and has identified numerous issues. A complete compilation of all issues is found in the Staff Recommendation portion of this Staff Report. What follows is a discussion of the most significant of the identified issues:

Debris: The City Code Enforcement Division has noted that the property is currently in violation of the City's nuisance ordinances due to an excessive accumulation of debris on the property. There is currently a large amount of tree stumps and branches in addition to other debris such as junked cars, car parts and tires. Much of the lot is also overrun with tall grass and weeds. Staff has serious concerns with the operation of a child care center on this property as long as these conditions exist. The piles of wood and other debris can harbor

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potentially dangerous animals such as rodents and snakes. Staff has discussed this matter with the petitioner and the petitioner has indicated they are fully aware of the situation. Furthermore, the petitioner has indicated that the current owner of the property has begun clearing the debris and that the petitioners would not purchase the lot until all debris has been removed. The petitioner has stressed their desire to operate a safe facility. Staff is in agreement with the petitioner and is recommending that the lot be completely cleared of all debris prior to City Council consideration of this Use on Review.

Underground Fuel Tanks: The Fire Department has noted that there are a number of underground fuel tanks present on this property which must be removed. In addition, the Fire Department has noted that soil testing must be done to ensure that no contamination has occurred on the site. Staff has discussed this matter with the petitioners who have indicated that they are fully aware of the presence of the fuel tanks and the need for the soil testing. The fuel tanks are currently being removed. In addition, the petitioners have indicated that they are working with the State Department of Environment and Natural Resources to undertake the required soil tests although the results of these tests are not yet back. Staff is recommending that the removal of the fuel tanks be completed and that satisfactory results of the soil tests be received prior to City Council consideration of this Use on Review.

Driveway Approach: Staff has noted that the existing driveway approach to this property needs to be relocated to the southwest corner with a shared access easement being provided at that location so that one access point will serve both this property and the lot to the south when it develops. Haines Avenue is currently being reconstructed where it abuts the subject property. As part of this reconstruction, the existing driveway approach will be relocated and the petitioner will be required to record a shared access easement as part of this Use on Review process. The petitioner will also be required to construct public sidewalks where the property abuts Haines Avenue as sidewalks on the east side of the roadway are not included as part of the reconstruction project.

Parking Requirements: Planning Staff has noted that there are a number of issues associated with the parking plan submitted by the petitioner. The parking plan submitted by the petitioners propose eighteen (18) parking spaces. Staff has noted, however, that anywhere from twenty-two to twenty-nine parking spaces will be required depending upon the staffing levels proposed for the day care center. Additionally, several of the parking spaces shown on the site plan will need to be eliminated. The two stalls at the southwest corner of the property will need to be eliminated as they are located in the area where the new driveway approach will enter the lot. The three parking stalls adjacent to the fenced play area must be used only for long-term employee parking because cars backing out of these spaces will block the entrance from Haines Avenue which will result in traffic backing onto the street. Finally, the four parking stalls directly in front of the building must be removed as they do not comply with the required stall dimensions of the Off-Street Parking Ordinance. A number of other changes are also needed to the parking plan including the provision of curbing and handicapped parking. Because the changes to the parking plan are substantial, Staff is

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recommending that they be made prior to Planning Commission consideration of this request. If the revised plan is not provided to Staff without allowing sufficient time for Staff review, then Staff will recommend that this Use on Review be continued to the August 10 Planning Commission meeting.

Tree-Trimming Business: As noted, there is an existing tree-trimming business using the eastern-most building on the subject property. Staff has some concerns with the compatibility of a tree trimming company with a child care center. Staff is recommending that the child care center be allowed on the same property as the tree trimming company provided that no vehicles larger than pick-up trucks are used for the business and that no other large equipment be used. Additionally, Staff is recommending that no timber be stored or brought on site.

Use on Review Renewal: It has been the ongoing policy of the City to approve first-time Use on Reviews for child care centers for a period of only twelve months. After the twelve month period, the petitioners will be required to renew their Use on Review. The twelve month period gives the City the ability to ensure that the facility is operating safely and within the parameters of its original approval. Usually, if such a facility has been operating in accordance with all requirements, the Use on Review will be renewed for three years and if no problems are experienced in that time-frame then the Use on Review may be renewed indefinitely.

Number of Children: The petitioner has indicated that they wish to care for fifty-five to sixty children at the facility. However, the floor plan submitted as part of this application contains only enough play space to accommodate fifty-three children. Furthermore, the outside play area is slightly too small to accommodate fifty-three children. Staff is recommending that this Use on Review be granted for a maximum of fifty-three children and only if the petitioner provides an outside play area that is large enough to accommodate this many children. Furthermore, the petitioner is required to attain a State license from the South Dakota Department of Social Services. If this license stipulates a maximum number of children less than fifty-three, then it is this State maximum that will take precedent.

Landscape Plan: A preliminary landscape plan has been submitted as part of this Use on Review application. The plan reflects the provision of 16,500 landscape points not counting sodded areas. The total required landscaping for this property is 59,440. The Landscape Ordinance gives credit for existing natural vegetation which could help the petitioners meet the required minimum landscape points. However, as previously noted much of the lot is currently occupied by debris or is devoted to gravel parking areas. If the petitioner wishes to receive credit for natural grass or vegetation, then these disturbed areas must be restored to a vegetated condition as part this Use on Review. Ground areas occupied by large expanses of bare ground or noxious weeds do not count toward the required landscape points. Staff believes, however, that it is appropriate to only allow a maximum of 50% of the landscaping from the undeveloped portion of the property as this will ensure that a significant amount of

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the landscaping is visible from Haines Avenue. However the petitioner chooses to meet the landscape requirements, a final landscape plan calling for 59,440 landscape points must be submitted for approval upon issuance of a building permit.

Future Site Changes: The petitioners have indicated to Staff that they may choose to either remove or reorient the two existing smaller metal buildings on the property. The buildings could be sold and moved off-site or the buildings could be reoriented so that the doorways are on the north rather than the south. In either event, Staff is recommending that this Use on Review be granted to allow the changes to these buildings. The petitioner has also indicated that a future expansion to the day care center is envisioned. Any future expansion to the Child Care Center will require a Major Amendment to this Use on Review.

As of this writing, the receipts from the notification of surrounding property owners have not yet been returned by the petitioner nor has the Use on Review sign been posted on the property. Staff will notify the Planning Commission in the event these requirements are not met. Staff has not received any objections or inquiries regarding this request.

Staff has reviewed this Use on Review with respect to compliance with all applicable provisions of City Code. Staff has identified numerous concerns as previously set forth. Several of these concerns are substantial and must be resolved prior to Planning Commission or City Council action on this request. Staff however, believes that upon compliance with these stipulations, the operation of a day care center at this location is appropriate.