



Wichita-Sedgwick County Metropolitan Area Planning Department

January 17, 2012

Tabernacle Baptist Church
Attn: LaTonia Andrews
1817 N. Volutsia
Wichita, KS 67214

RE: CON2011-00039 - City Conditional Use request for a Day Care, General on property zoned SF-5 Single-family Residential ("SF-5"); generally located west of Hillside Avenue, on the northeast corner of 17th Street North and Volutsia Avenue.

Dear Ladies and Gentlemen:

At its regular meeting on **January 5, 2012**, the Wichita - Sedgwick County Metropolitan Area Planning Commission considered the above captioned request. The action of the MAPC was to **APPROVE** the request, subject to the following conditions:

1. In addition to the uses permitted by right in the SF-5 district, a "day care, general" with up to forty children, Monday through Friday, 7:30 a.m. to 5:30 p.m. is permitted.
2. All applicable requirements of Art III, Sec III-D.6.i of the Unified Zoning Code shall be met.
3. The "day care, general" shall be operated in general conformance with the approved site plan.
4. The "day care, general" shall be developed and operated in compliance with all federal, state, and local rules and regulations.
5. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

NOTICE: The public hearing on planning items is conducted by the MAPC under provisions of State Law. Adopted policy is that the City Council will not take additional testimony on zoning related applications and other issues for which the MAPC has held a public hearing. However, interested parties may file a written statement with the City Clerk by 5:00 p.m. on the

City Hall • 10th Floor • 455 North Main • Wichita, Kansas 67202-1688

T 316.268.4421 **F** 316.268.4390

www.wichita.gov

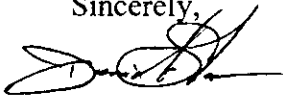
Wednesday preceding this meeting, providing new facts on the issue or alleging an unfair hearing. The Council will determine from such statements whether to return the issue to the MAPC for reconsideration or to reverse their recommendation.

Property owners may also file written protest petitions on zoning related items heard by the MAPC. In order to be considered a "valid" petition, the signatures must reflect the correct and entire ownership of the property, the property must be at least partially within 200 feet of the property for which the application was filed, and must be submitted to the City Clerk within 14 days of the conclusion of the MAPC hearing, by **January 19, 2012, at 5 p.m.** Such petitions may cause the application to be disapproved, if the land area encompassed by the protesting owners exceeds 20% of the land area within 200 feet of the perimeter of the application area, unless the Council overrides such a protest and approves the application by a vote of 6 of its members.

If there are no valid appeals or protest petitions filed opposing this action by **January 19, 2012, at 5 p.m.** the action of the MAPC will be considered final. If appeals or protest petitions are filed, you will be advised of the date your application will be forwarded to the Governing Body for review and final action.

This is a reminder that the zoning notification signs should now be removed from the property. If you have any questions concerning this application, please contact our office at 268-4421.

Sincerely,



Derrick Slocum
Associate Planner

Copies to: Matlock Heights, c/o Ronna Henry, 2807 E. 22nd St. North, Wichita, KS 67219
Northeast Millair, c/o Patricia Fields, 1910 E. 22nd St. North, Wichita, KS 67219
Power, c/o Phyllis Jackson, 1831 N. Piatt, Wichita, KS 67214
Northeast Central, c/o James Arbertha, 1802 N. Hydraulic, Wichita, KS 67214
Fairmount, c/o James VanMilligen, 1717 Fairmount Ave., Wichita, KS 67208
Lavonta Williams, WCC I, Mail Stop 1-13
N.A. I, Lashonda Garnes, Mail Stop 1-135
Julianne Kallman, Engineering, Mail Stop 1-71

CONDITIONAL USE RESOLUTION NO. CON2011-00039

WHEREAS, Tabernacle Baptist Church, (Owner/Applicant); pursuant to Section V-D of the Wichita-Sedgwick County Unified Zoning Code (herein referred to as Unified Zoning Code), requests a Conditional Use for a Day Care, General on 0.76 acres zoned SF-5 Single-family Residential ("SF-5") described as:

All of lots 22 thru 48, Block 5, Westmoreland Addition to Wichita, Sedgwick County, Kansas; generally located west of Hillside Avenue, on the northeast corner of 17th Street North and Volutsia Avenue.

WHEREAS, proper notice as required by the Unified Zoning Code and by the policy of the Metropolitan Area Planning Commission (hereinafter referred to as MAPC) has been given; and

WHEREAS, the MAPC did, at the meeting of January 5, 2012, consider said application; and

WHEREAS, the MAPC has authority to permit a Conditional Use, subject to any special conditions deemed appropriate in order to assure full compliance with the criteria of the Unified Zoning Code.

NOW, THEREFORE, BE IT RESOLVED by the Metropolitan Area Planning Commission that this application be approved to allow a Conditional Use for a Day Care, General on 0.76 acres zoned SF-5 Single-family Residential ("SF-5") described as:

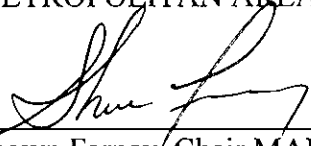
All of lots 22 thru 48, Block 5, Westmoreland Addition to Wichita, Sedgwick County, Kansas; generally located west of Hillside Avenue, on the northeast corner of 17th Street North and Volutsia Avenue.

Approved subject to the following conditions:

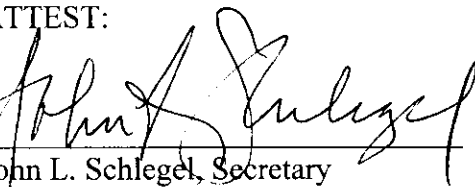
1. In addition to the uses permitted by right in the SF-5 district, a "day care, general" with up to forty children, Monday through Friday, 7:30 a.m. to 5:30 p.m. is permitted.
2. All applicable requirements of Art III, Sec III-D.6.i of the Unified Zoning Code shall be met.
3. The "day care, general" shall be operated in general conformance with the approved site plan.
4. The "day care, general" shall be developed and operated in compliance with all federal, state, and local rules and regulations.
5. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

Adopted this 5th Day of January 2012

METROPOLITAN AREA PLANNING COMMISSION


Shawn Farney, Chair MAPC

ATTEST:


John L. Schlegel, Secretary

STAFF REPORT

MAPC: January 5, 2012
Tentative WCC Date: February 7, 2012
(If protests are received)

CASE NUMBER: CON2011-00039

APPLICANT/OWNER: Tabernacle Baptist Church, c/o LaTonia Andrews
(Owner/Applicant)

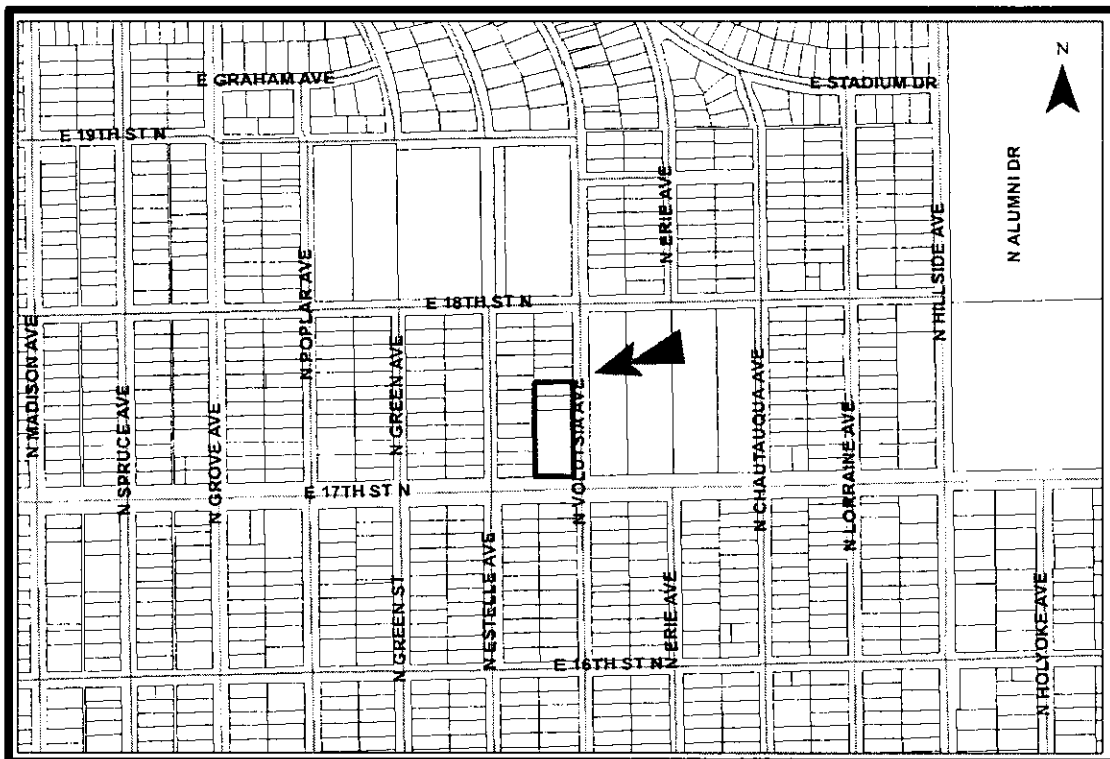
REQUEST: Conditional Use to permit a “Day Care, General”

CURRENT ZONING: SF-5 Single-family Residential (“SF-5”)

SITE SIZE: 0.76 acres

LOCATION: Generally located west of Hillside Avenue, on the northeast corner of 17th Street North and Volutsia Avenue.

PROPOSED USE: Day Care, General



BACKGROUND: The applicant is seeking Conditional Use approval to permit a “day care, general” on 0.76 acres located at 1817 N. Volutsia, on the northeast corner of 17th Street North and Volutsia Avenue. Currently, the subject site is developed with an active church, an associated 81-space parking lot and an accessory building. The property is zoned SF-5 Single-family Residential (“SF-5”). It is the applicant’s intention to operate a latch-key program for after school and a day care during the summer months with up to forty children, Monday through Friday, 7:30 a.m. to 5:30 p.m. The applicant intends to use the site as it is currently developed. The site has direct access to Estelle Avenue and Volutsia Avenue.

Per the *Wichita-Sedgwick County Unified Zoning Code* (“UZC”), a “day care, general” is permitted in the SF-5 district only by Conditional Use approval. The UZC defines a “day care, general” as a day care center that provides care, protection and supervision for more than ten individuals at any one time, including those under the supervision or custody of employees, or a day care center for ten or fewer individuals at any one time that is not operated as a home occupation. The conditions for a day care, general in the in the SF-5 zoning district, per Art III, Sec III-D 6.i of the UZC are: (a) Day care centers shall comply with all applicable state regulations; (b) When located in the residence of the care provider in a residential zoning district, day care centers shall comply with the general home occupation standards of Sec IV-E-3; (c) Outdoor play shall be limited to the hours of 7:30 a.m to 6:30 p.m., if located within 100 feet of a lot containing a dwelling unit, and; (d) Provisions of parking spaces in Art IV, Sec IV-A, 4 may be provided by shared parking when the day care is located within an existing church or place of worship, however the day care shall provide convenient off-street loading facilities as required.

Property surrounding the subject site to the north, east and west is zoned SF-5, and is developed with single-family residences to the north and west and a high school to the east. Property south of the subject site, across 17th Street, is zoned TF-3 Two-family Residential (“TF-3”) and is developed with single-family residences.

CASE HISTORY: The property is platted as Lots 22, 24, 26, 28, 30, 32, 34, 36, 38, 40, 42, 44, 46 and 48, Block 5, Westmoreland Addition, recorded March 22, 1910. There was one other case on this site, BZA2005-00037, that was an adjustment to allow a LED sign for the church.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5	Residential
SOUTH:	TF-3	Residential
EAST:	SF-5	High School
WEST:	SF-5	Residential

PUBLIC SERVICES: The subject property has frontage along north Volutsia Avenue (east side of property), a two-lane, paved local street without traffic counts. South of the subject site is east 17th Street, a four-lane, paved arterial street with the average daily trips (ADT’s) of 22,000 at its intersection with north Hillside Avenue, a quarter mile east of the subject site. Public water and sewer service are currently available to the subject property.

CONFORMANCE TO PLANS/POLICIES: The 2030 Wichita Functional Land Use Guide of CON2011-00039

the Comprehensive Plan identifies the site as appropriate for “Urban Residential” use. Urban Residential is a category that encompasses areas that reflect the full diversity of residential development densities and types typically found in a large urban municipality. The range of housing types found includes: single detached homes, semi-detached homes, zero lot line units, patio homes, duplexes, townhouses, apartments and multi-family units, condominiums, mobile home parks and special residential accommodations for the elderly (assisted living, congregate care and nursing homes). Elementary and middle school facilities, churches, playgrounds, parks and other similar residential-serving uses may also be found in this category.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions:

1. In addition to the uses permitted by right in the SF-5 district, a “day care, general” with up to forty children, Monday through Friday, 7:30 a.m. to 5:30 p.m. is permitted.
2. All applicable requirements of Art III, Sec III-D.6.i of the Unified Zoning Code shall be met.
3. The “day care, general” shall be operated in general conformance with the approved site plan.
4. The “day care, general” shall be developed and operated in compliance with all federal, state, and local rules and regulations.
5. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

The staff’s recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:** Property surrounding the subject site to the north, east and west is zoned SF-5, and is developed with single-family residences to the north and west and a high school to the east. Property south of the subject site, across 17th Street, is zoned TF-3 Two-family Residential (“TF-3”) and is developed with single-family residences.
2. **The suitability of the subject property for the uses to which it has been restricted:** The site is zoned SF-5, which is a district primarily limited to low density residential uses and a few compatible nonresidential uses such as churches, parks or schools. The site is developed with a church, which is permitted in the SF-5 district as a use by right. The site could continue to be used as currently zoned and developed; however, the addition of a day care can be considered an appropriate use to extend the daily use of an existing church beyond typical Sunday and Wednesday night activity, and potentially to provide child care for nearby residents.
3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** The site has 0.76 acres. The number of children proposed for the site and the hours and days of operation minimize potential impacts.

4. **Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant:** Approval of the request would provide additional day care choice for nearby residents. Denial of the application would presumably result in a loss of revenue for the church.
5. **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The 2030 Wichita Functional Land Use Guide of the Comprehensive Plan identifies the site as appropriate for “Urban Residential” use. Urban Residential is a category that encompasses areas that reflect the full diversity of residential development densities and types typically found in a large urban municipality. The range of housing types found includes: single detached homes, semi-detached homes, zero lot line units, patio homes, duplexes, townhouses, apartments and multi-family units, condominiums, mobile home parks and special residential accommodations for the elderly (assisted living, congregate care and nursing homes). Elementary and middle school facilities, churches, playgrounds, parks and other similar residential-serving uses may also be found in this category.
6. **Impact of the proposed development on community facilities:** Traffic will increase; however, the amount should be no different than during regular church hours and should not negatively impact 17th Street. All other community facilities are in place to serve the proposed use.