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**Roanoke Rapids City Council**

**February 17, 2015**

The regular meeting of the City Council of the City of Roanoke Rapids was held on the above date at 7:00 p.m. at the Lloyd Andrews City Meeting Hall.

 Emery G. Doughtie, Mayor

 Carl Ferebee, Mayor Pro Tem

 Ernest C. Bobbitt)

 Suetta S. Scarbrough)

 Carol H. Cowen)

 Wayne Smith)

 Joseph Scherer, MPA, MS, City Manager

 Lisa B. Vincent, MMC, NCCMC, City Clerk

 Chuck Hasty, Police Chief

 Kelly Lasky, Planning & Development Director

 Gilbert Chichester, City Attorney

**(Due to** Kathy Kearney, Deputy City Clerk/Human Resources Manager

**Inclement** MeLinda Hite, Finance Director

**Weather)** Larry Chalker, Public Works Director

 Stacy Coggins, Fire Chief

 John Simeon, Parks & Recreation Director

 Christina Caudle, Main Street/Development Director

Mayor Doughtie called the meeting to order and opened the meeting with prayer.

There being no conflict of interest with any of the items on the agenda, motion was made by ­­­­­­­­­­­Councilman Smith, seconded by Councilman Bobbitt and unanimously carried to adopt the business agenda for February 17, 2015.

Motion was made by Mayor Pro Tem Ferebee, seconded by Councilman Bobbitt and unanimously carried to approve the February 3, 2015 City Council Minutes.

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*Prior to the public hearing, those that signed up to speak that were not already under oath from the January 20, 2015 meeting were sworn in by City Clerk Vincent.*

Mayor Doughtie re-opened the public hearing and called on Planning & Development Director Lasky to make the presentation.

Planning & Development Director Lasky recapped her January 20, 2015 presentation of the following staff report:

**MEMORANDUM**

TO: Joseph Scherer, City Manager

FROM: Kelly Lasky, Planning & Development Director/s/

DATE: January 13, 2015

RE: **Conditional Use Permit Application for an Amendment to the Special Use Permit Authorizing the A-Z Children’s Enrichment Academy to Extend the Operating Hours: Monday - Friday 6 AM - 12 AM; Saturday 7 AM - 8 PM**

**Background (Permitting History & Approvals)**

On October 12, 2010, the Roanoke Rapids City Council approved a child care facility at 310 Charlotte Street subject to the following stipulations:

1. *The child day care facility shall be developed in accordance with the site layout plan prepared by Jacqueline Bennett dated September 29, 2010 as kept in the Planning and Development Office for greater reference.*
2. *Additional detailed construction drawings and building plans shall be provided to the Planning and Development staff, when requested, to determine compliance with any one or more of the provisions of the Land Use Ordinance, Building Code, Fire Code, City Code or other applicable required code or ordinance.*
3. *The facility shall obtain and keep current all licenses and requirements of the North Carolina Division of Child Development.*
4. *The facility shall operate only during the hours of 7:00 a.m. to 7:00 p.m., Monday through Friday.*

An authorized Conditional Use Permit (CUP) is perpetually binding upon the property unless subsequently changed by City Council. The request to extend the operating hours of the day care facility requires an amendment to the current Permit. **“Day Care Centers”** are authorized by conditional use permits which are obtained from City Council. All Conditional Use Permit requests are reviewed by the Planning Board for comment prior to a public

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hearing and City Council action. City Council consideration of Conditional Use Permits are quasi-judicial decisions approved by a simple majority vote.

**Current Request for Consideration**

The City of Roanoke Rapids received a Conditional Use Permit request from A-Z Children’s Enrichment Academy Director Jacqueline Bennett (applicant), Director Jakia Bennett (applicant) and Derrick M. Bennett (property owner) for an amendment to the existing Special Use Permit (Conditional Use Permit) stipulation #4 concerning hours of operation. **The applicants request to extend the operating hours of A-Z Children’s Enrichment Academy to the following schedule:**

**Monday through Friday, 6:00 a.m. to 12:00 a.m.**

 **Saturday, 7:00 a.m. to 8:00 p.m.**

The child care facility is located at **310 Charlotte Street**. The facility currently serves a total of 59 students.

This property is zoned R-8 single-family residential. Day care centers are permissible with a Conditional Use Permit. The facility was constructed in 1967 and has operated as a child day care facility since that time.

**Child care facilities are regulated by the North Carolina Division of Child Development and Early Education. The requirements are provided under North Carolina Administrative Code, Rule 10A Health and Human Services, Chapter 09 Child Care Rules.**

The City Council is now required to hold a public hearing followed by a recommendation to City Council concerning this matter.

*Planning and Development staff has made the following findings concerning this request:*

**SECTION I:**

**1. The requested permit is within its jurisdiction according to the table of permissible uses; or**

 *The requested permit is within its jurisdiction subject to the approval of a Conditional Use Permit. As indicated in the Table of Permissible Uses (Section 151-149), a day care center (use Classification 22.000) is permissible with a Conditional Use Permit. The A-Z Children’s Enrichment Academy was approved as a day care by City Council on October 12, 2010 subject to stipulations including operating hours.*

###

**2. The application is complete; or**

*The application is complete.*

**3. If completed as proposed in the application, the development will comply with all requirements of the Land Use Ordinance; or**

*The development will comply with all of the requirements of the Land Use Ordinance if completed as proposed in the application with the exception of requirements for screening between the facility and adjacent residential uses. The day care center facility has not closed for a period of 180 days or more and as a result, the lack of screening is considered a* **17611**

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*legal non-conforming (“grandfathered”) situation.*

**SECTION II:**

The following seven items were also considered when evaluating item #4 (a), (b), (c) and (d) that follows:

**1: ingress and egress to the lot and proposed structures, especially by pedestrians and automobiles, is safe and convenient in terms of access and traffic flow; and,**

 *This is probably true; the site has direct access to Charlotte Street by way of an existing circular driveway with a covered drop-off and pick-up area into the facility.*

**2: off-street parking and loading affects adjacent property (in terms of traffic generation, economic impact, noise, glare and odor) similar to uses permitted in that zoning district; and,**

 *This is probably true; employees of the facility currently utilize on-street parking spaces along Charlotte Street. Parents utilizing the facility are able to pull in to the circular driveway and pick up their children from the covered front entry.*

*The proposed change to the operating hours may create some changes in the current traffic patterns concerning the hours of operation.*

**3: refuse disposal affects adjacent property similar to uses permitted in that zoning district; and,**

 *This is probably true; the refuse collection requirements of the City of Roanoke Rapids shall apply to the business. The location and quantity of required refuse receptacles shall be determined by the Public Works Director in accordance with established policies.*

**4: utilities are available; and,**

 *This is probably true; all utilities are currently available for the site. There are no specific utility considerations that should negatively impact this property at the present time. All utilities are currently serving the building.*

**5: the type, dimensions and character of screening and buffering satisfactorily screens adjacent property; and,**

 *This is probably true; the parcel of land is zoned R-8 and based on construction is compatible to the adjoining uses. The current Land Use Ordinance requires screening and buffering between neighboring land uses to provide an impression of separation of spaces by lessening any potential visual pollution that may otherwise occur in the urbanized area. Screening is necessary to safeguard public health, safety and welfare.*

*The day care facility has been in operation since 1967, which was prior to the City’s requirement for screening and buffering. The lack of screening between the day care facility and the adjacent residential uses is considered a legal, non- conforming situation. The use of the facility as a day care is a legal, conforming use. If the business were to close for a period of more than 180 days or if substantial construction were to occur, the Ordinance would require the day care facility to install Opaque Screen Type A between the facility and the adjacent single-family residential land uses prior to reopening. Any such expansions or substantial changes may require approval by City Council.* ***At this time, NO expansions of the facility structure are proposed.*** *A description of the screening type is provided below.*

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*Opaque Screen, Type "A". A screen that is opaque from the ground to a height of at least eight feet. An opaque screen is intended to exclude completely all visual contact between uses and to create a strong impression of spatial separation. The opaque screen may be composed of a wall, fence, landscaped earth berm, planted vegetation, or existing vegetation. Compliance of planted vegetative screens or natural vegetation will be judged based on the average mature height and density of foliage of the subject species or field observation of existing vegetation. The screen must be opaque in all seasons of the year. Suggested planting patterns that will achieve this standard are included in Appendix B of the Land Use Ordinance.*

**6: signs and lighting affect adjacent property similar to uses permitted in that zoning district; and,**

 *This is probably true; any new signage or change in existing signage will require a sign permit and review for compliance with the Land Use Ordinance. At this time, no additional lighting is proposed. The future placement of any additional lighting will be reviewed to ensure no detrimental effects to adjacent property owners.*

**7: required yards, open space and existing trees and other attractive and natural features of the land are preserved.**

 *This is probably true; the site was originally developed for a child day care facility. There is no proposed construction in the application. The current request to extend the hours of operation do not require any changes to yards, open space or existing trees and features. Any future proposed expansions of the current facility are subject to review by Staff and approval by City Council.*

**SECTION III:**

Given the preceding, the Staff has made the following findings concerning this request:

**4: If completed as proposed, the development, more probably than not:**

 **(a) will not materially endanger the public health or safety; or**

 *The staff has determined this is probably true; the development shall be required to comply with all applicable federal, state and local codes and ordinances. An assessment of the previously referenced seven items used to evaluate 4 (a), (b), (c) & (d) indicates no specific endangerment to the public health or safety that is not adequately addressed. The facility has been in operation since 1967 and has not posed a threat.*

 **(b) will not substantially injure the value of the adjoining or abutting property; or**

 *The staff believes this is probably true. The property has been used as a day care facility since 1967. Staff cannot determine the impact of value this proposed use would have on surrounding properties however based on the seven additional items used to evaluate 4 (a), (b), (c) & (d) any potential negative effects on adjoining or abutting property should be minimal.*

 **(c) will be in harmony with the area in which it is to be located; or**

 *The staff has determined this is probably true; a child day care facility is a use that is permissible in all*

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 *residential zoning districts with a Conditional Use Permit. Its use as proposed will be in harmony with the existing surrounding uses in the area based on the previously referenced seven items used to evaluate items 4 (a), (b), (c) & (d).*

 **(d) will be in general conformity with the Comprehensive Development Plan, Thoroughfare Plan, or other plan officially adopted by the City Council.**

*The staff has determined this is probably true. The Comprehensive Development Plan states the following policies should be considered:*

 ***Economic Development***

 *I.31 Encourage new and expanding businesses which: (1) diversify the local economy, (2) utilize a more highly skilled labor force, and (3) increase area residents’ incomes.*

 *I.33 Economic development efforts should encourage the revitalization and reuse of currently unused or underutilized structures, sites, and infrastructure in appropriately located areas.*

**SECTION IV:**

The applicant has addressed the requisite questions which must be answered by the City Council in the application. It is your obligation to ensure each has been adequately addressed after hearing all parties prior to rendering your final decision.

**Planning Board Review & Recommendation**

The Roanoke Rapids Area Planning Board meeting is scheduled to review the request on Thursday, January 15, 2015. The result of the meeting will be presented during the public hearing on the subject request.

**Planning & Development Department Review**

After a complete review of the information submitted to date by the applicant, it is the Planning staff’s opinion that the request satisfactorily meets the requirements of Section 151 – 94 of the Land Use Ordinance. The staff recommends, however, if approval of the Permit is recommended, it is subject to the following stipulations:

1. *The child day care facility shall be developed in accordance with the site layout plan prepared by Jacqueline Bennett dated September 29, 2010 as kept in the Planning and Development Office for greater reference.*
2. *Additional detailed construction drawings and building plans shall be provided to the Planning and Development staff, when requested, to determine compliance with any one or more of the provisions of the Land Use Ordinance, Building Code, Fire Code, City Code or other applicable required code or ordinance.*
3. *The facility shall obtain and keep current all licenses and requirements of the North Carolina Division of Child Development.*
4. *The facility shall operate only during the hours of 6:00 a.m. to 12:00 a.m., Monday through Friday, Saturdays 7:00 a.m. to 8:00 p.m.*

**Requested Action**

The City Council has several options regarding this Conditional Use Permit application.

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(1) Approval of the request as submitted;

(2) Approval of the request, subject to certain stated conditions;

(3) Denial of the request.

***A worksheet is provided to assist City Council in reviewing the application and necessary motions. Please discuss the application and provide a final decision.***

Planning & Development Director Lasky pointed out that every property owner within 100 feet of this property was notified in writing of this public hearing and as required, the notice of the public hearing ran in the newspaper for both the Planning Board and City Council meetings for two consecutive weeks.

Councilwoman Scarbrough stated she has a problem with one of the findings of fact--Section II, #1 ingress and egress. She stated she rode by the day care center twice just to make sure she was seeing this correctly. She stated there are “Do Not Enter” signs posted at the circular driveway. She stated she is very familiar with this circular driveway as she used it 30 years ago to take her child to the day care on Thursdays while she shopped for groceries. Councilwoman Scarbrough stated with the signs posted that means that the children will have to be dropped off at the street.

Planning & Development Director Lasky stated she has observed the same signs and discussed the matter with the applicant. She stated it was conveyed to her that the signs have been there for years but the parents still use the circular driveway. Planning & Development Director Lasky stated she will let the applicant address this matter so it will not be hearsay.

Ms. Jacqueline Bennett (applicant) stated those signs have been there since before she took over. She stated she does not know why the signs were put up but believes they were put there to keep neighborhood children out of the circular driveway during weekends. She stated the parents use the circular driveway to drop off children.

Councilwoman Scarbrough asked Ms. Bennett how long she has been at the day care center.

Ms. Jacqueline Bennett stated since 2010 and the signs were put up before then.

Councilwoman Scarbrough stated the signs say “do not enter”.

Ms. Jacqueline Bennett stated even people that have never been to the facility before still pull into the driveway. She stated she does not have a problem with taking the signs down. She stated she always tells the parents to use the circular driveway.

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Councilwoman Cowen stated her daughter went to the day care center 40 years ago and the children were always dropped off at the steps of the facility. She asked Ms. Bennett if she has people that park on the street.

Ms. Jacqueline Bennett stated not unless they choose to park on the street. She stated at night, they do have people that park on the street.

Councilwoman Cowen stated the information she has received is that there is noise from people parking on the street. She stated she too has ridden by the day care several times. She stated she was of the opinion that no one was allowed to use the circular driveway.

Ms. Jacqueline Bennett stated she has turned the television and radio up, gone outside and cannot hear anything. She stated she does not understand all the noise the neighbors are hearing. She stated evidently there is something wrong with her ears because she does not hear it. Ms. Bennett stated children are dropped off at both ends of the circular driveway. She stated she has had no problems with people dropping kids off at the street. She stated they come in the same way they did back then.

Councilwoman Cowen asked Ms. Bennett if she is saying that no one parks on the street and talks when dropping off children.

Ms. Jacqueline Bennett stated that is not happening. She stated if they park on the street it is because they have chosen to park there. She stated she cannot tell people where they can park.

Councilman Smith asked Planning & Development Director Lasky if the Planning Board turned down the request.

Planning & Development Director Lasky explained that the Planning Board only makes recommendations to the City Council and their recommendation was to deny the request.

Councilman Smith asked if both sides had taken the time to talk to each other to see if they could come up with a compromise on a time that is satisfactory to everyone. He stated when he worked, people did not go to someone’s house after 9:00 p.m. because that was the time for people to rest.

Ms. Tammy Keesee of 319 Charlotte Street, Roanoke Rapids, NC stated Councilman Smith is talking about a minimum of people in that situation. She stated this day care has a permit to have at least 59 children. She stated instead of possibly one or two, there is a possibility of 59 children every night. Ms. Keesee asked if the Council members would want that in their neighborhood.

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Mayor Doughtie pointed out that the 59 children would be over a 24-hour period. He stated they could have 58 in the morning and 1 at night. He stated 59 is the total.

Ms. Jakia Bennett (applicant) stated she wanted to clarify that they are licensed for a capacity of 59 for all shifts. She stated if they have 50 from 6:00 a.m. to 5:00 p.m., they have already had the bulk of that amount and they could not house another 59. She stated they are licensed for a total of 59 children.

Councilman Smith asked if 59 came in at 8:00 a.m. could they stay until 12:00 a.m.

Ms. Jakia Bennett stated no. She explained that the parents go through DSS and receive a voucher for hours at the day care depending on their work schedule. She stated they would not have 59 students for those hours. She stated no day care would.

Councilman Smith asked Ms. Bennett if there is a reasonable hour that would work for them that would be safe and quiet for the neighborhood.

Ms. Jakia Bennett stated none of the residents approached them with the problems they seem to have. She stated no resident of the neighborhood has come to them since 2010 and indicated a problem with them or with the hours. Ms. Bennett stated she is a reasonable person and does not mind working with people. She stated she would like to see the community come together and work together. She stated if the residents had a problem with them, they should have come to them and they would have worked through the problems. Ms. Bennett stated she does not understand the citizens of this town that are against children being housed in a safe environment. She stated there will not be that many at night and they will not be making noise. Ms. Bennett stated if a person has a problem with children being cared for in a safe facility, there is something wrong with that person.

Mr. Lewis Tickelof 315 Charlotte Street, Roanoke Rapids, NC stated a compromise was reached in 2010 when City Council ruled on this day care center and set the operating hours from 7:00 a.m. to 7:00 p.m. He stated that should have been the end of it. Mr. Tickel stated they will keep coming back and wanting more hours.

Mayor Pro Tem Ferebee stated he believes that when asked during the last hearing if there were any issues with the facility the answer was no.

Planning & Development Director Lasky stated that is correct. She stated the Police Department ran several years of reports and the only things that came up were visits to serve papers. She stated there were no calls for disturbances or crimes being committed.

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Ms. Jakia Bennett stated she wanted to point out that there was no compromise in 2010. She stated at that meeting, the residents had the same comments. She stated they were overruled and a stipulation was put on the permit to operate from 7:00 a.m. to 7:00 p.m.

Mayor Doughtie asked if anyone else had any relevant factual information to present that was not previously presented during the last hearing.

Mayor Pro Tem Ferebee asked Planning & Development Director Lasky how the Planning & Development Department is looking at this request.

Planning & Development Director Lasky stated this is a day care center that has been in existence since 1967 and has continued to operate with no changes of use, and the use has not been discontinued. She stated this day care center is compliant with all codes and ordinances. Planning & Development Director Lasky stated this day care is considered a legal non-conforming (“grandfathered”) situation.

Before Mr. Terry Buffaloe of 316 Chockoyotte Street, Roanoke Rapids, NC spoke, Mayor Doughtie reminded him that, as explained by City Attorney Chichester at the last hearing, since he does not live within 100 feet of the day care center, his comments cannot be used by Council in making a decision.

Mr. Buffaloe stated the unemployment rate is higher than it was 40 years ago and there were a lot more jobs here then. He stated the Council needs to take into consideration what people have to deal with. He stated these are difficult times we are living in. Mr. Buffaloe stated it is hard to find a full-time job. He stated people have things they have to do and schedules they have to arrange just to hold down a job. He stated it is hard to find childcare to cover split shifts. He stated there is a big difference from the way things used to be. Mr. Buffaloe stated people are just trying to live and work in a decent community. He stated as far as property values are concerned, the people that drop off children at day care to work are paying taxes. He stated the day care center pays taxes. Mr. Buffaloe stated this should bring property values up--not down.

Ms. Jacqueline Bennett stated she has no problem with talking with the residents about the hours but no one has said anything to her. She stated they might not get any children at those late hours. She stated maybe closing at 10:00 p.m. would be better. Ms. Bennett stated she is open to all options. She stated we should all work together. She stated she would like to be open at 6:30 a.m. since a lot of people need to be at work by 7:00 a.m.

Councilwoman Scarbrough asked the reason for the Planning Board’s recommendation of denial.

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Planning & Development Director Lasky read from the following excerpts from the January 15, 2015 Planning Board Minutes:

*Board Member Moore stated that he understands the need for childcare and the change in times. He stated that he also understands the concerns and feelings of the residents and their petition. He stated that he would like to make a motion to deny the recommendation of the request. Motion was seconded by Board Member Ford.*

*Board Member Ford stated he feels that the request is an excellent idea, and he wishes that it could be worked out. He stated that there are just as many people who work 2nd shift as 1st shift. He stated the potential of being 20 to 30 children is just going to be putting strain on the homeowners of that area. He stated he wishes there was a way to give the facility a trail run with limitations, but he realizes they cannot.*

*Board Member Moore stated that he agreed, and hopes that the residents and day care could come to some sort of compromise.*

*Board Member Ford stated that at time he could not recommend the request with what was presented tonight.*

Planning & Development Director Lasky pointed out that the motion to recommend denial of the permit passed by a 6 to 2 vote. She also pointed out that the Planning Board is an advisory board to the City Council and City Council is not bound by the Planning Board’s recommendation.

Councilwoman Scarbrough asked if the recommendation of denial was because of the proposed hours.

Planning & Development Director Lasky stated it was in response to the comments from the neighborhood.

Mr. Tickel stated they made the very same request to Council in 2010 except they wanted more hours. He stated they wanted to operate 24 hours a day and also operate on Saturdays. He stated they now want to operate 18 hours a day and on Saturdays. He stated the City Council ruled on this matter in 2010 and set the operating hours from 7:00 a.m. to 7:00 p.m., Monday through Friday. He stated nothing has changed here. He stated it is still a commercial business operating in a residential neighborhood. Mr. Tickel stated the day care operated Monday through Friday for 47 years. He stated the Planning Board recommended denial of the request. He stated he disagrees with the Planning Department’s opinion that the extended hours would not affect property values. He stated if he put his house up for sale, the extended hours could very well affect the potential buyer’s decision to purchase his property. Mr. Tickel stated extending these hours would not only disturb the residents on his block but the residents in the block behind the day care center. He stated that is why he has 44 signatures on a petition opposing the request. Mr. Tickel stated he and his wife have lived in this neighborhood for 46 years and it has been a

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good neighborhood to live in. He stated he does not believe any of the Council members would want this in their neighborhood. Mr. Tickel asked that the City Council not disrupt the neighborhood with the extended hours and to deny the request.

Mayor Pro Tem Ferebee asked Planning & Development Director Lasky to put up on the screen a photo of the circular driveway. He asked if ingress and egress is by the circular driveway.

Planning & Development Director Lasky stated yes, the circular driveway is a safe and convenient ingress and egress for this day care center.

Mr. Marshall Overtonof 307 Charlotte Street, Roanoke Rapids, NC stated most of the time someone that works at the day care center parks in the driveway. He stated you can see one car parked there on the photo.

Mayor Pro Tem Ferebee asked if there is parking available outside of the circular driveway.

Ms. Jacqueline Bennett stated she used to park in the driveway but no longer does. She stated there are other places for people to park.

Ms. Linda Overton of 307 Charlotte Street, Roanoke Rapids, NC stated the people in the neighborhood are all good people and well aware that children need to be cared for. She stated the only problem is that this is a business operating in a residential neighborhood and the neighbors feel the hours are unreasonable. Ms. Overton stated one of the gentlemen at the Planning Board meeting stated he was aware of the need for the nursery but indicated that he could not approve extending the hours.

Mayor Doughtie asked if the facility is currently open on Saturdays.

Planning & Development Director Lasky stated not that she is aware of.

Motion was made by Mayor Pro Tem Ferebee that the following under Section II are true based on the foregoing staff report dated January 13, 2015 and what is already in existence:

1: ingress and egress to the lot and proposed structures, especially by pedestrians and automobiles, is safe and convenient in terms of access and traffic flow; and,

2: off-street parking and loading affects adjacent property (in terms of traffic generation, economic impact, noise, glare and odor) similar to uses permitted in that zoning district; and,

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3: refuse disposal affects adjacent property similar to uses permitted in that zoning district; and,

4: utilities are available; and,

5: the type, dimensions and character of screening and buffering satisfactorily screens adjacent property; and,

6: signs and lighting affect adjacent property similar to uses permitted in that zoning district; and,

7: required yards, open space and existing trees and other attractive and natural features of the land are preserved.

City Manager Scherer stated Section II does not require a vote.

Mayor Pro Tem Ferebee restated his motion on the floor which was seconded by Councilwoman Scarbrough.

Upon being put to a vote, Mayor Pro Tem Ferebee, Councilwoman Scarbrough, Councilman Smith and Councilman Bobbitt voted in favor of the motion. Councilwoman Cowen voted against the motion. The motion carried by a vote of 4 to 1.

Motion was made by Mayor Pro Tem Ferebee, seconded by Councilman Smith and unanimously carried that based on the foregoing staff report dated January 13, 2015 and items 1 - 7 of Section II included in that report, the proposed development (request) will not materially endanger the public health or safety.

Motion was made by Mayor Pro Tem Ferebee that based on the foregoing staff report dated January 13, 2015 and items 1 - 7 of Section II included in that report, the proposed development (request) will not substantially injure the value of adjoining or abutting property.

Mayor Pro Tem Ferebee pointed out that the use of this property as a day care center is already grandfathered in and it was previously voted on that it would not substantially injure the value of adjoining or abutting property.

Planning & Development Director Lasky stated it was voted on in 2010.

Councilman Smith seconded the motion on the floor.

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Upon being put to a vote, Mayor Pro Tem Ferebee and Councilman Smith voted in favor of the motion. Councilwoman Cowen, Councilwoman Scarbrough and Councilman Bobbitt voted against the motion. The motion failed by a vote of 3 to 2.

Motion was made by Mayor Pro Tem Ferebee and seconded by Councilman Bobbitt that based on the foregoing staff report dated January 13, 2015 and items 1 - 7 of Section II included in that report, the proposed development (request) will be in harmony with the area in which it is to be located.

Upon being put to a vote, Mayor Pro Tem Ferebee voted in favor of the motion. Councilwoman Cowen, Councilwoman Scarbrough, Councilman Bobbitt and Councilman Smith voted against the motion. The motion failed by a vote of 4 to 1.

Motion was made by Mayor Pro Tem Ferebee and seconded by Councilman Smith that based on the foregoing staff report dated January 13, 2015 and items 1 - 7 of Section II included in that report, the proposed development (request) will be in general conformity with the Comprehensive Development Plan, Thoroughfare Plan, or other plans officially adopted by the City Council.

Upon being put to a vote, Mayor Pro Tem Ferebee, Councilman Smith, Councilwoman Scarbrough and Councilman Bobbitt voted in favor of the motion. Councilwoman Cowen voted against the motion. The motion carried by a 4 to 1 vote.

Motion was made by Mayor Pro Tem Ferebee that based on the rules and guidelines that all items must be found true and that two items were found not to be true, the request to allow A-Z Children’s Enrichment Academy to extend the hours of operation is denied.

Mayor Pro Tem Ferebee stated he has compassion for the neighbors that should be able to live in peace and harmony, and also has compassion for the people running the day care center that are trying to provide childcare for those working late hours. He stated things have changed since 1967. He stated he worked in retail before going to work at the hospital and 9:00 p.m. is when most retail stores close. Mayor Pro Tem Ferebee stated he commends those that go out and try to find jobs as so many do not want to be employed. He stated he does have a day care center in his neighborhood that stays open until midnight and he does not have a problem with it. He stated since two of the items were found not to be true, he had no choice but to make a motion to deny the request. Mayor Pro Tem Ferebee stated it is unfortunate but his hands are tied.

Councilwoman Scarbrough seconded the motion on the floor which carried unanimously.

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Mayor Doughtie stated this has been a very stressful issue for the City Council which has been going on for several weeks. He stated he knows each member put a lot of thought into this matter. He stated it was not an easy decision to make. He stated it is difficult when you are trying to do something to please everybody. Mayor Doughtie stated sitting on this side of the table is sometimes very difficult and he appreciates the efforts of the City Council. He also thanked everyone for coming and sharing their concerns. He stated he hopes this decision will be good for the community.

Ms. Jakia Bennett stated it is very disturbing to know that they are operating in a community that does not want to come together. She stated she asked a question at the Planning Board meeting that no one answered. She stated she will ask the City Council the same question. She asked how it is possible that two other childcare facilities in residential neighborhoods never had an issue with extending their operating hours. Ms. Bennett stated the Charlotte Street people came out against us. She asked what is different with those other neighborhoods. She asked for someone to please explain this to her because it is not fair. She stated there is no equality and there is no justice. Ms. Bennett stated those residents in the other neighborhoods never were against those childcare facilities but the Charlotte Street people are. She stated maybe she should have gotten those residents to come to the meeting. Ms. Bennett stated deep down in her heart she knows that this is not fair. She stated maybe we need to get together and go to the next step. She stated there is no fairness in this town and that was evident tonight.

Mayor Pro Tem Ferebee asked Planning & Development Director Lasky about Ms. Bennett’s options.

Planning & Development Director Lasky explained that once they receive written notification, they have a right to appeal to the Halifax County Superior Court. She stated they have 30 days to file an appeal.

Councilman Smith stated he tries to do the best he can in making the right decisions. He stated he will look into how the other two day care facilities got approved for extended hours. He stated he has been coming to City Council meetings for years before he was elected, and does not remember those requests coming before City Council. Councilman Smith told Ms. Bennett that he will come to see her when he finds out something. He stated sometimes the decisions we make will upset one of the parties. He stated he represents his district and the citizens in the other districts.

Mayor Pro Tem Ferebee stated being a long-term member of City Council, he does recall some action taken on the other day care facilities.

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Ms. Jacqueline Bennett stated they requested the change in operating hours because back in 2010 when they did not get the hours they wanted, Mayor Pro Tem Ferebee, Mayor Doughtie and another member told her to come back if she needed more hours. She stated she decided to wait a few years before coming back. Ms. Bennett stated she did not bring a large crowd of supporters to the Planning Board meeting and that is probably why the Board recommended denying the request. She stated they were outnumbered again so she asked the parents to come to the City Council public hearing. She stated the signs in the driveway can be taken down. She stated they can adjust their request to 10:00 p.m. Ms. Bennett stated there are people on the street that do not have a problem with the day care center. She stated she does not understand why these people have such a problem. She stated the roles could be reversed and if she had a problem she would talk with the director of the day care center and try to come up with a solution. Ms. Bennett stated she does not have a problem working with anyone. She stated these neighbors come up here and tell about their problems but no one addressed them with the day care center. She stated she likes to get along with people and this is not right.

Motion was made by Councilman Smith, seconded by Councilman Bobbitt and unanimously carried to close the public hearing.

City Manager Scherer highlighted reports from the following departments: *Finance; Fire; Human Resources; Parks & Recreation; Public Works* and *Main Street.* Copies of the reports were included in the Council agenda packets and are on file in the Clerk’s Office.

Police Chief Hasty highlighted his written report which was included in the Council agenda packets and is on file in the Clerk’s Office.

Planning & Development Director Lasky highlighted her written report which was included in the Council agenda packets and is on file in the Clerk’s Office.

Councilman Smith stated most people know that he is on the Board of the Little League Association. He stated the Parks & Recreation Department has done a good job fixing our ball fields. He stated he would also like to commend the Public Works Department on the work they are doing to collect leaves.

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There being no further business, motion was made by Councilwoman Scarbrough, seconded by Councilman Smith and unanimously carried to adjourn.

 

 3/3/15