



**BEFORE THE TALENT PLANNING COMMISSION
STATE OF OREGON, CITY OF TALENT**

IN THE MATTER OF PLANNING COMMISSION FILE NO. CUP)
2015-001 LOCATED AT 408 CREEL ROAD [MAP NO. 38-1W-25DC)
TAXLOT 4600], THE CITY OF TALENT PLANNING)
COMMISSION FINDS THE FOLLOWING:) ORDER

1. The Planning Commission held a properly noticed public hearing on this matter on April 23, 2015;
2. The Planning Commission asked the Community Development Director to present a staff report and a proposed final order with findings and recommendations;
3. At the public hearing evidence was presented and the public was given an opportunity to comment;
4. The Commission found that a playgroup with art instruction is similar in nature to that of a daycare or kindergarten which are allowed in accordance with Section 8-3C.250 of the Talent Zoning Code;
5. The Commission found that the proposed application, with conditions in all other respects complied substantially with the criteria for approval in 8-3C.2 and 8-3L.2 of the Talent Zoning Code.

The Talent Planning Commission approves the Conditional Use Permit (CUP 2015-001) with the following conditions of approval:

GENERAL CONDITIONS:

1. The applicant shall provide two designated drop-off times between 9:00 AM and 9:15 AM and 11:45 AM and 11:55 AM.
2. The applicant shall continually operate the playgroup in accordance with the approved proposal.

IT IS HEREBY ORDERED THAT the Talent Planning Commission approves with conditions the requested conditional use permit to operate playgroup that incorporates art instruction based on the information presented in the Staff Report and Findings of Fact below:

In the following, any text quoted directly from City codes appears in *italics*; staff findings appear in regular typeface.

8-3C.250 BUILDINGS AND USES SUBJECT TO CONDITIONAL USE REVIEW

B. *Kindergartens, day nurseries and preschools.*

FINDING: The subject parcel is zoned Residential Zone Single-Family Medium Density (RS-7) which allows kindergartens and day nurseries. The proposed use is an organized playgroup that incorporates art instruction, similar to that of a kindergarten or day care. **The provisions of this section have been met.**

8-3L.244 GENERAL CRITERIA FOR APPROVAL

In judging whether or not a conditional use permit shall be approved or denied, the Planning Commission shall find that the following criteria are either met, can be met by observance of conditions, or are not applicable. A conditional use may be granted only if:

A. *The proposed use is consistent with the City of Talent Comprehensive Plan.*

FINDING: The proposed use is consistent with the intent of the uses allowed on a property with a residential Comprehensive Plan Designation. **The provisions of this section have been met subject.**

B. *The proposed use is consistent with the purpose of the zoning district.*

FINDING: The purpose of the RS-7 zoning district is to provide a stable healthful and livable residential environment where small economic enterprises such as home occupations and neighborhood commercial activity can occur in a manner compatible with the single family residential neighborhood. The proposed use is a small arts/playgroup for approximately seven (7) children ranging from ages 3-5 years old. The proposed use is allowed as a conditional use to ensure compatibility with the surrounding residential neighborhood and has met or can meet the conditional use requirements of 8-3L.2 with conditions of approval. **The provisions of this section have been met subject to conditions of approval.**

C. *The proposed use and development is found to meet the required findings of 8-3L.150, "Required Findings for Approval of Plan," set forth for approval of a site development plan review.*

FINDING: As stated in the findings for 8-3L.150 below, the proposed development meets, with conditions, the required findings for approval of a site development plan. **The provisions of this section have been met subject to conditions of approval.**

D. *The proposed use will not adversely affect the livability, value, and appropriate development of abutting properties and the surrounding area, compared to the impact of uses that are permitted outright. Testimony of owners of property located within two hundred and fifty (250) feet of the boundaries of the property in question shall be considered in making this finding.*

FINDING: The proposed playgroup is relatively small, serving only seven (7) children at any giving time. The applicant has proposed staggered drop-off times to alleviate any concerns of additional traffic. In addition, the applicant states that all neighboring property owners within

two hundred and fifty (250) feet have been contacted and are supportive of the playgroup. The applicant has also agreed to keep an open line of communication with the neighbors once the business has been established to ensure continued compatibility. **The provisions of this section have been met.**

- E. *All required public facilities have adequate capacity to serve the proposal. System Development Charges will be assessed at the time a building permit is issued. Additional SDCs will be assessed for change in use that are more intense than a pre-existing use.*

FINDING: The proposed use is within an existing single family home and will not create capacity issues for the public facilities in the area, therefore additional SDCs will not be assessed. **The provisions of this section have been met.**

- F. *The site size, dimensions, location, topography, and access are adequate considering such items as the bulk, coverage or density of the proposed development; the generation of traffic; environmental quality impacts; and health, safety or general welfare concerns.*

FINDING: The proposed playgroup is relatively small, serving only seven (7) children at any giving time within the existing single family dwelling and accessory structure. The applicant has proposed staggered drop-off times to alleviate any concerns of additional traffic. In addition, the applicant states that all neighboring property owners within two hundred and fifty (250) feet have been contacted and are supportive of the playgroup. The applicant has also agreed to keep an open line of communication with the neighbors once the business has been established to ensure continued compatibility. **The provisions of this section have been met.**

- G. *The City of Talent has adequate firefighting equipment to protect the structure, as verified by the Talent Fire Chief, or arrangements have been or will be made by the developer to insure that adequate equipment will be available before the occupancy of the building for any use.*

FINDING: The proposed use will primarily be held in an accessory structure in the backyard area. As stated by the applicant, the children will play outside a maximum of one and a half hours a day in the garden, allowing for adequate room for each child's needs. **The provisions of this section have been met.**

8-3L.246 SPECIAL STANDARDS GOVERNING CONDITIONAL USES

Certain conditional uses shall meet the following standards:

- A. *Daycares and Preschools*
- 1. At least 75 square feet of outdoor play and socializing area per child or adult shall be provided, but in no case shall the total area be less than 500 square feet.*
 - 2. If planned for children, the outdoor plan shall be adequately fenced in order to provide for their safety.*
 - 3. If the day care facility is not a residential use as provided in ORS 657A.440, the day care facility shall not be located in a single-family residence.*

4. *The facility shall be readily accessible for fire and other emergency vehicles.*
5. *The facility shall meet all applicable state licensing requirements. Proof that these requirements are met shall be provided.*
6. *Adequate space must be provided on-site to allow for drop-off of the children or adults, preferably a circular drive. L-shaped drives and alley drop-offs may also be approved.*
7. *Parking areas and ingress-egress points are designed so as to facilitate traffic, bicycle, and pedestrian safety; to avoid congestion; and to minimize curb cuts on arterial and collector streets.*

FINDING: The proposed use will primarily be held in an accessory structure in the backyard area. The play yard area has approximately 3,300 square feet of fenced area for all of the proposed children's activities.

According to the Office of Child Care for the State of Oregon, a facility similar to this that provides preschool type programs for less than four hours per day and provides education to children from age 3 through school age is exempt from state licensing.

As proposed, the proposed site plan identifies sufficient off-street parking. There is a paved area in front of the house as well as a gravel area adjacent to the main driveway that provides sufficient parking ingress-egress. **The provisions of this section have been met.**

8-3L.247 *CONDITIONS AND RESTRICTIONS*

Conditional uses, including those not listed in 8-3L.246 above may be subject to additional standards. In permitting a new conditional use or the substantial alteration of an existing conditional use, the Planning Commission may impose conditions and require the installation of improvements which it considers necessary to conform to the provisions of this Chapter and to protect the best interests of the surrounding area or the City as a whole, and may require guarantees and evidence that such conditions are being or will be complied with. These conditions and improvements may include, but are not limited to, the following:

- A. Limiting the hours, days, place and or manner of operation; Duration of use;*

FINDING: The proposal includes specific drop-off times and days of operation. As proposed, the applicant will have two drop-off times between 9:00 AM and 9:15 AM and 11:45 AM and 11:55 AM. These staggered drop-off times will help limit traffic congestion issues at one time in the morning. As a condition of approval, the applicant shall provide two designated drop-off times between 9:00 AM and 9:15 AM and 11:45 AM and 11:55 AM. **The provisions of this section have been met subject to conditions of approval.**

8-3L.150 *REQUIRED FINDINGS FOR APPROVAL OF PLAN*

After an examination of the site, the Planning Commission shall approve, or approve with conditions the site development plan if all of the following findings are made:

- A. *All provisions of this Chapter and other applicable City ordinances and agreements are complied with;*
- B. *The proposed development will be in conformance with the intent and objectives of the zone in which it will be located;*

FINDING: The purpose of the RS-7 zoning district is to provide a stable healthful and livable residential environment where small economic enterprises such as home occupations and neighborhood commercial activity can occur in a manner compatible with the single family residential neighborhood. The proposed use is a small arts/playgroup for approximately seven (7) children ranging from ages 3-5 years old. The proposed use is allowed as a conditional use to ensure compatibility with the surrounding residential neighborhood and has met or can meet the conditional use requirements of 8-3L.2 with conditions of approval. **The provisions of this section have been met subject.**

- C. *All applicable portions of the City comprehensive plan or other adopted plan are complied with;*

FINDING: The proposed use is consistent with the intent of the uses allowed on a property with a residential Comprehensive Plan Designation. **The provisions of this section have been met subject.**

- D. *The proposed development will be compatible with or adequately buffered from other existing or contemplated uses of land in the surrounding area;*

FINDING: The proposed use will be primarily contained within an accessory structure in the backyard area. Children's activities outdoors are limited to approximately one and a half hours per day, minimizing the impacts on neighbors. **The provisions of this section have been met subject.**

- E. *That no wastes, other than normal water runoff, will be conducted into City storm and wastewater facilities;*

FINDING: No new structures are being proposed and the existing single family dwelling does not produce any waste other than normal water runoff. **The provisions of this section are not applicable.**

- F. *The following are arranged so that traffic congestion is avoided, pedestrian and vehicular safety, solar access, historic sites, and the public welfare and safety are protected, and there will be no adverse effect on surrounding property:*

1. *buildings, structures, and improvements;*
2. *vehicular and pedestrian ingress and egress, and internal circulation;*
3. *parking and loading facilities;*
4. *setbacks and views from structures;*
5. *walls, fences, landscaping and street and shade trees;*

- 6. *lighting and signs; and*
- 7. *noise generation facilities and trash or garbage depositories.*

FINDING: The proposal includes specific drop-off times and days of operation. As proposed, the applicant will have two drop-off times between 9:00 AM and 9:15 AM and 11:45 AM and 11:55 AM. These staggered drop-off times will help limit traffic congestion issues and one time in the morning. As a condition of approval, the applicant shall provide two designated drop-off times between 9:00 AM and 9:15 AM and 11:45 AM and 11:55 AM. **The provisions of this section have been met subject to conditions of approval.**

- G. *The applicant has made any required street and other needed public facility and service improvements in conformance with the standards and improvements set forth in this Chapter and the applicable portions of the City Subdivision Code, or has provided for an adequate security arrangement with the city to ensure that such improvements will be made.*

FINDING: The proposed playgroup is being conducted within existing structures and the need for public improvements to increase capacity are not necessary. **The provisions of this section have been met.**

This approval shall become final 14 days from the date this decision and supporting findings of fact are signed by the Chair of the Talent Planning Commission, below. A Planning Commission decision may be appealed to the Hearing’s Officer within 14 days after the final order has been signed and mailed. An appeal of the Hearing’s Officer decision must be submitted to the Land Use Board of Appeals within 21 days of the Hearing Officer’s decision becoming final.

Failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval with sufficient specificity to allow the City to respond to the issue precludes an action for damages in circuit court.

Eric Heesacker
 Planning Commission Chair

Date

ATTEST

Zac Moody
 Community Development Director

Date