

**FILE NO.:** Z1218-0079

**P&Z HEARING DATE:** Jan. 14, 2019

**COUNCIL DATE:** Feb. 4, 2019

**GENERAL INFORMATION**

**APPLICANT:** Marilyn Diaz, DDHFC, Inc. dba LITTLE GUYS AND GALS MONTESSORI  
**REQUESTED ACTION:** Conditional Use Permit to allow a daycare  
**LOCATION:** 1615 Oates Dr.

**SITE BACKGROUND**

**EXISTING LAND USE AND SIZE:** The subject property is an approximately 7,400-square foot lease space on a 1-acre tract that is zoned Planned Development - General Retail, and is currently vacant. The existing facility is intended for daycare use.

**SURROUNDING LAND USE AND ZONING (see attached map):**  
**North:** Undeveloped property zoned Planned Development Multifamily (1886).  
**South:** Service Station zoned parcel with a gas station and convenience store in operation.  
**West:** Planned Development General Retail (2358) with a multifamily residential development.  
**East:** Oates Drive right-of-way and St. Pius X Early Care and Education Center, zoned PD (2542) General Retail (which permits daycare/nursery use)

**ZONING HISTORY:**  
**1962:** Annexed and zoned Residential.  
**1970:** Zoning changed to A-1 Apartments  
**1983:** Zoning changed to PD Multifamily at 24 units per acre  
**1986:** Zoning changed to PD General Retail  
**1991:** Zoning changed to PD General Retail with CUP for Daycare Center  
**2010:** Zoning changed to PD General Retail with CUP for Daycare Center

**PLATTING:** Long Branch Retail, Block 2, Lot 1

**GENERAL:** The applicant is requesting a Conditional Use Permit (CUP) to allow a daycare, Little Guys and Gals Montessori, at a vacant property that has operated previously as child care centers under two different ownerships. The site was originally developed in 1992 as La Petite Academy, a daycare facility. A CUP for La Petite Academy was approved by the City on June 3, 1991. The site would later be occupied by Mesquite Day Care which received its CUP in 2010. CUPs expired when the use is abandoned for longer than six months. Daycare centers are permitted by right in most non-residential districts excluding Office and General Retail categories where they are permitted with a CUP. The subject property is located across Oates Drive from St. Pius X Early Care and Education Center.

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According to the applicant, the proposed daycare will offer specialized organic food options, an ADHD program, and weekend care. The weekend hours will be 6 a.m. – 7 p.m. The applicant obtained the Childcare Development Associate Credential in 2012, has three years' experience as a social worker along with experience at a previous daycare center. The applicant is licensed for roughly 134 children, and forecasts an estimated 80% capacity filled in increments over the first year. The site currently has ample outdoor play areas with play facilities and shaded structures.

### STAFF COMMENTS

#### **Mesquite Comprehensive Plan**

The Mesquite Comprehensive Plan designates the subject property as N-Neighborhood Retail Limitation. The Plan describes the intent of the Neighborhood Retail Limitation designations in the Development Areas as follows:

The general business designation includes small sites which are in very close proximity to the adjoining residences. The intention is that these sites be limited both in the size and in the uses which are accommodated so that the impact on adjacent residences is minimized. Rather than offering a full range of business services, the tracts designated with an "N" on the Land Use Plan are intended to only offer those goods which are used most frequently as a convenience to the immediately surrounding residents.

**Mesquite Zoning Ordinance Sec. 5-303: Review Criteria for Conditional Use Permits** (*Staff comments are provided below each criteria.*)

**1. Existing Uses**

*The Conditional Use will not be injurious to the use and enjoyment of other property in the immediate area for purposes already permitted, nor substantially diminish and impair property values within the immediate vicinity.*

**The subject property abuts Multi-Family uses. The surrounding nonresidential uses include a service station and another childcare center. The proposed use is consistent and compatible with surrounding nonresidential uses. The proposed use also conforms to the PD-General Retail zoning of the subject property as well as to the Comprehensive Plan.**

**2. Vacant Properties**

*The Conditional Use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.*

**Staff does not expect this proposed use to impact the development or redevelopment of any nearby property.**

**3. Services**

*Adequate utilities, access roads, drainage, and other necessary facilities have been or are being provided.*

**Adequate utilities, access roads and drainage facilities exist for the site and are sufficient for accommodating the demands associated with the request for a CUP.**

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### 4. Parking

*Adequate measures have been or will be taken to provide sufficient off-street parking and loading spaces to serve the proposed uses.*

**The parking lot contains sufficient spaces to accommodate the proposed use. Permitting this conditional use will have little to no impact on existing parking facilities. The zoning ordinance requires that a day care center have a circular or similar drive, covered at the building entrance with loading and unloading space. Staff has determined that the subject property has a covered loading and unloading zone that meets this requirement.**

### 5. Performance Standards

*Adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise, and vibration, so that none of these will constitute a nuisance and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.*

**Staff anticipates no disturbances to neighboring businesses as a result of the proposed use.**

### Analysis

The proposed CUP to allow a daycare is consistent with the future land use designation of the Comprehensive Plan as well as the existing zoning district, which is permitted with the approval of a CUP. The proposed use has operated in the currently unoccupied subject property since 1992, and already includes all of the amenities to support a daycare facility. Staff does not anticipate adverse impacts from the proposed use on the surrounding uses or properties.

## RECOMMENDATIONS

Staff recommends approval of the request to allow a daycare facility at 1615 Oates Drive.

## PUBLIC NOTICE

Notices were mailed to property owners within 200 feet of the property. As of the date, one returned notice of opposition was received.

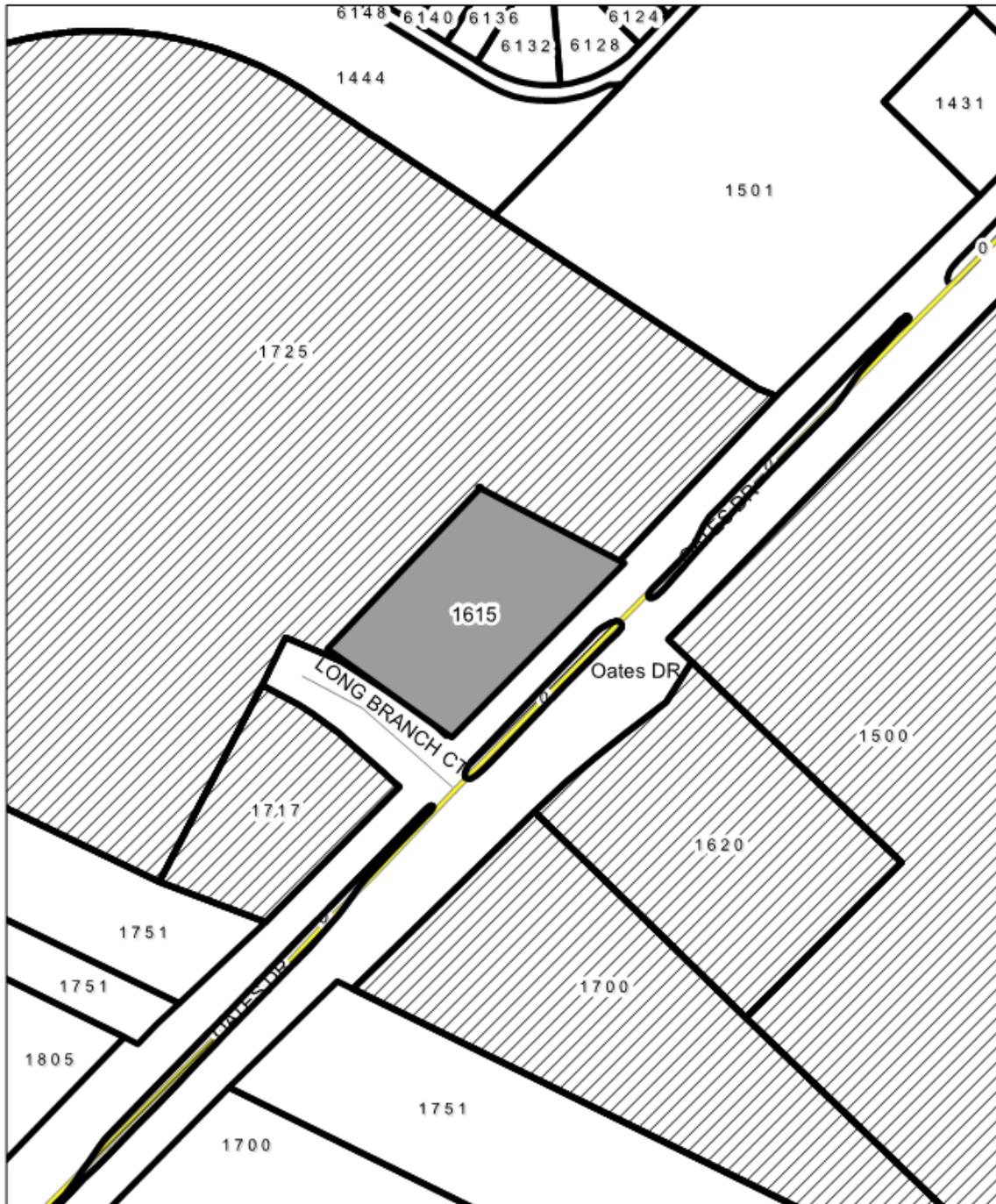
## ATTACHMENTS

- 1 – Aerial Map
- 2 – Public Notification Map
- 3 – Zoning Map
- 4 – Letter of Intent/ Field Notes
- 5 – Purchase Agreement with Property Owner
- 6 – Site Pictures
- 7 – Returned Public Notice
- 8 – Applicant’s Business Plan Executive Summary

Attachment 1 – Aerial Map



Attachment 2 – Public Notification Map



Attachment 3 – Zoning Map



**Attachment 4 – Letter of Intent/ Field Notes**



**Detailed Field Notes**  
12.03.2018

**Marilyn Diaz**  
1615 Oates Dr.  
Mesquite, TX

**Scope**

First month after closing on the property renovations will consist of the following:

1. Painting
2. Adding a fence
3. Renovate purchased facility to meet Texas state daycare center regulation for licensing, including: outside play area upgrade, installing a grease trap, and possible flooring

**Goals**

1. Upgrade Facility for opening within the first 3 months (Everything in scope section)
2. Advertise through multiple medias.
3. Obtain daycare licensing
4. Train Staff

**Specifications**

We will be leaving the structure for the building the same, including classroom walls. The only thing that will be added that is not cosmetic will be the grease trap per Mesquite daycare food handling requirements.

**Milestones**

- I. Install grease trap  
With licenses plumber
- II. Complete fence  
Renovate/ install privacy fence on active road
- III. Completion of indoor renovations  
Paint interior, possibly renovate flooring
- IV. Obtain childcare startup supplies  
Purchase and set up childcare areas with supplies
- V. Obtain County Child Care Operational license  
File and obtain license to operate with county.
- VI. Complete garden for nature education program.

Attachment 5 – Purchase Agreement with Property Owner

19.24 Legally Binding Contract

**THIS IS A LEGALLY BINDING CONTRACT. THE PARTIES EACH ACKNOWLEDGE AND AGREE THAT THEY (1) HAVE HAD AN ADEQUATE OPPORTUNITY TO SEEK THE ADVICE OF AN ATTORNEY PRIOR TO SIGNING, AND (2) FULLY UNDERSTAND ALL OF THE TERMS OF THIS AGREEMENT. BUYER IS ADVISED TO CONSULT APPROPRIATE PROFESSIONALS FOR LEGAL ADVICE AND FOR TAX, PROPERTY CONDITION, ENVIRONMENTAL AND OTHER SPECIALIZED ADVICE CONCERNING THE PROPERTY. BUYER ACKNOWLEDGES THAT SELLER DOES NOT PHYSICALLY OCCUPY THE PROPERTY AND THAT, NOTWITHSTANDING ANYTHING CONTAINED HEREIN TO THE CONTRARY, ALL REPRESENTATIONS ARE MADE TO THE BEST OF THE ACTUAL KNOWLEDGE OF THE UNDERSIGNED AS OF THE DATE OF EXECUTION OF THIS AGREEMENT, WITHOUT DUTY OF INQUIRY OR INVESTIGATION.**

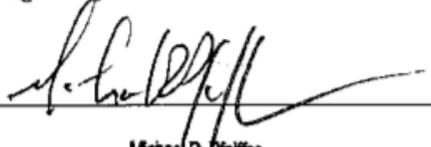
SELLER:

BUYER:

REALTY INCOME TEXAS PROPERTIES I, LLC,  
a Delaware limited liability company

By: Realty Income, L.P.,  
a Maryland limited partnership,  
its sole member

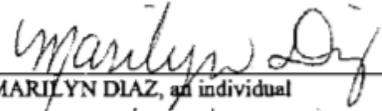
By: Realty Income Corporation,  
a Maryland corporation,  
its general partner

By: 

Name: Michael R. Pfaffler  
Executive Vice President  
General Counsel

Title: \_\_\_\_\_

Date: 11/29/18

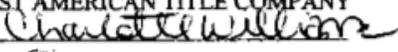
  
\_\_\_\_\_  
MARILYN DIAZ, an individual

Date: 11/28/18

  
\_\_\_\_\_  
THEODORE DIAZ, an individual

ESCROW AGENT:

FIRST AMERICAN TITLE COMPANY

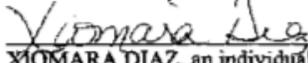
By: 

Name: Charlotte Williams

Title: Commercial Escrow Officer

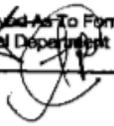
Date: 11/29/18

Date: 11/28/18

  
\_\_\_\_\_  
XIOMARA DIAZ, an individual

Date: 11/28/18

NULL AND VOID AT SELLER'S OPTION IF NOT FULLY EXECUTED BY BUYER AND DELIVERED TO SELLER ON OR BEFORE NOVEMBER 28, 2018.

Approved As To Form  
Legal Department  


**Attachment 6 – Site Pictures**







**Attachment 7 – Returned Public Notice**

Planning Division  
City of Mesquite  
Location: 1615 Oates Drive  
File Number: Z1218-0079  
Applicant: Marilyn Diaz, Little Guys and Gals Play School

I am adamantly opposed to this zoning change. I operate a day care directly across the street which is struggling to survive even though our facility is a 4-Star Rising Star provider with Child Care Group and the State of Texas providing high quality child care. When we purchased our property, we thought there would be an abundance of children that would enroll from the apartments across the street; however, that has not been the case. There are three other day cares within blocks of this property, none of which are full to capacity. Adding another will be detrimental to us all. Two other day cares have failed in that location and gone out of business after damaging others in the area with lowball pricing – we don't need another one to do that. I was told she is purchasing the property, but no other information is available. What is her background and is she the primary owner or is there a company supporting her? I was not able to find out this information. Does she have experience operating a day care? Has she looked at the immediate market area to see if there is a need for another day care here? This property could be used for many different businesses that would be beneficial to this neighborhood, but another day care is not one of them.

I will not be able to attend the planning and zoning commission public hearing on January 14, 2019, as I will be in the hospital.

We have a stake in the future of Mesquite and its children. Please support Mesquite children and property owners by denying this zoning change request.

Respectfully submitted,

  
Carolyn Boros  
President and Executive Director  
St. Pius X Early Care Center

**RECEIVED**  
JAN 09 2018  
PLANNING AND ZONING

**Attachment 8 – Applicant’s Business Plan Executive Summary**

DDHFC, Inc dba LITTLE GUYS AND GALS MONTESSORI

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## **Executive Summary**

### **Opportunity**

#### **Problem**

As Dallas continues to grow and corporations move their headquarters to north Dallas it has created an opportunity in the child care industry. Many out of state families are moving to north Dallas for work, away from their extended families.

Working parents want quality care for their children, parents want to feel like they are leaving their child with family. LITTLE GUYS AND GALS MONTESSORI is every working parents dream. Our specialized food programs and quality care set us apart. The major competition in the area are not offering Montessori programs or specialized organic food options. In addition there are no programs geared toward children with ADHD. Our ADHD program will be new to the child care industry. The public school system has programs for ADHD children but the early childhood centers have not adopted that model. Our company will be the first to offer this service.

#### **Solution**

Our Montessori school offers quality care and extensive programs. Often early child care centers turn away troubled children, we will pride our self on quality programs for children with ADHD, in addition to mainstream children. Our location will be surrounded by a community of homes, and close to local schools for potential afterschool clients.

#### **Market**

DDHFC INC. "LITTLE GUYS AND GALS MONTESSORI"

Our Mesquite location is situated on the main road of Oates Dr, and was used as a prior early child care center and early intervention facility called "Mesquite Day School" the school closed down when its grant was not renewed.

With major corporations relocating to Dallas will we continue to see steady growth and expand client target market. Our target market is parents of children from infancy to Preschool and after school looking for quality care.

Research:

**Mesquite has an unemployment rate of 3.8%.** The US average is 5.2%.

**Mesquite has seen the job market increase over the last year.** Future job growth over the next ten years is predicted to be 42.2%, which is higher than the US average of 38.0%.

**Children under 5 years old** make up 7.3% of the population with in 3 miles of the facility.

## **Competition**

There are two major quality competitors in the surrounding area. Kinder care and Childtime learning center, both have wait lists that average about a month or more.

There are 2 other early childcare centers in the area that service under privileged children. Across the street from the facility is St. Pius X Early childcare and education center which is a non profit run by a religious organization, they do not advertise, and state their main clientele is from their church. The second early child care center is Cornerstone Learning Center. During our research the appeared to be very disorganized.

Our center will offer a solution to weekend care which is not currently being offered by any of the above mentioned competition. None of the above centers seem have specialized programs for children with ADHD which is becoming a huge market.

## **Why Us?**

Our team has indispensable experience with children. Marilyn Villamar the mother of Marilyn Diaz CEO continues to run a successful early child care center in NYC for over 10 years. Marilyn Villamar will be one of the major subject matter experts, and will be on site for the first 2 months of LITTLE GUYS AND GALS MONTESSORI opening. Marilyn Diaz has an MBA and opened 2 prior businesses. Having experience raising children away from extended family to start careers, the team understands the parents desire for quality care. They want every child to feel like they are at Nana's house. The team is formulated with innovative thinkers.

In addition Marilyn Diaz is raising a child with ADHD and Anxiety. She has extensive personal experience on methods that help children with these conditions succeed. Our ADHD program will be out of the box, no other child care center offers specialty programs tailored to these conditions.

We will offer get well programs, in addition to weekend care. Our program will go beyond play, we will incorporate learning through the 5 senses.

Weekend care is currently not being offered in the area.

## **Expectations**

### **Forecast**

We will obtain financing for real estate and start up cost. Real estate will consist of a 6746 sqft building and will generate a gross revenue of roughly \$500,000 the first year and over \$1,000,000 additional years capping out at 80% capacity.