



Where Life is Sweet

Members of the Planning Commission

STAFF REPORT

For the Meeting of December 11, 2024

Title/Subject

Conditional Use - Umatilla Basin Properties LLC 4N2811DB Tax Lot 2700 - 150 NE 8th Pl

Summary and Background

Umatilla Basin Properties LLC has submitted a request for a conditional use permit to change the occupancy of an existing building at 150 NE 8th Place. The application seeks to change the occupancy of the building from a single-family residence to a day care home. The property contains an existing single-family dwelling, which is proposed for remodeling and conversion. The property is zoned Medium Density Residential (R-2) and encompasses approximately 5,800 square feet. The existing dwelling encompasses approximately 935 square feet, or 16% of the total lot area. The property is described as 4N 28 11DB Tax Lot 2700.

There are two types of day care uses in the city code. The zoning code creates classifications for a *family day care provider* and *day care home*. The nomenclature may be confusing at first glance as the definitions are the opposite of what would be expected based on the names themselves. A *family day care provider* provides day care for not more than 12 children in the provider's home and the care is considered a residential use. A *day care home* is any facility, other than a single-family dwelling, in which care and nurturing are provided to the young or elderly. Since "home" appears the name for a day care home, it might be expected to be in a home but is instead a place that is not a residence and offering care. As staff has interpreted the ordinance, the *family day care provider* is a home occupation, inside a residence, and offering care by the residents of the dwelling. Meanwhile, a *day care home* is all other facilities where care services are provided, but the staff is not physically living within the structure. The distinction is important in this application because the use is proposed for what is currently a residence but will not be used as a residence if the conditional use permit is approved and the use of the structure will essentially convert from a residential to a commercial use.

A family day care provider is an outright use in all residential zones, supporting the interpretation that it is intended as a home occupation by right. A day care home is a conditional use in all residential zones, a conditional use in the Central Commercial zone, and an outright use in the Outlying Commercial zone. State rules have changed since the adoption of the zoning code and the maximum number of children has increased from 12 to 16 under the provisions of ORS Chapter 329A. The application states that the applicant proposes to have a maximum of 12 children during operation, and operating hours will be on weekdays during normal working hours only.

The property sits within a developed single-family neighborhood. Properties within 300 feet of the property are entirely developed with single-family residences. NE 8th Pl adjacent to the site is an improved city street, but lacking sidewalks. E Fay Ave along the north property line is partially improved. Existing street improvements terminate approximately 33 feet east of the northwest corner of the property. Since the proposal is a change in occupancy, it will meet the development triggers in §157.163 of the Hermiston Code of Ordinances. Approval of the conditional use permit will trigger improvements to E Fay Ave as required in §157.164 of the Hermiston Code of Ordinances.

NE 8th Place is considered a local residential street. This property is located approximately 250 feet north of E Diagonal Blvd, which is classified as an urban minor collector. After reviewing the proposal, it is staff's opinion that directing traffic for a day care home onto a local residential street will not pose a significant impact on the overall neighborhood's traffic circulation. Average daily trips will be less than 50 trips. Vehicles performing pick ups and drop offs will only be on a local street for a short distance and can easily return southbound to E Diagonal Blvd or travel 150 feet west to NE 7th Street and have a variety of potential travel routes.

A day care home is classified in the zoning ordinance as a place of public assembly and requires 1.5 parking spaces per teacher. The property currently has no paved off-street parking. The site plan submitted as part of the application indicates that the applicant proposes to utilize two gravel parking spaces on the property and use on-street parking for the remainder of the parking requirements. This proposal will not satisfy the requirements for parking lot design and construction in §157.175(A) which requires all required parking to be located off-street, and in §157.179(A) which requires all parking to be improved with a hard surface, typically interpreted by the city to be asphalt paving or concrete. There is sufficient area on the site to provide three parking spaces as required for the two employees proposed. The existing gravel parking may be paved and expanded by ten feet in width and meet the requirements of the zoning ordinance.

Issuance of a new conditional use permit is subject to the requirements of §157.208 of the Hermiston Code of Ordinances. This section provides the method and approval criteria necessary for approving or denying a conditional use. The specific findings required by this section are:

1. The proposal is in conformance with the comprehensive plan and zoning code.
2. The property is adequate in size and shape to accommodate the proposed use, together with all other zoning requirements and any additional conditions imposed by the planning commission.
3. Public facilities are of adequate size and quality to serve the proposed use.
4. The proposed use will prove reasonably compatible with surrounding properties.

The planning commission may impose, in addition to those standards and requirements expressly specified by the zoning code, any additional conditions they consider necessary to protect the best interests of the surrounding property or the city. These conditions may include increasing the required lot size or yard dimensions; limiting the height of buildings; controlling the location and number of off-street parking and loading spaces required; limiting the number, size and location of signs; requiring screening and landscaping to protect adjacent property and any other condition deemed necessary by the commission.

It is not necessary to restate other ordinances and statutory requirements of the conditional use as part of the proceedings. The granting or denial of a conditional use will not affect the requirements of the City of Hermiston to comply with building, plumbing, and electrical codes,

other ordinances, statutory or regulatory compliance issues. Conversion of a single-family residence to a commercial use will require additional improvements to meet building code requirements for ADA accessibility and other issues.

The staff report and findings note several deficiencies which will require amendment to the submitted materials. The applicant will have an opportunity to amend the application drawings between the time of preparation of this report and the hearing. Staff reports are required to be prepared at least seven days in advance of the hearing date. If the amendments are made prior to the hearing, then staff will recommend approval of the conditional use permit subject to the draft conditions of approval contained in Exhibit B to this report. If amendments are not submitted, the planning commission may choose to approve the conditional use permit with the requirement that the modifications be submitted and approved by staff or continue the hearing to the January 8 meeting and review the additional materials at that date.

Tie-In to Council Goals

N/A

Fiscal Information

The property has an assessed value of \$65,950. Umatilla Basin Properties operates as a subsidiary of Umatilla Electric Cooperative which is a tax-exempt entity. Sale of the property to Umatilla Basin Properties will result in a net loss of roughly \$4,000 in property tax revenue to the city annually.

Alternatives and Recommendation

Alternatives

The planning commission may choose to

- Approve the conditional use permit
- Deny the conditional use permit
- Approve the conditional use permit with conditions of approval

Recommended Action/Motion

Staff recommends the planning commission approve the conditional use permit.

- Motion to make the project file a part of the record
- Motion to adopt the findings of fact
- Motion to impose conditions of approval
- Motion to approve the conditional use permit

Submitted By:

C.F. Spencer, Planning Director