

The regular meeting of the Board of Zoning Appeals of the City of Hammond was held on Tuesday, December 5, 2023 at 6:00 p.m., Council Chambers, 2nd Floor, Hammond City Hall, 5925 Calumet Avenue, Hammond, IN 46320, and via www.Zoom.us

Kathleen Hill called the meeting to order at 6:02 p.m. Ms. Hill led the reciting of the Pledge of Allegiance.

PRESENT

Roger Brock (IP)
William Hutton (IP)
Nancy Ragin (IP)
Kathleen Hill (IP)

ABSENT

Dennis Radowski

ALSO PRESENT

Brian L. Poland, AICP
Director of City Planning

Tom Novak
Asst. City Planner

Shannon Morris-Smith
Secretary

Dave Westland
BZA Attorney

PRESENT: FOUR (4)

ABSENT: ONE

QUORUM

APPROVAL OF MINUTES

Chairperson Hill called for a motion to approve the minutes of the October 31, 2023 meeting. Mr. Hutton so moved, seconded by Mr. Brock. Roll call vote. Nancy Ragin/yes; Roger Brock/yes; William Hutton/yes, Kathleen Hill/yes. 4 "Ayes", 0 "Nays", 0 "Abstentions, 1 "Absent". Motion carried.

OLD BUSINESS

There was none.

NEW BUSINESS

Z-23-18 Petition of Fountain of Youth Adult Day Center Co. for a conditional use regarding Title VIII, Section 8.11 to allow an adult day care center in a C-2 Shopping Center District, located at 6529 Columbia Avenue, Suite 200, in the City of Hammond

Chairperson Hill asked the secretary if the notification requirements have been met. Ms. Morris-Smith stated "Yes".

Jasmeka Collins, 54 W. 153rd Place, South Holland, IL 60483, represented the petitioner. Ms. Collins intention was to open an adult day care center for senior fifty-five (55) years of age and older. The clients would be able to socialize, exercise, do arts and crafts, and create friendships.

The proposed adult day care center would be located at 6529 Columbia Avenue the former Sterk's grocery store. Hours of operation would be Monday-Friday from 8 a.m. to 5 p.m., Saturday's by appointment. Transportation services would be provided and included with Medicaid clients. Medicaid and self-pay (with payment schedules) would be accepted. Full-time, part-time, and weekly payments would be offered. Initially the center would start with thirty (30) clients for the first ninety (90) days. The maximum number of clients would be one hundred fifty (150).

Mr. Poland asked for clarification on the medical needs assessment that would be provided. Ms. Collins stated Silver Birch Senior Homes would provide a Level of Care Assessment. This is a service that was provided by the State. The proposed adult day care would not provide inhouse medical care. The facility would provide a care plan, which would be an assessment of daily activities. Ms. Collins further stated the facility was currently Level I. There were four (4) levels. The facility has chosen to remain at Level I for the first year. There was a further discussion on partnerships and providing other resources within the community.

Chairperson Hill asked if there were any questions from the Board. Chairperson Hill asked who were the 3-4 contractors. Ms. Collins stated the contractors were the initial caregivers that would be employed by outside agencies. Chairperson Hill asked if food services would be provided and where would the services come from. Ms. Collins stated a breakfast snack, a hot lunch, and an afternoon snack would be provided. The facility was working with Owana Miller, Director, Community Development, to find a local caterer. The food would be delivered daily, and the participants would serve themselves. There would not be any food or perishable items stored in the facility.

Ms. Ragin asked if the service would be for Hammond or all over the county. Ms. Collins stated people from other areas were welcome, but the focus was on Hammond. Hammond was the current target area for services.

Chairperson Hill asked what enrollment options were available for private care participants. Ms. Collins stated the participant could enroll by the month, week, or day.

Ms. Ragin asked what the average price was for the service. Ms. Collins stated the base rate was \$1600.00 per month. Ms. Ragin asked how many employees for the thirty (30) participant. Ms. Collins stated the State required eight (8) people per caregiver. This accounts for the three to four (3-4) contractors.

Mr. Novak asked if background checks would be given to employees when the center is able to hire their own employees. Ms. Collins stated "Yes". It was a State requirement for all employees to have background checks with no felonies, or pending criminal charges. Ms. Collins further stated a TB test was also required. The objective was to have inhouse employees that would include a nurse, and to hire locally.

There was a discussion on alternative resources in the event that the facility was full and unable to enroll participants on any given day.

Chairperson Hill asked if all State inspections and requirements had been met. Ms. Collins stated "Yes". There was a discussion on the Open Setting law, and any prospective outdoor activities.

Chairperson Hill asked if there were any questions from the staff. There were none.

Chairperson Hill opened the floor for public comments. There were none.

Chairperson Hill closed the floor for public comments.

Chairperson Hill asked if there were any additional questions from the Board members. Mr. Hutton asked if suites 100 and 300 were currently occupied and if there was a separation partition between the suites. Mr. Novak stated there were a series of doors. In the rear there was a common restroom area. There is a condition to keep any and all doors between the units locked.

Chairperson Hill asked if there were any additional questions from the Board members. There were none.

Chairperson Hill asked for staff to read the staff report recommendations (Z-23-18), however it is included in its entirety.

Zoning Citation

Title VIII C-2 Shopping Center District, Section 8.11 Conditional Uses

(2) Any conditional use in Title VII Section 7.11

via Title VII C-1 Local Commercial District, Section 7.11 Conditional Uses

(1) Any use of the general character as any of the above (C-1) permitted uses.

via Title VII C-1 Local Commercial District, Section 7.10 Permitted Uses

(3) Child care centers

Background

Fountain of Youth Adult Day Center Co. is a non-profit corporation founded by Jasmeka Collins.

The parcel is a 13-sided, irregularly shaped 5.01-acre (218,235 SF) fully developed property. 6529 Columbia Ave. serves as the anchor of this under-utilized shopping center, which contains three (3) other adjacent parcels, two of which are owned by the same property owner. The parcel to the NW is a vacant but paved lot seeking development, and the two (2) parcels to the west include a State of Indiana Family and Social Services Administration (FSSA) field office and an Old National Bank branch. The property fronts on two of the City's secondary commercial corridors (local arterial roads Columbia Ave. and 165th St.) and sits at the extreme NW corner of City Planning District V Woodmar. This is one of the largest vacated commercial parcels both on Columbia Ave. and within the South Hammond-Woodmar area.

The City of Hammond's Comprehensive Land Use Plan designates this shopping center and the land to the north, west, and south of it as "Commercial." This matches current zoning districts.

Under both the current Zoning Ordinance and its 1981 predecessor, this property is zoned C-2 Shopping Center District. The building was constructed in Autumn 1961 as a grocery store and has not been occupied as a grocery store since March 2007. The most recent occupant, BP Whiting Refinery, spent \$6 million to remodel the interior to accommodate training space for their employees & contractors. BP vacated during 2020.

This major interior build-out by BP was approved in Dec. 2007 under conditional use permit BZA Case No. Z-07-20. This case granted use as a "learning and development center" for a temporary period, which was made permanent in Aug. 2010 by BZA Case No. Z-10-05. Per T/S 24.42(3), "A conditional use will expire... if a second conditional use is granted for the same property, unless the Board of Zoning Appeals reauthorizes

the initial conditional use.” Approval of the current petitioner’s conditional use permit will nullify the prior conditional use granted.

The 1-story building contains 53,335 SF of floor space. The floor space has been divided into dozens of larger open areas and smaller classroom-like rooms connected by wide hallways with tall ceilings. It contains an automatic sprinkler system and the fire alarm system is connected to the Hammond Fire Dept. and features a fire alarm in each room. This system was recently inspected and is maintained by Phoenix Fire Systems of Frankfort, IL.

The current property owner, Craig Miott via Hammond One, LLC, plans to lease the interior as at least three (3) separately leased units. Jasmeka Collins signed a ten-year and nine-month lease (Nov. 2023 to Aug.2034) to occupy the middle unit, designated Suite 200. It is the largest unit at 17,609 SF and will utilize the former grocery store’s main front entrance.

To the NW of the subject parcel, at the corner of 165th St. and Columbia Ave, is land zoned S-2 Institutional District. Hammond Water Works and one of the City’s elevated water tanks is located at this corner. To the east is also zoned S-2, and it contains public utility NIPSCO storage and staging areas. Across 165th St. to the north is similarly zoned C-2 and is home to multiple retail buildings and a couple of restaurants. To the west and to the south are zoned C-4 General Commercial District. Across Columbia Ave. is an ALDI grocery store and immediately south is a combo automatic and manual car wash.

Less than 500’ to the SW is the Erie Lackawanna Recreational Trail. The nearest school, Anne Burns-Hicks Elementary School, is over 1,100’ to the NW and sits across 165th St. and the recreational trail.

Petition

The petitioner, Fountain of Youth Adult Day Center Co, requests a conditional use permit for an adult day care center which will not provide medical treatment nor overnight care. Clients are to be fifty-five years old or older (55+). Clients, employees, and contractors cannot be felons, actively facing criminal charges, nor demonstrate a history of violence.

The petitioner makes this request via a series of references between Title VIII (C-2) uses and Title VII (C-1) uses. The Board is to consider this adult day care center a "use of the general character" of the C-1 permitted use child care centers.

The hours of operation will be 8:00AM to 5:00PM Monday thru Friday, with Saturday by appointment only. Licensed transportation will be offered to clients. Enrollment is open.

The petitioner proposes to utilize the middle and largest unit, Suite 200, for their operations as well as the restrooms in the common area in the rear of building. In the first months as business grows, the plan is to utilize only three (3) of the twelve (12) main rooms available. These are: Room 139 near the front entrance as a library space, Room 136 at the rear of the unit near the restrooms as the activity room, and Room 141 directly across the hallway as the office for storage of records, bills, etc. The focus here is on social and creativity activities for seniors, such as arts & crafts, aerobics, board games, and sharing of each other's stories.

Future expansion into Room 137 and Room 103 is planned in 2024 to offer an educational space and an entertainment space. One of the other rooms contains a series of plumbing fixtures which are available for personal hygiene services in the future.

Three to four (3-4) independent contractors will function as caretakers for no more than thirty (30) people at the start. Future expansion may be up to fifty (50) employees servicing 150 clients per a normal week. For comparison, BP stated in 2007 there could be up to 336 people at this facility on any given day. There are 311 off-street parking spaces available in the front for all three (3) suites. The Fire Dept. will set their maximum occupancy designation. Petitioner established contact with City of Hammond Fire Department's inspectors in November 2023.

Analysis

This type of adult day care use that focuses on the socialization of seniors will be novel to the City of Hammond. The nearest locations are Secret's Loving Care Adult Day Service off of Ridge Road in Munster and other centers in Gary. Anecdotes from the City's Community Development Dept. relate there is a substantial need for such a service in Hammond.

Jasmeka Collins, owner and founder of petitioning company, claims over twenty (20) years management experience including a dozen handling government contracts. Previously, she was Director of Senior Services for House of Hope Mission, an adult

day care center in Union, Mississippi. This center services fifty (50) seniors per day and depends on fundraising and community support, which is similar to her plan for Fountain of Youth Adult Day Center.

This is her only location and first time as a business owner and operator. Financial reimbursement will be primarily via Medicaid and Veterans Affairs, but petitioner is not partnering with either agency for clients. She has partnered with Word Made Flesh Church at 700 Sibley St. and will rely on client recommendations, donations, grants, and self-funding.

Originally built as a grocery store, BP renovated the building for offices and training facilities following approval of BZA Case No. Z-07-20, and thus the layout of Suite 200 lends itself to an adult day care use more-so than to traditional retail. There is at least 24,594 SF of additional leasable floor space across two (2) other units within the building, which could be sub-divided further, and Suite 300 offers an open floor plan more conducive to retail.

The automatic sprinkler system and interconnected fire alarm system profoundly increases the safety of such an operation here. An alarm-triggering emergency exit does exist in the rear of this unit near the bathrooms.

City Planning and the owner have also discussed the proper splitting of utility metering so that there is a separate electric meter and a separate gas meter for each unit and one electric meter and one gas meter for common areas. Sub-metering for water service was discussed as an option.

During a site visit, three (3) circuit breaker panels located near the rear emergency exit were seen but did not individually correspond to each suite. Circuit breaker panels must be split, like utility meters, so that each panel or set of panels corresponds to only one leasable unit. Owner Craig Miott states he plans to do the split in the first half of 2024.

The petitioner has provided a copy of their lease with the property owner. This lease outlines how "common operating expenses" will be assigned prior to a full, proper utility metering split.

Reviews and Approvals

City Planning Staff has reviewed materials provided by the petitioner, including a floor plan for the entire building. Assistant City Planner Tom L. Novak conducted site visits on 11/02/2023 and with Director of Community Development Owana J. Miller on 11/17/2023.

There were no objections from the Building Commissioner, Chief Fire Inspector, City Engineer, Director of the Hammond Department of Environmental Management (HDEM), Superintendent of Wastewater Management at the Hammond Sanitary District (HSD), nor Director of Community Development.

STANDARDS FOR GRANTING A CONDITIONAL USE:

- 1) The approval will not be injurious to the public health, safety, morals, and general welfare of the community.
- 2) The use and the value of the area adjacent to the property related to the conditional use will not be affected in a substantially adverse manner.
- 3) The approval will not have an adverse effect on the density of the adjacent area and the area will not be burdened by an excessive number of similar uses in the area.
- 4) The approval will not have an adverse impact on the transportation network, public utilities and educational facilities.
- 5) The approval will not have an adverse impact on the environment or natural resources.
- 6) The approval will not have an adverse impact on historical, architectural, cultural and archaeological resources.
- 7) The approval does not substantially interfere with the Comprehensive City Zoning Plan.
- 8) The approval will be in compliance with applicable provisions established elsewhere in the Zoning Ordinance.
- 9) The approval shall provide for reasonable accommodation pursuant to Section 24.53.

Recommendation

Staff has reviewed the petitioner's request and recommends that the BZA grant the conditional use permit should the Board feel the petitioner has met the standards, subject to conditions:

- 1) Enact measures to keep rooms not in use and neighboring units/suites closed-off and secured from access by clients or visitors;
- 2) Maintain fire alarm system and obey max occupancy for each room and suite as a whole;

- 3) Safely and legally split-up utility meters and circuit breaker panels so meters and panels correspond to a specific, individual unit/suite.

Mr. Novak concluded the reading of the recommendation section of the staff report.

Mr. Poland referenced the previous BZA actions and advised the Board that the first conditional use approved by the Board would expire with an automatic removal. Staff advised the Board that the approval of this conditional use would not cancel out the previous conditional use.

Chairperson Hill asked if there were any questions from the Board members. There were none.

FINDINGS OF FACT

1. **The approval will not be injurious to the public health, safety, morals, and general welfare of the community.**
 - a) **There is no adult day care center within the City of Hammond, and petitioner's business will help to improve public health and general welfare for 55+ adults and their caregivers or family.**
 - b) **No felons and no one with pending criminal charges will be allowed at the center, whether as clients or employees.**
 - c) **An automatic sprinkler system and an interconnected fire alarm system is installed. The petitioner is in communication with Hammond Fire Dept. inspectors and is prepared to comply with any requests they make upon their business license inspection.**
 - d) **An alarm-triggered emergency exit door is provided to rear of unit by bathrooms.**
2. **The use and the value of the area adjacent to the property related to the conditional use will not be affected in a substantially adverse manner.**
 - a) **The nearest residential neighborhoods are over 1,000' away and separated by local arterial roads, the Erie Lackawanna Recreational Trail, and other non-residential developments; there is only one single family home on Columbia Ave.**
 - b) **The adult day care center will be isolated in a commercial area and a large shopping center development, providing buffers between it and other uses.**
 - c) **Foot traffic to this under-utilized commercial development will increase with employees, clients, and caregivers/family visiting the site at least five days a week.**
 - d) **There is at least 24,594 SF of additional leasable floor space across two (2) other units within the building, which could be sub-divided further.**
 - e) **Ample parking of 311 off-street parking spaces are provided in front of business.**

f) **No changes to infrastructure, parking lot layout, or roadway access points at this site.**

3. The approval will not have an adverse effect on the density of the adjacent area and the area will not be burdened by an excessive number of similar uses in the area.

a) **There is no adult day care center within the City of Hammond and the nearest similar facility is in Munster, with others in Gary.**

b) **This shopping center has been under-utilized for over sixteen (16) years with the closing of the grocery store anchor at this location; the last tenant vacated during 2020.**

c) **If one-hundred-and-fifty (150) clients and fifty (50) employees are on-site at one time, this is still less than the number of people during its traditional use as a grocery store or as BP's training facility.**

4. The approval will not have an adverse impact on the transportation network, public utilities and educational facilities.

a) **The nature of such shopping centers means ample off-street parking and traffic signal-controlled access points to roadways are already installed.**

b) **Transportation will be offered to clients via a person with a transport license.**

c) **No changes to infrastructure, parking lot layout, or roadway access points at this site.**

d) **There will be no adverse impact on public utilities as they currently exist. The owner will resolve the separate metering as may be required.**

e) **There will be no adverse impact on educational facilities, as it is located over 1,100' from any school and will not result in an increase in school-age population.**

5. The approval will not have an adverse impact on the environment or natural resources.

a) **The property has no known environmental concerns.**

b) **There are no natural resources nor endangered species being affected by occupancy.**

6. The approval will not have an adverse impact on historical, architectural, cultural and archaeological resources.

a) **There are no known historical, architectural, cultural, or archaeological resources.**

7. The approval does not substantially interfere with the Comprehensive City Zoning Plan.

a) **The 1992 Comprehensive Land Use Plan designates this site and the land immediately north, west, and south of it as Commercial Use designation, which matches the zoning district designations under the current Comprehensive Zoning Map.**

b) **The site has frontage on two local arterial roads – Columbia Ave. and 165th St.**

c) The conditional use for an “adult day care center” is allowable in a C-1: Local Commercial District and thus in a C-2: Shopping Center District if Board of Zoning Appeals’ approval is granted.

8. The approval will be in compliance with applicable provisions established elsewhere in the Zoning Ordinance.

a) The existing building and site do not have plans for major changes.

b) Ample parking of 311 off-street parking spaces are provided in front of business.

9. The approval shall provide for reasonable accommodation pursuant to Section 24.53.

a) Section 24.53 does not apply to this conditional use permit application.

Chairperson Hill asked for a motion to adopt the staff report as presented by staff with the three (3) conditions and to adopt the Finding of Fact into the record (Z-23-18). Ms. Ragin so moved, seconded by Mr. Brock. Roll call vote. Nancy Ragin/yes; Roger Brock/yes; William Huton/yes; Kathleen Hill/yes. 4 “Ayes”, 0 “Nays”, 0 “Abstentions”, 1 “Absent”. Motion carried.

Chairperson Hill asked for a motion to approve the conditional use with the three (3) conditions (Z-23-18). Ms. Ragin so moved, seconded by Mr. Brock. Roll call vote. Nancy Ragin/yes; Roger Brock/yes; William Hutton/yes; Kathleen Hill/yes. 4 “Ayes”, 0 “Nays”, 0 “Abstentions”, 1 “Absent”. Motion carried.

COMMISSIONER COMMENTS

Chairperson Hill wished everyone a lovely holiday season.

STAFF COMMENTS

Mr. Poland discussed the alternate May meeting date for the 2024 meeting schedule. Ms. Ragin motioned to accept the May 29, 2024 meeting date, seconded by Mr. Hutton. Roll call vote. Nancy Ragin/yes; Roger Brock/yes; William Hutton/yes; Kathleen Hill/yes. 4 “Ayes”, 0 “Nays”, 0 “Abstentions”, 1 “Absent”. Motion carried.

Mr. Hutton motioned to accept the 2024 BZA meeting schedule as amended, Mr. Brock so moved. Roll call vote. Nancy Ragin/yes; Roger Brock/yes; William Hutton/yes; Kathleen Hill/yes. 4 “Ayes”, 0 “Nays”, 0 “Abstentions”, 1 “Absent”. Motion carried.

Mr. Poland wished everyone a Happy Holidays. Mr. Poland asked the Board members if they have signed up for the employee Christmas party.

PUBLIC COMMENTS

Ms. Collins wished everyone a Happy Holidays.

ADJOURNMENT

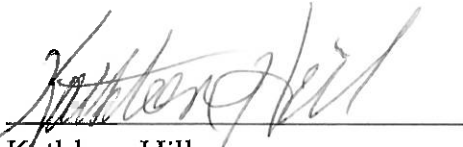
Chairperson Hill motioned to adjourn the meeting. "Ayes" all. The meeting was adjourned at 6:38 p.m.

PREPARED BY:



Shannon Morris-Smith
Secretary to the Board of Zoning Appeals

APPROVED BY THE BOARD OF ZONING APPEALS:



Kathleen Hill
Chairperson

Date Approved: 2/27/24