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Petition # 1980 - 1 (c) SUP

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OFFICIAL REZONING APPLICATION MECKLENBURG COUNTY

Petition No. 5UP 80-1C
Date Filed 12/14/79
Received By Steve Horton
OFFICE USE ONLY

Ownership Information

Property Owner CAROLINA FINCORP, INC.
Owner's Address 3801 EAST INDEPENDENCE BOULEVARD
Date Property Acquired 8-28-74
Deed Reference 3638-619 Tax Parcel Number 211-321-01

Location Of Property (address or description) EAST SIDE OF CARMEL ROAD
BETWEEN SHADOWLAKE SUBD. & FIRE STATION

Description Of Property

Size (Sq. Ft.-Acres) 2.3 ac. ± Street Frontage (ft.) 234.01 CARMEL
275' SIDE STREET
Current Land Use VACANT

Zoning Request

Existing Zoning R-15 Requested Zoning R-15 SPECIAL USE
Purpose of zoning change TO ALLOW PROPERTY
TO BE USED FOR A DAYCARE FACILITY PERMIT TO ALLOW DAYCARE

PERRY, PATRICK, FARMER & WUGHANX
Name of Agent
SUITE 712 CAMERON-BROWN BLDG. - CHAR. N.C.
Agent's Address
312-1120
Telephone Number

MARKET INSIGHT CORP.
Name of Petitioner(s)
P.O. Box 741 HENDERSONVILLE, N.C. 28739
Address of Petitioner(s)
704-693-8351
Telephone Number
[Signature]
Signature
BY: [Signature]
Signature of Property Owner if Other
Than Petitioner EXEC. VICE PRESIDENT
CAROLINA FINCORP, INC.

INSTRUCTIONS FOR FILING A PETITION FOR A CHANGE IN A ZONING CLASSIFICATION

A petitioner for a zoning change must complete and file in duplicate the application form on the reverse side of this sheet. All information requested must be given.

There is a filing fee of \$100.00 required with each rezoning petition.

No application shall be considered filed until it has been discussed with and accepted by a member of the staff of the Planning Commission.

The application must be accompanied by two copies of a map, drawn to scale, of the property to be considered for a change in zoning.

If the area proposed to be changed is part of a SUBDIVISION recorded in the plat books in the Mecklenburg County Register of Deeds Office, then the map must include the following information:

- 1) A copy of that portion of the recorded map that shows the property to be considered for the proposed zoning change, plus sufficient additional area to show the location of the property in reference to the nearest street intersection.
- 2) The lot and block number(s) of the property proposed to be changed.
- 3) The name of the subdivision, and the plat book and page number at which the map is recorded.
- 4) Dimensions and compass bearings of all lines bounding the property proposed to be changed.

If the area proposed to be changed is ACREAGE or PROPERTY NOT LOCATED IN A RECORDED SUBDIVISION then the map must include the following information:

- 1) The exact dimensions and compass bearings of all lines bounding the property to be considered for the proposed zoning change.
- 2) The location of the property in reference to a street intersection, railroad, creek, or other features easily identified on the ground. Adequate information (distances, compass bearings) must be given to show the exact location of the property with respect to the reference point.

If the petitioner is not the owner of the property, the application must be signed by the owner, or accompanied by a letter signed by the owner signifying his approval of the proposed change. (This does not apply when the petitioner is a group of neighborhood property owners seeking a general change in the zoning of lands or properties within the neighborhood.)

Petitions which have been completed and filed with the Planning Commission will be heard at the earliest feasible scheduled date.

All petitions are considered at a public hearing held jointly by the County Board of Commissioners and the Planning Commission.

SPECIAL USE PERMIT

The Mecklenburg County Commission approved this special use permit for Market Insight Corporation

owner(s) and successors-in-interest of the property described as tax parcel 211-321-01

and described in detail further in the application submitted to the Board of Commissioners and incorporated by reference herein.

This special use permit allows the owner(s) and successors-in-interest of the property to use the property for the establishment and operation of a day care center

A notation on the official zoning map at the locations of this property has been made designating the special use approved. If authorized by ordinance, then the Mecklenburg County Zoning Regulations as embodied in the Zoning Ordinance are amended and the official zoning map thereof.

This special use permit is subject to and incorporates by reference all of the following: plans, specifications, all required conditions, section 9. of the zoning ordinance, all of which preceding are binding upon the property and all subsequent development and use of the property. It shall be unlawful to develop or use the property in violation of this special use permit and the plans and required conditions are incorporated by reference herein. The Mecklenburg County Commission has the authority to revoke the special use permit in accordance with the procedure described in section 9. of the Mecklenburg County Zoning Ordinance.

DATE April 14, 1980

PETITION NO. SUP 80-1(c)

PETITIONER(S) Market Insight Corporation

REQUEST Grant Special Use Permit for a day care center in an R-15 district
as provided for in Section 9-6 of the Mecklenburg County Zoning Ordinance.

LOCATION A 2.5 acre tract fronting on the easterly side of Carmel Road about
360 feet south of Quail Ridge Drive.

ACTION The Planning Commission recommends that this Special Use Permit
be approved based on the following findings.

VOTE Yeas: Culbertson, Ervin, McCoy, Royal and Tye.
Nays: None.

REASONS: (Commissioners Broadway and Cummings abstained.)
(Commissioner Tate was not present.)

FINDINGS REGARDING REQUIREMENTS PRESCRIBED FOR SCHEMATIC PLANS

The schematic plan and other material submitted with the petition at the time of filing fully comply with each of the requirements of Section 9^B(application) (1-7) and of Section 9-6.1(1). (See testimony of Bryant, pg. 13 and Staff Exhibit No. 3). 9-9 14

FINDINGS REGARDING PRESCRIBED STANDARDS

The following findings of fact were made from the record evidence presented at the hearing with respect to the four standards prescribed by Section 9-6.3 and the basic facts relied on in support of each being set forth below:

Finding (Standard) No. 1

That the proposed use will not endanger public health and safety or substantially reduce the value of adjoining and nearby properties.

Facts Supporting Finding No. 1

1. The day care center will be licensed and regulated by the state with respect to safety, health, sanitation, fire and construction. (Testimony - Deaton, pg. 28).

2. The day care center's hours of operation will be from 6:30 o'clock A. M. to 6:30 o'clock P. M. on Monday through Friday. (Testimony - Deaton, pg. 28.)
3. No nighttime or weekend activities will be conducted at the day care center other than the holding of open houses for parents which will occur not more than once a month (testimony - Deaton, pg. 28).
4. The entire playground area will be fenced (testimony - Deaton, pg. 29).
5. Driveway entrances and parking areas proposed for the day care center have been approved by the associate county engineer for transportation (testimony - Coates, pgs. 20 and 21).
6. Staggered hours and different programs will reduce the traffic and trips to and from the day care center during peak hours (testimony - Deaton, pgs. 29 through 31).
7. Based upon the petitioner's prior operating experience, no problems are expected to be created with respect to delivering and picking up children (testimony - Deaton, pg. 31).
8. Operation of the day care center will not create any safety problems with respect to its children or the adjoining neighborhood (testimony - Deaton, pg. 31).
9. The children enrolled in the day care center will be closely supervised by qualified personnel while they are inside the day care facility and while they are outside playing (testimony - Deaton, pg. 31).
10. There will be no water runoff that would adversely affect existing or future developments which adjoin the site (testimony - Coates, pg. 24).
11. The site is part of Phase 6 of Shadowlake (lot 1-A). This particular subdivision received preliminary subdivision plan approval from the Planning Commission on February 8, 1980. Examination of this subdivision plan will reveal that any stormwater runoff from the site will be accommodated by the curb and gutter and underground storms drainage system which the developer is required to install within the subdivision. (Testimony - Bryant, pg. 54 and 55, supplementary material filed after hearing.)
12. The subdivision plan requires the developer to improve Carmel Road by adding a second north bound lane and constructing a four foot sidewalk along the entire front portion of the site. (Supplementary statement filed after hearing.)

Finding (Standard) No. 2

That the proposed use will be compatible with the general characteristics of the area with respect to the location, size and exterior features of the structure, the location, design and screening of parking areas and the location and size of signs.

Facts Supporting Finding No. 2

1. The site is zoned R-15 and is currently surrounded by the following uses: (a) to the north and east by vacant property owned by the owner of the subject property, which is part of Phase 6 of Shadowlake which will ultimately be developed into single family residences, (b) to the south by the Sharon Volunteer Fire Department and an office building, (c) to the west by single family residences and office buildings (testimony - Bryant, pgs. 9 through 11, Coates, pgs. 17 and 18, Staff Exhibits 1 and 2).
2. The site fronts on Carmel Road, a designated major thoroughfare and a proposed residential street. (Testimony - Bryant, pgs. 9 and 54.)
3. The lots within the Sturnbridge Subdivision located immediately across the street from the site back up to Carmel Road rather than front on it. Consequently the day care center will not be oriented toward any single family residences. (Testimony - Bryant, pg. 56.)
4. The building to be constructed at the site will be a one story structure that is compatible with the surrounding residential and office uses. (Testimony - Coates, pg. 22.)
5. The petitioner's schematic plan provides for 19 parking spaces which is six more than the number of spaces required by the zoning ordinance. (Testimony - Coates, pg. 24, Staff Exhibit 3.)
6. Off street parking will be provided for the day care center and the schematic plan affords interior circulation with a good loop and plenty of pick up spaces. (Testimony - Coates, pg. 24.)
7. The size and location of any sign that may be used by the petitioner to identify the day care center will be regulated by law. (Testimony - Coates, pg. 25.)

Finding (Standard) No. 3

That the proposed use will not substantially increase the volume of vehicular traffic within the area.

Facts Supporting Finding No. 3

1. Carmel Road has been designated as a major thoroughfare and will ultimately have four lanes. The petitioner's schematic plan contemplates that this widening of Carmel Road up to four lanes (testimony - Bryant, pg. 54, Staff Exhibit 3).
2. Based upon an enrollment of a maximum of 105 children, the proposed day care center would not have a measurable impact upon the traffic volume along Carmel Road. (Testimony - Binford, pg. 44.)

3. The proposed day care center will not substantially increase the volume of vehicular traffic within the area. (Testimony - Coates, pg. 26.)
4. Any potential backing up on Carmel Road of vehicles entering or leaving the day care center will be lessened by the proposed widening of Carmel Road and by the provision of two way traffic within the site and space for the storage of at least three vehicles turning into or leaving the site. (Testimony - Coates, pg. 20.)

Finding (Standard) No. 4

That the proposed use will be compatible with general living environment of the area, particularly with respect to noise levels.

Facts Supporting Finding No. 4

1. The land adjoining the site to the north and east will be devoted to single family use; the land to the south is devoted to office use and a fire station; the land to the west and the southwest is devoted to single family residences and office uses. (Testimony - Bryant, pgs. 9 to 11, Coates, Pgs. 17 and 18.)
2. All lots within the single family subdivision located across the street from the site back up to Carmel Road rather than front on it. (Testimony - Bryant, pg. 56.)
3. The location of the proposed building as it relates to the property lines of the site is such that the minimum setback, side yard and rear yard standards are substantially exceeded and a fenced in playground area has been placed well within the property lines. As a result, the building and playground area will be quite isolated from adjoining properties, particularly when considering the required screening along the proposed street and the rear line of the site and the additional space include within the rights-of-way for Carmel Road and the proposed street. (Staff Exhibit 3.)
4. Due to the operational hours of the day care center, its use will be less intensive than that of a typical school that could be constructed on the site by right. (Testimony - Coates, pg. 23.)
5. The day care center will be operated only in the day time and on weekdays. (Testimony - Deaton, pg. 28.)
6. There will be no nighttime noise or activity. (Testimony, Deaton, pg.35.)
7. There will be no night lights other than security lights similar to those used for residences. (Testimony - Deaton, pages 35 and 36.)
8. All children's activity will be supervised by trained adult personnel and the earliest playground usage will be at 10:00 o'clock A. M. (Testimony - deaton, pgs. 31 and 32.)

9. Use by children of the day care center's playground facilities will be stagger with the result that only part of its total enrollment will be playing outside at one time. (Testimony - Deaton, pg. 32.)
10. Playground and outside activities on the site will be permitted by right in connection with the operation of the schools, churches, and private swim clubs, all of which characteristically provide such facilities and activities. (Testimony - Coates, pg. 23.)

Based on all of the above findings and conclusions, the Planning Commission recommends that the petition be approved.

CARMEL RD. SITE

- W. J. KLEIN CO. 3605-480
6301 CARMEL RD. 211-201-02
CHAR. 28211
- CAROLINA FINCORP INC.
3801 E. INDEPENDENCE BLVD
CHAR. 28205 3638-64
211-321-01
- WHITNER FARMS, INC.
723 S. SHARON ANNUITY RD. - # 203
Char. 28211 3814-487
209-241-03
- SHARON VOL. FIRE DEPT.
CARMEL ROAD
CHARLOTTE, N.C. 28211

TYVOLA RD SITE

- HARRY E. BUSH, JR. ET AL 3603-146
5301 McALPINE FARM RD. 171-242-05
CHAR. 28211
- JOHN R. COOK 2279-574
5419 CLOSEBURNE RD. 171-242-01
CHAR 28216
- DUKE POWER CO. 1145-539
422 S. CHURCH ST. 171-231-06
CHAR 28242
- CITY OF CHARLOTTE 3069-128
PARK & RECREATION Comm. 171-231-07
E. TRADE ST.
CHAR.
- DAVID E. WITHROW 3769
3769-754
316 Meadowbrook RD 171-241-15
Char. 28211