

DATE: March 6, 2012
TO: Honorable Mayor & City Council
FROM: Doug Hazelbaker, 1st Vice Chair, Planning & Zoning Commission
SUBJECT: Results of Planning & Zoning Commission Meeting of March 5, 2012

**AGENDA ITEM NO. 6 - PUBLIC HEARING
ZONING CASE 2012-04
APPLICANT: RICHARD LISSAUER**

Request for Specific Use Permit for Day Care Center (In-home) on 0.2± acre located at the northeast corner of Westridge Drive and Dartbrook Drive. Zoned Single-Family Residence-9.

APPROVED: 5-2 **DENIED:** _____ **TABLED:** _____

LETTERS RECEIVED WITHIN 200 FOOT NOTICE AREA: **SUPPORT:** 6 **OPPOSE:** 3

LETTERS RECEIVED OUTSIDE 200 FOOT NOTICE AREA: **SUPPORT:** 5 **OPPOSE:** 0

PETITION(s) RECEIVED: N/A **# OF SIGNATURES:** N/A

STIPULATIONS:

Recommended for approval as submitted.

The Commissioners voting in opposition did not cite any reasons for their opposition.

FOR CITY COUNCIL MEETING OF: March 26, 2012 (To view the agenda for this meeting, see www.planotx.org)

PUBLIC HEARING - ORDINANCE

BM/dw

xc: Richard Lissauer

CITY OF PLANO
PLANNING & ZONING COMMISSION

March 05, 2012

Agenda Item No. 6

Public Hearing: Zoning Case 2012-04

Applicant: Richard Lissauer

DESCRIPTION:

Request for Specific Use Permit for Day Care Center (In-home) on 0.2± acre located at the northeast corner of Westridge Drive and Dartbrook Drive. Zoned Single-Family Residence-9.

REMARKS:

The requested zoning is a Specific Use Permit (SUP) for Day Care Center (In-home). The Zoning Ordinance defines day care center (in-home) as an operation providing care in the caretaker's residence for less than 24 hours a day for up to 12 children under the age of 14, provided that the total number of children, including the caretaker's own children, is no more than 12 at any time. The purpose and intent of an SUP is to authorize and regulate a use not normally permitted in a district which could be of benefit in a particular case to the general welfare, provided adequate development standards and safeguards are established for such use during the review of an SUP application.

In order to ensure compliance with applicable zoning regulations and building code requirements, the Building Inspections Department has recently began requiring applicants to specify the number of children on an in-home day care center permit application. The in-home day care center permit application is linked to the fire safety inspection that applicants are required to obtain for their state licensing. Since the fire safety inspection is required annually, this allows the city a more effective manner to enforce zoning and health safety code requirements.

This is an existing in-home day care center and the applicant is seeking an SUP in order to provide child care to more than eight children. This subject property is located at the northeast corner of Westridge Drive and Dartbrook Drive, both local streets (50-foot right-of-way).

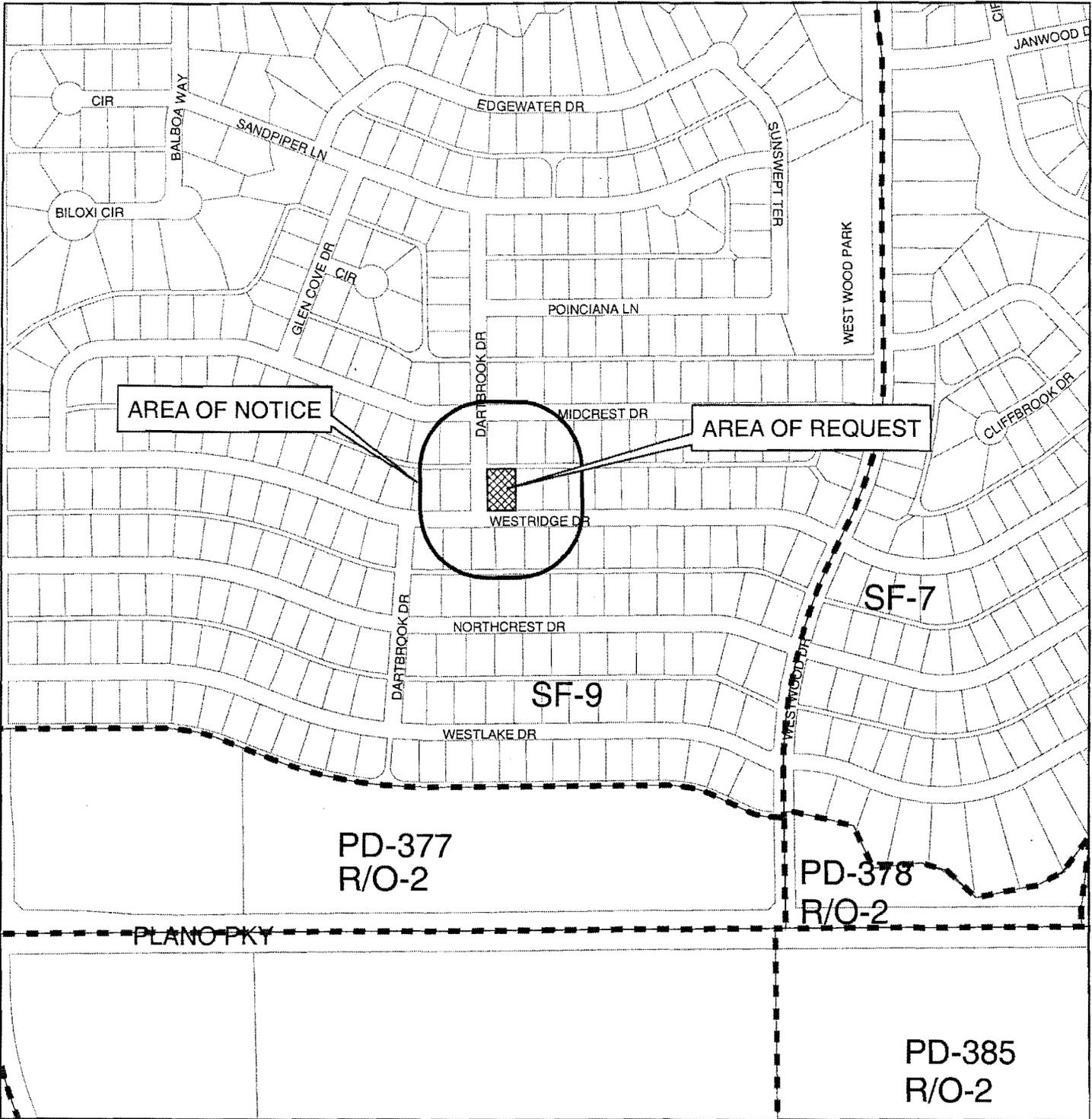
This in-home day care center operated for six years from 1996 to 2002, stopped for another six years and resumed operations in 2008. The in-home day care center

provides child care services to 12 children. The Zoning Ordinance requires an SUP for Day Care Center (In-home) that provides care to more than eight children. The applicant could not obtain a renewed Certificate of Occupancy (CO) without an SUP for Day Care Center (In-home) to meet the Zoning Ordinance requirements, as well as to meet the state requirement as noted above. The applicant is also required to comply with Subsection 3.110 (Home Occupations) of Section 3.100 (Supplementary Regulations for Principal Permitted Uses and Specific Uses) of Article 3 (Supplementary Regulations) of the Zoning Ordinance.

Children at this in-home day care center are dropped off and picked up at different times, in order to minimize possible traffic problems within the neighborhood. The location of the subject property is at the northeast corner of Westridge Drive and Dartbrook Drive which provides good traffic circulation for drop off and pick up times, compared to properties that may be located mid-block or at the end of a cul-de-sac street. Additionally, although the property is in the middle of a neighborhood, the corner location of the property allows parents to park along the front or on the side of the property when dropping off and picking up their children, thereby minimizing traffic congestion within the neighborhood.

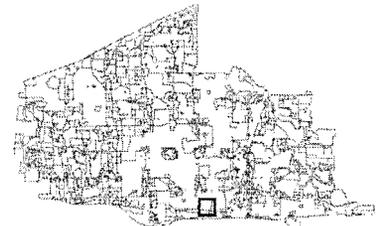
RECOMMENDATION:

Recommended for approval as submitted.



Zoning Case #: 2012-04

Existing Zoning: SINGLE-FAMILY RESIDENCE-9



○ 200' Notification Buffer

Zoning Case 2012-04

An Ordinance of the City of Plano, Texas, amending the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, granting Specific Use Permit No. 620 so as to allow the additional use of Day Care Center (In-home) on 0.2± acre of land out of the WM Beverly Survey, Abstract No. 75, located at the northeast corner of Westridge Drive and Dartbrook Drive, in the City of Plano, Collin County, Texas, presently zoned Single-Family Residence-9; directing a change accordingly in the official zoning map of the City; and providing a penalty clause, a repealer clause, a savings clause, a severability clause, a publication clause, and an effective date.

WHEREAS, the City Secretary of Plano, Texas, directed that notices of a hearing be issued, as required by the Zoning Ordinance of the City of Plano and laws of the State of Texas, at a meeting of the City Council, to be held on the 26th day of March, 2012, for the purpose of considering granting Specific Use Permit No. 620 for the additional use of Day Care Center (In-home) on 0.2± acre of land out of the WM Beverly Survey, Abstract No. 75, located at the northeast corner of Westridge Drive and Dartbrook Drive, in the City of Plano, Collin County, Texas, presently zoned Single-Family Residence-9; and

WHEREAS, the City Secretary of the said City accordingly caused to be issued and published the notices required by its Zoning Ordinance and laws of the State of Texas applicable thereto, the same having been published in a paper of general circulation in the City of Plano, Texas, at least fifteen (15) days prior to the time set for such hearing; and

WHEREAS, the City Council of said City, pursuant to such notice, held its public hearing and heard all persons wishing to be heard both for and against the aforesaid change in the Zoning Ordinance, on the 26th day of March, 2012; and

WHEREAS, the City Council is of the opinion and finds that the granting of Specific Use Permit No. 620 for the additional use of Day Care Center (In-home) on 0.2± acre of land out of the WM Beverly Survey, Abstract No. 75, located at the northeast corner of Westridge Drive and Dartbrook Drive in the City of Plano, Collin County, Texas, presently zoned Single-Family Residence-9, would not be detrimental or injurious to the public health, safety and general welfare, or otherwise offensive to the neighborhood; and

WHEREAS, the City Council is of the opinion and finds that such change will promote the best and most orderly development of the properties affected thereby, and to be affected thereby, in the City of Plano, and as well, the owners and occupants thereof, and the City generally.

IT IS, THEREFORE, ORDAINED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, THAT:

Section I. The Comprehensive Zoning Ordinance No. 2006-4-24, as the same has been heretofore amended, is hereby further amended so as to grant Specific Use Permit No. 620 for the additional use of Day Care Center (In-home) on 0.2± acre of land out of the WM Beverly Survey, Abstract No. 75, located at the northeast corner of Westridge Drive and Dartbrook Drive, in the City of Plano, Collin County, Texas, presently zoned Single-Family Residence-9, said property being more fully described on the legal description in Exhibit "A" attached hereto.

Section II. The change granted in Section I is granted subject to the Day Care Center (In-home) being operated as a home occupation use only.

Section III. It is directed that the official zoning map of the City of Plano (which is retained in electronic record format) be changed to reflect the zoning classification established by this Ordinance.

Section IV. All provisions of the ordinances of the City of Plano in conflict with the provisions of this Ordinance are hereby repealed, and all other provisions of the Ordinances of the City of Plano not in conflict with the provisions of this Ordinance shall remain in full force and effect.

Section V. The repeal of any ordinance or part of ordinances affected by the enactment of this Ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying or altering any penalty accruing or to accrue, or as affecting any rights of the municipality under any section or provisions of any ordinance at the time of passage of this Ordinance.

Section VI. Any person, firm or corporation found to be violating any term or provision of this Ordinance, shall be subject to a fine in accordance with Section 1-4(a) of the City Code of Ordinances for each offense. Every day a violation continues shall constitute a separate offense.

Section VII. It is the intention of the City Council that this Ordinance, and every provision hereof, shall be considered severable, and the invalidity or partial invalidity of any section, clause or provision of this Ordinance shall not affect the validity of any other portion of this Ordinance.

Section VIII. This Ordinance shall become effective immediately upon its passage and publication as required by law.

PASSED AND APPROVED THIS THE 26TH DAY OF MARCH, 2012.

Phil Dyer, MAYOR

ATTEST:

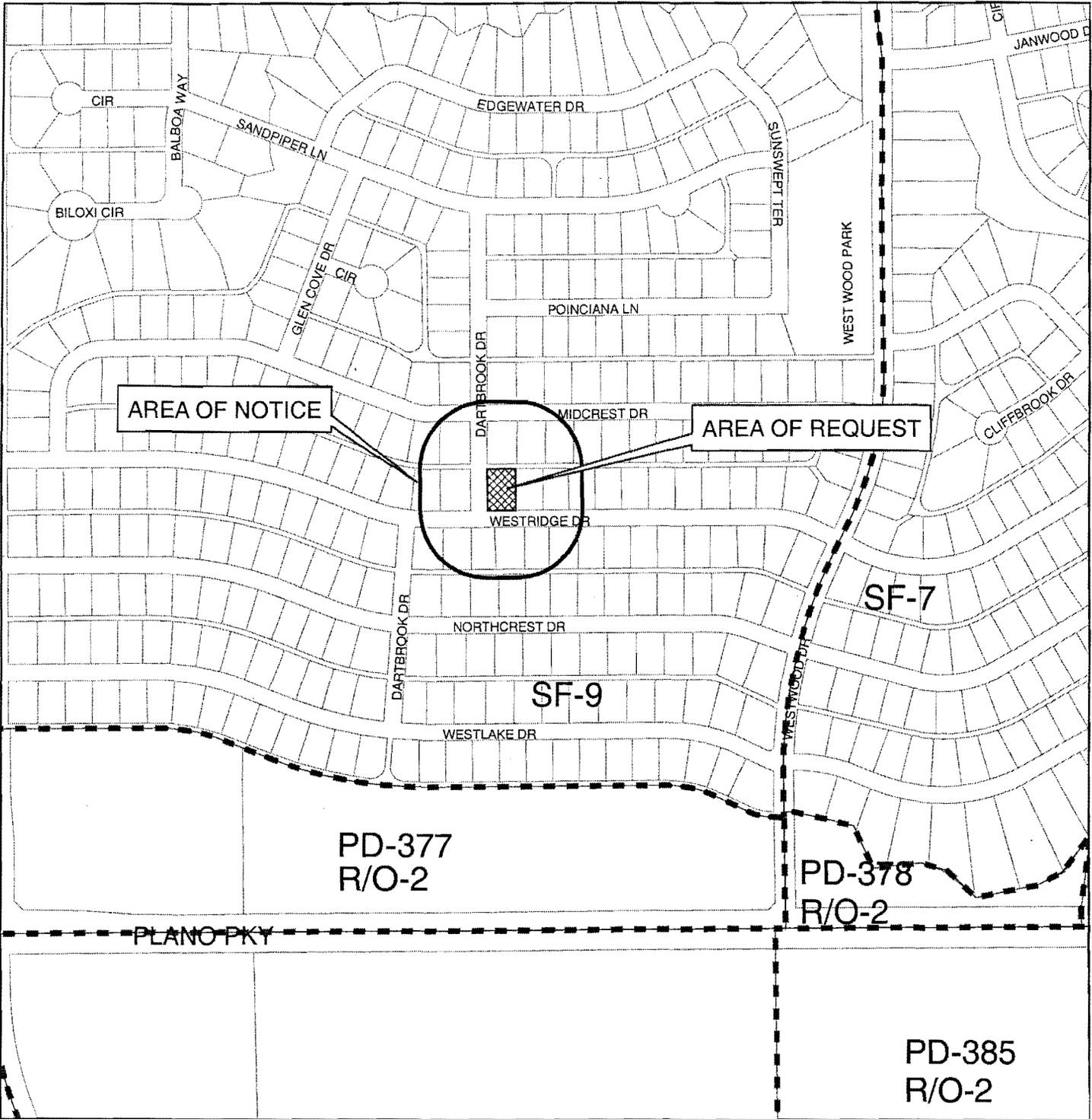
Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY

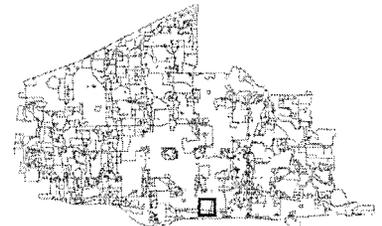
Zoning Case 2012-04

BEING a tract of land situated in the WM Beverly Survey, Abstract No. 75, in the City of Plano, Collin County, Texas, and being all of Block 8, Lot 15, Dallas North Estates 8th Installment, an addition to the City of Plano, Texas, according to a plat recorded in Volume 5, Page 73 of the Plat Records of Collin County, Texas comprising 0.2 acre.



Zoning Case #: 2012-04

Existing Zoning: SINGLE-FAMILY RESIDENCE-9



○ 200' Notification Buffer