

AN ORDINANCE GRANTING A SPECIAL USE PERMIT SUBJECT TO CERTAIN CONDITIONS TO TINA PEERY FOR OPERATION OF A CHILD DAY CARE CENTER ON PROPERTY AT 5940 NORTH FLORA AVENUE, GLADSTONE, CLAY COUNTY, MISSOURI.

WHEREAS, Pursuant to Section 32-39 of Ordinance No. 2.292 being the Gladstone Zoning Ordinance, public notice was made of a request for a Special Use Permit on property at 5940 N. Flora, legally described as Beg. 30' W of NE corner of the NW $\frac{1}{4}$ pf the SW $\frac{1}{4}$, S 115', W 235', N 115', E 235' to the Point of Beginning; and

WHEREAS, public hearings have been held after the publishing of the required notices; and

WHEREAS, the Planning Commission of the City of Gladstone did submit its recommendation to the City Council for approval; and

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF GLADSTONE, MISSOURI, as follows:

SECTION 1. THAT Tina Peery is hereby granted a Special Use Permit for operation of a child care center on property at 5940 N. Flora, the effective date of which shall be the enactment date of this Ordinance and expiring 10 years from the date of passage of this ordinance, all subject to the following conditions:

1. Tina Peery shall maintain a Child Care License as required by the State of Missouri Division of Family Services. If, for any reason, the State of Missouri revokes or suspends the child care license this Special Use Permit shall also be revoked or suspended.
2. This Special Use Permit is issued to Tina Peery to be used at this address only. This Special Use Permit shall be non-transferable to any other person(s), company, or any other location. Any changes in operation of the business by Tina Peery or changes in ownership of the property shall render this Special Use Permit null and void.
3. The maximum number of children in care at any one time shall be limited to fifty-eight (58).
4. Hours of operation shall be limited to 6:30am to 6:00pm, Monday through Friday.
5. Tina Peery shall apply for and maintain all applicable State and City business and occupational licenses.
6. All fire safety requirements made by the City of Gladstone's Fire Marshal in addition to all fire safety requirements for such State license shall be maintained as required.
7. This Special Use Permit is to be issued in accordance with the previously submitted site plan along with any additional conditions established by the City upon passage of this Special Use Permit. Any violations of these conditions may result in the termination of this Special Use Permit.
8. The property shall be maintained in accordance with applicable property maintenance requirements.
9. All required fencing for play areas shall be maintained in good condition.

10. Signage on site shall not exceed existing square footage and height of current sign. Any replacement of existing sign(s) shall be in compliance with City of Gladstone's sign regulations.

SECTION 2. SEVERABILITY CLAUSE. The provisions of this ordinance are severable and if any provision hereof is declared invalid, unconstitutional or unenforceable, such determination shall not affect the validity of the remainder of this ordinance.

INTRODUCED, READ, PASSED, AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF GLADSTONE, MISSOURI, THIS 29th DAY OF MAY, 2018.



Mayor Bill Garnos

ATTEST:



Ruth Bocchino, City Clerk

1st Reading: May 29, 2018

2nd Reading: May 29, 2018

File #2018-010



Request for Council Action

RES ☐ # City Clerk Only

BILL ☒ # City Clerk Only

ORD # City Clerk Only

Date: 5/8/2018

Department: Community Development

Meeting Date Requested: 5/29/2018

Public Hearing: Yes ☒ Date: 5/29/2018

Subject: Renewal of a Special Use Permit for Creative Kids Learning Center located at 5940 N. Flora Avenue.

Background: This property has been used as a day care for approximately 35 years. In 2003 Tina Peery began operating the business as was granted a five (5) year Special Use Permit; in 2008 Ms. Peery applied for a renewal of her Special Use Permit and was granted a ten (10) year Special Use Permit. Over the years Ms. Peery has made numerous improvements and investment to the site.

Ms. Peery is again applying for a renewal of her Special Use Permit for and additional ten (10) years. All conditions are proposed to remain the same and have shown to be adequately sufficient in the past.

Budget Discussion: Funds are budgeted in the amount of \$ 0.00 from the N/A Fund. Ongoing costs are estimated to be \$ 0.00 annually. Previous years' funding was \$0.00

Public/Board/Staff Input: Planning Commission had some discussion as to the difference of the Special Use Permit for this daycare and one that they heard in February. Ms. Peery the applicant explained a little bit of the history of the facility. The Commission approved the Special Use Permit 8-0.

Provide Original Contracts, Leases, Agreements, etc. to: City Clerk and Vendor

Alan Napoli
Interim Community Development Director

PC

City Counselor

SW
City Manager



Community Development Department

Staff Report

Date: April 24, 2018

File #: 2018-010

Requested Action: Special Use Permit - Renewal

Date of PC Consideration: May 7, 2018

Date of Council Consideration: May 29, 2018

Applicant: Tina Peery
Creative Kids
5940 N. Flora Avenue
Gladstone, MO. 64118

Owner: Same

Architect/
Engineer: N/A

Address of Property: 5940 N. Flora Avenue

Planning Information

- Current Zoning: R-1 Single Family Residential
- Zoning History: None recent
- Planned Land Use: Remaining residential
- Surrounding Uses: Residential
- Applicable Regulations: Zoning and Subdivision Ordinance and Comprehensive Plan

Additional Information

- Public Utility Availability: Existing public utilities are available
- Ingress/Egress: Adequate ingress and egress exist along N. Flora Avenue
- Traffic Impacts: None
- Parking Required: Existing
- Parking Provided: Existing
- Proposed On-Site Improvements: N/A
- Proposed Off-Site Improvements: N/A
- Proposed Landscaping: None
- Proposed Signage: None

Analysis

This property has been used as a day care for approximately 35 years. In 2003 Tina Peery began operating the business as was granted a five (5) year Special Use Permit; in 2008 Ms. Peery applied for a renewal of her Special Use Permit and was granted a ten (10) year Special Use Permit. Over the years Ms. Peery has made numerous improvements and investment to the site.

Ms. Peery is again applying for a renewal of her Special Use Permit for and additional ten (10) years. All conditions are proposed to remain the same and have shown to be adequately sufficient in the past.

Recommended Conditions

Staff has ten (10) recommended conditions which are the same conditions stipulated when Ms. Peery reapplied in 2008. The recommendations are as follows:

1. Tina Peery shall maintain a Child Care License as required by the State of Missouri Division of Family Services. If, for any reason, the State of Missouri revokes or suspends the child care license this Special Use Permit shall also be revoked or suspended.
2. This Special Use Permit is issued to Tina Peery to be used at this address only. This Special Use Permit shall be non-transferable to any other person(s), company, or any other location. Any changes in operation of the business by Tina Peery or changes in ownership of the property shall render this Special Use Permit null and void.
3. The maximum number of children in care at any one time shall be limited to fifty-eight (58).
4. Hours of operation shall be limited to 6:30am to 6:00pm, Monday through Friday.
5. Tina Peery shall apply for and maintain all applicable State and City business and occupational licenses.
6. All fire safety requirements made by the City of Gladstone's Fire Marshal in addition to all fire safety requirements for such State license shall be maintained as required.
7. This Special Use Permit is to be issued in accordance with the previously submitted site plan along with any additional conditions established by the City upon passage of this Special Use Permit. Any violations of these conditions may result in the termination of this Special Use Permit.
8. The property shall be maintained in accordance with applicable property maintenance requirements.
9. All required fencing for play areas shall be maintained in good condition.
10. Signage on site shall not exceed existing square footage and height of current sign. Any replacement of existing sign(s) shall be in compliance with City of Gladstone's sign regulations.

Recommendation

City Staff recommends that the request be **APPROVED** contingent upon compliance with the above recommended conditions.



Gladstone, MO



Legend

- Stop Sign
- KCPL Lights
- Gladstone Lights
- School Point
- Bike Parking
- Bus Stop
- Point of Interest
- Church
- Apartment Point
- Street Centerline
- Edge Of Pavement
- Driveway
- City Limits
- Parcel
- House Number
- Building Footprint
- School Polygon
- City Park
- Villages
- Apartment Polygon

Notes

5940 N Flora

This map is a user generated static output from an internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.
THIS MAP IS NOT TO BE USED FOR NAVIGATION

VOTE:	Mr. Ebenroth	Yes
	Ms. Hommon	Yes
	Ms. McGee	Yes
	Ms. Middleton	Yes
	Mr. Murch	Yes
	Mr. Turnage	Yes
	Mr. Whitton	Yes
	Chairman Ward	Yes

The motion carried (8-0).

6. Public Hearing: Special Use Permit for 5940 N. Flora Avenue. File #2018-010. Chairman Ward opened the Public Hearing.

Interim Director Napoli shared that Tina Peery is the owner/operator of the daycare center at 5940 N. Flora. This is a renewal of her existing Special Use Permit. In 2003, she applied for and received a five (5) year Special Use Permit. In 2008, she was granted a renewal for ten (10) years. She is asking for another ten (10) year renewal. The City has not has any issues with Ms. Peery.

The Staff has ten (10) recommended conditions which are the same conditions stipulated when Ms. Peery reapplied in 2008. The recommendations are as follows:

1. Tina Peery shall maintain a Child Care License as required by the State of Missouri Division of Family Services. If, for any reason, the State of Missouri revokes or suspends the child care license this Special Use Permit shall also be revoked or suspended.
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Interim Director Napoli said that Ms. Peery is agreeable to these conditions. She is not planning to make any changes to the site or any modifications at this time. Everything that is there is staying the same and the operation will remain the same. Based on this information and the staff recommendations provided, City Staff recommends that the request be approved contingent upon compliance with the above recommended conditions.

Mr. Murch stated that in February there was a similar application, not as long as this one, but with several more requirements. He asked why there were fewer (conditions) for this permit.

Interim Director Napoli shared that he didn't recall the requirements for the other permit and would need to look them up. He had taken the requirements that were in place from ten (10) years ago and kept them the same for this application.

Mr. Murch provided a copy of the conditions from the previous Special Use Permit.

Interim Director Napoli shared that this was from the daycare on Shady Lane and 67th or 68th. Ms. Cole is in a single family residential area with several single family homes around her. Ms. Peery is next to a school and a park. There are no single family homes around her. Many of the recommendations weren't necessary. She is not working out of a house. She's working out of a larger building and that is why she has a larger maximum number of children. It isn't a house. It is run as a business. Because the property is zoned R1, it requires a Special Use Permit.

Mr. Murch said that we required the owner of the property at 1404 NE 66th Street to reside in the home with a maximum of ten (10) children. The hours are in conflict with the current one. It was not allowed to have a sign on the 66th Street one, this one is.

Interim Director Napoli stated that this business currently has a sign and has had the sign since 2003. They aren't adding a sign. The sign has been there since the inception of the daycare at that location. The times from 6:30am to 6:00pm have been the same. It is not in a single family residential neighborhood where there are other homes around it. She has an actual drive where they can come in and pick up so they are not picking up in the street. She has a drive area in front of the building. This is not a single family home being used as a home. It is being used strictly as a business. She does not reside there and never has resided at this structure.

Mr. Murch shared that he drove by the property and fifty-eight kids seemed like a lot for the size. He asked if there is a requirement for the square footage per child.

Interim Director Napoli said that there wasn't. She is required to have a certain number of employees per child. The fifty-eight is what she has had since she opened. There is nothing that says she is allowed a certain number of kids per square footage.

Mr. Murch continued that there was some concern about setting precedence on the prior application. He shared that he is new to the Commission so it is more of a curiosity. It is large discrepancy between the two requirements.

Interim Director Napoli stated that it isn't apples to apples. There is a difference from Ms. Cole, who has houses across the street and next to her. She is on a residential street. Ms. Peery is on N. Flora. To the south of her is Oakwood Manor. To the north is Flora Park. Behind her, quite a ways behind her, is a neighborhood, but there isn't any through traffic. All the traffic comes down N. Flora. There are differences on where the operations are being held.

Ms. Tina Peery, owner of Creative Kids Center Inc. at 5940 N. Flora Avenue, addressed the Commission. She wanted to let the Commission know that her business is licensed for this amount of children. The State comes in and does a measurement. It makes a difference if it is a residence or if it is a daycare center. Because she doesn't live in the home it is licensed differently, and it is a square footage per child. It isn't the same as a home. Because she doesn't live there, the entire building counts. For someone who has a child care center in their home, part of their home isn't allowed to count. They are only allowed to have so many children per adult. She has a staff, whereas it would be the homeowner and potentially an assistant. That makes the difference on home child care or a child care center. It does make a difference for actual licensing. When you look at that house versus the center, there is a classification difference even with the State. She hoped that cleared up any questions.

Mr. Turnage asked Ms. Peery if she normally has fifty-eight (children) and if she is at capacity or something less than that.

Ms. Peery said that usually, during the day, they have forty-five children. The license capacity of fifty-six is for before- and after-school care. She provides care for school-age children through Gladstone area schools, like Oakwood Manor and Meadowbrook, so they are allowed a window before and after school to have more kids, but typically her capacity is forty-five during the day. The building itself has been a daycare for over seventy-five years. The Catholic Church had a Montessori school, and then it changed hands through the course of time. She took it over in 2003 and made some changes. It has a full sprinkler system now to make it safer, and it's bigger. They have replaced the stairwells and made changes at that time. That is why they were able to go from the permit at first (five year) to a ten year permit. They made many changes. In the last year, they made almost \$30,000 in improvements to the building.

Mr. Murch asked why she wants to extend an R1 zoning as opposed to going to commercial zoning.

Ms. Peery said that where they are located, between a school and a City park, it would cause additional problems because it is all City-owned in front of them and all City-owned behind them. It would be such a small plot that the City of Gladstone, when she questioned it previously, said it would be better to have her Special Use Permit. She's had it before and it won't create a legal problem. Her backyard backs up to the City park. The people who owned the property originally owned from where the school is around to the City park. She was fortunate enough to meet the daughter of the original family. It started out as a little house and, as they plotted off what they sold, it has ended up with nothing around them but a school and City parks. When she requested to re-zone previously, she was told that wouldn't happen. So, she stayed with the Special Use Permit because of the location.

Chairman Ward asked if there was anyone in the audience that would like to speak for the applicant. None.

Chairman Ward asked if there was anyone in the audience who opposed the applicant. None.

Chairman Ward closed the Public Hearing. He asked if the Commissioners had any comments. None.

MOTION: By Mr. Whitton, second by Ms. Hammon, to approve Public Hearing: Special Use Permit for ten (10) years for the address 5940 N. Flora Avenue, Gladstone, for a day care center. File #2018-010.

VOTE:	Mr. Ebenroth	Yes
	Ms. Hommon	Yes
	Ms. McGee	Yes
	Ms. Middleton	Yes
	Mr. Murch	Yes
	Mr. Turnage	Yes
	Mr. Whitton	Yes
	Chairman Ward	Yes

The motion carried (8-0).

7. Other Business. None.

8. Communications from City Council and City Staff.

City Council: Councilmember Moore had no comments.