

Midway City Council
16 July 2019
Regular Meeting

Elmer Mixed-Use Development /
Conditional Use Permit



CITY COUNCIL MEETING STAFF REPORT

DATE OF MEETING: July 16, 2019
NAME OF PROJECT: Wasatch Learn and Play
NAME OF APPLICANT: Debbie Elmer
AGENDA ITEM: Conditional Use Permit
LOCATION OF ITEM: 65 South Center
ZONING DESIGNATION: C-2

ITEM: 9

Debbie Elmer is requesting a Conditional Use Permit for a for a mixed-use development on her property that will include a business (daycare/preschool) and a residence. The property is located at 65 South Center Street and is in the C-2 zone.

BACKGROUND:

This request for a Conditional Use Permit (CUP) by Debbie Elmer is for a mixed-use development that will include a business, Wasatch Learn & Play (daycare/preschool) and a residence. The applicant will live in the dwelling and have a daycare that would also be in the same structure. Their property is located at 65 South Center Street and is in the C-2 zone. Mixed-use developments are a conditional use in the C-2 zone, but daycares and preschools are permitted uses.

Their proposal for the preschool includes teaching children of the ages three and four in a class of up to 16 students. Classes will meet four days a week on Monday through Thursday. Classes will be held from 9:15am to noon for the morning session and 12:45 to 3:00 for the afternoon session. The first day of school will be in September and the class schedule will follow the Wasatch County School District calendar for holidays and days off.

If the conditional use is approved then the applicant will need to apply for a business license and comply with all of the requirements of the building code, health department, and the fire district in order for the business to be approved.

Safety is always a concern when children are involved. The student pick-up and drop-off is an area where accidents may occur. The applicant has proposed that the pick-up and drop-off happen in the drive through driveway that currently exists on the property. Vehicles will enter from the south driveway and exit through the north driveway. This proposed plan does appear to be a safe way for the children to enter the building.

The applicant would like to install a sign and has started the process to receive that approval from the Visual and Architectural Committee. The sign will be located in the landscape island that currently exists at the site. The backyard area will also be fenced to create a safe play area for the children.

The two employees of the business will be the applicant and her adult daughter. The Utah Department of Health, Child Care Licensing Program, regulates child care centers and family child care providers. The State requires an adult for every eight children so the maximum amount the State will allow with the proposed plan is 16 children. Since the proposal is not purely a preschool, the State will inspect and license the business. The State also requires a background check for all owners, directors, employees, caregivers, assistant caregivers, volunteers, anyone age 12 or older who lives at the facility, and anyone that has unsupervised access to a child in care.

ANALYSIS:

The comments in italicized represent Planning Staff's comments pertaining to compliance or lack of compliance with the findings. The Planning Commission must make in considering this request. Section 16.26.120 requires specifically the Planning Commission to find that:

1. The proposed use is conditionally permitted within the Land Use Title, and would not impair the integrity and character of the intended purpose of the subject zoning district and complies with all of the applicable provisions of this Code; *planning staff believes that the proposal will not have a significant impact on the neighborhood. The applicant's property is 0.34 of an acre in the C-2 zone. Also, as staff has analyzed the proposal it appears that it will comply with the provisions of the Code.*
2. The proposed use is consistent with the General Plan; *the General Plan promotes mixed-use development in the C-2 zone so the proposal is consistent we that vision.*

3. The approval of the conditional use or special exception permit for the proposed use is in compliance with the requirements of state, federal and Midway City or other local regulations; *the proposal is required to have an approved business license with the City. The applicant will apply for the license and it will be issued once all the requirements are met such as the issuance of the Conditional Use Permit among other requirements. The applicant will also need to be inspected and approved by the State.*
4. There will be no potential, significant negative effects upon the environmental quality and natural resources that could not be properly mitigated and monitored; *No issues have been identified.*
5. The design, location, size, and operating characteristics of the proposed use are compatible with the existing and future land uses with the general area in which the proposed use is to be located and will not create significant noise, traffic, or other conditions or situations that may be objectionable or detrimental to other permitted uses in the vicinity or adverse to the public interest, health, safety, convenience, or welfare to the City; *the proposed use will create more traffic for the street where the preschool/daycare is proposed. The proposal is located on a street that will become busier over time as Midway continues to grow. The traffic generated by the preschool should avoid the peak traffic, which occurs earlier in the morning and in the evening because of the preschool's schedule of 9:15 to noon and 12:45 to 3:00. It is the opinion of staff that the added traffic will not have a significant impact on the neighborhood.*
6. The subject site is physically suitable for the type and density/intensity of the proposed use; *it appears that the location is suitable for a neighborhood preschool/daycare.*
7. There are adequate provisions for public access, including internal and surrounding traffic flow, water, sanitation, and public utilities, and services to ensure that the proposed use would not be detrimental to public health and safety; *no issues have been identified.*

PLANNING COMMISSION RECOMMENDATION:

Motion: Commissioner Bouwhuis: I make a motion that we approve the Conditional Use Permit for Wasatch Learn and Play, located at 65 W Center. That we accept all possible findings identified by staff along with the proposed conditions in the staff report, and one condition that the area be fenced.

Seconded: Commissioner Streeter

Chairman Kohler: Any discussion on the motion?

Chairman Kohler: All in favor.

Ayes: Commissioners Streeter, Payne, O'Toole, Nicholas, Bouwhuis (Alternates Whitney and McKeon-no vote needed)

Nays: None
Motion: Passed

POSSIBLE FINDINGS:

- The proposed mixed-use development is a conditional use in the C-2 zone.
- Preschools and daycares are permitted uses in the C-2 zone.
- The proposal will increase traffic on Center Street.
- The applicant will need to receive approval for a business license which requires health, fire district, and building department approvals.
- The Utah Department of Health, Child Care Licensing Program will need to approve the business before operations may commence.

ALTERNATIVE ACTIONS:

1. Approval (conditional). This action can be taken if the City Council finds the application complies with the requirements of the code and any conditions will mitigate identified issues.
 - a. Accept staff report
 - b. List accepted findings
 - c. Place condition(s)
2. Continuance. This action can be taken if the City Council feels that there are unresolved issues.
 - a. Accept staff report
 - b. List accepted findings
 - c. Reasons for continuance
 - i. Unresolved issues that must be addressed
 - d. Date when the item will be heard again
3. Denial. This action can be taken if the City Council feels that the request does not meet the intent of the ordinance.
 - a. Accept staff report
 - b. List accepted findings
 - c. Reasons for denial

PROPOSED CONDITIONS:

1. Any increase in the number of students or classes above what has been proposed will require the Conditional Use Permit be reevaluated and approved by the City Council.
2. All inspections must be completed, and a business license issued before the preschool may hold any classes.
3. If any safety issues are identified after approval is granted then the applicant must work the City to alleviate any issues and if the issues cannot be alleviated then the conditional use permit and business license may be revoked.
4. The backyard children's play area is fenced.



E Main St

S Center St

113

E 100 S

S 100 E

Our Vision for the City of Midway is to be a place where citizens, businesses, and civic leaders are partners in building a city that is family-oriented, aesthetically pleasing, safe, walkable and visitor friendly. A community that proudly enhances our small town Swiss character and natural environment, as well as remaining fiscally responsible.

Please give us a detailed statement on how the proposal will help implement our vision (i.e. architecture, landscaping, trails, etc.). Visit our website to view our General Plan.

Learning should be fun! Play-based learning is the number 1 contributor to the development of creative problem solving skills.

*Calendar will follow Wasatch County School District

*m-w classes of 16 children

*T-Th classes of 16 children

3-4 year olds. Must be 3 yrs by ~~Sept~~ Sept. 1st and fully potty trained

Hours of operation: 9:15-12:00 morning session
12:45-3:00 afternoon session

Please read and sign before application submittal

I declare under penalty of perjury that I am the owner or authorized agent of the property subject to this request and the foregoing statements, answers and attached documents are true and correct. As the applicant for this proposal, I understand that my application is not deemed complete until the Planning Office has reviewed the application. I further understand I will be notified when my application has been deemed complete. At that time I expect that my application will be processed within a reasonable time, considering the work load of the Planning Office.

I fully understand that I am responsible for the payment of any back taxes and declare that I am responsible for all fees incurred.

Signature of Owner or Agent:

Debbie Elmer

Date:

May 28, 2019

IMPORTANT: Your application cannot be processed until determined complete by the Planning Staff. An application shall be considered complete when all applicable fees are paid (such as: Midway Water Board, Midway Sanitation District, out-of-pocket expenses, etc.) and all items listed herewith are provided or considered not applicable by the Planning Office. All application fees are non-refundable.

Steps to Obtaining a Child Care License

The following information is a guide for obtaining a child care license or residential certificate. These instructions will assist in applying for and obtaining a license/certificate. More information can be found at childcarelicensing.utah.gov.

The following items must be completed and/or submitted prior to the child care licensing onsite inspection.

- ❑ **Read the [Licensing Rules or Interpretation Manual](#)** for the specific license or certificate you are applying for. These are the operational rules you are required to follow. You must read and be familiar with these rules.
- ❑ **Take the online [New Provider Training](#)**. This online training course will give you a brief overview of licensing.
- ❑ **Submit an online [license application](#)**. After we receive your application you will receive an email with any information that may be missing. An application is completed when all required documents are submitted, and all fees have been paid.
 - ❑ Please Note: Payments cannot be paid until the application is in process, and you have received notification from us via email. Please do not proceed to the next step until you have received the email notification mentioned above.
- ❑ **Submit an online [background check form](#)**. Once an application has been successfully submitted all covered individuals must complete their Child Care Licensing background form online. Covered individuals include: owners, directors, members of the governing body, employees, caregivers, assistant caregivers, volunteers, anyone age 12 or older who lives at the facility, and anyone you has unsupervised access to a child in care. **These forms may not be submitted until you have received an email notification that the license/certificate application is in process.** All required individuals must pass their background check before a license can be issued.
 - ❑ Please Note: Background Checks completed by any other agencies, local or federal, are not sufficient for our requirements. All background checks must be run independently through our agency for the purposes of this application.

Background Check Steps

1. Covered individuals complete the [background check form](#).
2. [Pay the required fees](#) to Child Care Licensing.
3. Provider must authorize the form on their [Care About Child Care Portal](#). After the application is in process with Child Care Licensing, Care About Child Care sends an email to explain how to set up the provider portal. A portal must be set up to continue with the licensing process.
4. Fingerprints must be submitted for each covered individual who is age 18 or older. For DWS eligibility, covered individuals who are 16 and 17 years old, and

will be caring for children, will also require fingerprints. Fingerprints may be completed by a local law enforcement agency, Care About Child Care, or by the Department of Health at the Highland office. Prior to submitting the fingerprints, the fingerprint fees must be paid to [Child Care Licensing](#).

- ❑ **Submit a Health and Safety Plan.** Providers are required to use the [template provided](#). The Health and Safety Plan should be clear, simple and brief.
- ❑ **Have an onsite inspection with a licensor.** Once all required documents are submitted and fees are paid, a licensor will contact you to schedule an onsite inspection. This inspection is called a pre-inspection. A copy of the checklist the licensor will be using can be found on our website under [Forms and Documents](#). At the inspection, the licensor will assess compliance with the licensing rules and will measure your facility and determine the total capacity of your facility. You must be in compliance with all rules before a license is issued.
- ❑ **OPTIONAL: Attend a Child Care Licensing Rules Training.** All Child Care Licensing trainings are free and the complete [training schedule](#) is available on the website. If a rules training is completed within 60 days of the provider receiving their license, the hours will count towards required annual training for the first licensed/certified year.

The following items must be submitted and approved prior to receiving a license:

- ❑ **A copy of the current business license.** Contact the city or county the facility is located in to obtain this. Some cities will not provide a business license until the provider has a license from Child Care Licensing. In this case, submit a copy of the receipt to verify a business license application has been submitted. You will then have 60 calendar days to submit the final business license to our office after CCL licensure.
 - ❑ Please Note: If a business license is not required for the facility's location, documentation from the city or county must be submitted.
- ❑ **A copy of the current fire clearance.** Contact the local fire authority to obtain this clearance. A document from the local fire authority is required if it is not required for the facility's location.
- ❑ **A copy of the local Health Department Kitchen Inspection.** Contact the local Health Department for a kitchen inspection. Most local health departments require a fee for this inspection, and the fees vary from jurisdiction to jurisdiction. If a kitchen inspection is not required, documentation from the local health department must be submitted.
- ❑ **A copy of current Red Cross or equivalent First Aid and CPR certifications.** The CPR certification must include infant and child, as well as include hands-on testing. Contact the local Care About Child Care agency for information about First Aid and CPR classes. **Homes only*
- ❑ **Affidavit of Lawful Presence in the United States.** Only the person whose name will be on the license is to complete this form. Do not mail this form, as licensing staff must see the original documents and sign the form. **This form is not required for center providers if they are set up as any type of corporation.*