

**PROPOSED FINAL ORDER OF THE
JUNCTION CITY PLANNING COMMISSION
CONDITIONAL USE PERMIT (CUP-14-02), ANDEREGG**

A. The Junction City Planning Commission finds the following:

- a. The applicant has submitted the application and supporting documents necessary for the Planning Commission to understand the proposed use and its relationship to surrounding properties as required by Junction City Municipal Code Section 17.130.020.
- b. The Junction City Planning Commission held a public hearing on October 21, 2014 after giving the required notice per Junction City Municipal Code Section 17.150.080.
- c. The Junction City Planning Commission has reviewed all material relevant to the Conditional Use Permit that has been submitted or presented by the applicant, staff, and the general public regarding this matter.
- d. The Junction City Planning Commission followed the required procedure and standards of reviewing conditional use permits as required by Junction City Municipal Code Section 17.130.030.

B. Conditions of Approval

1. Any change to off-street parking requirements shall be reviewed under provisions set forth in 17.125.030.
2. Prior to building permit application submittal, the applicant will submit a Development Review Application demonstrating compliance with relevant sections within Chapter 17 of the Junction City Municipal Code.

C. IT IS HEREBY ORDERED THAT the Junction City Planning Commission approves the Conditional Use Permit for a Child Care Facility in the General Commercial zone based on the following findings of fact:

Approval criteria are listed in bold. Findings addressing criteria, condition of approval and informational items included where appropriate.

17.130.010 Authorization to grant or deny conditional uses.

Conditional uses are those uses which may be appropriate, desirable, convenient or necessary in the district in which they are allowed, but which by reason of their height or bulk or the creation of traffic hazards or parking problems or other adverse conditions may be injurious to the public safety, welfare, comfort and convenience unless appropriate conditions are imposed. Uses designated in this chapter as conditional uses may be permitted, enlarged or otherwise altered upon authorization by the planning commission in accordance with the standards and procedures set forth. In the case of a use existing prior to the effective date of the ordinance codified in this chapter and which is classified in this chapter as a conditional use, any change in use or in lot area or any alteration of the structure shall conform with the requirements dealing with conditional uses.

Finding: Planning records were reviewed. There are no existing conditional use permits for the subject property. Therefore, the criteria does not apply.

In permitting a conditional use, the city may impose, in addition to those standards and requirements expressly specified by this chapter, any additional conditions which the city considers necessary to protect the best interests of the surrounding property or the city as a whole. These conditions may include, but are not limited to, increasing the required lot size or yard dimensions; limiting the height of buildings; controlling the location and number of vehicle access points; increasing the street width; increasing the number of off-street parking and loading spaces required; limiting the number, size and location of signs; requiring screening and landscaping to protect adjacent property; and recording such conditions on the property with the county clerk. [Ord. [950](#) § 98, 1991.]

Finding: Under JCMC 17.35.010(A) uses permitted outright in the Central Commercial (C2) zone are permitted outright in the General Commercial zone. Childcare facilities are listed as an outright permitted use in the Central Commercial Zone. Childcare facilities are also listed as a conditional use in the General Commercial zone under JCMC 17.35.020(D). In such a situation, the Code states the more restrictive provisions shall apply (JCMC 17.150.150).

Finding: Under JCMC 17.35.080, the existing use, a ceramics shop, is required to provide 25 off-street parking spaces. The proposed childcare facility, under 17.35.080 would be required to provide 24 off-street parking spaces. The applicant is not seeking to alter a non-conforming use. The existing non-conforming use, off-street parking, is substantially the same for the proposed childcare facility as for the existing ceramics shop. Non-conforming uses lawfully existing prior to the effective date the ordinance is codified may continue (17.125.010). Therefore the criteria can be met as conditioned.

Finding: Alteration to a non-conforming uses must be reviewed as a minor or major alteration under 17.125.030.

CONDITION: Any change to off-street parking requirements shall be reviewed under provisions set forth in 17.125.030.

17.130.020 Application for a conditional use.

A property owner or his authorized agent may initiate a request for a conditional use by filing an application with the city using forms prescribed for the purpose. The application shall be accompanied by a site plan, drawn to scale, showing the dimensions and arrangement of the proposed development. The planning commission may require other drawings or information necessary to understand the proposed use and its relationship to surrounding properties. The applicant shall pay a fee as established by the city council at the time the application is filed. [Ord. [950](#) § 99, 1991.]

Finding: The property owner submitted an application for a conditional use permit on September 15, 2014. The application was deemed complete on September 26, 2014. Therefore, the criteria are met.

17.130.030 Public hearing on conditional use.

A. Before the planning commission may act on a request for a conditional use, it shall hold a public hearing. The hearing shall be held within 40 days after the application for the conditional use is filed. Notice of the hearing and criteria for granting or denying a permit shall be as follows:

Finding: The Planning Commission held a public hearing on October 21, 2014, within 40 days of the application being filed on September 15, 2014. Notice of the public hearing was sent to owners of the surrounding properties on September 26, 2014. Therefore, this criterion is met.

B. Based on the testimony provided at the hearing, the planning commission shall develop findings of fact to justify either approving or denying a conditional use permit. The planning commission may approve such requests when it is determined the request is in conformance with all the following requirements:

1. The proposal is in conformance with the zoning ordinance;

Finding: Under JCMC 17.35.010(A) uses permitted outright in the Central Commercial zone are permitted outright in the General Commercial zone. Childcare facilities are listed as an outright permitted use in the Central Commercial Zone. Childcare facilities are also listed as a conditional use in the General Commercial zone under JCMC 17.35.020(D). In such a situation, the Code states the more restrictive provisions shall apply (JCMC 17.150.150). Therefore, the criteria can only be met by the Planning Commission authorizing a conditional use permit.

2. The property is adequate in size and shape to accommodate the proposed use, together with all other zoning requirements and any additional conditions imposed by the planning commission;

Finding: The subject site is a 24,829 square foot lot with existing structures covering 11,398 square feet, leaving 13,431 square feet of outdoor space. The applicant is not proposing to build new structures or additions to the existing structures. Therefore, the criteria are met.

3. Public facilities are of adequate size and quality to serve the proposed use; and

Finding: The existing structure is served by a 5/8" water line. Other childcare facilities located on West Sixth and West Fifth Avenues are currently served by 5/8" waterlines. Junction City public facilities are sufficient to serve the proposed use. Therefore, the criteria are met.

4. The proposed use will prove, or can be made to be through imposing conditions, reasonably compatible with surrounding properties.

Finding: There are existing youth related facilities, childcare, parks and an elementary school within a few blocks of the subject site. The proposed childcare facility is compatible with nearby uses. Therefore, the criteria are met.

17.130.060 Standards governing conditional uses.

A conditional use shall comply with the standards of the zone in which it is located except as these standards may have been modified in authorizing the conditional use or as otherwise provided as follows:

A. Height Exception. A governmental building may be built to exceed the height limitations of the zone in which it is located to a maximum height of 50 feet if the total floor area of the building does not exceed one and one-half times the area of the site and if the yard dimensions in each case are equal to at least two-thirds of the height of the principal structure.

Finding: The existing structure is not a governmental building. Therefore, the criteria do not apply.

B. Limitation on Access to Property and on Openings to Buildings. The city may limit or prohibit vehicle access from a conditional use to a residential street and it may limit building openings within 50 feet of a residential property in an agricultural or residential zone if the openings will cause glare or excessive noise or will otherwise adversely affect adjacent residential property.

Finding: Vehicle access is taken from Juniper Street which is classified as a minor collector by the Junction City Transportation System Plan, and a Commercial/Light Industrial Street in the Junction City Public Works Design Standards. The classification as a Commercial/Light Industrial street is based upon surrounding land use designations. The surrounding properties are zoned General Commercial. Juniper Street is not a residential street. Therefore this criterion does not apply.

C. Schools.

1. Nursery schools shall provide and maintain at least 100 square feet of outdoor play area per child. A sight-obscuring fence at least four feet but not more than six feet high shall separate the play area from abutting lots.

Finding: The subject site is a 24,829 square foot lot with structures covering 11,398 square feet leaving 13,431 square feet of outdoor space. At a minimum of 100 square feet per child and a maximum capacity of 24 children (Oregon Revised Statute 414-350-0120), the maximum square footage reserved for outdoor space for the childcare center would be 2,400 square feet. Therefore, as conditioned, the criteria can be met.

CONDITION: Prior to building permit application submittal, the applicant shall submit a Development Review Application demonstrating compliance with 17.130.060 (C)(1).

2. Primary schools shall provide one acre of site area for each 90 pupils or one acre for every three classrooms, whichever is greater.

Finding: The applicant is not proposing a primary school. Therefore, this criterion is not applicable.

3. Elementary schools shall provide one acre of site area for each 75 pupils or one acre for every two and one-half classrooms, whichever is greater.

Finding: The applicant is not proposing an elementary school. Therefore, this criterion is not applicable.

D. Utility Substation or Pumping Substation. In the case of a utility substation or pumping substation, the city may waive the minimum lot size requirement only if it is determined that the waiver will not have a detrimental effect on adjacent property.

Finding: The applicant is not proposing a utility substation or pumping station. Therefore, this criterion is not applicable.

This approval shall become final on the date this decision and supporting findings of fact are signed by the Chairperson of the Junction City Planning Commission. An appeal of the Planning Commission's decision must be submitted to the City Council within 12 days of this Final Order being mailed to all opponents. Appeals may be made by filing written notice with the City and paying the fee equal to the average cost as prescribed by the City Council, and cost of the written transcripts up to \$500, plus one-half the cost over \$500. If no appeal is taken within the 12-day period, the decision of the Planning Commission shall be final. An appeal of the City Council's decision must be submitted to the Land Use Board of Appeals within 21 days of the Council's decision becoming final.

Failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval with sufficient specificity to allow the City to respond to the issue precludes an action for damages in circuit court.

Signature: Jason Thiesfeld, Chair, Junction City Planning Commission

Date