

MINUTES

Independence Planning Commission/Board of Zoning Appeals

Tuesday, July 11, 2017

Veterans Room Memorial Hall 5:30 p.m.

Call to Order

Planning Commissioners Present

Philip Umlauf, Jim Hardy, Andy McLenon*, Barbara Emert, Brian Beecham and Mary Jo (Dancer) Meier.

Planning Commissioners Absent

Steve McBride, Brent Littleton and Nick McCollam*

*Outside Appointments are not on the Board of Zoning Appeals

Staff Present

Kelly Passauer, Assistant City Manager/Zoning Administrator

Craig Whitehead, City Manager

Chase Cushing, City Planning Summer Intern

Visitors Present

Stephanie Mese

a. Consider approving minutes of the June 6, 2017 meeting.

Barbara Emert made a motion to approve the minutes of the June 6, 2017 Planning Commission/Board of Zoning Appeals minutes, seconded by Philip Umlauf. The motion carried 5-0.

Board of Zoning Appeals

b. Consider authorizing consent to vacate Parkhurst's Grand Elevation Addition to Independence.

The Park board has been reviewing recommendations for street names of undesignated streets at the park for Commission consideration. The purpose of having street names is to assign addresses to buildings located at the park that could be entered into the 911/GIS system. In addition to pinpointing various structures in an emergency, it would also allow a visitor to enter an address for a structure, such as the shelter house, and utilize a GPS system to find that location.

Subsequently, it was discovered that a portion of the park was previously platted as Parkhurst's Grand Elevation Addition with streets and subdivided lots. The park did not develop as depicted in the plat and the existing roads do not line up with the streets indicated. In order to allow the streets as they currently exist to be named for addressing purposes, the plat will need to be vacated. Since the City is an owner of property included in the plat, in order to proceed the Planning Commission Chairman would need to be authorized to sign the attached consent for vacating this plat. City staff recommends approval.

A motion was made by Barbara Emert and seconded by Brian Beecham to recommend vacating the Parkhurst's Grand Elevation Addition plat and authorize the chairman to sign related documents. The motion carried 5-0.

Planning Commission

c. Consider a request for a conditional use permit for a daycare at 306 Crestview Drive.

Summary

The Planning and Zoning Commission has received a request for a conditional use permit from Stephanie Mese for a daycare at 306 Crestview Drive.

City Zoning Code Section 403. 0 defines a day care facility as follows:

Day care facility. Anyplace, home or institution which receives four or more children under the age of 18 years for any part of the 24- hour day for compensation; provided, however, this definition shall not include public and private schools organized, operated or approved under the laws of the state, custody of children fixed by a court of competent jurisdiction, children related by blood or marriage, to the day care provider, caring for children within an institutional building while their 1 parents or legal guardians are attending services, meetings or classes or engaged in church activities.

Appendix "A" of the Zoning Ordinance allows a day care facility as a permitted use in the C- 1 and C- 2 districts. Day care facilities are allowed as a conditional use in the A- 1, R- 1, R-2, R-3, R-4, R- 5, O/ P and C- 3 zones. Day care facilities are not permitted in the M- 1 and M-2 zones.

Conditional Use Permit

The zoning ordinance in section 901. 1 (page 87) describes the purpose of a conditional use as:

"...those types of uses which are considered by the City to be essentially, desirable, necessary or convenient to the community but which by their nature or in their operation have:

- 1) a tendency to generate excessive traffic.*
- 2) a potential for attracting a large number of persons to the area of the use thus creating noise or other pollutants,*
- 3) a detrimental effect on the value of potential development of other properties in the neighborhood, or*
- 4) an extraordinary potential for accidents or danger to the public health or safety.*

Such conditional uses cannot be allowed to locate as a 'right' on any parcel of land within certain districts without consideration of existing conditions at the proposed locations and of properties neighboring the specific site considered, nor without adequate and sufficient safeguards, when necessary, to lessen the impact of adverse effects."

Staff Report

Article X of the Zoning Ordinance addresses special provisions applying to miscellaneous conditional uses:

1001. 0. Purpose.

1001. 1. Purpose: In granting a conditional use, the city may impose such conditions, safeguards and restrictions upon the premises benefited by the conditional use as may be necessary to reduce or minimize any potentially injurious effect of such conditional uses upon other property in the neighborhood, and to carry out the general purpose and intent of these regulations. Any lessening or subverting of those

limitations and requirements constitutes a variance and must be treated accordingly. The following additional conditions shall be a requirement for the approval of the following conditional uses:

Section 610 and 1003 address the minimum provisions the Planning Commission should consider when authorizing a day-care facility in a residential district:

610.0. Family day care homes.

610.1. Definition: A "family day care home" shall be defined as any facility for the care of four or more children, but no more than ten children, including the homeowner's or resident's children, on a professional basis, and subject to state licensing, which is operated out of the residence in which the owner resides. 610.2. [Home occupation license.] Each family day care home must obtain a home occupation license and comply with the restrictions, limitations and requirements contained in 605.0 except as modified herein:

- a. Said facility shall be allowed one sign, not to exceed 18 inches by 36 inches in dimension, which shall be attached to the house.*
- b. Outdoor storage of materials shall be permitted insofar as such materials or equipment are utilized as part of the day care operation.*
- c. The primary resident of the dwelling must operate the facility, who need not be an owner of the dwelling.*
- d. Said facility shall be exempt from all off-street parking requirements included in 70.1.0*
- e. Children at play on the exterior of the house shall not be considered visible evidence of the business as provided by section 605.1*

610.3. Special conditions

- a. No day care home may operate in an apartment or duplex*
- b. Each applicant for a home occupation license under this section shall be licensed or registered by the State of Kansas prior to receiving such home occupation license.*
- c. Any family day care home or facility shall be operated in a manner that will not adversely affect other properties and uses in the area.*

1003.0. Day care facilities for more than four children.

1003.1. Special conditions: Day care facilities for more than four children shall meet the following provisions when authorized as a conditional use in any residential district:

- a. City, county and state standards: All day care facilities shall be licensed by the state and shall meet all city, county and state health department requirements pertaining to facilities, equipment and other features*
- b. Loading zone: A loading zone capable of accommodating one car for every ten children shall be provided in addition to the required parking area in order to provide for easy pickup and discharge of passengers.*
- c. Operation: Any day care facility shall be operated in a manner that will not adversely affect other properties and uses in the area*
- d. Screening required: Any day care facility located in a building other than a residential dwelling or any residential dwelling used for a day care facility for seven or more children shall provide a visual screen along all property lines abutting any residential use*

In addition to the above special conditions required by the zoning code, the Planning Commission has the authority to place additional conditions on the site that they deem necessary to protect the best interests of the City, the surrounding property and to achieve the objectives of the ordinance.

City staff has reviewed the sites regarding the above special conditions and wishes to provide the following:

- a. *City, county and state standards: The applicant would be required to meet all City, county and state standards which includes receiving a State daycare license and a City occupation license.*
- b. *Loading zone: One off-street loading zone for every ten children is required by code. However, if the daycare facility is only licensed for nine children or less an off-street loading zone is not required.*
- c. *Operation: City staff is not aware of any issues in the operation of this day care that would adversely affect adjoining property owners.*
- d. *Screening required: Screening is only required for seven or more children, if this facility is licensed for six children or less then no screening is required.*

In considering those types of uses which may be desirable, necessary or convenient to the community, the Commission should review and make recommendations based in part on 901. 1.

Additionally, the decision of the Planning Commission to recommend approval or denial of the proposed conditional use shall be based on the following criteria (902.2):

- a. *The proposed conditional use complies with all applicable provisions of these regulations, including intensity of use regulations, yard regulations and use limitation.*
- b. *The proposed conditional use at the specified location will contribute to and promote the welfare or convenience of the public.*
- c. *The proposed conditional use will not cause substantial injury to the value of other property in the neighborhood in which it is to be located.*
- d. *The location and size of the conditional use, the nature and intensity of the operation involved in or conducted in connection with it, and the location of the site with respect to streets giving access to it are such that the conditional use will not dominate the immediate use of the neighboring property in accordance with the applicable zoning district regulations. In determining whether the conditional use will so dominate the immediate neighborhood, consideration shall be given to:*
 1. *The location, nature and height of buildings, structures, walls and fences on the site, and*
 2. *The nature and extent of landscaping and screening on the site.*
- e. *Off-street parking and loading areas will be provided in accordance with the standards set forth in these regulations (article VII).*
- f. *Adequate utility, drainage, and other such necessary facilities have been or will be provided.*
- g. *Adequate access roads or entrance and exit drives will be provided and shall be so designed to prevent traffic hazards and to minimize traffic congestion in public streets and alleys.*

Action by the Planning Commission

Any recommendations regarding a conditional use permit for the subject properties shall be based on Section 902.2 previously outlined in this report. After considering any public comments the Planning Commission may either approve or deny the requests. If the requests are approved the applicants must be required to meet the special conditions required for a day care facility within a specified period of time in addition to any other conditions the Planning Commission wishes to require. Following your action, the

application and your recommendation will be forwarded to the City Commission at which time they will have 30 days to adopt, modify or deny the Planning Commission's recommendation.

Staff Recommendation

City staff recommends granting the conditional use permit with the following conditions:

1. The applicant must meet all the "special conditions" set forth in Section 1003.1 a, b, c and d of the Zoning Code as follows:

a. *City, county and state standards*• All day care facilities shall be licensed by the state and shall meet all city, county and state health department requirements pertaining to facilities, equipment and other features.

b. *Loading zone*: A "hard surfaced" loading zone capable of accommodating one car for every ten children shall be provided within one year in addition to the required parking area in order to provide for easy pickup and discharge of passengers.

c. *Operation*: Any day care facility shall be operated in a manner that will not adversely affect other properties and uses in the area.

d. *Screening required*: Any day care facility located to a building other than a residential dwelling or any residential dwelling used for a day care facility for seven or more children shall provide a visual screen along all property lines abutting any residential use. The applicant will have one year to meet this requirement.

2. The conditional use permit is not transferable to another property owner or to another location.

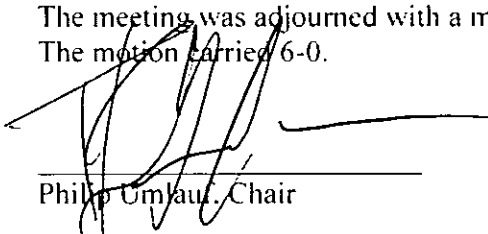
3. The applicant must be in compliance with all City codes and must continue to be in compliance with all City codes. This would include the requirement to acquire a City occupation license which must be renewed annually.

If any of the above conditions are not met the conditional use permit will no longer be valid. The basis of staff's recommendation is that granting the conditional use permit is consistent with the criteria "a through g" of Section 902.2 of the zoning code.

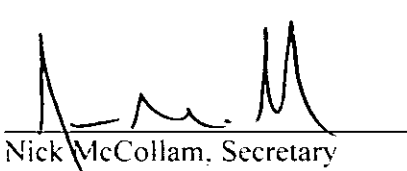
Commissioner McLenon asked clarifying questions in regards to the number of children attending the daycare and parking requirements. A motion was made by Philip Umlauf and seconded by Jim Hardy to recommend approving the conditional use permit for a daycare at 306 Crestview Drive with the conditions recommended by staff. The motion carried 6-0.

Adjournment

The meeting was adjourned with a motion by Andy McLenon and a second by Philip Umlauf. The motion carried 6-0.



Philip Umlauf, Chair



Nick McCollam, Secretary