



AGENDA SUMMARY/STAFF REPORT

MEETING DATE: February 27, 2024

PREPARED BY: Otis T. Spriggs, AICP, Director of Development Services

AGENDA CONTENT: Conduct a hearing, discussion, and take possible action on Ordinance No. 20240227-002 approving a request for a Specific Use Permit, for approximately 2.7 acres of land, currently zoned "C-G", Commercial General District, allowing for a daycare use on a tract of land located at 2700 E. Mulberry Street/E. SH 35 @ Rab Rd., also described as A0318 T S LEETRACT 38C1 ACRES 2.7 (ANGLETON), Brazoria County, Texas.

AGENDA ITEM SECTION: Public Hearing and Action Item

BUDGETED AMOUNT: N/A

FUNDS REQUESTED: N/A

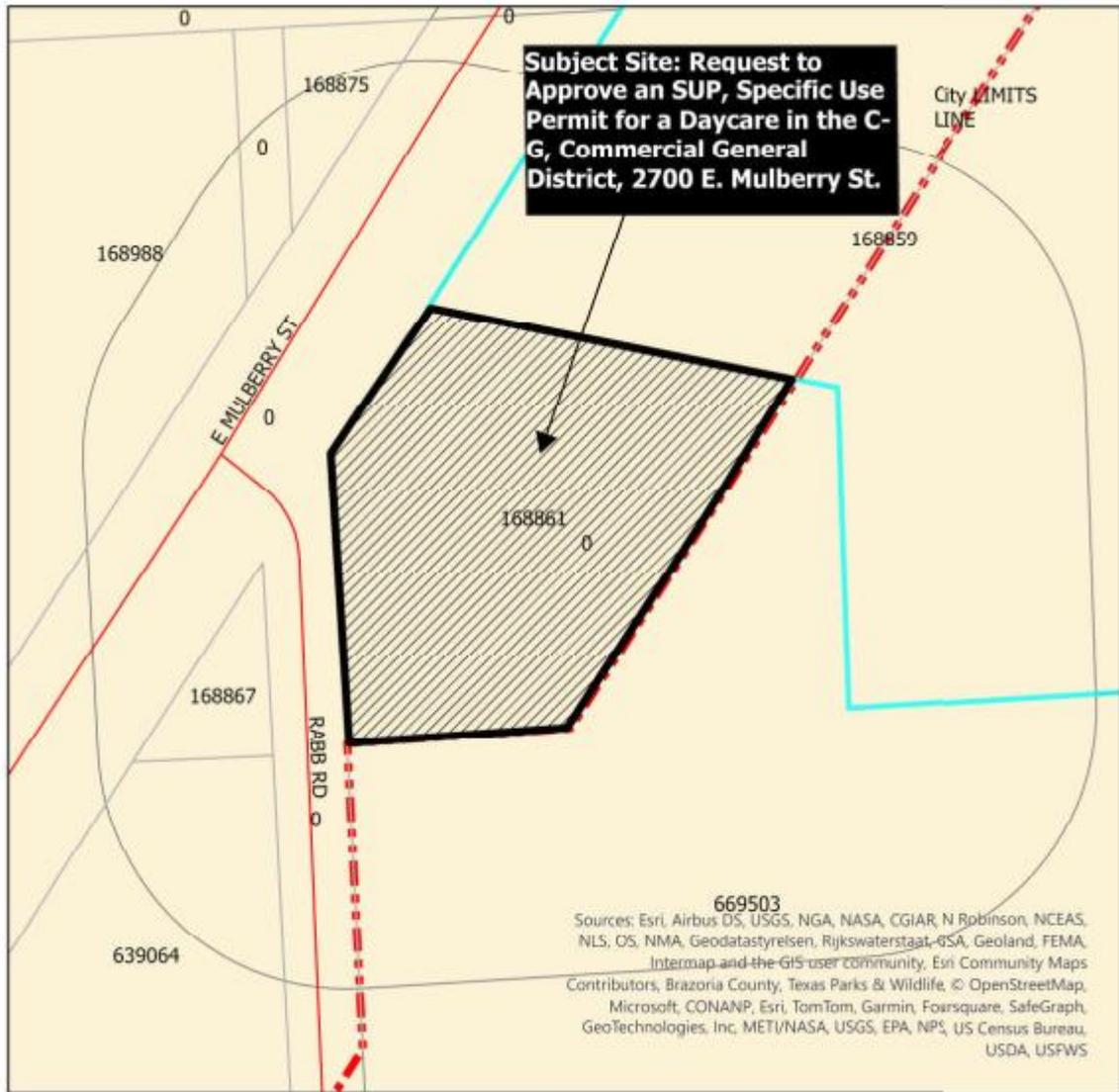
FUND: N/A

EXECUTIVE SUMMARY: David King, Applicant and Agent for Commerce Commercial Investments LLC, c/o Charles Smith, is requesting consideration of a Specific Use Permit within a C-G, Commercial General Zoning District to allow for a small daycare on a tract of land located at 2700 E. Mulberry Street/E. SH 35 @ Rab Rd., also described as A0318 T S LEETRACT 38C1 ACRES 2.7 (ANGLETON), Brazoria County, Texas.

PROPERTY HISTORY:

The original building is said to have been built in 1975 with a 5,500 sq. ft. building with a canopy. Property was last sold to current owner from Gulf Coast Baptist Association in 2023.

The building's closest setback distance will occur on the North rear property line and is 35' approximately. The maximum number of children proposed is 170 in total. The required child playground is proposed in the area adjacent to the entry courtyard.



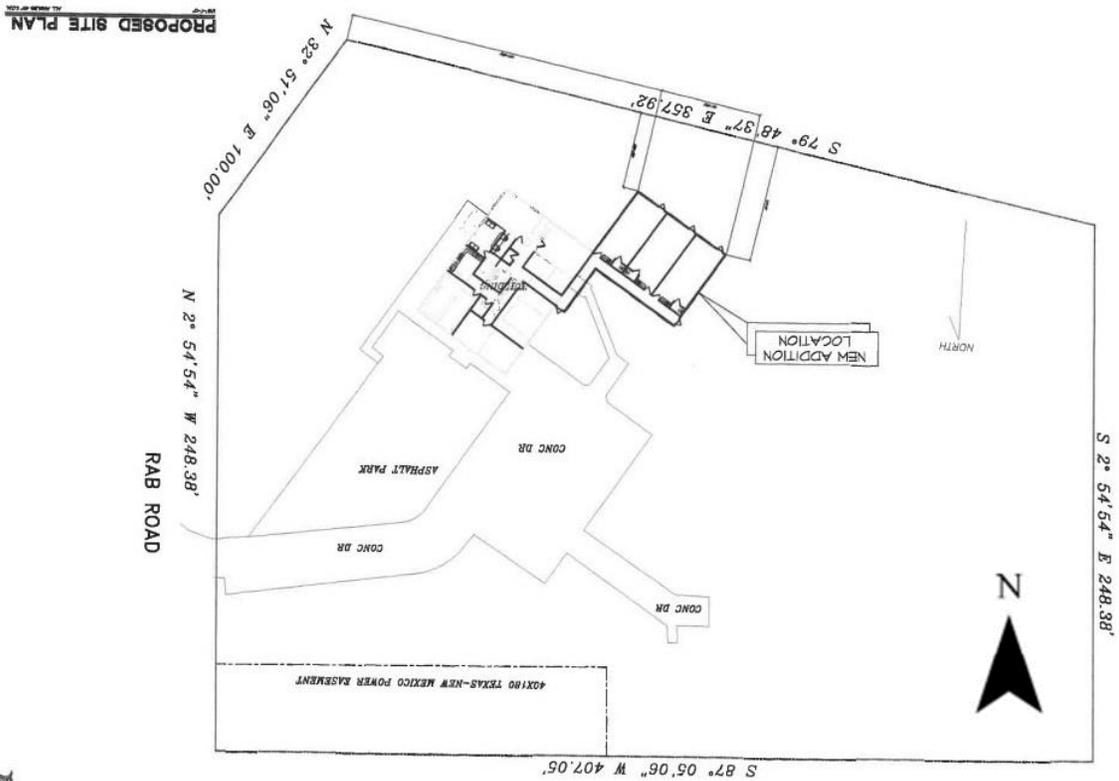
VICINITY MAP

SURROUNDING CONDITIONS:

Location	Current Use	Zoning Classification/Use
North	Angleton ISD School District Warehouse	C-G General Commercial
South	Single Family	ETJ
West	Vacant	C-G General Commercial
East	Warehouse	ETJ



Aerial Map



Proposed Site Plan



View of Site from SH 35



View of building and parking lot from Rab Rd.



View of building side from parking lot



Proposed building from SH 35



Proposed building view from Rab Rd.



Proposed building side and parking lot

PROPOSAL:

Mr. King proposes to add approximately 2,254 sq. ft. of classroom space to the existing 5,500 renovated structure (See attached architectural layout).

STAFF ANALYSIS:

Section 28-63, 5 (e); SUP- Specific use permits, outlines the requirements and *factors for consideration*:

When considering applications for a specific use permit, the planning and zoning commission in making its recommendation and the city council in rendering its decision on the application shall, on the basis of the site plan and other information submitted, evaluate the impact of the specific use on, and the compatibility of the use with, surrounding properties and neighborhoods to ensure the appropriateness of the use at a particular location. The planning and zoning commission and the city council shall specifically consider the extent to which:

- a. The proposed use at the specified location is consistent with the goals, objectives and policies contained in the adopted comprehensive plan;
- b. The proposed use is consistent with the general purpose and intent of the applicable zoning district regulations;
- c. The proposed use meets all supplemental standards specifically applicable to the use as set forth in this chapter;
- d. The proposed use is compatible with and preserves the character and integrity of adjacent development and neighborhoods and, as required by the particular circumstances, includes improvements or modifications either on-site or within the public rights-of-way to mitigate development-related adverse impacts, including but not limited to:
 - Adequate ingress and egress to property and proposed structures thereon with particular reference to vehicular and pedestrian safety and convenience, and access in case of fire (**adequate**);
 - Off-street parking and loading areas; ***The parking lot and proposed traffic flow meet all requirements for parking and loading.***
 - Refuse and service areas (**adequate**);
 - Utilities with reference to location, availability, and compatibility (**already existing**);
 - Screening and buffering, features to minimize visual impacts, and/or setbacks from adjacent uses (**No issues exist**);
 - Control of signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district (**No issues exist**);
 - Required yards and open space (**adequate**);
 - Height and bulk of structures (**1-story building and proposed addition**);
 - Hours of operation (**will meet requirements for proposed use**);
 - Exterior construction material and building design (**No issues exist**); and

- Roadway adjustments, traffic control devices or mechanisms, and access restrictions to control traffic flow or divert traffic as may be needed to reduce or eliminate development-generated traffic on neighborhood streets (**No issues**).
- e. The proposed use is not materially detrimental to the public health, safety, convenience and welfare, or results in material damage or prejudice to other property in the vicinity (**No detriments will exist**).







Staff has taken the above criteria into consideration when reviewing the proposed daycare and learning center facility. The space adequately provides for the use and if approved, it will not be in conflict with the Zoning Resolution nor the Comprehensive Plan. The proposed use is compatible with the overall character of the area. The parking lot will adequately accommodate the proposed use.

Childcare licensing and regulations are handled by the state of Texas Health and Human Services Commission. The applicant has stated that the food service will not be cooked on site, meals will be catered. In any case of prepared foods on site, the applicant must comply with Food and Health Inspections and Permit requirements.

Record of Proceedings

Planning and Zoning Commission Meeting Held Thursday,

February 1, 2024, 12:00 PM

- 4. Conduct a hearing, discussion, and take possible action on an Ordinance approving a request for a Specific Use Permit, for approximately 2.7 acres of land, currently zoned "C-G", Commercial General District, allowing for a daycare use on a tract of land located at 2700 E. Mulberry Street/E. SH 35 @ Rab Rd., also described as A0318 T S LEETRACT 38C1 ACRES 2.7 (ANGLETON), Brazoria County, Texas.**

Director Otis Spriggs presented this request for a Specific Use Permit for a daycare, giving the following staff summary:

He added that Development Servies has advertised this public hearing per the requirements for newspaper legal notices. Applicants desire to repurpose an existing Commercial General zoned property that was formerly used by a church having various uses. The majority of the property is within City limits with a small portion being in the ETJ/County. Notices were mailed to property owners within 200 feet. An anonymous County property owner submitted an objection

concerning the nearest road intersection's safety and suggestion to deny the SUP until the intersection is improved. The proposed daycare SUP would meet all setback/site plan requirements in terms of the proposed addition to the structure. There's an area provided on the site plan showing a parking lot that has sufficient space for drop-off/loading and parking requirements for this size daycare. The criteria for approval within the staff report addresses each item. Photographs are shown and renderings of before and after of what they are proposing to enhance the structure as provided. The conditions for approval were read including capacity requirements; they would have to meet state standards for licensing; there are provisions that would cover any type of food management services for the patrons/children such as prepackaged meals and/or a full commercial kitchen; they would have to meet the requirements of the building code, state health codes for food handling. It is noted that there have been zero reported accidents occurring at this intersection during the past 5 years. Staff is asking for a recommendation from the Planning and Zoning Commission to council and then open this up into public hearing for council.

Owners, David King and Veronica King were present and able to address the Commission's questions. Applicants noted that they drive into their other centers a couple days a week.

Commission Member Regina Bieri stated that she thinks we need this type of business on that side of town. I think we do. I think we're going to have an equal building location wise. In the crash report it says there's been no crashes in the last five years. But seems like the property across the street would be more of an issue. It is a pretty grown up on that side of the highway here.

Commission Member Deborah Spoor asked the expected traffic increase, number of students and hours of operation. Ms. Spoor noted that Judge Sebesta brings up some very valid points and it is difficult to see around the corner it is coming off a 55 mile an hour zone. It's not lit. You're going to have, you know, hours that extend beyond the daylight hours in the wintertime.

Mrs. King explained their ideal attendance would be between 70-90 students but, initial attendance is expected to be about 78. They will maintain attendance hours similar to other daycares, 6:00 am open and closing time at 6:00 pm. They will have some buses to transport students between daycare and public schools. Applicants do want to expand the facility later.

Chair William Garwood described driving to the site and encountering a FedEx box delivery truck turning on to the road and needing to maneuver to the edge of the narrow road to avoid the truck. He expressed concern that the city needs to go in and improve that intersection to prevent problems. He questioned a possible turn lane through that section of the 35. You have very limited visibility. You're asking for it at 55 miles an hour and we see that all the time out at 210 and 523 and I think that's again a precarious turn on a major roadway and that there's constantly wrecks out there.

Commission Member Regina Bieri stated an estimate of 6 day-cares around high schools, junior highs, elementaries, nobody has turn lanes or lights. She further explained further down Hwy 35 there is a 100-space mobile home park with 2 cars per lot and across the street, apartments with even more drivers coming out from there, both without a turn lane. She stated there have only been a handful of accidents over the last 20 years and the speed limit is 45. It doesn't increase to 55 to further past the proposed daycare location.

Mr. Spriggs explained that Council is about to embark upon the strategic plan process, and we work with the highway department on the regular basis in terms of developing the traffic improvement plans for the area. There is a pending improvement plan for Henderson Rd. This area

you will see some future applications. We're getting a lot of interest from other users within this block area along FM 523, as well.

Mr. Spriggs agreed to forward the information back to council. He also mentioned provisions for larger development projects where traffic impacts are considered in a traffic impact study at different degrees.

Commission Action: Motion by Commission member Michelle Townsend to approve the final report to City Council with a positive recommendation of this specific use permit application for a child daycare and Learning Center within the Commercial General Zoning District for approval, consideration and appropriate action, subject to the three requirements listed in our packet on item number four, page 8; the motion was seconded by Commission Member Regina Bieri to approve. The vote was unanimous to approve 5-0. Motion carried.

Chair William Garwood additionally requests that his recommendation reflects his belief that the city needs to make the improvement of that intersection a priority.

Public Notification

Mr. Spriggs stated that Staff sent public notices to the local newspaper, and to the property owners within 200 feet of the subject property under consideration for the SUP application.

Opposition to or Support of Proposed Request

To-date, Staff has not received any notices in support, except one letter stressing concerns of needed improvements on the Rab Rd. and SH 35 intersection.

Recommended Action:

The Planning and Zoning Commission adopted this Final Report and forwards it to City Council with a positive recommendation of this Specific Use Permit (S.U.P.) application for a Child Daycare and Learning Center within the Commercial- General Zoning District, (C-G), for approval consideration and appropriate action.

1. The applicant shall obtain and maintain Childcare licensing as regulated by the state of Texas Health and Human Services Commission.
2. The applicant shall obtain any permits and City Final Occupancy approvals prior to opening the facility.
3. The applicant shall maintain any required Health Permit for food services to the children.
4. Recommendation that the city needs to make the improvement of that intersection (Rab Rd. @ SH35) a priority.