

**MINUTES OF THE MEETING OF THE JERSEY VILLAGE
PLANNING AND ZONING COMMISSION**

November 28, 2012 – 7:00 p.m.

THE PLANNING AND ZONING COMMISSION OF THE CITY OF JERSEY VILLAGE, TEXAS, CONVENEED ON NOVEMBER 28, 2012 AT 7:00 P.M. IN THE CIVIC CENTER, 16327 LAKEVIEW, JERSEY VILLAGE, TEXAS

A. The meeting was called to order at 7:00 p.m. and the roll of appointed officers was taken. Commissioners present were:

Chairman, Debra Mergel	Michael O’Neal, Commissioner
Tom Eustace, Commissioner	Barbara Freeman, Commissioner
Joyce Berube, Commissioner	George Ohler, Commissioner

Commissioner Rick Fairecloth was not present at this meeting. Council Liaison, Justin Ray, was present at this meeting.

Staff in attendance: Mike Castro, City Manager; Lorri Coody, City Secretary; Bobby Gervais, City Attorney; Danny Segundo, Director of Public Works; Christian Somers-Kuenzel, Building Official; and Deborah Capaccioli-Paul, Engineering Technician.

B. Discuss and take appropriate action regarding the preparation and presentation of the Preliminary Report to Council on December 17, 2012, as it relates to request of Kimberly Taylor, 17356 N.W. Freeway, Houston, TX 77040 (Applicant) and Harwin Gessner INV. Inc. 9720 Town Park Drive. Suite # 180, Houston, TX 77036 (Owner), to amend the zoning ordinance at Chapter 14, Article IV, Section 14-105(a)(21) by adding a subsection (b) to include Arcade Game/Entertainment Recreation.

Chairman Mergel called the item. She reminded the Commission that during its last meeting, Staff was charged with the task of providing a definition to adequately represent the business model presented in the application filed by Ms. Kim Taylor. She called upon Danny Segundo, Director of Public Works, to provide the Commission with an update.

Mr. Segundo gave background information concerning the steps to find a definition for Ms. Taylor’s business model. In completing this task, he stated that Staff took under consideration all comments made during the November 19, 2012 meeting, the application filed by Ms. Taylor, and reviewed information from other cities having youth centers.

In considering this information, it became apparent that the “lock-in” component, as described in the application and during the November 19, 2012 meeting, plays a major role in the Countdown’s business model. As explained, parents are to register children with the Countdown. Once children are registered, parents are to drop off their children between the hours of 7:00 p.m. and 10:30 p.m. Parents are not permitted to attend Countdown sessions with their children.

In trying to define the “lock-in” aspect of the business model, several child care/youth center websites were visited, which ultimately led to the Texas Department of Family and

Protective Services (TDFS) website. TDFS is a division of the State of Texas that licenses day care activities. In viewing the site's information it became unclear if the business model for the Countdown was actually a form of child care rather than an arcade/game/entertainment center. It was not known if licensing was needed for such a business.

To inquire if this type of business required licensing, the Houston Office of TDFS (713-940-3009) was contacted. The business model for the Countdown, as explained in the application, was communicated to Specialist Janya. She was asked if this type of business would be considered a child care facility requiring licensure by the State. The Specialist said "Yes," and pointed to the guidelines for licensure found in the Texas Administrative Code, Title 40, Part 19, Chapter 745, Subchapter B.

The Specialist was also asked about the regulations for locating such a facility next to a bar selling alcoholic beverages. She stated that such a location poses a safety hazard for children. The State does not discourage the filing of any license applications, but such a request would need to provide remedies for how that safety hazard would be removed. Nonetheless, she stated that given the location within the strip center, issuance of the license would be very unusual.

Mr. Segundo told the Commission that a Proposed Preliminary Report, including a Proposed Ordinance that supports the findings of Staff, was included in the meeting packet. The item before the Commission on this agenda is to put together a Preliminary Report for presentation to Council on December 17, 2012.

The Commission engaged in discussion concerning the change in definition from Arcade Game/Entertainment Recreation to Child Day-Care Operations.

There was concern that changing the definition from what was requested would require a new application. The City Attorney explained that the process is to work from the application submitted by defining the appropriate use. In this case, should the Commission move forward with the Proposed Ordinance as a recommendation, the use will only be open to Child Day-Care Operations that are licensed Child-Care Centers or School-Age Program Centers. He stressed that both operations must be licensed by the State of Texas.

Discussion was had about the Specific Use Permit (SUP) being for child care. There was also discussion about the definitions in the Proposed Ordinance which are as follows:

Child-Care Center means a facility licensed by the State of Texas to provide care at a location other than the permit holder's home, for seven or more children under 14 years of age, for less than 24 hours per day, but at least two hours a day, three or more days per week. (40 TAC §745.37(2)(D)).

Child Day-Care Operations means any facility used for the following child day-care operations licensed under state law (40 Texas Administrative Code, chapter 745): "Child-Care Center" and "School-age Program" operations.

School-age Program Center means a facility licensed by the State of Texas providing supervision and recreation, skills instruction, or skills training for at least two hours a day and

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three days a week to children attending pre-kindergarten through grade six. A school-age program operates before or after the customary school day and may also operate during school holidays, the summer period, or any other time when school is not in session. (40 TAC §745.37(2)(H)).

Members were concerned about the age range mentioned in the application of 8 to 14 and the age ranges listed in the definitions. After further discussions on this topic it was determined that the definitions were sufficient to accommodate the request.

The Commission then discussed the location of the proposed business and its proximity to a bar selling alcoholic beverages and a knife shop. There was discussion if such a location would be licensed by the State and if it was licensed does that mean that this location is safe for a “Day Care Operation.”

The City Attorney reminded the Commission that this amendment to the Code would provide that “Day Care Operations” be permitted with a SUP. SUP’s are only issued after an approval process by which this Commission receives an application.

The Commission then discussed the fact that there are no zoning districts in Jersey Village that permit “Day Care” businesses as an approved use. It was stated that the two (2) Day Care businesses that currently operate in Jersey Village (one on Senate Avenue and one on Philippine) were grandfathered properties. The Commission discussed if zoning District F was suitable for Child Care Operations, keeping in mind the existing businesses operating in the district and the fact that most of District F lies along the US 290 corridor.

The task at hand is to decide if this type of business fits into zoning District F. In answering this, discussion was had that none of the districts in Jersey Village provide for child care, and perhaps at least one district should allow for this use. The boundaries of District F were reviewed. Discussion was had that if District F is not an area for Day Care businesses, than in what area of the City should these type businesses be permitted? It was decided that District F was the most favorable district to locate Child Care Operations.

The Commission continued to discuss the topic. The process for moving forward was discussed and the option of using an overlay district as opposed to the SUP option was discussed. The consensus was that the issuance of an SUP for this type of business makes sense because it gives the City more control.

With no further discussion on the matter, Commissioner O’Neal motioned to approve the Preliminary Report with the attached Proposed Ordinance that amends Chapter 14 of the Code of Ordinances by adding to Section 14-5 new definitions of “Child-Care Center”, “Child Day-Care Operations,” and “School-Age Program Center” and amends Chapter 14 at Section 14-105(a)(21) by adding a subsection (b) to include “Child Day-Care Operations” as a permitted use in District F, with a Specific Use Permit. The motion was seconded by Commissioner Ohler. The vote follows:

Ayes: Commissioners Freeman, Berube, Eustace, Ohler, and O’Neal
Chairman Mergel

Nays: None

The motion carried.

Upon passage of this motion, the Preliminary Report was signed for presentation to Council on December 17, 2012. A copy of the Preliminary Report is attached to and made a part of these minutes as Exhibit "A."

C. Adjourn

With no additional business to conduct Commissioner Berube moved to adjourn the meeting. Commissioner Eustace seconded the motion. The vote follows:

Ayes: Commissioners Freeman, Berube, Eustace, Ohler, and O'Neal
Chairman Mergel

Nays: None

The motion carried. The meeting adjourned at 7:43 p.m.

Lorri Coody, City Secretary



**CITY OF JERSEY VILLAGE – PLANNING & ZONING COMMISSION
PRELIMINARY REPORT
AMENDMENTS TO INCLUDE CHILD DAY-CARE OPERATIONS AS
A SPECIFIC USE IN ZONING DISTRICT F**

The Planning and Zoning Commission has met in order to review the zoning ordinance as it relates to amending the zoning ordinance at Chapter 14, Article IV, Section 14-105(a)(21) by adding a subsection (b) to include Arcade Game/Entertainment Recreation.

After review and discussion, the Commissioners preliminarily proposed that Chapter 14, Article IV, Section 14-105(b)(21) be amended by adding a subsection (b) to include Child Day-Care Operations.

This preliminary change to the City’s comprehensive zoning ordinance is more specifically detailed in the proposed ordinance attached as Exhibit “A.”

The next step in the process as required by Section 14-84(c)(2)(b) of the Jersey Village Code of Ordinances is for Council to call a joint public hearing with the Planning and Zoning Commission.

Respectfully submitted, this 28th day of November 2012.

s/Debra Mergel, Chairman

ATTEST:

s/Lorri Coody, City Secretary



ORDINANCE NO. 2012-XX

AN ORDINANCE AMENDING CHAPTER 14 OF THE CODE OF ORDINANCES OF THE CITY OF JERSEY VILLAGE, TEXAS, THE JERSEY VILLAGE DEVELOPMENT CODE, BY ADDING TO SECTION 14-5 NEW DEFINITIONS OF “CHILD-CARE CENTER”, “CHILD DAY-CARE OPERATIONS,” AND “SCHOOL-AGE PROGRAM CENTER”; AMENDING CHAPTER 14. BUILDING AND DEVELOPMENT, ARTICLE IV, SECTION 14-105(a)(21) BY ADDING A SUBSECTION (b) TO INCLUDE “CHILD DAY-CARE OPERATIONS” AS A PERMITTED USE IN DISTRICT F, WITH A SPECIFIC USE PERMIT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR REPEAL; PROVIDING A PENALTY AS PROVIDED BY SECTION 1-8 OF THE CODE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Jersey Village, Texas, determines it in the best interest of the health, safety, and welfare of the citizens of the City to amend the permitted uses of the Zoning Ordinance to allow certain licensed “child day-care operations” as a permitted use in district F, with a specific use permit; and

WHEREAS, the Planning & Zoning Commission has issued its report and approved this amendment to the Zoning Ordinance herein; and

WHEREAS, the Planning & Zoning Commission and City Council have conducted, in the time and manner required by law, a public hearing on such amendment to the zoning ordinance and find that the adoption of this ordinance is in the best interest of the citizens of Jersey Village; **NOW THEREFORE**,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF JERSEY VILLAGE, TEXAS THAT:

Section 1. The Code of Ordinances of the City of Jersey Village, Texas, is hereby amended by adding new definitions to Section 14-5 of Chapter 14 to read and provide as follows:

“Chapter 14 - BUILDING AND DEVELOPMENT

ARTICLE I. - IN GENERAL

...

Sec. 14-5. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

...

Child-Care Center means a facility licensed by the State of Texas to provide care at a location other than the permit holder's home, for seven or more children under 14 years of age, for less than 24 hours per day, but at least two hours a day, three or more days per week. (40 TAC §745.37(2)(D)).

Child Day-Care Operations means any facility used for the following child day-care operations licensed under state law (40 Texas Administrative Code, chapter 745): "Child-Care Center" and "School-age Program" operations.

...

School-age Program Center means a facility licensed by the State of Texas providing supervision and recreation, skills instruction, or skills training for at least two hours a day and three days a week to children attending pre-kindergarten through grade six. A school-age program operates before or after the customary school day and may also operate during school holidays, the summer period, or any other time when school is not in session. (40 TAC §745.37(2)(H)).

...”

Section 2. The Code of Ordinances of the City of Jersey Village, Texas, is hereby amended by adding a new subsection b to Section 14-105(a)(21), so that Section 14-105(a)(21) shall read as follows:

“Chapter 14 - BUILDING AND DEVELOPMENT

ARTICLE IV. - ZONING DISTRICTS

...

Sec. 14-105. - Regulations for district F (first business district).

(a) *Use regulations.* No building or land shall be used and no building shall be erected, moved or altered in district F except for one or more of the following uses:

...

(21) The following uses are permitted in district F with a specific use permit:

a. Telephone switching facilities;

b. Child day-care operations (licensed child-care centers and school-age program centers).

...”

Section 3. Severability. In the event any section, paragraph, subdivision, clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Jersey Village, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

Section 4. Repeal. All other ordinances or parts of ordinances in conflict or inconsistent herewith are, to the extent of such conflict or inconsistency, hereby repealed.

Section 5. Penalty. Any person who shall violate any provision of this Ordinance shall be guilty of a misdemeanor and subject to a fine as provided in Section 1-8 of The City Code.

Section 6. Effective Date. This ordinance shall be in full force and effect from and after its passage.

PASSED, APPROVED, AND ADOPTED this _____ day of _____,
2012.

Russell Hamley, Mayor

ATTEST:

Lorri Coody, City Secretary