

STAFF EVALUATION

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Case No.: Zoning Ordinance Amendment, ZOA24-0015

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 Downtown Business (DT-1) and Downtown Waterfront (DT-2) Districts:

- a. Outdoor play areas associated with Day Care 1, Commercial and Day Care 2, Commercial, which shall be permitted only within a physically defined and fenced 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 Downtown Business (DT-1) district are required to be conducted within an enclosed building, except for those listed in Section 8-42 of the Zoning Ordinance. The ten (10) uses that are permitted outdoors in the Downtown Business (DT-1) district include:

- i. Bank, with drive-through
- ii. Boat sales;
- iii. Gas station;
- iv. Outdoor dining, downtown;
- v. Parking lot;
- vi. Restaurant, including drive-through
- vii. Rummage sale, temporary;
- viii. Those uses authorized by a Special Event Permit issued pursuant to the Hampton City Code;
- ix. Seasonal sales authorized by Section 34-7 of the City Code; and
- x. Food truck host sites

Additionally, permitted retail sales, services, and office uses in the Downtown Waterfront (DT-2) district are required to be conducted within an enclosed building, except for those listed in Section 8-43 of the Zoning Ordinance. The eleven (11) uses that are permitted outdoors in the Downtown Waterfront (DT-2) district include:

- i. Bank, with drive-through
 - ii. Boat repair;
 - iii. Boat sales;
 - iv. Gas station;
 - v. Outdoor dining, downtown;
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- vi. Parking lot;
 - vii. Restaurant, including drive-through
 - viii. Rummage sale, temporary;
 - ix. Those uses authorized by a Special Event Permit issued pursuant to the Hampton City Code;
 - x. Seasonal sales authorized by Section 34-7 of the City Code; and
 - xi. Food truck host sites
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Analysis

The proposed amendment seeks to authorize "day care 1, commercial" and "day care 2, commercial" uses to operate outdoors in the Downtown Business (DT-1) district and Downtown Waterfront (DT-2) 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.

Downtown Hampton serves as a historic and economic center, reinforced by historic and cultural attractions, active businesses, central gatherings, events and celebrations, and its residential integration. Currently, the existing zoning regulations restrict day care centers within the Downtown Business (DT-1) and Downtown Waterfront (DT-2) Districts 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 in Downtown Hampton that feature outdoor recreational areas.

Allowing day cares as permitted outdoor uses within the DT-1 and DT-2 districts 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 furthers the idea of ensuring a balanced approach that aligns with the evolving needs of residents and the vision for a thriving downtown.

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 in the DT-1 and DT-2 districts. The proposed amendment 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 24-0015.