



Report No. CUP #36

Date: November 3, 2009

STAFF MEMORANDUM TO THE PLANNING COMMISSION

SUBJECT: Conditional Use Permit #36

APPLICANT: Daniel and Mary Spegel

PROPOSED: Group Child Day Care

LOCATION: 5805 West Wackerly Street

AREA: 2.67 acres

ZONING: RA-1 Residential

ADJACENT ZONING: North – RC Regional Commercial
East – RA-1
South – RA-1
West – RA-1

ADJACENT DEVELOPMENT: North– Auto body repair
East – Single family residential
South – Single family residential
West – Single family residential

REPORT

Conditional Use Permit No. 36, the request of Daniel and Mary Spegel for a group daycare home (7-12 children) located at 5805 West Wackerly Street. This property is located in a Residential A-1 zoning district.

A "Group Day Care Home" is defined in Section 2.02 of the Zoning Code as; *a private home in which more than six (6) but not more than twelve (12) minor children are given care and supervision for periods of less than twenty-four (24) hours a day unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Group day care home includes a home that gives care to an unrelated minor child for more than four (4) weeks during a calendar year.*

CONDITIONAL USE PERMIT EVALUATION

In accord with Article 28.00 of the City of Midland Zoning Ordinance the Planning Commission shall review the application for conditional land use in accordance with the procedures in this Article, together with the public hearing findings and reports and recommendations from appropriate city and county departments. The Planning Commission shall submit to the City Council a written recommendation of approval, denial, or approval with conditions within forty-five (45) days of the close of the public hearing required for a conditional land use proposal.

Approval of a conditional land use proposal shall be based on the determination that the proposed use will be consistent with the intent and purposes of this Ordinance, will comply with all applicable requirements of this Ordinance, applicable site development standards for specific uses set forth in Article 9.00, and the following discretionary standards:

Discretionary Standards (To be determined by the Planning Commission during deliberation on the request)

1. **Protection of the Public Health, Safety, and General Welfare**
2. **Compatibility With Surrounding Uses**
3. **Detrimental Effects**
4. **Impact of Traffic**
5. **Adequacy of Public Services**
6. **Protection of Site Characteristics**
7. **Compatibility with Natural Environment**
8. **Compatibility with the Master Plan and Intent of Zoning Ordinance**
9. **Public Comments**

As noted at the public hearing, the City has received one correspondence in support of the petitioner's request from an adjacent property owner. No other correspondence has been received to date.

Since the public hearing conducted on October 27, 2009, the following additional information has been obtained:

Petitioner's response to questions raised by the Planning Commission at the public hearing (responses received from the petitioner via email):

1. *What are the hours of operation?* My hours of operation are from 6am - 12am seven days a week (with only a few children on the weekends). If you could give me until 9p.m. with 12 children I will then make sure I have only 6 children the duration of time open. Currently I have children that no other daycares will take because they make it impossible to have full time children with so many single

moms going to school in the evenings. The majority of the part timers are from 1-9p.m. which makes it so I am not able to have any full time day children or I would have to let the part-timers go. I will work with what I am allowed of course.

2. *Is the backyard fenced in?* Yes, a large area.
3. *What is the distance from the front of your house to your turn-around area? How will you handle pick-up and drop-off traffic?* This has not been an issue since everyone does not get dropped off at the same time. If we had more than the three parents who happen to be in yard at one time in the past then one is in the turnaround area and the other 2 are side by side it affects nothing at all. I have a total of 9 part-time parents currently and only two of them are at the same time.
4. *Have you considered creating a turnaround in front of your house to allow vehicles to drop off and pick up children?* No, I feel there is no need for that.
5. *How wide is your asphalt driveway?* It is a single lane with a double parking spot at the front and then the turnaround area.

The petitioners have also noted that their son owns the property to the east and another relative owns the property to the west. The petitioners own and operate the automotive body shop across the street on West Wackerly St.

STAFF RECOMMENDATION

Upon careful review of the requested conditional land use permit staff recommends approval of the request with the following contingencies:

1. That no on-premises signs be permitted.
2. That the hours of operation not extend past __:00 p.m. Monday through Friday for between 7-12 children.
3. That no exterior or interior alterations to the building be permitted that would otherwise change the character or nature of the dwelling as a residential use.
4. That no more than one additional non-resident adult employee be present at any given time.

PLANNING COMMISSION ACTION

Staff currently anticipates that the Planning Commission will take action on this request, formulating a recommendation to the City Council, during its regular meeting of November 10, 2009. We further anticipate that on November 23, 2009 the City Council will set a public hearing on this matter. Given statutory notification and publication requirements, the City Council hearing will likely be scheduled for December 21, 2009. Please note that these dates are merely preliminary and may be adjusted due to Planning Commission action and City Council agenda scheduling.

Respectfully Submitted,

Keith Baker, AICP 
Director of Planning & Community Development
City of Midland