

NOV 05 2007

ORDINANCE NO. 2601

**AN ORDINANCE TO GRANT A SPECIAL USE PERMIT FOR REAL ESTATE HAVING THE ASSIGNED ADDRESS OF 218 RAPP AVENUE, IN THE CITY OF COLUMBIA, ILLINOIS FOR DAVID AND DEBORAH KILLY DOING BUSINESS AS COLUMBIA KINDER COLLEGE TO ALLOW FOR THE OPERATION OF A CHILD DAY CARE BUSINESS IN A C-2 (GENERAL BUSINESS ZONED DISTRICT) IN THE CITY**

  
City Clerk

WHEREAS, David and Deborah Killy doing business as Columbia Kinder College, (the "Applicants") are intending to construct an addition to their business property in the City of Columbia, Illinois (the "City") having the assigned address of 218 South Rapp Avenue, for the operation of a child day care business, which property is zoned C-2 (General Business Zoned District) and for the uses and purposes therein allowed;

WHEREAS, Section 17.28.020 and Section 17.40.010 of the City's Zoning Code allows Day Care Nursery for infants, child and adult centers businesses to be operated in a C-2 (General Business Zoned District) by Special Use Permit provided: the facility complies with such of the following Figure 1 requirements as the City Council shall reasonably require, to wit: a(2) – Local business use permitted; b(1) – Minimum Lot Area - none; b(3) - Minimum Lot Area – 110 sq. ft. per child; c(8) Minimum Yards (Feet) – Front Yard – 40', Side Yard – 10', Rear Yard – 20'; f(3) - Minimum Gross Floor Area of Principal Building – (Square Feet) – Determined by number of children to be accommodated; h(1) Maximum Height of Structure (Feet) – 40' above average ground elevation; i(3) Fence – 4-foot wire mesh around play area; i(3) Screen Planting Where Abutting Residential Use – (Tight Screen, Effective at All Times) – 6-foot height by 6-foot width; k(12) Parking Spaces – 1 per 2 employees, plus 1 per 5 children to be accommodated; l(2) Distance of Parking from Residential Use (Feet) – 25'; r(1) Maximum Number of Principal Entrances from Major Thoroughfare – 1; u(1) – Other Authority Approval Required – State Board of Health and v(1) Outdoor artificial lighting shall be approved by the building commission;

WHEREAS, the Applicants have applied for a Special Use Permit to operate the child day care business aforesaid;

WHEREAS, Section 17.40.010 of the City's Zoning Code requires that an applicant for a Special Use Permit notify the owners of all property located within two hundred fifty (250) feet of the out-boundary of the property for which the special use permit is requested before their application for Special Use Permit is filed, advising said property owners, among other things, of the special use they are requesting permission to build and the applicants application is required to be referred to the City's Plan Commission for the Plan Commission's recommendation and a public hearing is

required to be held before the City's Zoning Board of Appeals following the publication of the required hearing notice in a newspaper published in the City;

WHEREAS, the Applicants have given the required notice to affected property owners; on September 24, 2007 the Plan Commission recommended the granting of the special use permit requested by the Applicants; and on October 10, 2007 a public hearing with regard to the granting of the requested special use permit was held before the City's Zoning Board of Appeals, following publication of the required notice of hearing in compliance with the City's Zoning Code requirement and on October 10, 2007 the City's Zoning Board of Appeals recommended that the special use permit requested by the Applicants be granted by the City's City Council;

WHEREAS, Subsection 17.40.010 (pertaining to issuance of special use permits) of the City's Zoning Code provides and requires that the concurring vote of a majority of the Mayor and the City Aldermen shall be required for the authorization of the Special Use Permit; and, approval of the special use permit application shall require the affirmative finding of the City's City Council that:

(a) the proposed special use is to be located in a district wherein such use may be permitted; and,

(b) the requirements set forth in Figure 1 of Section 17.40.010 of the City's Zoning Code for such special use exception will be met; and,

(c) the special use exception is consistent with the spirit, purpose and intent of the Comprehensive Community Plan, will not substantially and permanently injure the appropriate use of neighboring property, and will serve the public convenience and welfare;

WHEREAS, Section 17.40.010 of the City's Zoning Code further provides, if the Special Use Permit application is approved, the City Council shall enact an ordinance to order the Building Inspector to issue a zoning certificate for the special use exception; and,

WHEREAS, the City Council of the City has found and determined and does hereby declare that the affirmative findings of the City Council required by Section 17.40.010 of the City's Zoning Code and described above have been established by the Applicants and have been found to exist; and, that it is necessary and appropriate that the Special Use Permit requested by the Applicants be authorized as is made and provided for in this Ordinance.

NOW, THEREFORE, BE IT ORDAINED, by the City Council of the City of Columbia, Illinois, as follows:

**Section 1.** The recitals contained above in the preamble of this Ordinance are hereby incorporated herein by reference, the same as if set forth in this Section of this Ordinance verbatim, as findings of the City Council of the City of Columbia, Illinois.

**Section 2.** The City Council of the City of Columbia, Illinois does hereby find, determine and declare:

(A) That the proposed Special Use Exception is to be located in a zoned district where such use may be permitted by Special Use Permit;

(B) That the special use requirements as set forth in Figure 1 of Section 17.40.010 of the City's Zoning Code, which are hereinafter described in the next Section of this Ordinance, shall be required to be complied with after issuance of the Special Use Permit and shall be required to be specified in the Special Use Permit upon the issuance of the Special Use Permit; and,

(C) That the Special Use Exception is consistent with the spirit, purpose and intent of the Comprehensive Community Plan of the City, will not substantially or permanently injure the appropriate use of the neighboring property, and will serve the public convenience and welfare.

**Section 3.** As a condition for the issuance of the Special Use Permit involved herein, the Applicants will be required to comply with the following Figure 1 Special Use Exceptions and Requirements of Section 17.40.010 (Special use exceptions, requirements and procedures) of Chapter 17.40 (SPECIAL USES) of the City of Columbia, Illinois Municipal Code:

- (1) (a) 2. Local business use permitted.
- (2) b(3). Minimum Lot Area – 110 sq. ft. per child
- (3) Minimum Yards (Feet) – As determined by City Ordinance No. 2596, enacted October 1, 2007 (Granting yard set back variances).
- (4) f(3). Minimum Gross Floor Area of Principal Building (Square Feet) – Determined by number of children to be accommodated.
- (5) h(1). Maximum Height of Structure (Feet) – 40' above average ground elevation.
- (6) k(12) Parking Spaces – As determined by City Ordinance No. 2596, enacted October 1, 2007 (Granting Parking Spaces Variance).
- (7) l(2) Distance of Parking from Residential Use (Feet) – 25'.
- (8) r(1) Maximum Number of Entrances from Major Thoroughfare – 1.

**Section 4.** The Special Use Permit Applicants, David and Deborah Killy, shall be a Special Use Permit for the operation of the proposed child day care business at 218 South Rapp Avenue in the City, subject to compliance with the requirements set forth in the preceding Section 3 of this Ordinance.

**Section 5.** The City's Building Inspector is hereby ordered and directed to issue a Zoning Certificate to the Applicants, David and Deborah Killy, for the Special Use Exception aforesaid, which Zoning Certificate shall include the special use designation requirements the Applicants are required to comply with which are specified and described in Section 3 of this Ordinance.

**Section 6.** This Ordinance shall be in full force and effect from and after its passage, as provided by law.

Alderman Agne moved the adoption of the above and foregoing Ordinance; the motion was seconded by Alderman Niemietz, and the roll call vote was as follows:

YEAS: Aldermen Ebersohl, Agne, Niemietz, Unnerstall, Row, Hejna, Oberkfell, Stumpf  
and Mayor Hutchinson.

NAYS: None.

ABSENT: None.

ABSTENTIONS: None.

PASSED by the City Council and APPROVED by the Mayor this 5<sup>th</sup> day of November, 2007.

  
KEVIN B. HUTCHINSON, Mayor

ATTEST:  
  
WESLEY J. HOEFFKEN, City Clerk

(SEAL)