

ORDINANCE NO. 365

AN ORDINANCE APPROVING A CONDITIONAL USE PERMIT TO ADD CHILD DAYCARE AS A CONDITIONAL USE IN THE NEIGHBORHOOD SERVICES ZONING DISTRICT FOR LOT 1, BLOCK AA, BELLA COLINAS COMMERCIAL SUBDIVISION, AS RECORDED IN DOCUMENT NO. 201600051, OPRTC AND WHICH IS LOCATED AT APPROXIMATELY 15501 BLOCK OF WEST STATE HIGHWAY 71, BEE CAVE, TEXAS; PROVIDING FOR APPROVAL OF A CONCEPT PLAN DESCRIBED IN EXHIBIT "A", ATTACHED HERETO; PROVIDING FOR CERTAIN CONDITIONS CONTAINED HEREIN AND ATTACHED HERETO AS EXHIBIT "B"; PROVIDING FOR APPROVAL OF ELEVATIONS, ATTACHED HERETO AS EXHIBIT "C"; PROVIDING FOR PENALTY OF A FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000.00) FOR EACH OFFENSE; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, an application has been submitted to add Child Daycare as a Conditional Use to the Neighborhood Services zoning district for the property located at approximately 15501 Block of West State Highway 71, Bee Cave, Texas, described as Lot 1, Block AA, Bella Colinas Commercial (the "Property"); and

WHEREAS, the Property is located in the City of Bee Cave's Extraterritorial Jurisdiction (ETJ) and is subject to the provisions in the Masonwood Amended and Restated Development Agreement (the "Development Agreement") adopted by the Bee Cave City Council on November 13, 2012. The Property is within the 'Neighborhood Services Tract' as designated within the Development Agreement concept plan;

WHEREAS, the property owner has submitted a Concept Plan depicting the proposed uses of the Property as Child Daycare and the terms and conditions of this Ordinance are sufficient to make this proposed use compatible with other Neighborhood Services uses on adjacent property;

WHEREAS, the notice as required by the City's Zoning Ordinance has been published in the official newspaper and given to adjacent property owners;

WHEREAS, the Planning and Zoning Commission and the City Council has each conducted Public Hearings on the Application for a Conditional Use Permit wherein public comment was received and considered on the Application;

WHEREAS, the City Council finds that the use of the Property as depicted in the Concept Plan and in accordance with this Ordinance as a Child Daycare is an appropriate use for the Property;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BEE CAVE, TEXAS:

SECTION 1. Findings of Fact. All of the above premises are hereby found to be true and correct legislative and factual findings of the City and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

SECTION 2. The City Council finds that the information submitted in the Application for a Conditional Use Permit submitted by Applicant meets the requirements of the City of Bee Cave Zoning Ordinance for the Property as depicted on the Concept Plan attached hereto and incorporated herein as Exhibit "A".

SECTION 3. Uses. A Conditional Use Permit is hereby granted, subject to the conditions listed in Section 5 herein described and to the Conditions described in Exhibit "B", attached hereto and incorporated herein to authorize a Child Daycare use on the Property as depicted in Exhibit "A" and in conjunction with any other permitted uses authorized in Neighborhood Services zoning districts.

SECTION 4. Concept Plan. The Concept Plan attached hereto as Exhibit "A" depicting the Child Daycare use and architectural elevations as Exhibit "C" for buildings and other structures associated with the use of the Property as a Child Daycare together with all other uses and amenities depicted in the Concept Plan are all hereby approved contingent upon the property owner meeting the conditions contained within Section 5 and Exhibit "B".

SECTION 5. Conditional Use Permit. The City Council hereby approves a Conditional Use Permit to the property owner (hereinafter "Permittee") upon the following terms and conditions:

1. Permittee shall not commence development until it has secured all permits and approvals as required by the City of Bee Cave Ordinances and the Development Agreement.
2. The Conditional Use Permit authorizes additional development of the subject Property only as represented in the Permittee's application and only to the extent such development is depicted in the Concept Plan described in Exhibit "A," attached hereto, and only to the extent authorized herein. If portions of the development of the subject Property requested in the application are not approved herein by the Council, or are not depicted in Exhibit "A", then that portion of Permittee's application is specifically denied.
3. Amendments to development for this Property in the future shall comply with Neighborhood Services zoning except as may be approved by this Conditional Use Permit or as same may be amended.

4. The uses authorized in this Conditional Use Permit shall also comply with the development standards and operational standards described in the Development Agreement.

SECTION. 6. That any person, firm or corporation violating any of the provisions of this Ordinance or Chapter 32, Zoning, of the Code of Ordinances, as amended hereby, shall be deemed guilty of a misdemeanor and, upon conviction in the municipal court of the City of Bee Cave, Texas, shall be punished by a fine not to exceed the sum of two thousand dollars (\$2,000.00) for each offense, and each and every day of any such violation shall be deemed to constitute a separate offense, in accordance with Section 1.01.009 of the City's Code of Ordinances.

SECTION 7. Severability. Should any sentence, paragraph, subdivision, clause, phrase, or section of this Ordinance be adjusted or held to be unconstitutional, illegal, or invalid, the same shall not affect the validity of this Ordinance in whole or any part or provision thereof, other than the part so declared to be invalid, illegal or unconstitutional, and shall not affect the validity of the City's Zoning Ordinance or Map as a whole.

SECTION 8. This Ordinance shall take effect immediately from and after its passage and publication as required by law.

PASSED AND APPROVED this _____ day of _____, 2018.

APPROVED:

Caroline Murphy, Mayor
City of Bee Cave

ATTEST:

Kaylynn Holloway, City Secretary
City of Bee Cave, Texas

[SEAL]

APPROVED AS TO FORM:

Patty L. Akers, City Attorney

EXHIBIT “A”
CONCEPT PLAN

EXHIBIT “B”

CONDITIONAL USE PERMIT REQUIREMENTS

1. A Child Daycare is authorized for development at the location identified in the Concept Plan attached as Exhibit “A” to this Ordinance. Development of the daycare facility (“Kiddie Academy”) shall be consistent with development standards previously approved in the Masonwood Amended and Restated Development Agreement adopted by the Bee Cave City Council on November 13, 2012, except as same may be modified by this Section.
2. The maximum square footage of the daycare facility building footprint shall be 10,218 square feet and the maximum square footage of the building shall be 10,218 square feet. The maximum height of the building shall be one story and shall not exceed 39’-3” from finished grade to the peak of the roof.
3. The maximum occupancy is 190 students and 20 teachers.

The Elevations depicted in Exhibit “C” of this Ordinance are approved. In the event that the Permittee amends the Elevations such alternative Elevations may be considered in conjunction with Site Plan approval and shall meet or exceed the City’s Exterior Building Design Standards of the City’s Code of Ordinances.

4. Operation of the daycare facility will be between the hours of 6:00 am to 10:00 pm.
5. The daycare facility shall not be required to comply with Section 32.05.001(d)(5) of the Bee Cave Code of Ordinances, which requires child daycares and similar child training and care establishments to provide one (1) paved off-street pedestrian loading and unloading space for an automobile on a through, circular drive for each ten (10) students cared for, excluding child care in a residence. However, in lieu of the pass through or a loading/unloading traffic lane, the daycare facility shall be required to park in the designated parking areas as depicted in the Concept Plan and sign their children into and out of the facility. Additionally, the daycare facility shall provide signage/stripping prohibiting pedestrian loading/unloading except in marked parking spaces and restricting parking in the spaces dedicated for use by staff in the southeast portion of the lot. Kiddie Academy is permitted one (1) bus or van and it shall only be parked in the designated parking space, as depicted in Exhibit “A”.

- a. Forty (40) parking spaces shall be provided.

6. The daycare facility is authorized to enclose the outdoor playground areas as depicted on the Concept Plan. The fence shall be wrought iron.
7. Owner shall provide a 20' blanket access easement for trail and pedestrian access at an agreed upon location that is acceptable to both the City of Bee Cave and the owner. Property owner will not be responsible for construction and maintenance of trail improvement if constructed in the future. The 'Blanket Access Easement Trail Agreement' will be drafted and recorded during site plan stage.
8. Per Article II, Section 2.01(v) of the 'Masonwood Amended and Restated Development Agreement,' landscaping requirements (Sec. 32.05.002) shall apply to the subject development. Section 32.05.002(e)(2) requires preservation of trees to the maximum extent reasonable and any portion of the site not used for buildings, parking, driveways, walkways, etc. shall remain in a natural state. Landscape and Tree Preservation Plan shall be reviewed in conjunction with Site Plan approval.
9. Per "Exhibit B" of the Declaration of Restrictions (Doc. No. 2016031163) ORTC, the Property is authorized to construct impervious cover up to 1.16 acres. However, the Concept Plan approved as part of this Ordinance authorizes construction only of .843 acres of impervious cover. Any development or construction which would cause the property to exceed .843 acres of impervious cover must be approved in conjunction with a Site Plan approval or if the increase in impervious cover is created by an expansion in the day care facility use authorized by this CUP then an amendment to this CUP and an amended Site Plan is required.
10. Retaining wall façade shall be of natural stone materials.
11. The daycare facility will comply with the City lighting standards as required by the COBC Code of Ordinances.

EXHIBIT “C”

ELEVATIONS