

**PLANNING AND ZONING COMMISSION**

November 3, 2009

7:30 p.m.

Council Chambers

**STUDY SESSION**

7:00 p.m.

Planning and Development Conference Room

For its agenda, the Study Session will provide an overview of all matters to be taken up in today's 7:30 p.m. meeting of the Planning and Zoning Commission.

**SPECIAL ANNOUNCEMENTS**

**PUBLIC COMMENTS**

**CONSENT**

1. **Roll Call.**

Commissioners Present: Best, Boyce, Butler, Davis, Loyd, Wescott, Woolery and Vice-Chairperson Romine and Chairperson Harris.

Commissioners Absent: Hartley.

Staff Present: Jim Lawson Director of Planning and Development  
Tara Norback City Forester  
Joel Hornickel Senior Planner  
William Duston Assistant City Attorney  
Sonja Paden Office Assistant II

2. **Approve Agenda.**

Recommended Action: Approval of the agenda for the November 3, 2009 Planning and Zoning Commission meeting.

**MOTION:**

Motion by Commissioner Wescott and seconded by Vice-Chairperson Romine, and unanimously carried to approve the format of the November 3, 2009 agenda.

3. **Approve Minutes.**

A. October 6, 2009.

Recommended Action: Approve the minutes of the October 6, 2009 Planning and Zoning Commission meeting.

**MOTION:**

Motion by Commissioner Loyd and seconded by Commissioner Best, and unanimously carried with one abstention by Commissioner Butler to approve the minutes of the October 6, 2009 meeting.

<b>OLD BUSINESS</b>
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4. **Request For Recommendation Of Approval Of A Special Use Permit For Family Day Care Home For Properties Located At 1013 Shawnee Ave., Branson, Missouri. Project No. 09-1.14 (09-00100014).**

**Applicant:** Megan Schaffner.

Tara Norback, City Forester, presented the staff report as filed with the Planning Division. She used the aid of a PowerPoint presentation to help with the description of this item. She said all the surrounding properties were zoned R-1 residential. Instead of showing a video of the subject property and the surrounding area, a panoramic view of the location was shown on the overhead screen. An aerial map was next displayed on the overhead screen followed by a zoning vicinity map. As was discussed at the October meeting, the drop-off time would be 7:30 a.m. and the pick-up time would be 5:30 p.m. The residence contained a two-car wide driveway, which would provide parking spaces for six (6) vehicles. She showed them a picture of the backyard to give them an idea of where the children would be at times. There was a 4-foot high fence on one side and also along the back, and the neighbors behind them had a 6-foot high fence. There was a chain link fence on one side and the applicant indicated that that neighbor was in the process of installing a privacy fence, as well. There was a small deck and some play equipment for the children. As was also discussed at the last meeting, there was a house owned by Church Army located at 1002 Chippewa Avenue. She pointed out the location on an aerial map in comparison to where the subject property was located. This was an all-female C.A.R.E. (Church Army Recovery Experience) House center. The potential applicants must go through an interview process to live there. It was a zero-tolerance sobriety and drug-free home. The number of residents ranges from eight to ten (8-10). She said staff recommended approval subject to the following conditions:

- Special Use Permit shall be valid for twelve (12) months once the applicant reaches a maximum of four (4) children, after which time the applicant will return to the commission to assess the impact on the neighborhood, if any exists;
- No more than four (4) children shall be cared for at any time, and no more than two (2) of the children shall be under the age of two and a half (2½);
- There is to be no signage beyond that permitted in a single-family zone;
- Special Use Permit shall be valid only for this owner at this specific location. If the business ceases for six (6) months or more, the Special Use Permit shall be null and void, and the applicant will have to return to the Planning and Zoning Commission and reapply.

Chairperson Harris recognized Commissioner Loyd.

Commissioner Loyd asked what would happen if the applicant took care of only three (3) children. Chairperson Harris said the special use would be triggered once she had four (4) children to watch. Commissioner Loyd said if the applicant stayed at three (3) children then the special use permit would never start. Mr. Lawson said that was correct. Ms. Norback said you would have to be licensed with the State if you had four (4) children in your care. Mr. Lawson said the only reason he put four (4) children in the conditions was to measure the impact on the neighborhood. He wanted a 12-month period in which they could measure the impact after the applicant had reached her capacity of children, but added it did not have to be twelve (12) months; it could be six (6) months.

Chairperson Harris recognized Commissioner Butler.

Commissioner Butler said he recommended they start with twelve (12) months from the time the permit was issued, assuming the applicant would reach four (4) children within that time, because one (1) month would be enough. If this was not working, the neighbors would let them know within a week, not twelve (12) months. It would make it easier, too, not to have to figure out when the fourth child was enrolled and then go twelve (12) months from that time. He said if the applicant did not get to four (4) children within twelve (12) months, she could come back for a renewal and hope she got to four (4) children in the next twelve (12) months.

Mr. Lawson said he thought the applicant did not have any children to look after at this time. He asked how they should handle the special use permit. He asked if she got it now and went several months without any children would that be fine, or could she wait several months before she came down to get it and then start. Chairperson Harris said his opinion was that it needed to start now.

Chairperson Harris recognized Commissioner Butler.

Commissioner Butler said he read that this special use permit went with the property, but he did not see it stated on the staff recommendation or on the resolution. He said to Ms. Norback that this needed to be put in the resolution. Ms. Norback said that was correct.

Chairperson Harris invited the applicant to come up and talk with the commission.

Megan Schaffner stepped down to the podium and introduced herself. She said she had two (2) children who were able to start right away, as soon as the special use permit was approved. Chairperson Harris asked her if everything else concerning the conditions of the permit were all right with her; Ms. Schaffner said yes.

Chairperson Harris recognized Commissioner Davis.

Commissioner Davis asked Ms. Schaffner if she had had a chance to discuss her project with her neighbors, and how she felt her enterprise was being accepted by them. Ms. Schaffner said

all her neighbors that were directly in front, behind and on both sides were completely supportive of what she was doing. She said there were neighbors beyond that who were not happy about it, though. As she had said at the last meeting, she loved her neighborhood. She wanted to keep the integrity of it and did not want to damage it in any way or cause more traffic in it. She said she had reached out to a couple of her neighbors and welcomed them to come into her home so she could show them what she had going on there. She said in this case time would show them that it would not harm their neighborhood, and it would not affect the neighbors. Commissioner Davis thanked her and said he appreciated her answer and her attitude regarding it.

Chairperson Harris recognized Commissioner Butler.

Commissioner Butler said if there were not a lot of comments from the neighborhood after the 12-month time period, the next review might be able to be handled at the staff level rather than going back through the commission. Chairperson Harris said after the first assessment. Commissioner Butler said the first assessment should be left as is, but if it needed to be reviewed again, it might be prudent to make it a lower-scale process. Chairperson Harris said to have it go through just an administrative review. Ms. Schaffner said when she came back in twelve (12) months, if at that time she wanted to take on more children, either fulltime or part-time, she assumed she would have to come back through again and get it approved by the commission. Mr. Lawson said yes. Chairperson Harris said they would have to modify the conditions of the special use permit.

Chairperson Harris asked if there were any other questions or comments by the commission; there was no response. He said he would entertain a motion.

**MOTION:**

Motion by Commissioner Boyce and seconded by Commissioner Wescott, and unanimously carried to approve Resolution 09-1.14.

Chairperson Harris recognized Commissioner Butler.

Commissioner Butler recommended the following amendment:

1. Add the following items to the current list of five (5), which would make them items six through nine (6-9):
  6. Special Use Permits are not transferable in any manner. Permits cannot be transferred from owner to owner, location to location or use to use;
  7. This Special Use Permit shall be valid for a period of twelve (12) months in order to monitor the impacts of the Family Day Care Home, after which time the applicant will return to the Commission to assess the impact on the neighborhood, if any exists;
  8. No more than four (4) children shall be cared for at the Family Day Care Home and no more than two (2) of the children shall be under the age of two and a half (2½);

9. There is to be no signage beyond that permitted in single family zones.

Chairperson Harris asked if there were any other comments or questions on the amendments; there was no response.

MOTION:

Motion by Commissioner Butler and seconded by Commissioner Best to amend Resolution 09-1.14.

AYES: Commissioners Best, Boyce, Butler, Davis, Loyd, Westcott, Woolery, Vice-Chairperson Romine and Chairperson Harris.

NOES: None.

ABSTAIN: None.

ABSENT: Hartley.

Motion to amend Resolution 09-1.14 carried with a 9-0 vote.

Chairperson Harris asked if there was any further discussion on the item as amended by the commission; there was no response.

AYES: Commissioners Best, Boyce, Butler, Davis, Loyd, Westcott, Woolery, Vice-Chairperson Romine and Chairperson Harris.

NOES: None.

ABSTAIN: None.

ABSENT: Hartley.

Motion to approve Resolution 09-1.14 as amended carried with a 9-0 vote.

5. **Request For Recommendation Of Approval Of A Special Use Permit For ATV/Scooter Rental And An Accessory Structure For Properties Located At 1805 W. Highway 76, Branson, Missouri. Project No. 09-1.17 (09-00100017).**

Applicant: Eric Joseph.

Tara Norback, City Forester, presented the staff report as filed with the Planning Division. She stated when the packets were distributed, staff had not heard back from the applicant and had subsequently recommended denial; however, since then, staff had met with the applicant and had further documented some things on the site and discussed other items with him, as well. A panoramic view of the subject property was displayed on the overhead screen and she pointed out Truman Street, West Highway 76 and Colonial Drive. She then put up an aerial map followed by the zoning map. She utilized the aid of a PowerPoint presentation in the description of this item. She said staff had met with the applicant on October 28<sup>th</sup> and, after walking the property, she said there was no good location for an accessory structure for storage of the mopeds, so no accessory structure would be allowed. All mopeds would be transported in and removed from the property at the end of each business day. The hours of operation would be Sunday through Thursday, 9:00 a.m. to 9:00 p.m., (Sun.-Thurs./9 a.m. – 9 p.m.) and

Friday through Saturday, 8:00 a.m. to 10:00 p.m., (Fri.-Sat./8 a.m. – 10 p.m.). The access driveway located on the north boundary would be blocked off by using planter-type boxes and landscaping. The applicant agreed to improve the current landscaping or green space along the north and east boundary. She said it was recommended to the applicant that he submit a plan to staff for approval. The next slide she displayed showed a rendition by Joel Hornickel, Senior Planner, of what the location could look like with improvements. Commissioner Butler clarified with Ms. Norback that the area to which she had referred was actually the north section and the northeast corner, but not extending the length of the east side. Ms. Norback said it was where the green space was currently. Allowing a maximum of three (3) mopeds to be displayed within a ten foot by fifteen foot (10' x 15') area between the sign and the property boundary on the southwest corner was discussed. She said they also discussed allowing a maximum of seven (7) mopeds to be staged within a twenty foot by twenty foot (20' x 20') area between the sign and the building. Staff recommended some sort of painted delineation for these areas. Referring to an area on the overhead screen, she said this was mainly an alleyway, so by having seven (7) mopeds there, the applicant could still see to make sure they were not vandalized or stolen. The area in front would be designated for the three (3) display mopeds, which would prevent people from parking there and make it less likely for someone to back into them. She said staff recommended approval based on the following conditions:

- Hours of operation will be Sunday through Thursday, 9:00 a.m. to 9:00 p.m., and Friday through Saturday, 8:00 a.m. to 10:00 p.m.;
- North access is to be blocked off using planter-type boxes. Access to the existing dumpster is to be preserved;
- Applicant agrees to improve the green space along north and east boundary using native plant materials. Staff recommends that a plan be submitted to the Planning Department for approval and must be implemented prior to May 6, 2010;
- No accessory structure is to be used. All mopeds are to be removed at the end of the business day by the applicant;
- A maximum of three (3) mopeds are allowed to be displayed within the ten foot by fifteen foot (10' x 15') area between the sign and the south property boundary near the southwest corner. The current parking space is to be removed;
- A maximum of seven (7) mopeds are allowed to be staged within a twenty foot by twenty foot (20' x 20') area between the sign and the building along the west boundary;
- Painted delineation of both above areas by the applicant;
- Special Use permit shall only be valid for this owner at this specific location. If the business ceases for six (6) months or more, the special use permit shall be null and void.

Chairperson Harris recognized Commissioner Boyce.

Commissioner Boyce asked if the applicant owned the building on the property; Ms. Norback said no. He asked where the applicant would put the mopeds when he removed them at the end of the day, if they would be allowed to be put inside the building. Mr. Lawson said yes. If the applicant could work something out with the owner of that building, that would be fine. He said staff just did not think that it would be appropriate to bring in another building onto the site.

Chairperson Harris invited the applicant to come down and talk.

Eric Joseph stepped to the podium and introduced himself as being with L.J. Rental and ATVs. Chairperson Harris asked him if everything that the staff had presented seemed okay with him. Mr. Joseph said yes. He said doing the landscaping and everything would be fine. It would make it look a lot better and conceal everything from the neighboring houses. Chairperson Harris said blocking off the driveway with planters would not be a problem. Mr. Joseph said no; it would not be any problem at all.

Chairperson Harris recognized Commissioner Davis.

Commissioner Davis asked Mr. Joseph if he planned on transporting the mopeds in a trailer. Mr. Joseph said he had a big gooseneck trailer on which he hauled 4-wheelers, dune buggies and other vehicles. Commissioner Davis asked if he would leave that parked at the back of the property during the hours of operation. Mr. Joseph said no, as he would be going back and forth between locations. If he did leave it there, it would probably be in the alleyway for part of the day, but he would usually take it out of there.

Chairperson Harris recognized Commissioner Boyce.

Commissioner Boyce asked Mr. Joseph if he had talked to the owners about landscaping that area. Mr. Joseph said yes. He said Mr. Kilroy had said it was more than fine for Mr. Joseph to do whatever he wanted to with it out there.

Chairperson Harris recognized Commissioner Best.

Commissioner Best asked Mr. Joseph if he was okay with the hours of operation. Mr. Joseph said yes. He said he had thought about trying to stay open later on Friday and Saturday, but it would be fine to stay with those hours at this location.

Chairperson Harris asked if there was anyone else there who wished to speak in regard to this item or had a question about it; there was no response. He asked if there was any other discussion by the commissioners; there was no response. He said he would entertain a motion.

**MOTION:**

Motion by Commissioner Wescott and seconded by Commissioner Best, and unanimously carried to approve Resolution 09-1.17.

Chairperson Harris recognized Commissioner Butler.

Commissioner Butler said by his count, there were seven (7) bullet points on the staff recommendation and he would number them inclusively by way of the following amendment:

1. After the current item no. 5, insert the following seven (7) items consecutively as items six through twelve (6-12):
  6. The access driveway located on the north boundary of the property is to be blocked off with the use of multiple planter-type boxes and landscaping. Access to the existing dumpster is to be preserved;
  7. The applicant agrees to improve the green space along the north and east boundary of the property with landscaping. The applicant will use shrubs, trees and other native plant material. A plan will be submitted to the Planning Department for approval and shall be implemented before May 6, 2010;
  8. No accessory structure will be allowed in association with this special use permit. All of the mopeds are to be removed from the property at the end of each business day;
  9. A maximum of three (3) mopeds are to be allowed to be displayed within a ten foot by fifteen foot (10' x 15') area between the sign and the property boundary near the southwest corner of the property. The applicant will have the parking space in this location removed and have this area be permanently delineated by a new painted boundary;
  10. A maximum of seven (7) mopeds are to be allowed to be staged within a twenty foot by twenty foot (20' x 20') area between the sign and the building along the west boundary of the property. The applicant will have this area be permanently delineated with a new painted boundary. This location will provide the applicant visibility of the inventory to avoid theft;
  11. The hours of operation at this location are to be Sunday through Thursday, 9:00 a.m. to 9:00 p.m., and Friday through Saturday, 8:00 a.m. to 10:00 p.m.;
  12. Special Use is valid only for this owner at this specific location. If the business ceases for six (6) months or more, the special use permit shall be null and void.

**MOTION:**

Motion by Commissioner Butler and seconded by Commissioner Davis, and unanimously carried to amend Resolution 09-1.17.

AYES: Commissioners Best, Boyce, Butler, Davis, Loyd, Westcott, Woolery, Vice-Chairperson Romine and Chairperson Harris.

NOES: None.

ABSTAIN: None.

ABSENT: Hartley.

Motion to amend Resolution 09-1.17 carried with a 9-0 vote.

Chairperson Harris asked if there was any other discussion; there was no response.

AYES: Commissioners Best, Boyce, Butler, Davis, Loyd, Westcott, Woolery, Vice-Chairperson Romine and Chairperson Harris.

NOES: None.

ABSTAIN: None.

ABSENT: Hartley.

Motion to approve Resolution 09-1.17 as amended carried with a 9-0 vote.

#### OTHER BUSINESS

Chairperson Harris asked if there was any other business to discuss.

Mr. Lawson said some time ago the commission had appointed a landscaping review committee from among the commissioners, and he asked when they would like to meet and whether or not they had a game plan yet. Chairperson Harris said he had asked Commissioners Butler, Best, Davis and Woolery to be on that committee. Mr. Lawson asked if they wanted to wait until after the holidays and meet at the beginning of the year. Chairperson Harris asked him if he thought that would be better for the whole process. Mr. Lawson said what was important was accommodating the citizens, so people would be able to attend the public meetings. If the city held these meetings and there was no public turnout, when they got ready to adopt something, people might come by to say they were not involved in the meetings because of the holidays. This was why Mr. Lawson suggested they wait until after the first of the year to hold any meetings. Chairperson Harris said that would be fine. It would also allow staff more time to do some research and gather information to build up a file about how other cities handled these issues.

Mr. Lawson said he had begun creating amendments to the zoning code. He said he would like to come back next month with a general presentation to the commission about the areas where he thought changes needed to be made. He would then like Chairperson Harris to appoint three or four (3 or 4) people who would work through this process with staff because at some point they would need to go through it page by page. He would like to bring the commission as a whole some concepts he wanted to work on with them and get their input on whether or not it made sense to them to go forward in that direction. He could then work on the details and how it would actually be worded with the smaller group. Chairperson Harris said that would be great and asked Mr. Lawson if he was looking at working with the subcommittee sometime in January. Mr. Lawson said yes. He said he would probably come to them next month with just some general thoughts about it for them, though.

Chairperson Harris asked the commission what they thought about the panoramic views that were presented to them at tonight's meeting in lieu of the video they normally watched. Commissioner Butler said he liked the video better. Commissioner Davis said he liked the panoramic views. Chairperson Harris said the panoramic views were good for pointing things out for discussion, but he thought it was nice to have the (360°) walk-around with the video,

too. He asked if there was a way both viewpoints could be incorporated into the presentation. Mr. Lawson said he thought they could do both. He said the reason staff had created the panoramic view was because people sometimes wanted to refer to an area on the video that was not represented in a still photograph. Chairperson Harris said using the video for the front of the property to show the surrounding area was good to make everyone aware of what was around the subject property then use the panoramic view for any further discussion. He thought the panoramic view was very beneficial. He complimented Mr. Hornickel on his good work with the graphics, which gave the commission and the applicant an idea of where the bar had been set for these improvements.

Chairperson Harris recognized Commissioner Davis.

Commissioner Davis complimented both the commission and the staff because, as they continued to move forward, he thought their process had improved, and he said he appreciated Mr. Lawson's, Ms. Norback's and Mr. Hornickel's work in that area. Another area of which he was not sure the commission was aware was the neighborhood outreach work that was being done, which was ultimately a planning department concern. He suggested staff briefly review for the commission at the December meeting what efforts and ideas were happening in regard to traffic calming and other neighborhood investments in the Hiawatha Heights subdivision, if the agenda allowed for it.

Commissioner Davis went on to say he was fortunate to have the city pay for his attendance at the American Planning Association (APA) meeting in Springfield, Missouri. He said it was nice that staff had made arrangements for different people to attend on different days, so only one fee was paid for the conference. He said he attended the seminar on 'land suitability analysis' along with Garrett Anderson, the Economic Developer for the City of Branson, and he said it presented an awesome opportunity for this board, as a decision-making body. He said there were technologies like overlay maps that were available to our community and which could be incorporated into the city's land use plan. He said one community had fifty-six (56) overlays of various types, such as slopes, storm water, environmentally sensitive areas, and historically sensitive areas. If someone thought of a category, a map could be made for it. In this day and age of geopositioning information services, this had become a very commonplace thing and there were literally thousands of communities across the United States that had done this now. He said he thought the city would have the capability of doing a lot of it in-house. He said he would encourage that term to be one they familiarized themselves with and they could maybe have a small presentation on what that might mean as they moved forward.

Chairperson Harris asked Commissioner Davis to tell them about the sustainability seminars that had been held prior to council meetings, commenting that there had been two (2) of them so far. Commissioner Davis said there was an effort to move the organization and the community towards considering more sustainable issues that would include both internal and external practices of the city. Mona Menezes, Environmental Specialist, at the direction of the Mayor and city council, was involved in a 5-session educational opportunity. They had already heard Dr. Wendy Anderson, a biologist from Drury University, give a presentation about environment sustainability. Dr. Anderson's outline was available for viewing on the city's

website. At the last meeting, Matt O'Reilly, owner of the Green Circle Shopping Center in Springfield, was the guest speaker. This was the first platinum LEEDS shopping center in the United States and it had some phenomenal attributes for water conservation. Storm water runoff was a big issue and it raised the bar in the area of not only putting water "in jail," as Mr. O'Reilly described it, but the water that ran off of the site was also of a higher quality than what would typically run off because the processes involved in the site somewhat cleansed or treated the water. The energy efficiency of his building allowed him to get the highest rents in the City of Springfield per square footage; however, if you added his rent and utility bill together, they paid very little more than what other people paid who had less efficient buildings and were at a premium site. Commissioner Davis said it was a very educational process. He thought, in the economy of Springfield, it was a glowing example of a very successful project. Mr. O'Reilly had the spaces rented out prior to going to the bank, including one he had rented to himself. Commissioner Davis said there was a PowerPoint presentation about this on the city's website, as well, and he encouraged the commissioners to spend some time reading through it. He said there would be three or four (3 or 4) more of these sessions at 6:00 p.m. prior to council meeting. He thought the next topic would be presented by the sustainability coordinator from Fayetteville, Arkansas. Commissioner Loyd asked where these meetings were held. Commissioner Davis said here in council chambers, and they finished by 7:00 p.m. because that was when the council meeting began.

Chairperson Harris recognized Mr. Lawson.

Mr. Lawson said he had worked on an outline for the comprehensive plan and would be giving it to the council at their work meeting on Thursday. He said they may not have their quorum on Thursday, so it would just be a matter of passing it out, then at their next meeting going through it and spending more time on it. He said they would be looking at developing an RFQ (Request For Qualifications) for a consulting firm to do the comprehensive plan, which would start after the first of the year. He said they could do a request for a proposal or a request for qualifications, but his request was somewhere in the middle. He was doing a request for qualifications; however, if the board agreed, he would ask the consultant for qualifications in certain areas, such as infill, redevelopment in older neighborhoods, downtown work or the entertainment district. He had listed things they thought were important. When he was at the APA meeting, he saw a consultant from St. Louis that he had used before, and this consultant concurred that was a good way to do it. The consultant had made a good point in that a lot of the firms would work with another expert and make that person part of the team. For example, if they said the strip or downtown was very important, the firm may very well get someone on its team who had done a lot of work in those areas. Mr. Lawson said this was the general direction he was headed with it, and there was also money in the budget next year for it. Chairperson Harris said it sounded like an excellent way to go about getting the comprehensive plan up and running.

PUBLIC HEARINGS

None.

ADVISORY RECOMMENDATIONS

None.

ADJOURNMENT

Motion by Chairperson Harris and unanimously carried to adjourn the meeting at 8:12 p.m.

Clark Harris  
Clark Harris, Chairperson

12-1-09  
Date

Sonja Paden  
Sonja Paden, Office Assistant II

12.01.09  
Date