

ZONING TEXT AMENDMENT: SUPPLEMENTARY STANDARDS FOR DAY
CENTERS (P22-029-ZTA)
CITY OF HENDERSONVILLE - COMMUNITY DEVELOPMENT STAFF REPORT

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PROJECT SUMMARY

- Project Name & Case #:
 - Supplementary Standards for Day Centers
 - P22-029-ZTA

- Applicant:
 - The Tamara Peacock Company Architects
 - Morgan Marks

- Articles Amended:
 - Section 16-4-12 Day center.

- Applicable Zoning District(s):
 - This would apply to all the districts which permit Day Centers subject to supplementary standards:
 - C-2 CZD
 - C-3 CZD
 - I-1 CZD
 - CMU CZD



Summary of Amendment Petition:

The City of Hendersonville is in receipt of an application for a Zoning Text Amendment from Tamara Peacock Company Architects and Morgan Marks for the revision of the Supplementary Standards for Day Centers (Sec. 16-4-12)

The applicant is proposing the following revisions to the text:

A Day Center maybe adjacent to residential use and/or residential district in the case in which a buffer is implemented. A Buffer must consist of twenty- five feet (25 ft) of landscaped separation or fifteen feet (15 ft) of separation with a vertical barrier of at least six feet (6 ft) in height.

Currently Day Centers are not permitted adjacent to a residential use in any zoning district nor within 200' of a residential zoning district.

Article XII of the Zoning Code defines Day Centers as follows:

Day Center: An establishment that provides a combination of case management, resources or a range of like services to aid persons who are primarily indigent, needy, homeless, or transient.

The following Conditional Zoning Districts are the only districts which currently permit Day Center as a use subject to Supplementary Standards:

- C-2 CZD - I-I CZD
- C-3 CZD - CMU CZD

As a use, Day Center requires a Conditional Zoning District petition and the associated process which includes a Neighborhood Compatibility Meeting, Preliminary Site Plan submittal, Tree Board recommendation, Planning Board recommendation, and City Council approval/denial. No changes to the existing process for the approval of a Day Center nor changes to zoning districts permitting Day Centers as a conditional use are part of the proposed text amendment. Rather this text amendment seeks to alter the current supplementary standards as are outlined below:

16-4-12 Day center.

- a) The parcel on which a day center is situated shall not be closer than 1,500 feet to any parcel on which another day center is situated.
- b) The parcel on which a day center is situated shall not be adjacent to a residential use. For purposes of this paragraph, parcels situated across a street right-of-way from a proposed day center shall be deemed to be adjacent.
- c) The parcel on which a day center is situated shall not be within 200 feet of a residential district.
- d) Permissible hours of operations shall be limited to the hours between 6:00 a.m. and 6:00 p.m.

The text amendment, as proposed, would result in the following changes:

16-4-12 Day center.

- a) The parcel on which a day center is situated shall not be closer than 1,500 feet to any parcel on which another day center is situated.
- b) ~~The parcel on which a day center is situated shall not be adjacent to a residential use.~~ A day center may be adjacent to a residential use in cases in which a buffer is implemented. A buffer must consist of twenty-five feet (25') of landscaped separation or fifteen feet (15') of separation with a vertical barrier of a least six feet (6') in height. For purposes of this paragraph, parcels situated across a street right-of-way from a proposed day center shall be deemed to be adjacent.
- c) The parcel on which a day center is situated shall not be within 200 feet of a residential district unless a buffer consisting of twenty-five feet (25') of landscaped

separation or fifteen feet (15') of separation with a vertical barrier of a least six feet (6') in height is implemented.

- d) Permissible hours of operations shall be limited to the hours between 6:00 a.m. and 6:00 p.m.

Article XII of the Zoning Code defines Buffers as follows:

Buffer: A specified land area together with the planting, landscaping and improvements required on the land used to visibly separate one use from another or to shield or block noise, lights or other nuisances.

LEGISLATIVE COMMITTEE RECOMMENDATION

The Legislative Committee of the Planning Board met to discuss this petition at their recurring meeting on Tuesday, April 19, 2022. The members of the committee that were present were: Neil Brown, Jim Robertson and Stuart Glassman. The petitioner was also present for the discussion. In general, the Committee members were supportive of the proposed text changes along with suggestions from staff. A primary consideration was that Day Centers are only permitted as part of a petition for a Conditional Zoning District which requires Site Plan approval and does not permit Day Centers by-right.

The Legislative Committee considered the buffer requirements, as proposed, compared to the buffer requirements that would typically be triggered when C-2, C-3, CMU and I-I zoning are adjacent to a residential use or district (see Section 15-6. – Bufferyards). For C-2, C-3 and CMU, a 10' Type B buffer would typically be required when adjacent to residential uses/districts. For I-I, a 25' Type C buffer would be required.

Considering the proposed text amendment, the proposed buffer would be x2.5 times greater than what would be required for other uses in the C-2, C-3 and CMU districts or 5' greater with the addition of a masonry wall (or wood fence is approved under alternative compliance).

In the case of I-I, the proposal, as written, would be a reduction of the typically required buffer as I-I buffers require a berm and fence or wall in addition to the 25' of separation and would not permit a reduction to 15' unless a condition was granted as part of a CZD petition or under alternative compliance (Section 15-3).

Under Article VI, Sections 6-1 and 6-3-2, the Zoning Code states that regulations which establish a higher standard shall prevail. Consideration should be given to whether additional language should be added to make it clear that the proposed revisions to the Supplementary Standards for Day Centers would only apply in the C-2 CZD, C-3 CZD, and CMU-CZD and not the I-I CZD – where the 25' Type C buffer would prevail in the case of a Day Center

The requirements for Type B and Type C buffers per 100 linear feet are as follows:

Type of Buffer	Planting Requirements per 100 Linear Feet	Size Requirements
B	4 broadleaf canopy tree 25 evergreen shrubs (4-foot centers) 33 flowering shrubs	1½—1¾ inch caliper 18—24 inches 18—24 inches
C	4 broadleaf canopy tree 10 understory trees 33 flowering shrubs berm fence or wall on top of berm	1¾— 2 inch caliper 5—6 feet 18—24 inches 6 feet 8 feet

The separation requirements for buffers from residential uses / districts are as follows:

Proposed Land Use	Existing Land Use /Zoning District ¹
	Residential²
Residential	X
Mobile Home Park	10-foot B
Institutional & Cultural	10-foot B
Commercial	10-foot B

The Legislative Committee also considered the standards for Day Centers as they related to the standards for other similar uses which included Food Pantries and Shelter Facilities as defined in Article XII below:

Food pantry: A nonprofit establishment that primarily distributes food but may also distribute non-food items and other resources to needy individuals and families.

Shelter facility: A building or group of buildings owned or operated by a governmental or non-profit organization used for the purpose of providing boarding and/or lodging and ancillary services on the premises to primarily indigent, needy, homeless, or transient persons.

The Supplementary Standards for Food Pantries and Shelter Facilities are as follows:

16-4-13 - Food pantries.

a) The parcel on which a food pantry is situated shall not be closer than 1,500 feet to any parcel on which another food pantry is situated.

b) Storage of items for distribution shall be located entirely within the building

16-4-28 - Shelter facilities.

- a) The parcel on which a shelter facility is situated shall not be closer than 1,500 feet to any parcel on which another shelter facility is situated.
- b) The parcel on which a shelter facility is situated shall not be within 200 feet of a residential zoning district.

The Legislative Committee noted that there should be alignment between these 3 similar uses and that the lesser intense uses, such as Food Pantries and Day Centers, should not have greater restrictions than more intense uses, such as Shelter Facilities. Consideration of reducing the 1,500 separation requirements for all three uses was also discussed. Upon staff's suggestion, there was a consensus that revisions to the standards should be considered separately and apart from the current petition which is specifically related to Day Centers.

The Legislative Committee also suggested that consideration be given to making Day Centers a permitted use subject to Supplementary Standards in the I-I zoning district as opposed to only permitting the use in the I-I CZD. Ultimately the following language is recommended by the Legislative Committee. Additional language from staff is provided in blue.

16-4-12 Day center.

- a) The parcel on which a day center is situated shall not be closer than 1,500 feet to any parcel on which another day center is situated.
- b) ~~The parcel on which a day center is situated shall not be adjacent to a residential use.~~ A day center may be adjacent to a residential use in cases in which a Type B buffer is implemented. The buffer must consist of twenty-five feet (25') of landscaped separation or fifteen feet (15') of separation with a vertical barrier of a least six feet (6') in height. The vertical barrier shall meet the specifications of Sec. 15-5. e) – General Standards. For purposes of this paragraph, parcels situated across a street right-of-way from a proposed day center shall be deemed to be adjacent.
- c) The parcel on which a day center is situated shall not be within 200 feet of a residential district unless a Type B buffer consisting of twenty-five feet (25') of landscaped separation or fifteen feet (15') of separation with a vertical barrier of a least six feet (6') in height is implemented. The vertical barrier shall meet the specifications of Sec. 15-5. e) – General Standards.
- d) Permissible hours of operations shall be limited to the hours between 6:00 a.m. and 6:00 p.m.

For reference, Section 15-5. e) states the following:

- e) **Walls and fences.** Any walls used for screening or as part of a buffer shall be constructed in a durable fashion of brick, stone, or other masonry materials. When concrete block is utilized, it shall be finished with stucco on both sides. Wood posts and planks or metal or other materials specifically

designed as fencing materials may be approved by the zoning administrator for use in a Type C Buffer. Other materials may also be considered through the alternative buffer and screening process described in [section 15-3](#). No more than ten percent of the surface of a fence or wall shall be left open and the finished side of the fence or wall shall face the abutting property. A chain link fence may not be used to satisfy the requirements of this article.

The Zoning code continues under Section 15-6 c) 2) to state the following:

For type A and B buffers, the developer may, at their option, substitute a masonry wall for the evergreen shrubs. A wooden fence may be incorporated into a buffer but shall not be allowed to substitute for evergreen shrubs.

STAFF ANALYSIS

After additional review and consideration staff are recommending that the vertical barrier be required in cases of residential adjacency/proximity. Staff are also recommending a Type B buffer as a standard planting requirement for Day Centers having found varying buffer requirements in the zoning code depending on the base zoning district. In consideration of these recommendations and in an effort to clarify the requirements for Day Centers across permitted zoning districts (to include I-1CZD, C-2CZD, C-3CZD & CMUCZD), staff proposed the following language:

16-4-12 Day center.

- a) The parcel on which a day center is situated shall not be closer than 1,500 feet to any parcel on which another day center is situated.
- b) ~~The parcel on which a day center is situated shall not be adjacent to a residential use.~~ A day center shall be separated from any adjacent residential use, regardless of the zoning district where located, by a 15-foot B-type buffer meeting the requirements of article XV. Additionally, the buffer shall include a vertical masonry wall or wood fence at least six feet (6') in height. No more than ten percent (10%) of the surface of a fence or wall shall be left open and the finished side of the fence or wall shall face the abutting property. For purposes of this paragraph, parcels situated across a street right-of-way from a proposed day center shall be deemed to be adjacent. Additionally, for the purposes of this paragraph, these buffer standards shall prevail over the standards found in Section 15-6 b).
- c) ~~The parcel on which a day center is situated shall not be within 200 feet of a residential district.~~ A day center parcel shall be buffered from any residential district within 200 feet by a 15-foot B-type buffer meeting the requirements of article XV. Additionally, the buffer shall include a vertical masonry wall or wood fence barrier at least six feet (6') in height. No more than ten percent (10%) of the surface of a fence or wall shall be left open and the finished side of the fence or wall shall face the abutting property. For the purposes of this paragraph:
 - 1) These buffer standards shall prevail over the standards found in Section 15-6 b);
 - 2) The application of the 200-foot separation standard shall be

determined by measuring from the two points which represent the closest two points between the proposed day center parcel boundary and any residential zoning district boundary; and

3) Residential zoning district means the following use districts: R-40, R-20, R-15, R-10, R-6, RCT, PRD.

- d) Permissible hours of operations shall be limited to the hours between 6:00 a.m. and 6:00 p.m.

COMPREHENSIVE PLAN CONSISTENCY	
Land Use & Development	<p>Strategy LU-1.1. Encourage infill development and redevelopment in areas planned for high-intensity development. Action LU-1.1.1. Review zoning standards and revise as necessary to enable compatible infill projects.</p>
	<p>Strategy LU-3.5 Minimize negative impacts from growth and land use changes on existing land uses. Some zoning map changes and other development applications may create short-term incompatibilities with existing neighborhoods, even if they are consistent with the Future Land Use Plan. It is critical that City officials consider the full range of impacts of all development applications, in addition to conformance with the Future Land Use Plan. Action LU-3.5.1 Consider a full range of short- and long-term impacts when reviewing zone change applications and other proposals that introduce land use changes. When reviewing zone change applications, the City should consider whether applications demonstrate a clear public purpose as well as the criteria listed in Figure 8.3a.</p>
	<p>Strategy LU-3.6. - Update the Zoning Code to ensure conformance with the Comprehensive Plan. The Zoning Code is the City's primary regulatory tool in implementing the Comprehensive Plan. Amendments to the Zoning Code and Map will be necessary to reflect Comprehensive Plan recommendations and ensure orderly growth and development.</p>
Population & Housing	Strategy PH-1.1 – Promote compatible infill development
	Strategy PH-3.2 - Encourage mixed land use patterns that place residents within walking distance of services.
Natural & Environmental Resources	There are no Goals, Strategies, or Actions that are directly applicable to this petition.
Cultural & Historic Resources	There are no Goals, Strategies, or Actions that are directly applicable to this petition.
Community Facilities	Strategy CF-1.1. Encourage co-location of new community facilities.
	Strategy CF-1.2. Continue to encourage joint use of existing community facilities, as well as usage of these facilities by community organizations.
	Strategy CF-1.3. Encourage location of community facilities in mixed-use community centers with excellent multimodal access.
	Strategy CF-6.1. Encourage community open-space or play areas in new or redeveloped residential neighborhoods.
Water Resources	There are no Goals, Strategies, or Actions that are directly applicable to this petition.
Transportation & Circulation	Strategy TC-1.1. Encourage mixed-use, pedestrian-friendly development that reduces the need to drive between land uses.
	Strategy TC-3.1. Continue to develop and require a <u>connected</u> street grid.
	Strategy TC-5.1. Incorporate aesthetic improvements such as landscaped medians and street trees along roadways.

DRAFT COMPREHENSIVE PLAN CONSISTENCY AND REZONING REASONABLENESS STATEMENT

The petition is found to be [consistent] with the City of Hendersonville 2030 Comprehensive Plan based on the information from the staff analysis and the public hearing, and because:

The 2030 Comprehensive Plan Land Use and Development Chapter calls for the City to consider short- and long-term impacts on compatibility with existing development and further recommends the consideration be given to determine if an application demonstrates a clear public purpose.

We [find] this petition to be reasonable and in the public interest based on the information from the staff analysis and the public hearing, and because:

DRAFT [Rationale for Approval]

- *The petition addresses additional opportunities for the provision of services for the needy, homeless and transient population within the City of Hendersonville's zoning jurisdiction.*
- *The text amendment addresses separation of day centers from residential uses through the provision of buffers that exceed typical commercial / residential buffer standards for the C-2 CZD, C-3 CZD, and CMU CZD.*

DRAFT [Rational for Denial]

- *The text amendment would permit an incompatible use in closer proximity to residential uses / residential zoning districts.*