

MEMORANDUM

DATE: December 16, 2010

TO: County Development Review Committee

FROM: Jose E. Larrañaga, Commercial Development Case Manager

VIA: Jack Kolkmeier, Land Use Administrator
Shelley Cobau, Building and Development Services Manager
Wayne Dalton, Building and Development Services Supervisor

FILE REF: CDRC CASE # V/MP/PDP 10-5520 Creative Daycare, LLC

ISSUE:

Katrina Lujan, Applicant, James Siebert & Associates, Agent, request a variance to allow for commercial uses, designated within the permitted use list for local or small scale districts, to be allowed outside of a designated commercial node. The Applicant also requests Master Plan Zoning and Preliminary Development Plan approval for an existing two story structure consisting of 2,760 square feet, to be utilized as a Community Service Facility, on a one acre parcel.

The property is located at 17661 US 84-285 West Frontage Road, within Section 28, Township 19 North, Range 9 East, (Commission District 1).

SUMMARY:

The Applicant requests Master Plan Zoning and Preliminary Development Plan approval to allow an existing 2,760 square foot residence to be utilized as a day care center consisting of 24 children. The subject property takes access via the US 84-285 west Frontage Road and is located outside of the Traditional Community of Cuyamungue. The proposed use, as a day care, is acknowledged by the code, as amended by Ordinance 2010-13, as a Community Service Facility. The Applicant also requests the Final Development Plan be processed administratively (Exhibit "A").

Ordinance 2010-13, Section 7 (Community Service Facilities) states: "Community Service Facilities are facilities which provide service to a local community organization. These may

include governmental services such as police and fire stations, elementary and secondary day care centers, schools and community centers, and churches”.

Section 7.1 of Ordinance 2010-13 (Standards) states: “Community Service Facilities are allowed anywhere in the County, provided all requirements of the Code are met, if it is determined that: (7.1.1) the proposed facilities are necessary in order that community services may be provided for in the County; (7.1.2) the use is compatible with existing development in the area and is compatible with development permitted under the Code; (7.1.3) a Master Plan, Preliminary and Final Development Plan for the proposed development are approved” (Exhibit “C”).

Article V, Section 5.2.1.b states: “a Master Plan is comprehensive in establishing the scope of a project, yet is less detailed than a Development Plan. It provides a means for the County Development Review Committee and the Board to review projects and the sub-divider to obtain concept approval for proposed development without the necessity of expending large sums of money for the submittals required for a Preliminary and Final Plat approval.”

Article V, Section 5.2.1.c states: “the Master Plan submittal will consist of both plans and written reports which include the information required in Article V, Section 5.2.2. A typical submittal would include a vicinity map, a plan showing existing site data, a conceptual environmental plan with written documentation, a Master Plan map, a Master Plan report, a schematic utilities plan and the phasing schedule. Maps and reports may be combined or expanded upon at the discretion of the applicant to fit the particular development proposal as long as the relevant information is included” (Exhibit “D”).

Article V, Section 7.1 (Development Plan Requirements) states: “a Preliminary Development Plan may be only a phase or portion of the area covered by an approved Master Plan, so long as the Preliminary Development Plan substantially conforms to the approved Master Plan” (Exhibit “G”).

The Application was reviewed for the following (Exhibit “F”):

EXISTING CONDITIONS:

A dwelling and a horse stable are located on the property. The Applicant is currently operating a day care consisting of 6 children, on the site, as a Home Occupation Business.

ADJACENT PROPERTIES:

The property is located on the US 84-285 West Frontage Road south of the Cuyamungue Traditional Community boundary. The site is bordered to the south by a vacant residential property and is surrounded to the east, west and north by Pojoaque Pueblo land.

PARKING:

Twelve parking spaces are proposed, one of which is handicap. Staff has determined that the parking element of the application is in compliance with Article III, Section 9.

ACCESS:

The site will utilize an existing private access via US 84-285 West Frontage Road. Public works has reviewed the submittal and has determined that, traffic generated on the private road will be that of the development and does not require a Traffic Impact Analysis. Public Works supports the development subject to the following conditions:

1. Applicant shall install a street name sign at the entrance of the private drive.
2. Applicant shall upgrade the private road to a twenty foot driving surface with six inches of compacted base coarse from the West Frontage Road to the most northern edge of turn-around.
3. Applicant shall provide a 3% crown on the driving surface for water run-off.
4. Applicant shall provide an emergency turn around having a minimum driving surface radius of at least sixty feet.
5. Applicant shall provide R1-1 (30"x30") STOP sign at the exit of property and W14-2 (30"x30") NO OUTLET sign.
6. All signage shall meet MUTCD standards.

New Mexico Department of Transportation has reviewed the application and has determined that the development will not have a significant adverse impact to the State system and recommends approval.

SIGNAGE:

The applicant currently has a sign located on Pojoaque Pueblo Land, Santa Fe County does not have jurisdiction over that sign. A directional sign is also proposed, the applicant shall give sign details prior to approval of Final Development Plan. Staff has determined that the signage element of the Application does comply with Article VIII.

ARCHITECTURAL STANDARDS:

The subject property is a 1.007 acre parcel. The site location has an existing 2,760 sq ft. building. The existing height of the building is 24 feet, scaled elevation plans shall be provided prior to Final Development Plan approval. Staff has determined that the application meets the criteria set forth within Article V. Section, 5.

WATER:

The County Water Resource Specialist has reviewed the water budget, for the proposed Daycare Facility, and has determined that the water use is in compliance with the Land Development Code (Exhibit "N").

FIRE PROTECTION:

The Santa Fe County Fire Department Fire Prevention Division has reviewed the submittal and has recommended approval subject to conditions listed in Exhibit "F".

LIQUID WASTE:

The Applicant proposes that the project be served by an existing septic system. The Applicant states that the day care center use is within the gallons per day limit established by the NMED permit. A renewal of the septic permit shall be provided prior to Final Development Plan approval.

TERRAIN MANAGEMENT:

The site has slopes less than 15% and slopes southeast to northwest. The site conforms to Article VII, Section 3.3 (Terrain Management Plan). The Applicant's proposal shows an Existing Topography, Natural Drainage, Slope and Soils map, but does not show a proposed Grading and Drainage Plan. Therefore, the submittal is not in conformance of Article VII, Section 3.4.6 and Ordinance 2008-10 Flood Damage Prevention and Stormwater Management Ordinance. The Applicant shall include a Grading and Drainage plan for the proposed development prior to Final Development Plan approval.

LANDSCAPING:

Ordinance 2003-2 requires a general description of any proposed water harvesting techniques for Master Plan Approval. The Applicant has provided a partial description of a passive system in the report and has not described how the proposed landscape plantings in the front parking lot will be watered.

Article V, Section 7.1.2.g requires a description of the irrigation system to be used as a requirement for Preliminary Plan Approval and the Applicant has shown three 70 gallon rain barrels to collect rainwater located in the back of the building, but has not indicated how or where the water will be used on the proposed new plantings.

The Application has provided a general description of a passive rainwater harvesting system as required for Master Plan Approval that is incomplete. The Applicant shall include a landscape plan prior to Final Development Plan approval.

ARCHAEOLOGY:

The property is located within the medium potential archeological zone where the minimum project size is 10 acres therefore an archeological report is not required.

VARIANCE: The Applicant under separate cover requests a variance to create a local or small scale district outside a designated commercial node. The Applicant states the variance request is to allow the uses allowed within a local or small scale district. The uses would be incorporated by amending the proposed Master Plan (Exhibit "G").

The Applicant states: "the property is located 1,670 feet from the intersection of US 84-285 west frontage road and the Cuyamungue interchange. Under the standards set forth in the

County Land Development Code an intersection of this scale would be eligible as a Major Center District allowing for a variety of commercial and industrial uses within 2,500 feet of the interchange.”

Staff response: the purpose of a Major Center District is to concentrate extensive regional non-residential activities. This type of district shall be located at intersections of major arterials and major highways. The Applicant has not demonstrated that the location and size of the site would qualify as a Major Center District. The Applicant is requesting the use as a Small Scale District, in essence creating a Small Scale District. The distance from a major arterial or major highway, to qualify as Small Scale District, is 500 feet. The property is located 1,670 feet from the intersection of US 84-285 west frontage road and the Cuyamungue interchange, well beyond the required radius of 500 feet.

The Applicant states: “the properties fronting the old US 84-285 roadway (now the west frontage road) have had a long history of being commercial. In the area north of the Cuyamungue interchange the commercial uses vary from contractors’ yards to retail sales for lighting, antiques and farm equipment.

Staff response: mixed use or Small Scale Districts are allowed within the Traditional community areas. Existing development, which was established prior to 1981, is acknowledged by the code as non-conforming and is allowed to continue as a non-conforming use.

Article III, Section 4.1 (Purpose and Intent) states: “commercial, and industrial non-residential land uses are permitted only in zoned districts of various sizes and locations in the County.”

Article III, Section 4.2.1.a (Types of Districts and Location Criteria) describes the proposed districts as the following: local or village center districts, which are or may be located at intersections of collector and local roads and in traditional community areas for the purpose of concentrating activities which serve such neighborhood areas for shopping, travelers' and personal services (Exhibit Section 4.3.2, suggested uses); neighborhood or small scale center districts, which are or may be located at intersections of local roads or in traditional community areas. Uses similar to those which may be established in local or village center districts may be established (Exhibit “H”).

Article III, Section 4.2.1.b (Types of Districts and Location Criteria) states: a non-residential use district may be established within a traditional community at a qualifying intersection or at an area which is pursuant to the criteria set forth in Sub-section 4.2.2 (Traditional Community Districts).

Article II Section 3.1 (Variances) states: “where in the case of proposed development, it can be shown that strict compliance with the requirements of the code would result in extraordinary hardship to the applicant because of unusual topography or other such non-self-inflicted condition or that these conditions would result in inhibiting the achievement of the purposes of the Code, the applicant may submit a written request for a variance.”

Article II, Section 3.2 (Variation or Modification) states: “in no case shall any variation or modification be more than a minimum easing of the requirements” (Exhibit “J”).

REQUIRED ACTION:

The CDRC should review the attached material and consider the recommendation of staff; take action to approve, deny, approve with conditions, or table for further analysis of this request.

RECOMMENDATION:

Staffs review of the Applicants request for a variance has found the facts presented **not** to support this application: the Applicant has not justified a hardship which is contemplated by the Code; strict compliance with the requirements of the Code would not result in extraordinary hardship to the Applicant; the Applicants interpretation of the variance criteria does not justify the approval of this application; the Applicant has not established findings for the creation of a commercial district; the site is not within a traditional community; the site is not within 500 feet of a qualifying intersection; to allow the creation of a commercial district, not meeting the location criteria, the purpose of the Code would be nullified. The Applicants request, to allow for the creation of a local or small scale district outside a designated commercial node, is not considered a minimal easing of the requirements of the Code therefore staff recommends **denial** of the Applicants request.

Staff has reviewed the Applicants request for Master Plan Zoning and Preliminary Development Plan for Creative Daycare and has found that the facts presented **support** this request: Ordinance 2010-13 recognizes a day care as a Community Service Facility; Community Service Facilities are allowed anywhere in the county; the proposed facility has demonstrated to be necessary as a Community Service Facility by operating a successful day care as a Home Occupation Business; the adjacent property is vacant and the land use in the vicinity has not been established therefore compatibility with existing development cannot be measured; the application satisfies the criteria set forth in Ordinance 2010-13, Section 7; the application for Master Plan is comprehensive in establishing the scope of the project; the application satisfies the submittal requirements set forth in Article V, Section 5.2.2; the Preliminary Development Plan substantially conforms to the proposed master plan; the application satisfies the submittal requirements set forth in Article V, Section 7 (Development Plan Requirements).

The review comments from State Agencies and the Building and Development Services Department has established findings that this application is in compliance with Article III, Section 4.4, Design Standards and Review Criteria, Article V, Section 5, Master Plan Procedures and Article 5, Section 7 Development Plan Requirements of the Land Development Code. Staff recommends Master Plan Zoning and Preliminary Development Plan **approval**, with Final Development Plan to be processed administratively, for an existing 2,760 square foot residence, to be utilized as a day care facility, on a one acre parcel located at 17661 US 84-285 West Frontage Road, subject to the following conditions:

1. All Staff redlines shall be addressed, original redlines will be returned with final plans for Master Plan.
2. The Applicant shall comply with all requirements of the County Fire Marshal and Public Works.

3. Master Plan and Preliminary Development Plan, with appropriate signatures, shall be recorded with the County Clerk.

ATTACHMENTS:

- Exhibit "A" – Report
- Exhibit "B" – Drawings
- Exhibit "C" – Ordinance 2010-13, Section 7
- Exhibit "D" – Article V, Section 5
- Exhibit "E" – Article V, Section 7
- Exhibit "F" - Reviewing Agencies Comments
- Exhibit "G" – Variance Request
- Exhibit "H" – Article III, Section 4
- Exhibit "I" - Aerial Photo of Property/ Vicinity Map
- Exhibit "J" – Article III, Section 4.3.2, Uses for Small Scale Districts
- Exhibit "K" – Article III, Section 4.2.5, Criteria to Establish District
- Exhibit "L" - Article II, Section 3, Variance Criteria
- Exhibit "M" – Article III, Section 4.4, Design Standards and Review Criteria
- Exhibit "N" – Water Resource Review