

STAFF EVALUATION

Prepared By: Davis Pemberton, City Planner (757) 728-2040
Reviewed By: Mike Hayes, Planning & Zoning Admin. Div. Man. (757) 728-5244
Jessica Kraus, Assistant City Attorney

Case No.: Zoning Ordinance Amendment, ZOA24-0016

Planning Commission Date: January 18, 2024

City Council Date: February 14, 2023

General Information

Description of Proposal The amendment proposes to add the following uses to the list of permitted outdoor uses within the Overlay – Coliseum Central (O-CC) District:

- a. Outdoor play areas associated with Day Care 1, Commercial and Day Care 2, Commercial, which shall be permitted only within a physically defined area that is shown on the site plan.

Relevant Existing Zoning Definitions *Day Care.* Any dwelling or facility receiving children or adults for care limited to less than twenty-four (24) hours per day per client. Three (3) types shall be established based on the number of clients, exclusive of any children or adults living in a dwelling:

Day Care, Commercial. Any number of clients in any facility other than the residence of a client or provider.

Current Regulations Current permitted retail sales, services, and office uses in the Overlay – Coliseum Central (O-CC) are required to be conducted within an enclosed building, except for those listed in Section 9-23 “Modifications to permitted uses” of the Zoning Ordinance. The eleven (11) uses that are permitted outdoors in the Overlay – Coliseum Central (O-CC) District includes:

- a. Car wash, self-service or automated;
- b. Gas station;
- c. Motorcycle sales;
- d. Outdoor dining;
- e. Parking lots;
- f. Vehicle sales, new;
- g. Vehicle storage;
- h. Those uses authorized by a special event permit issued pursuant to the Hampton City Code;
- i. Seasonal sales authorized by section 34-7 of the City Code
- j. Permanent outdoor sales, displays, and storage, which shall be permitted only within a physically defined area that is shown on the site plan, and all physical improvements defining that area must be constructed of materials comparable to the primary building(s) on the site; and
- k. Food truck host sites

Analysis

The proposed amendment seeks to authorize "day care 1, commercial" and "day care 2, commercial" uses to operate outdoors in the Overlay – Coliseum Central zoning district, if approved. Currently, several permitted uses are allowed to function wholly or partially outdoors, and this amendment aims to include commercial day care uses in that list. Importantly, the proposed changes do not introduce modifications to the definitions or additional standards related to day cares.

Coliseum Central plays a vital role as a prominent commercial, entertainment, and cultural hub within the City. However, the existing zoning regulations restrict day care centers within the Overlay – Coliseum Central (O-CC) District from having outdoor recreational areas. This limitation contradicts the standards set by the Virginia Department of Education (VDOE), which mandates outdoor activity for toddlers and preschoolers as part of daily activities in licensed child day care centers. The required amount of outdoor activity varies based on the operational characteristics of the day care center. See 8VAC20-780-310(F); 8VAC20-780-380(A); 8VAC20-780-390(B). Under current zoning regulations, staff is currently unable to approve any new day care uses within Coliseum Central that feature outdoor recreational areas.

Allowing day cares as permitted outdoor uses within the O-CC district could increase access to child care services to the City of Hampton. This step forward acknowledges the evolving nature of childcare practices, aligning local regulations with broader educational and developmental standards. This amendment could contribute to the overall well-being and development of young children, fostering an environment that recognizes the significance of outdoor play in their growth and learning experiences. Lastly, this amendment aligns with the idea of creating a more family-oriented environment within the Coliseum Central District.

In summary, staff recommends adoption of the proposed amendment to permit outdoor play areas associated with "day care 1, commercial" and "day care 2, commercial" uses within the Overlay – Coliseum Central zoning district. The proposed amendments would allow outdoor recreational areas in conjunction with commercial day care centers while continuing to protect the health, safety, and welfare of the public.

Staff recommends approval of ZOA 24-0016.