

# STAFF EVALUATION

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**Case No.:** Zoning Ordinance Amendment, ZOA24-0013  
**Planning Commission Date:** January 18, 2024 **City Council Date:** February 14, 2023

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## General Information

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*Description of Proposal* This amendment proposes to amend the additional standards for uses, more specifically the "day care 1, commercial" use, to include a limitation on the hours of operation of all outdoor play activities associated with this use from 8:00 a.m. to 6:00 p.m. Monday through Sunday.

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*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.

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*Current Regulations* Currently permitted "day care 1, commercial" uses in the Neighborhood Commercial (C-1) district, Limited Commercial (C-2) district, Downtown Business (DT-1) district, Downtown Waterfront (DT-2) district, Downtown Residential (DT-3) district, Phoebus Urban Core (PH-1) district, Phoebus Town (PH-2) district, Phoebus Commercial Transition (PH-3), Inner Fort (FM-1) district, Historic Village (FM-2) district, North Gate (FM-3) district, and Parks and Open Space General (PO-1) district include the following additional standards:

- a. Hours of operation shall be limited to 7:00 a.m. to 10:00 p.m. Monday through Sunday;
- b. Loading and unloading of clients from vehicles shall be conducted on site and not on any public street or right-of-way;
- c. Capacity shall not exceed the number listed on capacity certificate;
- d. The day care operator must maintain a daily ledger containing the names of clients cared for;
- e. The day care operator must obtain a Certificate of Occupancy prior to commencing the day care operation; and
- f. The zoning administrator, or appointed designee, shall have the ability to revoke the day care permit upon violation of any of the above conditions.

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## Analysis

The proposed amendment seeks to amend the additional standards for uses, more specifically all outdoor play activities in conjunction with the "day care 1, C=commercial" use within the Neighborhood Commercial (C-1) District to include a limitation on hours from 8:00 p.m. to 6:00 p.m. Monday through Sunday. Currently, the additional standards related to "day care 1, commercial" use limit the hours of operation from 7:00 a.m. to 10:00 p.m. Monday through Sunday in the C-1, C-2, C-3, DT-1, DT-2, DT-3, PH-1, PH-2, PH-3, FM-1, FM-2, FM-3 and PO-1 districts.

The proposed amendment, in conjunction with Zoning Ordinance Amendment No. 24-0014, aims to permit any outdoor play area associated with "day care 1, commercial" uses, subject to additional standards. Currently, any day care center operating in the C-1 district is not permitted to have an outdoor play area. 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 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).

The proposed restriction on operating hours aligns with the permitted hours for outdoor play activities associated with the "day care 2, family" use. This limitation is more stringent due to the frequent residential character or proximity to residential areas prevalent in many Neighborhood Commercial (C-1) districts.

Allowing day cares as permitted outdoor uses within C-1 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. Furthermore, 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.

In summary, staff recommends adoption of the proposed amendment to amend and re-enact the additional standards for uses within the Neighborhood Commercial (C-1) district, more specifically the "day care 1, commercial" use, to include a limitation on the hours of operation of all outdoor play activities associated with the use from 8:00 a.m. to 6:00 p.m. Monday through Sunday. The proposed amendment, along with ZOA24-0014, would permit any outdoor play area associated with "day care 1, commercial" uses, subject to additional standards, while continuing to protect the health, safety, and welfare of the public.

***Staff recommends approval of ZOA 24-0013.***