

City of South Daytona
Community Development Department

1672 S. Ridgewood Avenue • South Daytona, FL 32119 • 386/322-3022



MEMORANDUM

To: James L. Gillis Jr.
City Manager

From: S. Laureen Kornel
Community Development Director

Date: November 2, 2021

Re: Consideration of Resolution No. 2021-28 Approving a Special Use to allow a Child Care Center at 2355 South Ridgewood Avenue

AGENDA ITEM

Item # 16

Date: November 9, 2021

Introduction: This is a request by Luverina Lock, 5 Stars Preschool Academy, LLC for a Special Use to allow a Child Care Center as defined in the City's Land Development Code (LDC) at property located at 2355 South Ridgewood Avenue. The subject property is zoned BGC (Business General Commercial) and is located within the Community Redevelopment Area. The Special Use regulations provide for the Child Care Center use as a Special Use under certain conditions. The proposed use would be conducted in the existing, fully-enclosed building with **no outdoor play area and no additional building or site construction being proposed** as part of the Special Use request.

Background: The subject property has historically been used for professional office and commercial uses. A new business wanting to establish a Child Care Center applied for a Business Tax Receipt (BTR). Child Care Center use requires a Special Use in accordance with Section 5.8(C)(1) of the Land Development Code (LDC). The Special Use request is consistent with the Comprehensive Plan and meets the criteria of the LDC. The Planning and Appeals Board met to discuss this item on October 20, 2021, and unanimously (6-0) recommended approval.

Staff Recommendation: It is recommended that the City Council **APPROVE** the request for a Special Use to allow a Child Care Center at property located at 2355 South Ridgewood Avenue. Attached to this memorandum, as Attachment A, is Resolution No. 2021-28 which formally approves the Special Use request.

Attachments: Resolution 2021-28

RESOLUTION NO. 2021-28

A RESOLUTION OF THE CITY OF SOUTH DAYTONA, FLORIDA, APPROVING A SPECIAL USE FOR A CHILD CARE CENTER LOCATED AT 2355 SOUTH RIDGEWOOD AVENUE; ESTABLISHING CONDITIONS AND AN EXPIRATION DATE OF APPROVAL; PROVIDING FOR CONFLICTS, ADMINISTRATION, RECORDING, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, Luvernia Lock, owner of 5 Stars Preschool Academy, LLC (“Applicant”) as agent for James A. Garrow, the property owner, has applied for the issuance of a Special Use to allow the property located at 2355 South Ridgewood Avenue, South Daytona, Florida, bearing Property Tax Identification No. 5344-11-00-0310 (hereinafter the “Property” and more particularly described in Exhibit “A”) to be used for a Child Care Center; and

WHEREAS, the property is located within the BGC (Business General Commercial) zoning district; and

WHEREAS, the BGC zoning district allows as a Special Use subject to approval by the City Council based on findings of consistency with the City of South Daytona Comprehensive Plan and compliance with, and satisfaction of, criteria and conditions contained in Article V, Sections 5.8(B)(2) and 5.8(C)(1) of the Consolidated Land Development Regulations for the City of South Daytona (“Land Development Code”); and

WHEREAS, the City of South Daytona Planning and Appeals Board held a public hearing on October 20, 2021, regarding this Special Use application as required by Article III, Section 3.2(K), and found the Special Use application: 1) in compliance with Article V, Sections 5.8(B)(2) and 5.8(C)(1) of the Land Development Code and Florida law; and 2) consistent with the City of South Daytona Comprehensive Plan; and

WHEREAS, the City of South Daytona Planning and Appeals Board thereafter unanimously recommended approval of the Special Use application to the City of South Daytona City Council; and

WHEREAS, the City of South Daytona City Council held a public hearing on the Special Use application on November 9, 2021 and at the public hearing considered testimony from the Applicant and city staff as well as evidence, including but not limited to:

- (1) The recommendation of the City of South Daytona Planning and Appeals Board;
- (2) The report and recommendations of the City of South Daytona Community Development Department, dated November 2, 2021;
- (3) The comments of governmental agencies, utility corporations and individuals, as received and present at the public hearing; and

WHEREAS, based upon the foregoing and in consideration thereof, the City Council found that:

- (1) The proposed Special Use of the Property for a Child Care Center is consistent with the standards and requirements of the Code permitted within the BGC (Business General Commercial) zoning district;
- (2) The proposed use is consistent with the City of South Daytona *Comprehensive Plan*;
- (3) The proposed use is compatible with adjacent existing uses including commercial and multi-family uses;
- (4) The proposed use provides adequate ingress/egress, parking, open space, and other amenities for the benefit of the users;
- (5) The proposed use does not impair rights of other properties to light, air, sunlight, or other natural phenomena;
- (6) The proposed use meets or exceeds tests for concurrency management;
- (7) Traffic generated and its access and flow to the proposed use shall not adversely impact adjoining properties and the general public safety and convenience;
- (8) Off-Street parking, loading, and service areas shall be provided and located such that there is not additional impact on adjoining properties;
- (9) Required yards, screening or buffering, setbacks, landscaping, and other performance standards shall be consistent with the zoning district in general and the specific needs of the adjacent land use;
- (10) Architectural and signage treatments shall be compatible with surrounding land use;
- (11) Utility service levels to the surrounding area shall not be reduced by allowance of the proposed special use;
- (12) Size, location or number of special uses in an area shall be limited so as to maintain the overall character of the zoning district as intended by this zoning ordinance and the comprehensive plan;
- (13) The special use shall be consistent with the standards, goals, and objectives of the Comprehensive Plan;
- (14) The special use shall be compatible with adjacent properties, buildings and uses, and shall not conflict with adjacent properties with regard to noise, lighting, commotion, aesthetics, odors, dust and general intensity of use.

- (15) This is the only Special Use in the area and allows for the continuation of the overall character of the zoning district as intended in this Code.
- (16) The proposed use does not require the submission of a redevelopment or site plan since the Property is already developed and the existing buildings will be used.
- (17) The proposed use of the Property as a Child Care Center conforms to the technical standards of the Land Development Code.
- (18) The applicant shall demonstrate that the site, as it exists or with specific improvements, meets all licensing criteria of the State of Florida prior to the issuance of a Business Tax Receipt;
- (19) The owner shall file copies of all required State permits/certifications prior to the issuance of a Business Tax Receipt;
- (20) There are no existing or pending code violations or liens on the Property.
- (21) All Development Review Committee Comments have been satisfied.
- (22) This Resolution is approval of the Special Use. No further development order is needed.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SOUTH DAYTONA, FLORIDA:

SECTION 1. Recitals. The above recitals are true and correct and are incorporated herein by reference.

SECTION 2. Conditions. Approval of the Special Use is subject to the following conditions:

- (a) All applicable provisions of the Land Development Code shall be complied with at all times, such provisions being incorporated herein by reference and hereby specifically made a part of this approval.
- (b) There shall be no outdoor play area unless all standards for an outdoor play area are met.

SECTION 3. Administration. In the event a Code Enforcement Officer subsequently determines there to be any violation of this Special Use, the Officer shall promptly present the matter to the Special Master for hearing. If the primary use proposed by the Applicant is not initiated within one (1) year of the approval of this Special Use or if the activity that is authorized by this Special Use is abandoned for a period of six (6) months, the authority provided herein shall be deemed to be automatically revoked; and a business tax receipt for a new use shall not be issued without a zoning approval for a new use, subject to Special Use requirements, and shall not be

issued until the Development Review Committee determines that all of the conditions of Article III, Section 3.2(K) and Article V, Sections 5.8(B)(2) and 5.8(C)(1) of the Land Development Code have been satisfied.

SECTION 4. Recording. This Resolution shall be recorded in the public records of Volusia County, Florida, at the expense of the Applicant and shall be binding upon, the applicant, Luvernia Lock, owner of 5 Stars Preschool Academy, LLC, as agent for James A. Garrow, the property owner, and their successors and assigns, and shall run with the Property.

SECTION 5. Conflicts. Any provision of this Resolution in conflict with any City of South Daytona Land Development Code is hereby repealed to the extent of any conflict.

SECTION 6. Severability. In the event that any word(s), phrase(s), portion(s), sub-sub-section(s), sub-section(s), or section(s) of this Resolution, is contrary to law, or against public policy, or shall for any reason whatsoever held to be invalid, illegal or unconstitutional, by any court of competent jurisdiction, such word(s), phrase(s), portion(s), sub-sub-section(s), sub-section(s), or section(s) of this Resolution shall be null and void, and shall be deemed severed, and a separate, distinct, and independent provision from the remaining provisions of this Resolution, and such holding shall in no manner affect the validity of the remaining words, phrases, portions, sub-sub-sections, sub-sections, or sections of this Resolution, which shall remain in full force and effect. This Resolution shall be construed in a manner to accomplish, to the greatest extent legally possible, the purposes of this Resolution as expressed herein. It will be presumed that the City Council for the City of South Daytona did not intend to enact any invalid or unconstitutional provision. It shall further be presumed that the City Council would have enacted the remainder of this Resolution without any invalid or unconstitutional provision, thereby causing said remainder to remain in full force and effect.

SECTION 7. Effective Date. This Resolution shall become effective immediately upon its adoption.

APPROVED AND ADOPTED upon first and final reading at the regular public hearing held by the City Council of the City of South Daytona, Florida, on the 9th day of November 2021.

William C. Hall, Mayor

ATTEST:

James L. Gillis, Jr., City Manager
as Appointed City Clerk

Approved as to form and sufficiency

Wade C. Vose, City Attorney

Exhibit “A”

*Resolution 2021-28. Page 4 of 5
Special Use for Child Care Center at 2355 S. Ridgewood Avenue*

The Property

LEGAL DESCRIPTION

LOT 31 EXC PART IN ST RD 5 WEST SHORE PARK SEC 2 MB 9 PG287 PER OR 5204 PG 2595 PER OR 7300 PG 0762, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA.

OWNER: JAMES S. GARROW

LOCATION: 2355 SOUTH RIDGEWOOD AVENUE

PARCEL ID NUMBER: 5344-11-00-0310

LOCATION MAP

