

1. The Agreement
 2. Planning Commission action
-

6 February, 2001

AGREEMENT

An agreement among the Cherrywood Neighborhood Association (CNA), Sue Stegall Huber (Owner) and Amber Dunham-Dawkins (Applicant) with regard to the Applicant's request for Austin City Planning Commission approval of a Conditional Use Permit for a commercial day care facility for an SF-3 zoned property located at 2807 Robinson Avenue, Austin, Texas, 78722 (Lot 4, Block E, Division C, Dancy Addition, Travis County).

CNA supports the Applicant's request for A Conditional Use Permit to allow Growing Tree Day Care to operate a business consisting of a daycare facility for more than 20 persons, and a waiver from the Land Development Code, Section 25-2-1067(f), which requires a minimum 50 foot setback for playgrounds, subject to the provisions stated herein.

The Applicant agrees to voluntarily include, in the Application for Conditional Use Permit, two self-imposed restrictions as follow:

1. The operation shall be limited to services for 25 or fewer children.
2. Should there be a period of 90 days when there is no day care facility operating at the above address, the Conditional Use Permit shall be no longer in effect.

The Applicant and Owner agree as follows:

1. For as long as a day care facility is located on the site, the physical size of the improvements on the site shall be limited to their current size, which consists of a house and garage of approximately 1,336sf and 300sf, respectively.
2. The business (Growing Tree Day Care, owned by Amber Dunham-Dawkins) shall not be transferred to another owner, nor shall it be replaced with another day care center business, at any time. If the business is for any reason closed, no other day care center shall replace it. After 90 days after Growing Tree Day Care has ceased to operate, the Conditional Use Permit shall lapse.
3. All reasonable effort will be made to mitigate the impact of vehicle traffic in the neighborhood generated by the facility, by encouraging use of the facility by local clientele, encouraging carpooling by employees and parents, encouraging the use of public transportation, and other steps intended to have the effect of reducing vehicle traffic in and through the neighborhood.
4. Off-street parking spaces shall be provided for the business owner and all employees. All personnel shall be required to park off-street.

Agreed to this 6th day of February, 2001,

Jules Vieau, President, CNA
3815 Cherrywood Road
Austin, Texas 78722-1217

Amber Dunham-Dawkins, Applicant

Sue Stegall Huber, Property Owner

PLANNING COMMISSION, 01Feb5

Jules;

Tonight I represented CNA at the Planning Commission, supporting the Conditional Use Permit Application for a Day Care Center at 2807 Robinson, with conditions outlined in the Agreement executed today with the Applicant and the Owner, signed by me in your behalf at your request.

There were tough questions and there was lively discussion, but in the end the Commission voted 8 FOR and 1 AGAINST the Motion to Approve with the following conditions:

1. Limit to 25 children.
2. Permit to expire after 90 days of no day care center in operation at site
3. Signage to be unlighted and limited to 8 square feet.

Chair Betty Baker, who I know to be opposed to private agreements such as ours, expressed strong concern about the unenforceability of such an agreement. I was able to anticipate that somewhat in my remarks, which I hope had some influence on the Commission. Jean Mather wanted to impose a 15 foot dense vegetative buffer along the alley, and I am sure that the Dawkinses would have gone for that as a condition, but ultimately the motion did not contain that condition. I think that Jean's motion may have been a signal to us that she thought we should have thought of that, and that she would like for us to include that idea in future cases.

I suggest that CNA offer to help plant some vegetation along the alley side of the play yard, and to let Commissioner Mather know that we have done that after it is done. I think this would be good in order to facilitate a good relationship with her on the Commission which could be valuable to us in the future.

Thank you everyone for helping get this done. And thank you Amber and Josh Dawkins for taking our concerns seriously and responding so enthusiastically. I really think this is one of those rather rare instances where everybody won.

Girard