



**City of South St. Paul
Planning Report**

September 4, 2019

**Planning Case #: 2019-14
1541-49 5th Avenue South
Lodge Properties Day Care CUP**

Report prepared by:
Peter Hellegers,
Planning Division Manager

Requested Action: The applicant is requesting a CUP for a day care to accommodate up to 120 children for the site at 1549 5th Avenue South

Summary Recommendation: Planning Division recommends approval of the requested actions subject to certain conditions of approval as outlined within the report.

Background Information

Applicant / Owner / Operator: Lodge Properties, LLC (applicant / owner)

Tentative City Council Meeting: September 16, 2019

60-day Review Period Deadline: October 4, 2019

Proposal: The applicant is requesting a Conditional Use Permit (CUP) for a day care use that could ultimately accommodate up to 121 children on the site.

Applicable Regulations & Standards: Section 118-126 provides regulations for the C-1: Retail Business zoning. Section 118-339 articulates the signage allowable per district and Section 118-354 provides guidelines for the number of parking spaces required.

Attachments:

- A. Maps/photos of the site provided by the City
- B. Correspondence from public hearing notices
- C. Plan submittals from applicant

Parcel Size / Location: The parcel size for the property is approximately 4.21 acres (183,388 square feet) and is generally located on the east side of 5th Avenue South, south of South Street, west of Elrose Court, and north of Claude Way (Inver Grove Heights). The property consists of the following Dakota County tax parcel(s): (36-03400-51-020)

Existing Conditions: The site has a 1960 shopping center building that has 41,602 square feet. Previously the property had day care uses on both ends of the shopping center with one a Head Start program and another that was more traditional school uses. The majority of the

shopping center has turned over in recent years and the new property owners have been working to fill the space. The northern portion of the building now houses a counseling space and potentially an event space. The southern portion of the building, that was the Head Start area, is where the proposed day care CUP would be located. While the site has had CUP's for day care in the past the combined number of children in the past has not been up to 120 kids. Therefore, the intensification of the use called for the new children's day care CUP.

Zoning Summary: The property is zoned C-1: Retail Business. A school or day care is not listed but are Conditional Uses in all residential zones and day care uses have previously been approved through CUP's as appropriate uses in the C-1 district.

Adopted Land Use Plans: The 2008 Comprehensive Plan recommended (COM) Commercial uses for this property.

Environmental Corridor / Overlay Status: The property is not within an environmental corridor or overlay district.

Public Utilities and Services: This property is served by a full range of urban services.

Evaluation of the Request

Land Use: The property at 1549 5th Avenue South is zoned C-1: Retail business. Child care day use is consistent with the Code for this district.

Zoning considerations:

- CUP's needed for child day care use. Existing CUP's do not cover 121 children on the site so the intensification of the use warrants an amended or new CUP.

Comprehensive Plan considerations:

- The property is guided Commercial in the Comprehensive Plan. The proposed Day Care use would be consistent with the Commercial designation.

Signage: There are no signage plans included. Signage would need to meet the City Code requirements and sign permits would be required prior to the installation of signage.

Parking / Impervious Areas: No proposed changes.

Landscaping: No proposed changes.

Lighting: No proposed changes.

Bicycle / Pedestrian Access: Public sidewalk is adjacent to the site. Private sidewalk runs along the front of the building.

Correspondence from Nearby Property Owners: *None*

Required Findings

Conditional Use Permit Findings

The following items from the application would require a CUP, they include:

- *Day Care (with up to 121 children).*

The Conditional Use Permit (CUP) is for a land use that is generally compatible with all other uses in the district where it is located but should not be permitted as a matter of right in every area within the district because of special circumstances that the use or location may present. Therefore, the CUP is judged on the basis of standards and criteria specified in the code and the City is allowed to impose appropriate conditions and restrictions on the CUP. The Zoning Code instructs the Planning Commission and City Council to make the following findings when considering a CUP:

Conditional Use Permit Findings:

- ✓ *The proposed conditional use conforms to the general purpose and intent of the zoning code.*
- ✓ *The conditional use will not substantially diminish or impair property values within the neighborhood, and in consideration of this question, the comparison of the use shall be with respect to uses that are permitted without a Conditional Use Permit in the district, which the use is located.*
- ✓ *The conditional use will not impede the normal and orderly development and improvement of property in the neighborhood for uses permitted in the district affected.*
- ✓ *Adequate utilities, access roads, streets, drainage, and other necessary facilities have been provided.*
- ✓ *Adequate measures have been or will be taken to provide ingress and egress in such a manner as to minimize traffic congestion and hazards in the public streets.*

Alternatives / Proposed Conditions

The Planning Commission has the following actions available on the proposed application:

- A. **Approval.** If the Planning Commission has reviewed the application and determined that the application is consistent with the Conditional Use findings (see p.4-5) of this report), then staff would recommend the following conditions for a recommendation for approval:
- **(Step 1) Findings:** The Planning Commission would need to include findings that the proposed Conditional Use Permit would not have an adverse impact on other properties and the general area or that potential impacts would be mitigated through specific conditions.

Recommended Findings:

The Planning Commission has reviewed the proposal and determined that the use conforms to the general purpose of the Zoning Code and should not substantially diminish or impair property values, will not impede the normal and orderly development of property in the neighborhood, has access to adequate utilities, and there is adequate ingress and egress for the property.

- **(Step 2) Recommendation for Approval:** Approval of the proposed **Conditional Use Permits** for commercial day care for up to 121 children for the property located at 1549 5th Avenue South are subject to the following conditions:
 - 1) **Compliance with Plan Submittals.** The site shall be utilized in substantial conformance, in the reasonable opinion of the City Council, with the application, narratives, and with the following plans on file with the Community Development Department except as amended by the conditions noted below:

a) Application (Lodge Properties)	dated 08/26/2019
b) Narrative (Lodge Properties)	dated 08/30/2019
c) Site Plans (Lodge Properties)	dated 08/26/2019
 - 2) **Building Permits Required.** Building permits are required for the proposed improvements. All building plans and specifications are subject to the review and approval of the City Building Official and South Metro Fire Marshal.
 - 3) **Signage Permits Required.** No signage shall be installed without first obtaining a sign permit and shall be subject to the approval of the City Planner.
 - 4) **Necessary Approvals from Other Agencies.** The applicant shall obtain all necessary approvals/permits from the Minnesota DNR, State of Minnesota, Dakota County and any other applicable regulatory agencies.
 - 5) **Compliance with Laws and Approvals.** The property must remain compliant with all federal, state, and local laws and ordinances and all prior City approvals.
 - 6) **Lighting.** Site lighting shall be downcast and shall have the source shrouded or otherwise concealed from direct view. Lighting illumination levels shall not exceed City Code Requirements.
 - 7) **Rescinding Previous Day Care CUP's.** In order to make way for the new CUP the previous Day Care CUP's (including 93-27 and 98-180) will need to be rescinded. As the location for the CUP's would overlap not all of the uses could take place at the same time, thus leaving just the one CUP would clean up that issue.
 - 8) **Screening/Fencing.** Dumpsters shall be screened in accordance with City Code. Screening is subject to the review and approval of the City Planner. Screening for exterior storage shall be wood, Vinyl/PVC, or Trex style opaque fencing or coniferous landscaping that provides commensurate screening to opaque privacy

fencing. Exterior storage, unless otherwise specifically approved within this document, shall be prohibited.

- 9) **Review of the Conditional Use Permit.** The Conditional Use Permit will be reviewed in approximately 1 year to determine compliance with the Conditional Use Permit.
- 10) **Termination of the Conditional Use Permit.** The Conditional Use Permit will terminate if improvements have not substantially begun within 1-year from the date of approval of the Conditional Use Permit. The violation of a condition of approval shall terminate the Conditional Use Permit. The property must be continually operated for use specified in the Conditional Use Permit to remain valid. If the property is not used for the use listed in this Conditional Use Permit for a period of 1-year then the Conditional Use Permit shall terminate.

B. **Denial.** If the Planning Commission does not favor the proposed application or portions thereof, the above requested should be recommended for denial. If the Planning Commission recommends denial, then findings of the basis for denial should be given.

- (Step 1) Findings: The Planning Commission would need to include findings that the proposed Conditional Uses *would* have an adverse impact on other properties and the general area and that potential impacts could not be adequately mitigated through specific conditions for the CUP. Additionally, findings would need to be made that proposed variances were not consistent with the variance findings noted on page five.
- (Step 2) Recommendation for Denial: Denial of the proposed **Conditional Use Permit** on the property at 1549 5th Avenue South for the following reasons:
 - 1) _____

Staff Recommendation

Staff recommends **approval** of the Conditional Use Permit (CUP) for the property at 1549 5th Avenue South subject to the conditions stated in this report.