




Department of Planning & Community & Economic Development
Building Inspection Division

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2012
ZONING MEMO
REGARDING COMPLAINT
+ SITE COMPLIANCE

DATE: January 23, 2012
TO: Plan Commission.
FROM: Matt Tucker, Zoning Administrator 
SUBJECT: Conditional Use Complaint, Woodland Montessori School (1124 Colby St.) and
Woodland Montessori Toddler house (114 Van Deusen Street)

On November 16th 2011, City staff received a complaint from a citizen, Mr. Noel Hooper Lofton, regarding the approved Conditional Use for daycare facilities at the subject sites. A copy of the complaint is included with this letter (attachment #1). The complaint alleges violations of the standards for Conditional Use, specifically subsections 1, 2, 5, and 6 of the standards. A copy of the Conditional Use Standards is included with this letter (attachment #2).

The Plan Commission maintains continuing jurisdiction over approved Conditional Uses. Per Section 28.12(10)(h)4 of the Zoning Ordinance, upon written complaint from a citizen, the Plan Commission shall review the request and determine if a reasonable probability exists that the property is in violation of one or more of the conditions of approval. The complaint review and necessary finding that the Plan Commission must make follows:

Upon written complaint by any citizen or official, the Plan Commission shall initially determine whether said complaint indicates a reasonable probability that the subject conditional use is in violation of either one or more of the standards set forth in Subdivision (g) above, a condition of approval or other requirement imposed hereunder. Upon reaching a positive initial determination, a hearing shall be held upon notice as provided in Subsection (f) above.

A copy of Conditional Use, Continuing Jurisdiction, Sec. 28.12(10)(h)4. is included with this letter (attachment #3).

History and background of Woodland Montessori Conditional Use

At its August 21st 1978 meeting, the Madison Plan Commission approved a Conditional Use for the Montessori Daycare Center property at 1124 Colby Street. Copies of the Conditional Use application, letter of intent, site plan, and approval letter are included, (attachment #4).

At its March 31st 1997 meeting, the Madison Plan Commission approved a Conditional Use for the conversion of the home at 114 Van Deusen Street, to serve as the Woodland Montessori

Daycare Toddler House facility. Copies of the Conditional Use application, letter of intent, site plan, and approval letter are included, (attachment #5). Some noteworthy aspects of the approval:

- The proposal was for a year-round facility (consistent with current programming),
- The proposed hours of operation match the current hours of operation for the facility.

At its June 7th 1999 meeting, the Madison Plan Commission approved an alteration to the Conditional Use at 114 Van Deusen Street, for an addition/expansion of the Woodland Montessori Daycare Toddler House facility. Copies of the Conditional Use application, letter of intent, site plan, and approval letter are included, (attachment #6).

Site inspection report

An inspection of the facilities was undertaken on Wednesday, January 11th 2012. I visited the site between 8:30am and 9:45am, toured the interior and exterior of both properties, observing the physical condition of the site/property and any apparent operational characteristics during this visit. The visit coincided with a typical, normal time when the daycare would otherwise be open and at capacity, during normal school hours. I observed the staggered drop-off of children, noting no more than a maximum of four personal automobiles dropping children off along the north side of Van Deusen Street at this time, along with two families that had walked their children to the school from the surrounding neighborhood. However, due to the colder winter weather, I did not observe any child activities out of doors that day. Employee vehicles appeared to be parked to the east of the site, on the south side of Van Deusen Street, east of Colby Street.

During this inspection, I met with the management team and discussed each of the conditions of approval for this Conditional Use. All conditions of approval appear to be satisfied, and the master transportation plan appears to be in effect, with one minor exception: The approved Master Transportation Management Plan included a requirement to post a County-wide map of family locations at the facility. This has been substituted with a digital family directory noting where families live to encourage ridesharing.

When touring the exterior of the site, I did notice what appeared to be a site plan conflict at the rear of the Toddler House facility. The two required parking spaces (one accessible) and driveway approved on the 1999 Conditional Use alteration site plan are installed, but access is blocked because of the growth of a tree on the neighboring property (Mr. Lofton's property). Due to this physical impediment, this parking area is not accessible by automobile through the driveway access across Mr. Lofton and his neighbor's property to Homer Court, and therefore the parking area is not being used. The area is paved, the required accessible parking stall sign is installed, and it appears the physical impediment of the tree is the only feature preventing this area from being used for parking purposes. The area appears to be used for some outdoor activity associated with the Toddler House and the owners indicated the shared driveway has the approved gate, and is used periodically for foot traffic/pedestrian access. No activity was taking place in the parking area during my visit.

These types of problems are common with Conditional Uses as they evolve through the years, and in these cases the problems are typically addressed through *Official Notice of Violation*. It is very rare that a site plan-related conflict such as this would result in staff requesting the Plan Commission remedy the problem under the *Continuing Jurisdiction* section in the ordinance. These types of problems are usually resolved by correcting the conflict or by the approval of a

minor alteration to the approved Conditional Use. In this case, during the discussion of the use of this area, the property owners indicated:

- They do not need or want this parking,
- The parking area was installed because of the requirement to add parking with the 1999 approval,
- They recognize the parking creates a conflict with neighboring single-family properties that allow cross-access.

The property owners have indicated a desire to remove the parking from the approved site plan and construct more screening to mitigate any adverse impact the play area may have on the neighboring property. They indicated a willingness to modify the approved site plan and apply for the appropriate approvals, including a public hearing before the Plan Commission on the *Alteration to the Conditional Use* if necessary.

Building inspection records review

The property file for the subject property reflects a history of general property compliance. In 2009, one incident of *lose cardboard exterior storage* was noted at the site, which was resolved to the satisfaction of the building inspector. The building permitting record reflects a building permit was issued to split one room into two rooms in the main facility, and constructed in compliance with this building permit. No capacity increase for the facility was proposed or approved with this room division. Other minor permits for repairs and remodeling are also present.

Findings and recommendation

The complaint identifies specific standards for Conditional Uses which the complainant believes are being violated, but does not specifically describe how these violations are being manifested. The site visit reflected a finding of general conformance, and with the one exception identified above (parking behind the Toddler House facility), the Conditional Use appears to be operating in conformance with its approvals.

Staff is of the opinion that this property is operating in compliance with the standards and conditions of approval associated with this approved Conditional Use, and recommends the Plan Commission find that the complaint does not reflect reasonable probability that the subject Conditional Use is operating in violation of the standards for Conditional Use or the conditions of approval for this specific Conditional Use.

Staff further recommends that the Plan Commission recognize the site problem behind the Toddler House, and recommend the Montessori School property owners apply for an *Alteration to the Conditional Use* within a reasonable timeframe (90 days or so) if the owner wishes to eliminate the parking area and use it for other purposes. This alteration could request a modification of the site plan approval to eliminate the parking requirement and area, allow the use of the space for recreational activities, and install new/additional screening. This type of application will also schedule the desired alteration for a public hearing at a future Plan Commission meeting. At this meeting, neighboring property owners and occupants within 200 feet of the properties will be noticed, and may provide commenting and testimony relative to the Conditional Use. The Plan Commission can review the use and proposed alteration under the Conditional Use standards, and apply conditions to mitigate any adverse impact on the neighboring properties.

Please note, regardless of the action of the Plan Commission, Zoning staff will be following-up with the property owner regarding the parking area site plan problem to the rear of the Toddler House property.

C: Ald. Sue Ellingson, 13th District
Mr. Noel Hooper Lofton
Ms. Erin Trondson, Woodland Montessori School

Attachments