

# Salisbury City Council Agenda Item Request Form



Please Select Submission Category: ☐ Public ☐ Council ☐ Manager ☒ Staff

Requested Council Meeting Date: 11/01/2022

Name of Group(s) or Individual(s) Making Request: Development Services

Name of Presenter(s): Jessica Harper, CZO  
Senior Development Services Specialist

Requested Agenda Item: SUP-02-2022 – 529 W INNES STREET / Parcel ID 010 460

Description of Requested Agenda Item: Petitioner, Stephanie Roebuck Alston, is seeking approval for a Special Use Permit to operate a commercial child care facility to be located in a portion of 529 W Innes Street for the care of 30 or less children.

Attachments: ☒ Yes ☐ No

**Fiscal Note:** (If fiscal note requires approval by finance department because item exceeds \$100,000 or is related to grant funds, please fill out signature blocks for finance at bottom of form and provide supporting documents)

**Action Requested of Council for Agenda Item:** (Please note if item includes an ordinance, resolution or petition)  
Council to consider the approval for a Special Use Permit to allow the operation of a commercial child care center as proposed.

**Contact Information for Group or Individual:** Jessica Harper, Senior Development Services Specialist;  
jharp@salisburync.gov, 704-638-5219

☐ **Consent Agenda** (item requires no discussion and will be voted on by Council or removed from the consent agenda to the regular agenda)

☒ **Regular Agenda** (item to be discussed and possibly voted on by Council)

## FINANCE DEPARTMENT INFORMATION:

\_\_\_\_\_  
Finance Manager Signature

\_\_\_\_\_  
Department Head Signature

\_\_\_\_\_  
Budget Manager Signature

**\*\*\*\*All agenda items must be submitted at least 7 days before the requested Council meeting date\*\*\*\***

# Salisbury City Council Agenda Item Request Form

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**For Use in Clerk's Office Only**

☐ **Approved**

☐ **Delayed**

☐ **Declined**

**Reason:**

## **QUASI-JUDICIAL HEARING PROCEDURES**

### **1. INTRODUCTION**

*The next item on the agenda is a request for a special use permit. In deciding a special use permit, City Council follows quasi-judicial hearing procedures. The purpose of the hearing is to gather evidence to determine if the application is consistent with the standards set forth in the City's Land Development Ordinance. In making this decision, City Council may not consider personal opinion or speculation. The only evidence that City Council is allowed to consider is evidence that is competent and material and directly related to the issue of whether the application complies with the standards in the ordinance.*

### **2. CONFLICTS QUESTIONS/DISCLOSURES**

*To ensure that there are no conflicts of interest, I must ask City Council members the following questions:*

- Does any member of City Council have a fixed opinion on this matter that is not susceptible to change?*
- Has any member of City Council had any ex-parte communication about the subject matter of this request with the applicant?*
- Does any member of City Council have a close familial, business, or other associational relationship with the applicant?*
- Does any member of City Council have a financial interest in the outcome of this matter?*

### **3. PUBLIC HEARING**

*I will now open the public hearing. Every witness that presents evidence must be sworn in. Staff will present first, then the applicant, then other witnesses.*

*Swear in witnesses:*

*"Do you swear [or affirm] that the evidence you shall give to the council in this action shall be the truth, the whole truth, and nothing but the truth, so help you God?"*

*Receive Evidence. (Staff, applicant, other witnesses.)*

Deliberate.

Close public hearing.

#### **4. MAKE FINDINGS OF FACT.**

***Suggested motion:*** *Based on the evidence presented, I move that City Council make the following Findings of Fact:*

1. The property is located at 529 West Innes Street. It consists of an approximately 0.44 acre lot with an approximately 3,053 square foot existing commercial building and an existing paved parking lot.
2. The property is currently zoned RMX, which allows commercial child care centers subject to City Council issuing a Special Use Permit.
3. The applicant proposes to add a fenced-in playground facility at the rear of the facility.
4. The property is in close proximity to a residential neighborhood and will provide convenient access for nearby residents using the child care services.
5. The child care center is subject to building, fire, sanitation, mold, HVAC, electrical, and plumbing inspections prior to opening.
6. The child care center is subject to additional regulations of the NC Division of Child Development and Early Education.
7. Based on the testimony provided by an expert witness, using the property for a commercial child care center will not substantially injure property values in the area.
8. [ADD ANY OTHER RELEVANT FACTS FROM HEARING.]

***And, based on those Findings of fact, the following Conclusions of Law:***

1. The use meets all required principles and specifications of the Ordinance and any adopted plans and is in harmony with the general purpose and intent and preserves its spirit.
2. The proposal as submitted and approved will be visually and functionally compatible to the surrounding area.
3. The public health, safety and welfare will be assured and the proposed development will not substantially injure the value of adjoining property and associated uses if located where proposed.

**5. MAKE DECISION ON SPECIAL USE PERMIT.**

**Suggested Motion for Approval:** I move that City Council issue a Special Use Permit to permit a commercial child care center at 529 West Innes Street.

SEP 28 2022



City of Salisbury  
Development Services  
132 North Main Street  
Salisbury, NC 28144

E: 1stop@salisburync.gov  
Ph. 704.638.5208  
Fax 704.638.8494

# SPECIAL USE PERMIT APPLICATION

PAID

SEP 29 2022

184972926

SHADED AREAS FOR STAFF USE ONLY

FILING DATE

9-29-2022

CASE #

SWP 02 2022

REVIEW FEE

\$500

\* FEES PER CITY OF SALISBURY BUDGET ORDINANCE

REQUIRED INFORMATION &amp; DOCUMENTATION:

- COMPLETED APPLICATION
- SITE & BLDG DESIGN PLANS IF NEW OR REDEVELOPMENT

## Special Use Permit (LDO Sec. 15.17)

List Special Use(s):

Childcare Center

Special uses are land uses that are generally compatible with the land uses permitted by right in a zoning district, but which require individual review of their location, design, and configuration so as to evaluate the potential for adverse impacts on adjacent property and uses. The evaluation and approval of the Special Use Permit is governed by quasi-judicial proceedings, which are based on sworn testimony and the production of relevant, material evidence presented at the public hearing.

## CONTACT INFORMATION

Owner:

Calvin Muhammad

Phone:

980-429-7197

Address:

507 W. Innes St  
Salisbury NC

email:

iamcam@gmail.com

Owner Agent:

Phone:

Address:

email:

Project Contact:

Stephanie Reebuck-Alston

Phone:

336-604-3529

Address:

516 Park Ave  
Salisbury NC 28144

email:

brighterbeginningrown@gmail.com

## PROPERTY INFORMATION

Rowan County Parcel ID(s):

Address:

529 W. Innes St Salisbury, NC 28144

General Description:

Proposed Commercial Childcare Center

Zoning District(s):

Zoning Overlay(s):

## SIGNATURE

I certify that no work nor this special use have commenced prior to issuance of the Special Use Permit, that any owner agent has received expressed written permission to apply, that all information provided on this application is accurate and true, and that all work will be performed to meet the laws of the State of North Carolina, the standards of the Salisbury Land Development Ordinance, and the City of Salisbury Uniform Construction Standards Manual. Submission of this application does not constitute a granting of approval or issuance of any permit. The City of Salisbury reserves the right to request additional information to ensure complete review.

Owner / Owner Agent:

Stephanie Reebuck-Alston

## GATHERING OF EVIDENCE

Project Title: Brighter Beginning Childcare Center (BBCC)

Evidence supporting the following standards shall be provided in writing prior to advancement of this application to Planning Board and City Council for their consideration.

Evidence may be submitted in other forms, such as market studies, imagery, and data; however, written responses to following applicable standards must be provided as part of this application.

A. The use meets all required principles and specifications of the Ordinance and any adopted land use plans and is in harmony with the general purpose and intent and preserves its spirit:

BBCC will honor this by creating employment opportunities, generate patronage for local businesses, also by fostering community partnerships with neighboring school and childcare centers.

B. The proposed plan as submitted and approved will be visually and functionally compatible to the surrounding area:

No outside structure changes will be made to current building structure. However there will be a fenced in playground area that will be located at the rear of the facility. Said playground will be installed and maintained according to North Carolina childcare licensing standards. (cont. on separate paper)

C. The public health, safety, and welfare will be assured and the proposed development will not substantially injure the value of adjoining property and associated uses if located where proposed:

BBCC will maintain all Sanitation, Fire, and Building guidelines and inspections according to NC childcare licensing standards. BBCC will also maintain close partnership with neighboring school to ensure the welfare of said concerns.

Additional standards for specific special uses (to be provided by the city and completed by applicant):

The goal of BBCC is to create available childcare during evening and night hours that are not represented in Salisbury/Kowan area. Also the partnerships BBCC will create will potentially increase revenue and community support in Salisbury and the greater area.

Cont.

B. Also plans to create a one way ~~in~~ flowing traffic pattern for pickup and drop off of children in parking lot area.

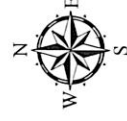


# ZONING SITE PLAN

SEP-02-2022 BRIGHTER BEGINNINGS



529 W INNES STREET  
PID: 010 460  
ZONING: RMX



Qusi



**MEMO TO: Hannah Jacobson**  
**Director of Community Planning**

**FROM: Jessica Harper, CZO**  
**Senior Development Services Specialist**

**DATE: November 1, 2022**

**SUBJECT: SUP-02-2022 Brighter Beginnings**  
**529 W Innes Street**  
**TM 010 P 460**  
**District: RMX Overlay: N/A**

Petitioner, Stephanie Roebuck Alston, has submitted a request for a Special Use Permit to allow for the operation of a Commercial Child Care Center at 529 W. Innes Street, Salisbury in accordance with the Land Development Ordinance Sections 2.7.C Use Matrix and 3.3.H Additional Standards. The proposed use is based on the definition stated in the Land Development Ordinance:

**Commercial Child Care Center:** An individual, agency, or organization providing supervision or care on a regular basis for children who are not related by blood or marriage to, and who are not the legal wards or foster children of, the supervising adults; designed and approved to accommodate three (3) or more preschool age or nine (9) or more school-age children at a time; not an accessory to residential use.

The use of a Commercial Child Care Center is permitted in the RMX district with the approval of a Special Use Permit. Although the proposed playground area will remove a portion of the existing parking, the minimum parking requirements as outlined in the LDO Section 10.3 are still being met.

November 1, 2022

Page 2

The general requirements for a Special Use Permit are as follows:

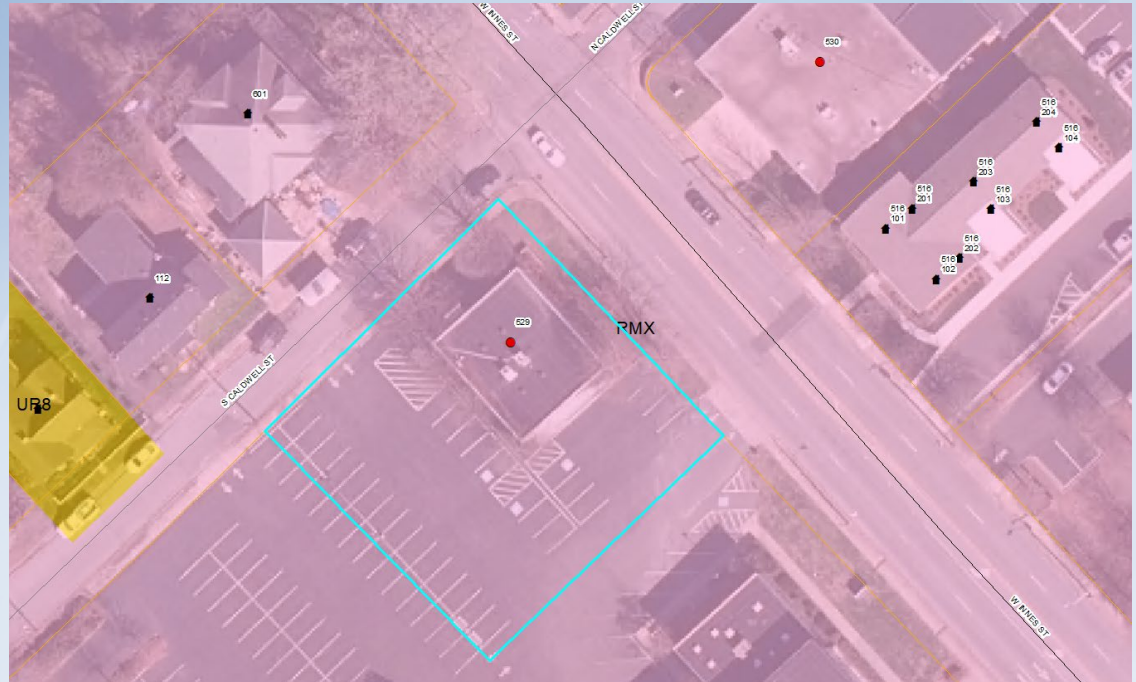
- a. The use meets all required principles and specifications of the Ordinance and any adopted land use plans and is in harmony with the general purpose and intent and preserves its spirit; and
- b. The proposed plan as submitted and approved will be visually and functionally compatible to the surrounding area; and
- c. The public health, safety, and welfare will be assured and the proposed development will not substantially injure the value of adjoining property and associated uses if located where proposed.

Special uses are land uses that are generally compatible with the land uses permitted by right in a zoning district, but which require individual review of their location, design, and configuration so as to evaluate the potential for adverse impacts on adjacent property and uses. Special uses ensure the appropriateness of the use at a particular location within a given zoning district.

JH



# SPECIAL USE PERMIT



SUP-02-2022

529 W INNES STREET



# SPECIAL USE PERMIT REQUEST

- Request to operate a commercial child care center
  - LDO 2.7.C Use Matrix requires a SUP/CD for commercial child care center in the RMX zoning district
  - LDO Chapter 18 Definitions: Commercial Child Care Center: An individual, agency, or organization providing supervision or care, in a non-residential environment , where, at any one time, there are three (3) or more preschool-age children or nine (9) or more school-age children receiving child care.





# ZONING: RESIDENTIAL MIXED USE (RMX)







# W INNES -----STREETVIEW







# W INNES AND S CALDWELL ----- STREETVIEW

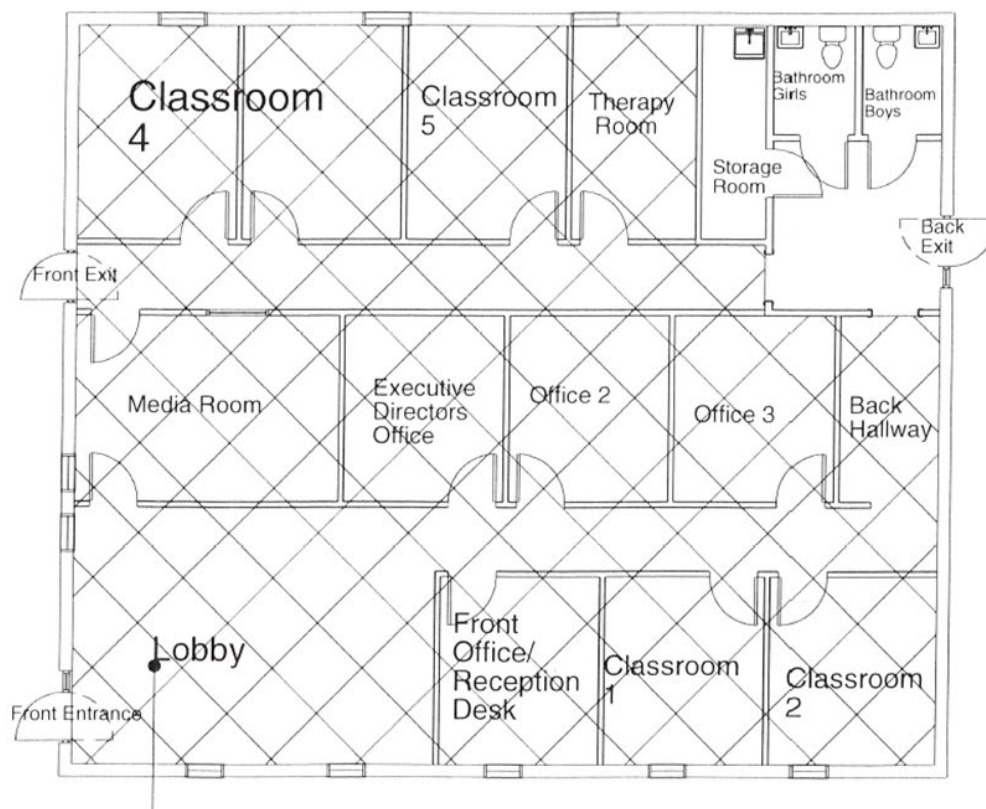




# SITE LAYOUT PLAN



Brighter Beginnings Childcare Center  
529 W. Innes St  
Salisbury, NC 28144





# STANDARDS FOR DECISION

1. The use meets all required principles and specifications of the Ordinance and any adopted land use plans and is in harmony with the general purpose and intent and preserves its spirit; and
2. The proposed plan as submitted and approved will be visually and functionally compatible to the surrounding area; and
3. The public health, safety, and welfare will be assured and the proposed development will not substantially injure the value of adjoining property and associated uses if located where proposed.



## SUPPORTING EVIDENCE BY APPLICANT

1. The use will provide childcare support to the surrounding community.
2. The existing exterior of the facility will remain in its current state.
3. The childcare will be licensed and abide by state regulations and will be subject to an inspection prior to operating as well as unscheduled inspection for continued compliance.
4. Additional standards to be completed prior to operating:
  - Minor interior renovations for classrooms
  - Playground with fenced enclosure
  - Mold, HVAC, electrical, and plumbing inspections
  - Building, fire and sanitation inspections



Special Use Permit  
Suggested Findings & Decision  
SUP-02-2022  
529 W Innes Street, Salisbury

**Findings:**

**Motion (and Seconded):** I move that Council find the following:

1. The use meets all required principles and specifications of the Ordinance and any adopted plans and is in harmony with the general purpose and intent and preserves its spirit **as evidenced by the following testimony:**
  - The site characteristics currently fit within the surrounding area.
  - The site is located along a local street and within close proximity to a residential neighborhood which will provide convenient accessibility.
2. The proposal as submitted and approved will be visually and functionally compatible to the surrounding area **as evidenced by the following testimony:**
  - The use will be located within an existing commercial building that is visually and functionally compatible to the surrounding area.
  - The square footage of the building and its layout will meet the needs for the care of the children.
3. The public health, safety and welfare will be assured and the proposed development will not substantially injure the value of adjoining property and associated uses if located where proposed **as evidenced by the following testimony:**
  - The use will be required to meet all standards established by the Division of Child Development and Early Education.
  - The evidence as provided by a NC Licensed Real Estate Agent testified that this use will not be injurious to surrounding property values.
  - The proposed playground will meet NC Department of Health standards and will be fenced in for the safety of the children.
4. A Child day Care Center in the RMX district shall be developed and maintained in accordance with all current and applicable provisions of the NC Department of Health and Human Services.

**VOTE ON FINDINGS:** I move that the suggested findings support the general requirements as required by the Salisbury Land Development Ordinance.

**(IF THE MAJORITY OF COUNCIL MEMBERS DISAGREE WITH THESE FINDINGS AND ONE OR MORE DO NOT PASS, THEN THE MOTION SHALL BE TO DENY)**

**DECISION:**

**Motion:** I move that Council issue Special Use Permit SUP-02-2022 allowing the operation of a Commercial Child Care Center located at 529 W. Innes Street, Salisbury, NC based on all general standards of the Salisbury Land Development Ordinance having been met:

**VOTE** (on the Special Use Permit)

STATE OF NORTH CAROLINA

BEFORE THE CITY COUNCIL

NO: SUP-02-2022

COUNTY OF ROWAN

IN THE MATTER OF:

529 W. INNES STREET  
PID: 010 460  
CHILD CARE CENTER

ORDER GRANTING  
SPECIAL USE PERMIT

THIS MATTER coming on for hearing before the Salisbury City Council on November 1, 2022, upon Application by Petitioners for a Special Use Permit pursuant to Salisbury Land Development Ordinance (LDO) Chapter 15.18. The City Council, having heard and reviewed the evidence presented, including evidence by expert witnesses, makes the following:

**FINDINGS OF FACT**

**Standard 1 (Chapter 15.18 B.2.a.)**

- The site characteristics currently fit within the surrounding area.
- The site is located along a local street and within close proximity to a residential neighborhood which will provide convenient accessibility.

**Standard 2 (Chapter 15.18 B.2.b.)**

- The use will be located within an existing commercial building with minor interior and exterior changes and that is visually and functionally compatible to the surrounding area.
- The square footage of the building and its layout will meet the needs for the care of 30 children or less.

**Standard 3 (Chapter 15.18 B.2.c.)**

- The use will be required to meet all standards established by the Division of Child Development and Early Education.
- The evidence as provided by a NC Licensed Real Estate Agent testified that this use will not be injurious to surrounding property values.
- The proposed playground will meet NC Department of Health standards and will be fenced in for the safety of the children.

**Additional Standards for Specific Special Uses**

A Child day Care Center in the RMX district shall be developed and maintained in accordance with all current and applicable provisions of the NC Department of Health and Human Services.

Additional conditions as specified herein are required to assure that the use ensures the health, safety, and welfare of the surrounding area.

Based upon the foregoing **FINDINGS OF FACT**, the City Council makes the following:

**CONCLUSIONS OF LAW**

1. The use meets all required principles and specifications of the Salisbury Land Development Ordinance and any adopted plans and is in harmony with the general purpose and intent and preserves its spirit. (Standard 1, Chapter 15.18 B.2.a.).
2. With additional conditions as provided herein, the proposal as submitted and approved will be visually and functionally compatible to the surrounding area. (Standard 2, Chapter 15.18 B.2.b.).
3. With additional conditions as provided herein, the public health, safety and welfare will be assured and the proposed development will not substantially injure the value of adjoining property and associated uses if located where proposed. (Standard 3, Chapter 15.18 B.2.c.).

Based upon the foregoing, IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED, that Petitioners' request for a Special Use Permit is **GRANTED** as proposed.

This 1st day of November, 2022

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Karen K. Alexander, Mayor

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Kelly Baker, Administrative Services Director /  
City Clerk