



Town of Hamden

Planning and Zoning Department

To: Hamden Planning and Zoning Commission

From: Matthew Davis, Assistant Town Planner

Re: Special Permit/Site Plan Application #21-1338
2105 State Street

Date: July 19, 2021

Overview

Application is to allow a combined use to include a private commercial daycare and a faith based school. The proposed church use has been deleted by the applicant from the project scope. The site is zoned M and in many respects both the prior uses and site conditions are nonconforming.

Department Reviews

In that no site improvements are proposed or in general, required, no substantive comments were received from cohort agencies. As with all PZC actions, subsequent to commission approval, and as part of the pro formal zoning permit application review process, cohort agencies will be provided with another opportunity to review/sign off as to any interior code requirements under their authority. In that the building has been used as a public and private school, staff assumes such improvements would primarily be related to life safety, interior environmental conditions and/or building access/egress. No zoning permit will be issued, nor any C.O. or CZC until any required code issues are addressed.

Planning Department Comments

The site is zoned M. Daycare is permitted by special permit, however, conventional schools are not allowed (only business schools are permitted in the M zone). This makes this a very unique and somewhat complicated application, due to the zoning history of the subject site. The site was used as a public school, dating back to (apparently) 1830 and up to 1967. Subsequent actions included the following:

Generalized Summary of Property Use/Zoning Approvals

1972

Private daycare was permitted by use variance, after denial of a building permit, due to the abandonment of the prior nonconforming use (school). A use variance was approved to the M-2 zone regulations to allow the nonconforming daycare use "in accordance with plans submitted." The "plan" found in the

variance file is of limited value, but is not necessary to analyze the current application, as the use is the focus and the “scale” of the use is clarified in subsequent applications summarized below.

1980

An additional use variance was granted (ZBA file not found) to allow office and retail (50/50). The (former) zoning section of the PZC subsequently approved Site Plan application #82-659. At this time, the building was two stories with 30,500 square feet and the site was to contain 149 parking spaces (13,000 sf of pavement was to be added in the rear of the site). This additional parking area was apparently never constructed (or was and it was then abandoned). The site now contains only 85 parking stalls.

1997

The ZBA approves another use variance application, #5598-97 to allow a 300 student school in a CDD-1 zone (West Woods Christian Academy). At the time, the most recent use had been for the DCYS and also a small portion of the building (former gym area) was leased to the State Department of Revenue Service. Oddly, the meeting minutes indicate that there were at the time 149 “existing parking spaces.” The 300 student occupancy was based on the prior public school use which included (apparently) 15 classrooms at roughly 20 students/class.

Subsequent to approval of the variance, the PZC approved Special Permit/CAM #97-822. This plan showed 85 parking spaces, with the rear most parking area removed and shown as a recreation area. Office uses were to be located in the lower level “basement” area with the classrooms and other ancillary uses to be located on the main and second floors (as had been done with the prior school use). Total gross floor area was just over 34,000 sf.

Current Application and Zoning Analysis

The prior zoning approvals, specifically the use variances, are critical to the review of the current proposal in that variances (including use variances) “run with the land” and as such, the current owners have a valid legal claim to at least the most recent (1997) use variance. This is important because, while the current M zone regulations do allow for group daycare/nursery schools by special permit, in the absence of a legal claim to the prior lawful nonconforming site conditions as they relate to those specific uses, the current owners would need to improve the site to meet current zoning standards. This is even more critical as to the general “school” use, in that at present, only business schools are permitted in the M zone. Therefore, the general school use and the site improvements relating to the general school use are completely reliant on the prior use variances.

Based on staff’s analysis, staff advised the applicant that they would have to substantially modify their application or it could not be approved.

As to the present application, this application was precipitated by a desire by the owners to “privatize” the daycare, but they also desired to maintain the same 300 student “general” school use, in essence increasing the non-conformity to an aggregate occupancy of 368 because the private daycare is proposing a student population of 68 students. This will require an allocation of no less than 25 of the available 85 parking spaces to the private daycare AND a proportionate decrease in the maximum student population for the general school. Based on the 1997 use variance, the preschool/daycare was part of the 300 student total permitted and as it was owned, operated and in all respects controlled by the prior owners as

a component of the overall use, the owners were free to manage the “mix” as they deemed best to fit their needs, business model and the site’s obvious limitations.

For this reason, staff believes that privatization of the daycare use creates a legal obligation under zoning to allocate the required 25 spaces (at 68 private daycare students) to that private daycare use. Staff has explained the zoning implications of the privatization of the daycare and the applicant has acknowledged their understanding. In fact, they have chosen to eliminate the “church” use from the scope, even though that use, oddly enough, is in fact permissible in the M zone and would have different hours/days of parking demand (and is therefore of less operational concern). The applicants have agreed in writing to conform to the scope as approved in 1997, modified to address the daycare privatization.

This is driven by the fact that the owners do not wish to make major improvements to the site, specifically to increase available parking, although area is available and suitable for that purpose. In effect, they are, for this reason, knowingly, willingly and intentionally agreeing to accept the proportionate decrease in the permissible scale of the general school use, in order to privatize the daycare.

A final note - the church school and the private daycare must understand that their business’ special permit are NOT independent of each use, it is completely and necessarily linked, by virtue of the way the application was structured, submitted, analyzed and approved. The PZC is not acting on TWO special permit applications, but one, encompassing both uses.

This is the basis upon which staff has crafted approval recommendations. The 1997 use variance and related PZC special permit approval will still serve as the source of the valid claim to lawful nonconformity, however an accommodation will be made to allow both uses at a combined scale that recognizes the limitations of the site’s (lawful) nonconforming conditions.

Recommendation

Staff believe that the application, as conditioned herein, complies with the applicable special permit criteria and other requirements of the zoning regulations and recommend approval subject to the following:

Conditions of Approval:

1. The scope of this special permit is based upon ZBA use variance #5598-97 and PZC Special Permit #97-822, modified and conditioned herein with the present applicant/owner’s approval, in order to allow for the privatization of the child daycare (preschool) portion of the lawful nonconforming school use.
2. Uses permitted under this single special permit shall only include a 68 student (maximum) private commercial child daycare center (as permitted under section 636 of the Zoning Regulations) and a 232 student (maximum) faith based nonprofit school, permitted by virtue of ZBA use variance #5598-97.
3. This special permit shall be issued to “Una Iglesia Para la Ciudad Church” and shall not be transferred to any other party without the prior knowledge and consent of the Town of Hamden Zoning Official.
4. The limitation of 232 students for the school and 68 students for the child daycare center shall govern, regardless of whether or not other applicable codes or regulations would permit a higher occupancy level.
5. The child daycare center shall be allocated rights to no less than 25 of the existing 85 parking stalls. The remaining spaces shall be allocated exclusively to the school.
6. No changes to either use or to the site shall occur without the prior review and consent of the Hamden PZC or its duly authorized agent (Hamden Zoning Official).

7. Parking shall only occur in approved designated locations.
8. Business signage is expressly excluded from this approval and if proposed, shall require application for and approval of, a separate zoning permit.
9. The final plans shall depict any proposed or required exterior play area and related "apparatus" and screening of apparatus as required by the Hamden Zoning Regulations. No play apparatus shall be located within any required side or front yard setback area.
10. The required zoning permit application shall include scaled floor plans, area calculations and designation of the use of all interior areas.
11. Prior to issuance of a CZC by the Hamden Zoning Officer, the applicant shall make application for a CZC and allow the Hamden Zoning Official access to inspect the property to confirm compliance with the approved Special Permit, Site Plan and Floor Plans.
12. No Certificate of Occupancy shall be issued until a CZC has been approved by the Zoning Official.
13. All improvements shall be completed by July 27, 2026.
14. Prior to the issuance of a zoning permit, the applicant shall submit revised plans incorporating all conditions of approval.

Copy to:

Applicant/Agent



Town of Hamden

Planning and Zoning Department

To: Hamden Planning and Zoning Commission

From: Matthew Davis, Assistant Town Planner

Re: Special Permit/Site Plan Application #21-1344
2669 Whitney Avenue (Group Daycare)

Date: July 20, 2021

Overview

Application is for a group daycare in a T-3 zone pursuant to section 636 of the regulations. Sixteen students, ¼ acre parcel, existing single family home conversion with related site improvements.

Department Reviews

QVHD provided their standard comments relating to food service and other basic requirements. Details and permitting for food service will be addressed, if necessary, during the zoning permit application review.

The Fire Marshal asked if the building was to have sprinklers. That is a matter that falls under his jurisdiction and code, not zoning, so if he tells the applicant they are required, then the applicant will need to provide them. Details of this will be addressed during the zoning permit application review process.

The Police Department had no comments, after staff clarified this was a group DAYCARE home.

Planning Department Comments

The site is small and the scale of the proposed use is probably the maximum one could reasonably attempt to establish. The one way circulation will help manage traffic, however, parking on the side street should not be permitted within perhaps 50' of the intersection. There is obviously a large demand for daycare in Hamden and it is difficult to find suitable locations, properly zoned. With the exception of the items noted, staff has no substantive concerns with the proposal.

Recommendation

Staff believe that the application, as conditioned herein, complies with the applicable special permit criteria and other requirements of the zoning regulations and recommend approval subject to the following:

Conditions of Approval:

1. The use shall be limited to no more than 16 children, with the caveat that if other standards imposed by State or other permit agencies allow fewer than 16 children, the more restrictive shall apply.
2. Parking shall only occur in approved designated locations. No drop off/pick shall occur on Whitney or within 50' of Whitney on Carmel. Parking on Carmel shall be limited to the south side of the street.
3. The use of Carmel for drop off/pick up shall be subject at all times to the Hamden Traffic Authority and any changes in the use of Carmel as permitted herein by the PZC shall require review and action by the PZC and/or the Town Planner as either a major or a minor modification to the approved Special Permit.
4. If necessary, site lighting shall be primarily for safety purposes and otherwise maintained at the minimum levels necessary.
5. Business signage is expressly excluded from this approval and if proposed, shall require application for and approval of, a separate zoning permit.
6. The final plans shall depict any proposed or required exterior play area and related "apparatus" and screening of apparatus as required by the Hamden Zoning Regulations. No play apparatus shall be located within any required side or required front yard setback area.
7. Prior to issuance of a CZC by the Hamden Zoning Officer, the applicant shall make application for a CZC including a certified as built depicting compliance with the approved site plan.
8. No changes shall be made to the approved plans without prior review and approval by the Zoning Officer.
9. No Certificate of Occupancy shall be issued until a CZC has been approved by the Zoning Official.
10. All improvements shall be completed by July 27, 2026.
11. Prior to the issuance of a zoning permit, the applicant shall submit revised plans incorporating all conditions of approval.

Copy to:

Applicant/Agent



Town of Hamden

Planning and Zoning Department

To: Hamden Planning and Zoning Commission

From: Matthew Davis, Assistant Town Planner

Re: Zoning Map Amendment Application #21-979
102, 84, 78, 72 and 66 Washington Avenue

Date: July 13, 2021

Overview

Request is to rezone a small area east of Whitney north of School Street from T3 to T4.

Department Reviews

As this is a request for a rezone (zoning map amendment), staff does not typically receive any comments of substance from cohort agencies. Sufficient existing infrastructure is available for both prospective T3 and T4 uses.

Planning Department's Initial Comments

This is a legislative matter and a policy review/decision. This is not a development application. Accordingly, the emphasis is on the 2019 POCD's recommendations and evaluating the differences between the T3 and the T4 zones as to design standards, application procedures and potential permissible uses.

Staff has attached to this memo for your consideration, the following:

1. Excerpts from the 2019 POCD
2. A complete copy of the Transect Zone regulations
3. A copy of the "Use" table 6.1 from the zoning regulations

These documents, as well as any relevant input received from the public and/or commissioners will serve to establish the policy "context" for evaluating the proposed zoning map amendment. Staff is not prepared to make a recommendation at this time and is requesting that the hearing process be convened, testimony be provided, the applicant given the opportunity to address comments on the record and then if necessary, the hearing be continued to the July 27 PZC date for completion and a possible decision.

As the members are aware, the general statutes require certain actions by a municipal PZC in their review and action on a zoning map amendment. These include:

- Stating on the record findings as to the consistency of the proposal with the Town's POCD
- Stating reasons why the changes are being approved (if to be approved)
- Stating an effective date, to be after the date the approved map is filed on the land records.

Some initial points to consider in addition to the above:

1. The POCD places great emphasis on economic development, tax base expansion, business retention and growth and other fiscal concerns. To the extent the proposal will possibly result in accomplishing these important objectives, there is much support in the POCD for the proposal.
2. However, the POCD also continues to endorse the historic nodal and "neighborhood" framework, which in certain respects, defines Hamden. The subject area sits at the margin of or is arguably within, one of these major nodes. The challenge, as always is to allow for transformation, but to do so in ways that strike a prudent balance between competing policy objectives.
3. As noted above, there is sufficient existing public infrastructure available to accommodate both T3 and T4 land uses.
4. Staff would also like to emphasize another important point - simply because a use is permissible in a use table that does NOT mean a given permissible use will be or should be or can be, permitted. The determination of whether or not a use is actually permissible on a given site is based on a careful evaluation of a myriad of inter-related factors. That development oriented analysis takes place during the review of a specific development proposal.

Staff may and probably will have additional comments for the 27th, if the hearing is continued, however if the PZC feels that it has sufficient info in the record this evening and the applicant concurs, there is no reason the hearing could not be closed, with deliberations and action taking place either tonight or on the 27th, as long as the necessary findings are made on the record.

MJD