

**March 20, 2018 Board of Adjustment Special Meeting
Staff Recommendation**

PETITIONER: Steven Wherry, Greenspoon Marder, agent for LSREF3 Peppertree, LLC

LOCATION: 5594 West Sample Road

ZONING: TOC-G Gateway district

INTRODUCTION

The subject property of this application is a new 8,400 square foot building that is nearing completion of construction within an existing ~30 acre shopping center known as Peppertree Plaza. A new daycare business is pursuing occupying 6,000 square feet of the new building. On January 23, 2018 the Margate Development Review Committee provided a conditional approval of two new buildings in Peppertree Plaza, one of which is the subject of this application. One of the conditions of approval was that the proposed daycare could only occupy new building if a variance was granted to allow the use within proximity of less than 1,000 feet from the existing businesses licensed to serve alcohol for consumption on premises.

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SECTION OF CODE: Section 3.22(VIII) of the Margate Zoning Code

Code prohibits child care centers within 1,000 feet of any business where a license for the sale of liquor or beer and wine for consumption on the premises has been issued. Petitioner is requesting permission to establish a child care center that is within 1,000 feet of six businesses that are licensed to sell alcohol for consumption on premises.

The intent of the above referenced code requirement is to protect sensitive land uses from the perceived ill effects which may permeate out of businesses licensed to sell alcohol for consumption on premises. Of the six existing businesses in this shopping center which are licensed to sell alcohol for consumption on premises, five of those businesses are restaurants and one is a night club. The night club is open for business from Tuesday to Thursday from 6PM – 2AM, Friday and Saturday from 6PM – 4AM, and closed Sundays and Mondays.

The narrative provided with the application describes the subject property as a family-oriented shopping center that is attempting to provide additional convenience services for their customers and visitors by adding a new use to the shopping center. The property owner would like to offer several typical daily activities to busy families, including shopping, eating, and child care. The narrative also describes the security measures that the daycare business will implement in order to ensure the safety of the children in their care, including a fenced in playground, a security system, and restricted access to the daycare facility.

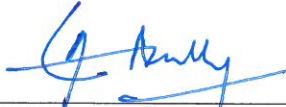
The use of alcohol sales and consumption is well established at this shopping center. This property also has the potential to attract new and additional businesses which may pursue a license to sell alcohol for consumption on the premises. Since the alcohol use has been established within the shopping center, and the daycare is seeking permission to locate near the alcohol use, this daycare should not be able to hinder or limit the previously established alcohol use in the shopping center, or inhibit prospective tenants seeking an alcohol use. It is understood that the property owner and daycare operator have waived their right to separation by filing this application.

Staff finds that a literal and strict interpretation of the provisions of Section 3.22 of the Margate Zoning Code would create a hardship for the daycare operator and property owner. Staff finds that the granting of this variance will not create a nuisance or be contrary to the public interest. **Staff recommends approval of this variance request, subject to the condition that the Board of Adjustment also waives any distance requirements from this daycare for any future businesses which may locate within this shopping center and pursue a license to sell alcohol for consumption on premises.**

RECOMMENDATION: APPROVE

APPROVE WITH
CONDITIONS

DENY



Acting Director of Economic Development

2/27/18

Date