

**Minutes of Meeting**  
**Belton Planning Commission**  
**City Hall Annex, 520 Main Street**  
**October 19, 2015**

**CALL TO ORDER**

Chairman Holly Girgin called the meeting to order at 6:00 p.m.

**ATTENDANCE**

*Commission:* Chairman Holly Girgin, Commissioners Sally Davila, Tim McDonough, Chris Christensen, Ryan Finn, Larry Thompson, Councilman Chet Trutzel and Mayor Jeff Davis.

*Staff:* Jay Leipzig, Community & Economic Director, Robert Cooper, City Planner, Megan McGuire, City Attorney, Jennifer Dutcher, Community Development Secretary, Jeff Fisher, Public Works Director, Zach Matteo, City Engineer and Kate Glowacki, Assistant City Engineer

*Absent:* Commissioner Chuck Crate

**MINUTES**

Commissioner Christensen moved to approve the minutes of the October 5, 2015 Planning Commission meeting. Commissioner Thompson seconded the motion. All members present voted in favor and the motion carried.

**DISCUSSION**

Mr. Leipzig opened the discussion for the continuance of the consideration of a special use permit to allow a home childcare business at 307 Apple Valley Parkway. Mr. Leipzig stated the public hearing was opened and closed at the September 21, 2015 Planning Commission meeting. There was a considerable amount of discussion that evening and the item was continued until the next meeting on October 5, 2015. Per the request of the applicant, the October 5, 2015 meeting was continued so that she could have an attorney present. Staff has talked to the attorney and will present the findings in this report.

Mr. Cooper presented the commission with a supplemental staff report updating the findings of the recent site visit. This supplemental staff report was also sent electronically to the applicant's attorney. Mr. Cooper indicated the supplemental staff report contains a copy of the current State of Missouri childcare license which expires in July 31, 2016 and a map identifying all of the childcare businesses within the city limits. Mr. Cooper continued the staff report citing a list of the September 21, 2015 public hearing concerns.

- No expectation of a business operating next to a private home in a residential neighborhood;
- Expectations of a quiet, peaceful and enjoyable home when come home from working all day;
- Safety issues at the home including car on jacks in driveway;
- Noise from the multiple children in the backyard can be heard at neighboring homes;
- Safety issue for the neighbors trying to mow and maintain their property with many children in yard;
- Devaluation and lack of marketability of the property with business activities running next door;
- Toys tossed over the fence into the neighbor's yard;
- Added traffic to this area of neighborhood.

Mr. Cooper then presented the results of the September 28, 2015 in-home visit citing the cramped space for the 6 to 8 children inside the home. Most of the children appeared to be age 5 or under; as some were situated in the front living room watching TV while the remaining children were in the kitchen eating. At that visit, Mrs. Gaston consented to Mr. Cooper taking pictures of the home. Mr. Cooper indicated he did not see any cars in disrepair, nor did he see a pool present in the yard. No children were outside of the home at the time of inspection. Mr. Cooper stated Mrs. Gaston has indicated she was looking to move from that location around April 2016 and she has receipts to show for the repair of the vehicle. Mr. Cooper indicated the Revised Statutes of the State of Missouri are listed within the supplemental staff report as he discussed the required floor space for each child coming into the home for day care. The Missouri Statutes state there must be at least 35 square feet of usable floor space for each child. Mr. Cooper indicated concerns for the usable space indicating the entire home is listed as 1300 square feet, with a downstairs playroom with the approximate size of 12x12 (144 square feet). Per the Revised Statutes of the State of Missouri, floor space shall not include food preparation areas, bathrooms, hallways used exclusively as passageways, closets, office space or floor space occupied by furniture or shelving not used by the children or for their activities. Space occupied by permanently placed cots, cribs, beds or playpens used for napping cannot be counted as usable floor space. Mr. Cooper indicated staff has concerns with overcrowding as Mrs. Gaston is also watching her own grandchildren. Care is provided for numbers upwards of 15 children at the home. Mr. Leipzig indicated he has been in touch with the applicant's attorney. Staff is willing to extend the special use permit for the home occupation day care until April 30, 2016, instead of the stated date on the supplemental staff report of April 1, 2016, at the request of Mrs. Gaston's attorney.

Mrs. Gaston addressed the commission indicating she has 2 other bedrooms licensed for the daycare facility each being 8x10 in size; she has three grandchild living with her. Chairman Girgin questioned if the related children count against the square footage ratio. Mr. Cooper indicated no they do not. Commissioner Christensen questioned if the grandchildren count towards the child to provider ratio. Mr. Cooper stated they are not part of the equation; only those children she is contracted to watch. Commissioner Christensen looked for verification that care could be provided for 12 related children and an additional 10 children. Mr. Cooper stated it's a life safety issue. The Fire Marshal can put restrictions for the number of children; he can also look for clear pathways. Mrs. Gaston stated she would never put 17 kids in a home at one time, 2 people cannot care of 17 kids properly. She has been in business for 37 years and has never had a child abused or harmed.

Chairman Girgin questioned the hours of operation. Mrs. Gaston stated she is licensed for 6 A.M. until 9 P.M., however, she chooses to close at 6:30 P.M. and only stays later if a parent is running late. Commissioner McDonough questioned verification of the number of children she cares for. Mrs. Gaston replied, she cares for 10 full time daycare children; 3 grandchildren are in school all day; 1 grandson she cares for, and some of the children go home at 3:00 P.M. Mrs. Gaston continued to express her grandchildren are separate from the daycare ratio, and she cannot force them to go to a separate playroom. She indicated she has cared for some of the same children for 11 years. Commissioner Thompson stated the main issue with 10 kids appears to be a shortage of square feet available in the home. Mr. Cooper indicated he received a copy of the inspection report and no mention of any violations of the square footage has been listed. Historically, the city has never gone into home daycares to look at square footage, egress or potential building code issues. The city is looking more closely into these items; however, nothing is listed in the states reports. Mrs. Gaston indicated the state counted one bedroom towards the available square footage. The Fire Marshal and Health Department has been through the entire home and has not found anything unsafe. Commissioner Thompson questioned if Mrs. Gaston has a plan to find a business location. Mrs. Gaston stated she hasn't thought that far yet. She talked with all the neighbors last night and every one of them agreed they could have one year to save and relocate to an area accepting of a daycare. She also stated she may have to keep just 4 children if the city will allow her. Commissioner Trutzel stated the neighbors were very adamant as to what they wanted to have happen and he also

addressed the issues listed with the fence gate. Mrs. Gaston stated her grandson opened the gate and picked up the rocks. She has spoken with the neighbor that complained and told him to let her know if he has anymore issues. She also indicated one daycare child threw a rock while under the supervision of her own mother. Commissioner Trutzel also questioned if Mrs. Gaston contacted all the neighbors that were present at the meeting. Mrs. Gaston stated she spoke with the neighbors behind her and the neighbor next door; she indicated they all said they were okay with them staying one year. Commissioner Christensen asked if the city Fire Marshal inspected the location. Mr. Cooper stated no, it is the state Fire Marshal. Councilman Trutzel questioned Mr. Leipzig if the attorney recommendation was the end of April. Mr. Leipzig stated when the attorney saw the staff report listing April 1<sup>st</sup> 2016 he called back and discussed the date of April 30<sup>th</sup> stating that would be sufficient.

Councilman Trutzel moved to approve the application effective to April 30, 2016, seconded by Commissioner Thompson.

Chairman Girgin stated we have a motion and a second to approve the special use permit for the home occupation daycare located at 307 Apple Valley Parkway until April 30, 2016.

Commissioner McDonough wished to clarify what happens at the end of April 2016. Mr. Leipzig stated their business license will be void for the special use permit; we will have full authority to follow up on the license. Mr. Cooper stated the city clerk will be advised the special use permit has ended and the license will revert to a regular home based daycare license allowing 4 children. Mr. Cooper continued to say staff will advise the applicant and monitor the location. Commissioner Thompson questioned what happens after April 30<sup>th</sup> and if she hasn't moved, does the city shut her down or can she request an extension. Mr. Leipzig stated the city would either shut them down depending on the circumstances or an extension could be applied for, however, the applicant would go through all the steps to bring an extension request to the Planning Commission. Mr. Leipzig stated the city would have full enforcement capabilities. Commissioner Thompson restated an extension will be at the discretion of the Planning Commission. Mr. Leipzig stated yes, that was correct, it would be at the discretion of the commission. Mayor Davis requested any input from the city attorney. Mrs. McGuire stated she helped prepare and advise the supplemental staff report so that we could have a full and fair evaluation of the issues.

Vote on the motion to approve the special use permit to allow a home childcare business at 307 Apple Valley Parkway effective until April 30, 2016 was taken, and the following vote recorded, **Ayes: 6** – Chairman Holly Girgin, Commissioners Tim McDonough, Chris Christensen, Larry Thompson, Councilman Chet Trutzel and Mayor Jeff Davis.

**Noes: 2** – Commissioners Sally Davila and Ryan Finn

**Absent: 1** – Commissioner Chuck Crate

Motion carried.

Mr. Matteo presented the Capital Improvement Program via slide show citing the program as 23 projects, five maintenance programs containing the following categories: Drinking Water, Wastewater, Transportation, Stormwater and Facilities. The report indicated one program and 12 projects listed within Transportation, one program and two projects listed within Drinking Water, two programs and three projects listed within Wastewater, one program and four projects listed within Stormwater and two projects listed within Facilities.

## **ADJORNMENT**

Commissioner McDonough moved to adjourn the meeting. Seconded by Commissioner Christensen. All members present voted in favor and the meeting adjourned at 7:02 p.m.

Jennifer Dutcher  
Community Development Secretary

