



DEVELOPMENT SERVICES

BUILDING | HISTORIC PRESERVATION | PLANNING & ZONING

PLANNING & ZONING BOARD

326 & 330 NW 7th Avenue (New Generation Montessori)

Meeting	File No.	Application Type
August 17, 2020	2020-200-USE-PZB	Conditional Use (Daycare)
Applicant	Authorized Agent	Property Owner
JM Royalty Enterprise Property 326, LLC	Bradley Miller, Urban Design Studio	(Same as Applicant)

Background Information

The subject site consists of Parcel 1, located 326 NW 7th Avenue (the South 50 feet of the East 135 feet of the North 1/2 of Block), and Parcel 2, located at 330 NW 7th Avenue (the North 50 feet of the South 100 feet of the East 135 feet of the North 1/2 of Block 1, Map of the Town of Linton, Florida, now known As Delray Beach). The parcels are located within the R-1-A Single-Family Residential zoning district. The following is a list of actions related to the subject property:

- In 1964, Parcel 2 was improved with the construction of a single-family home according to the Palm Beach County Property Appraiser (Property Appraiser) with Parcel Control Number (PCN) #12-43-46-16-01-001-0040. Records indicate that the property has remained a single-family home since its existence.
- In 1965, Parcel 1 was improved with the construction of a single-family home according to Property Appraiser records with PCN #12-43-46-16-01-001-0040.
- On January 14, 1980, the City of Delray Beach City Council (City Commission) approved a Conditional Use (0005-37 superseded by 0005-097) for the Burns Day Care Center located at 326 NW 7th Avenue. The Conditional Use allowed for the conversion of a single-family home to a Day Care Center.
- On April 22, 1986, the City Commission approved a conditional use and site plan for Little Folk Day Care. The conditional use was associated with a request for modification to an approved conditional use to add 1,785 square feet to a single-story structure.
- In May 2016, JM Royalty Enterprise Property 326 LLC (the Applicant) purchased 326 NW 7th Avenue (Parcel 1) according to the Palm Beach County Property Appraiser.
- On October 22, 2019, the Development Services Department administratively approved a Class 1 Site Plan modification (2019-002) associated with the installation of a 5-foot-high PVC Picket fence, two 5-foot-high Double Swing Picket gates, and a 6-foot-high Tongue and Groove Board fence.
- In November 2019, the applicant purchased 330 NW 7th Avenue (Parcel 2) according to Property Appraiser.



Description of Proposal

On June 30, 2020, the Development Services Department received the aforementioned Conditional Use (2020-200) request and a corresponding Class IV Site plan modification (2020-201). The Class IV Site Plan is associated with the expansion of an existing 3,547 sq. ft. one-story day care (Building A) on Parcel 1 by including the adjacent property Parcel 2 to the north, a 0.15-acre site. The acquisition of the site would allow the daycare to expand by obtaining an existing single-family home on the north property by converting it into a 2,324 sq. ft. one-story childcare facility (Building B). The two buildings would be connected by a proposed enclosed hallway. The site improvements include the addition of parking spaces, perimeter landscaping and site lighting.

Analysis

Pursuant to **LDR Section 4.4.3(D)(1), Single Family Residential (R-1) Districts, Conditional uses and structures allowed**, Conditional Use is required to establish a Childcare facility.

- The proposed request is to convert an existing single-family home located 330 NW 7th Avenue into a 2,324 sq. ft. one-story daycare center expansion for New Generation Montessori. The Daycare has existed in the community since 1980.

Pursuant to **LDR Section 4.3.3(E)**, Childcare Facilities are required to comply with the following regulations:

LDR Section 4.3.3 (E) – Childcare Facilities		
	Regulation	Provided
Lot Area	7,500 sq. ft.	27,007 sq. ft.
Floor Area	35 sq. ft. per child * (35x117 students = 4,095 sq. ft.)	4,215 sq. ft.
Outdoor Area (Delray LDR)	75 sq. ft. per child** (75x117 students=8,775 sq. ft. total)	5,994 sq. ft.
Outdoor Area (PBC Reg X.B.)	75 sq. ft x # non-infants / 2 45 sq. ft. x infants / 2*** ((92 non-infants x 75 sq. ft.) / 2 = 3,450 sq. ft. (25 infant x 45 sq. ft.) / 2 = 563 sq. ft. 4,013 total))	5,994 sq. ft.
Loading Area	-	18' wide one-way driveway, 120 LF
State and County Regulations***	-	Licensed and existing, expansion to comply with PBC rules and regs.

* Pursuant to the City of Delray Beach LDR Section 4.3.3 (E)(2), Facilities shall contain a minimum floor area of 35 square feet per child, exclusive of space devoted to bathrooms, halls, kitchen, offices, and storage.

** Pursuant to the City of Delray Beach LDR Section 4.3.3 (E)(3), There shall be a minimum area of 75 square feet of outdoor play area per child. The play area shall be located on the same lot as the principal use and shall not be located in the front yard setback or adjacent to any outdoor storage area. The play area shall be surrounded by a six-foot high fence or wall.

***Pursuant to the Palm Beach County Rules and Regulations for Governing Child Care Facilities Article X Subsection B., "There shall be a minimum of 75 square feet of outdoor play area per non-infant child, for at least one-half of the total number of non-infant children for which the center is licensed. However, a child care facility shall not have less than 1500 square feet of outdoor play area. There shall be a minimum of 45 square feet of outdoor play area per infant, for at least one-half of the total number of infants for which the facility is licensed."

- The proposed expansion complies with the lot area and floor area regulations listed in LDR Section 4.4.3(E), Special Requirements for Specific Uses. However, the applicant has indicated that per the Palm Beach County Palm Beach County Rules and Regulations for Governing Child Care Facilities Article X Subsection B, a minimum of 75 sq. ft. and 45 sq. ft. of open space are required to be provided for at least half of the non-infant and infant children, respectively, for a licensed daycare. The LDR requires that 75 sq. ft of open space be provided per child. The County's requirement is 4,762 sq. ft less than the City of Delray Beach LDR requirement. The project is providing 5,994 sq. ft. which exceeds the County's minimum requirements which is allowed in accordance with LDR Section 4.3.3 (E)(5),

Pursuant to **LDR Section 2.4.5 (E)(5), Findings**, in addition to provisions of Chapter 3, the City Commission must make findings that establishing the conditional use will not:

- a) **Have a significantly detrimental effect upon the stability of the neighborhood within which it will be located;**
 - The Housing Element of the Comprehensive Plan mentions that "in evaluating proposals for new development or redevelopment, the City shall consider the effect that the proposal will have on the stability of nearby

neighborhoods.” Factors such as noise, odors, dust, traffic volumes and circulation patterns shall be reviewed in terms of their potential to negatively impact the safety, habitability and stability of residential areas.” The Residential Neighborhood Stabilization map in the adopted Always Delray Comprehensive Plan (Comprehensive Plan) lists the area as “RHB-Needing Rehabilitation.” Records indicate that as of the time of this report, the subject site has no open code enforcement violations.

New Generation Montessori currently provides daycare, preschool and kindergarten services for up to 67 children ages 6-months to 6-years old. The Daycare at 326 NW 7th Avenue (Lot 1) has existed in the Paradise Heights neighborhood for the past 40 years. The proposed expansion to Lot 2 (330 NW 7th Avenue), would allow the daycare property area to increase by 0.15 acres, which would accommodate 50 additional children (117 total). One of the performance measures in the Education Element of Comprehensive Plan mention for the increased enrollment in voluntary pre-kindergarten programs (daycare facilities). The expansion would increase the availability of daycare services in the community. Since its establishment, there appears to be no known detrimental impacts of the daycare on the stability of the neighborhood.

b) Hinder development or redevelopment of nearby properties.

- The proposed daycare expansion will not hinder the development or redevelopment of nearby properties. Pursuant to LDR Section 4.4.3 (D)(1), daycare (child care) use is an allowable use within the R-1-A Single-Family zoning district with a conditional use approval. The daycare has existed in the neighborhood for 40 years. The subject site is also across the street from Spady Elementary School (PK-5). Educational services such as schools and childcare facilities are often allowed within residential areas to provide service to surrounding neighborhoods.

Pursuant to **LDR Section 3.1.1, Required Findings**, prior to the approval of development applications, certain findings must be made in a form, which is a part of the official record. This may be achieved through information on the application, written materials submitted by the applicant, the staff report, or minutes. Findings shall be made by the body that has the authority to approve or deny the development application. The following findings relate to consistency with the Land Use Map (LUM), Concurrency, Comprehensive Plan Consistency, and Compliance with the LDR:

- a) **Land Use Map (LUM):** The resulting use of land or structures must be allowed in the zoning district within which the land is situated and said zoning must be consistent with the applicable land use designation as shown on the Land Use Map.
- The subject property has a LUM designation of Low Density (LD), and a zoning designation of R-1-A Single-Family, which are consistent with each other per the adopted Comprehensive Plan. The proposed daycare facility expansion is allowed within the R-1-A zoning district subject to approval as a conditional use.
- b) **Concurrency.** Concurrency as defined by Objective NDC 3.1 of the Neighborhoods, Districts, and Corridors Element of the adopted Comprehensive Plan must be met and a determination made that the public facility needs, including public schools, of the requested land use and/or development application will not exceed the ability of the City and The School District of Palm Beach County to fund and provide, or to require the provision of, needed capital improvements in order to maintain the Levels of Service Standards established in Table CIE-2, Level of Service Standards, of the Capital Improvements Element of the adopted Comprehensive Plan of the City of Delray Beach.
- **Traffic:** The provided traffic statement mentions that the proposed expansion would increase the daily net trips by 108 per day. The statement indicates that the development meets the requirements of the Palm Beach County Traffic Performance Standards. A Traffic Performance Standards (TPS) concurrency review letter from the Palm Beach County was not provided. The applicant indicated that the review letter would be provided prior to the Site Plan Review and Appearance Board’s (SPRAB) review of the Class IV site plan modification.
 - **Schools:** The proposed development is non-residential and is not subject to concurrency evaluation.

- Water and Sewer: The City's water and sewer atlas indicates that there is an existing 8" water line and a 4" sewer line providing service to the site. The proposed expansion would not increase the water and sewer demand beyond capacity.

- Solid Waste: Solid Waste:

Proposed Demand:

Daycare Unit Existing: 2,324 gsf x 3.5 lbs = 8,134/ 2,000 = 4.07 tons per year

Daycare Unit Expansion: 3,862 gsf x 3.5lbs = 13,517/ 2,000 = 6.76 tons per year

Total Tonnage per year = 10.84 tons

The proposed daycare expansion adds approximately 4.1 additional tons of waste per year to the current demand. The Solid Waste Authority has indicated that its facilities have sufficient capacity to handle all development proposals until the year 2048.

- c) **Consistency**. A finding of overall consistency may be made even though the action will be in conflict with some individual performance standards contained within Article 3.2, provided that the approving body specifically finds that the beneficial aspects of the proposed project (hence compliance with some standards) outweighs the negative impacts of identified points of conflict.

- **Education Element Goal EDU 2, (Quality Education Initiatives)** – “Provide and support initiatives which improve quality educational opportunities for residents from birth through high school graduation.”

One of the performance measures listed in the Education Element of the Comprehensive Plan is the Increased enrollment in Voluntary Pre-kindergarten programs (i.e. daycare). Policy EDU 2.1.1 mentions the need to monitor the number and locations of early childhood education facilities and review feasibility for providing incentives for new facilities and/or programs. The proposed daycare expansion would allow for 50 additional children to attend the daycare.

Board Action Options:

- A. Move a recommendation of approval to the City Commission of the Conditional Use request for the expansion of New Generation Montessori Daycare located at 326 & 330 NW 7th Avenue as amended, by finding that the request is consistent with the Comprehensive Plan and meets the criteria set forth in the Land Development Regulations.
- B. Move a recommendation of denial to the City Commission of the Conditional Use request for the expansion of New Generation Montessori Daycare located at 326 & 330 NW 7th Avenue, by finding that the request is inconsistent with the Comprehensive Plan and does not meet the criteria set forth in the Land Development Regulations.
- C. Move to continue with direction

Public and Courtesy Notices

- | | |
|---|---|
| <ul style="list-style-type: none"> ✓ Courtesy Notices were provided to the following Homeowner's Associations: <ul style="list-style-type: none"> • Westside Heights • Gateway • Poinciana Heights • Paradise Heights | <ul style="list-style-type: none"> ✓ Public Notice was posted at the property on August 10, 2020 ✓ Public Notice was mailed to property owners within a 500' radius on August 7, 2020 at least ten days before the meeting date. ✓ Public Notice was posted to the City's website on August 7, 2020. ✓ Public Notice was posted in the main lobby at City Hall on August 10, 2020. ✓ Courtesy Notice was e-mailed on August 10, 2020. |
|---|---|