

Councilmember \_\_\_\_\_ introduced the following resolution and moved for its adoption:

**RESOLUTION #19-132**

**RESOLUTION APPROVING THE ISSUANCE OF A CONDITIONAL USE PERMIT FOR THE OPERATION OF A PRESCHOOL AT 6013 167<sup>TH</sup> AVENUE AND DECLARING TERMS OF SAME**

**RECITALS**

1. Valerie Phillips (the "Permittee") has properly applied to the City of Ramsey (the "City") for a conditional use permit (the "Permit") on the property generally known as 6013 167<sup>th</sup> Avenue NW and legally described as follows:

The south 70 feet of west 111.97 feet of Lot 2, Block 7 Klemish Addition, together with that part of Lot 3 said Block 7 lying west of a line drawn from a point on south line of said Lot 3 423.27 feet west of southeast corner thereof to a point on north line of said Lot 3 409.44 feet west of northeast corner thereof, except north 200 feet of west 187 feet of said Lot 3, Anoka County, Minnesota, subject to easement of record.

(the "Subject Property").

2. That the Permittee appeared before the Planning Commission for a public hearing pursuant to Section 117-51 of the Ramsey City Code on June 6, 2019 and that the public hearing was properly advertised and that the minutes of said public hearing are hereby incorporated by reference.
3. That the Permittee is leasing the eastern most space in the multitenant building from Alexander Bauer, the owner of the Subject Property,
4. That the Subject Property is zoned B-1 Business District and is approximately 1.44 acres in size.
5. That the surrounding parcels are zoned B-1 Business District and R-1 Residential (Rural Developing).
6. That the Permittee is proposing to operate a preschool for children up to six (6) years of age (prekindergarten age) on the Subject Property.
7. That Day Care Centers are a Conditional Use in the B-1 Business District.
8. That City Code does not define Day Care Center or Preschool.
9. That the U.S. Department of Labor Occupational Safety and Health Administration (OSHA) classifies establishments primarily engaged in the care of infants and children, or

in providing prekindergarten education, as Child Day Care Services, which also includes both child care centers and day care centers.

10. That the preschool would utilize a unit previously occupied by a Day Care Center.
11. That directly adjacent to the unit is a fenced in outdoor play area that will be utilized by the preschool.
12. That the Permittee completed a walk-through of the unit with the Fire Marshall and Building Inspector to outline what the proposed improvements would consist of as well as to understand what upgrades to the space would be required per applicable codes.
13. That the Permittee is responsible for complying with all local, county, state, and federal rules and regulations pertaining to the operation of the preschool.
14. That the Planning Commission met on June 6, 2019, conducted a public hearing and recommended City Council approval/denial of the request.

#### **FINDINGS OF FACT**

1. That the preschool operation will not be unduly dangerous or otherwise detrimental to persons residing or working in the vicinity of the use, or to the public welfare.
2. That the preschool operation will not substantially adversely impair the use, enjoyment, or market value of any surrounding property.
3. That the preschool operation will be harmonious with and in accordance with the specific objectives of the comprehensive plan.
4. That the preschool operation will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and will not change the essential character of the area.
5. That the preschool operation will not be hazardous or disturbing to existing or future neighboring uses.
6. That the preschool operation will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, and drainage structures.
7. That the preschool operation will not create excessive additional requirements at the public's cost for public facilities and services and it will not be detrimental to the economic welfare of the community.
8. That the preschool operation will not involve uses, activities, processes, materials and equipment and conditions of operation that will be detrimental to any persons, property, or

the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors.

9. That the preschool operation will be consistent with the intent and purposes of Chapter 117 of the Ramsey City Code.

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RAMSEY, ANOKA COUNTY, STATE OF MINNESOTA, as follows:**

That the Ramsey City Council hereby grants approval of a Conditional Use Permit (the “**Permit**”) to the **Permittee** for the operation of a preschool on the **Subject Property** contingent upon the following conditions:

**CONDITIONS**

1. This **Permit** shall be perpetual in its duration so long as the terms imposed herein are complied with.
2. That this **Permit** authorizes the **Permittee** to operate a preschool on the **Subject Property**.
3. The **Permittee** shall provide the **City** with copies of all applicable government permits and permit renewals, along with all applicable licenses and license renewals, as they are granted.
4. The **Permittee** shall also copy the **City** on all notices of violations, fines or permit revocations received relating to these permits.
5. The **Permittee** shall adhere to all applicable local, county, state and federal regulations, including Minnesota State Building Code and Fire Code.
6. The **Permittee** is responsible for obtaining all applicable and necessary permits, including but not limited to, building, plumbing, mechanical, and fire, prior to commencement of any building improvements or modifications.
7. The **Permittee** agrees that all required improvements and/or modifications, as outlined by the Fire Marshall and Building Inspector, shall be completed and approved by City Staff prior to the occupancy and operation of the preschool.
8. That all costs incurred by the **City** in administering and enforcing this **Permit** shall be the responsibility of the **Permittee**.
9. That the City Administrator or his designee shall have the right to inspect the **Subject Property** for compliance and safety purposes annually or at any time upon reasonable request.
10. That the failure of the **City** at any time to require a performance by the **Permittee** of any provisions herein shall in no way affect the right of the **City** thereafter to enforce the same.

Nor shall waiver by the **City** of any breach of any of the provisions hereof be taken or held to be a waiver of any succeeding breach of such provision or as a waiver of any provision itself.

11. All applicable **City** ordinances not specifically covered herein shall become a part of this **Permit**.
12. That if any provision of this **Permit** shall be declared void or unenforceable, the other provisions shall not be affected and shall remain in full force and effect.
13. That this **Permit** shall not be considered modified, altered, changed or amended in any respect unless in writing and signed by the **City** and the **Permittee**.
14. That if the **Permittee** or its successors or assigns violates any material term or condition imposed by this **Permit**, it may be revoked and terminated consistent with applicable law. Without limiting the foregoing, the violation of any statute, regulation, ordinance or **Permit** condition imposed by lawful governmental authority and governing operations on the **Subject Property** is grounds for revocation and termination of this **Permit**, consistent with applicable law. The change, alteration or amendment of any such statute, regulation, ordinance or **Permit** condition by any governmental authority other than the **City**, shall not excuse the **Permittee** from compliance with statutes, regulations, ordinances or **Permit** conditions in effect on the date of the original issuance of this **Permit** unless compliance is waived or excused by the **City**.
15. The **Permittee** agrees that this **Permit** shall be recorded in the office of the Anoka County Recorder.
16. That this **Permit** shall automatically expire if the use is not initiated by June 25, 2020, and issuance of the required Certificate of Occupancy shall constitute initiation.

The motion for the adoption of the foregoing resolution was duly seconded by Councilmember \_\_\_\_\_ and upon vote being taken thereon, the following voted in favor thereof:

and the following voted against the same:

and the following abstained:

and the following were absent:

whereupon said resolution was declared duly passed and adopted by the Ramsey City Council this the 25<sup>th</sup> day of June, 2019.

