

NAME: Savvy Kids Learning Center Day Care –
Conditional Use Permit

LOCATION: 6724 West 32nd Street

OWNER/APPLICANT: Anthony and Lynette Lemons

PROPOSAL: A conditional use permit is requested to allow a day care center to operate within a portion of the existing church building located on this R-2 zoned property.

1. SITE LOCATION:

The site is located on the northeast corner of West 32nd and S. Bryant Streets.

2. COMPATIBILITY WITH NEIGHBORHOOD:

The proposal is for a small day care operation to locate within this existing church. The church has been a part of this neighborhood for many years and no changes to the building or site are proposed. Although most of the surrounding properties are occupied by single family homes, there are other institutional and nonresidential uses in the immediate vicinity. Another church is located 2 blocks to the north. A large LRSD campus occupies the property to the south. The LRSD property contains two schools and the District's maintenance facilities. A day care and a beauty salon are located across the intersection to the southwest. The proposed use is compatible with the neighborhood.

Notice of the public hearing was sent to all owners of properties located within 200 feet of the site and the College Terrace and University District Neighborhood Associations.

3. ON SITE DRIVES AND PARKING:

The proposed day care will have 3 employees with a maximum of 25 children. The parking requirement is 1 space per employee and 1 space for every 10 children. A total of 5 spaces are required. The property contains paved parking for 42 vehicles. The day care will operate during days and hours when it will not interfere with the parking needs of the church.

4. SCREENING AND BUFFERS:

No Comments.

5. PUBLIC WORKS:

1. Due to the proposed use of the property, the Master Street Plan specifies that Bryant Street for the frontage of this property must meet commercial street standards. Dedicate right-of-way to 30 feet from centerline.
2. W. 32nd is classified on the Master Street Plan as a collector street. A dedication of right-of-way 30 feet from centerline will be required.
3. A 20 feet radial dedication of right-of-way is required at the intersection of Bryant St. and W. 32nd St.
4. Obtain a franchise agreement from Public Works (Bennie Nicolo, 371-4818) for the private improvements located in the right-of-way.
5. With future development or expansion of the church property, the head in parking of the Bryant St. right-of-way will be required to be closed and modified to a 26 ft. wide driveway.

6. UTILITY, FIRE DEPT. AND CATA COMMENTS:

Little Rock Wastewater: Sewer available to this site.

Entergy: Entergy does not object to this proposal. Electrical service is already provided to the site and the existing structure. Contact Entergy in advance should service requirements for this location change in the future.

Centerpoint Energy: No comments received.

AT&T: No comments received.

Central Arkansas Water: NO OBJECTIONS; All Central Arkansas Water requirements in effect at the time of request for water service must be met.

Fire Department: No comments.

Building Codes: This is a change in occupancy type for this structure and is therefore subject to full commercial plan review and approval prior to occupancy. This facility must meet 2012 Arkansas Fire Prevention Code requirements. Evaluation of adjacent uses and required fire separations is required. For information on submittal requirements and the review process, contact a commercial plans examiner:

Curtis Richey at 501.371.4724; crichey@littlerock.org or
Mark Alderfer at 501.371.4875; malderfer@littlerock.org.

County Planning: No comments.

Rock Region METRO: No comments received.

SUBDIVISION COMMITTEE COMMENT:

(JUNE 22, 2016)

The applicants were present. Staff presented the item and noted little additional information was needed. The applicants stated days and hours of operation would be 7:00 a.m. to 5:30 p.m., Monday through Friday and there would be no new signage added to the site. The applicants stated a small playground would be provided adjacent to the northeast corner of the building.

Public Works Comments were presented. The requirement to dedicate right-of-way as required by the Master Street Plan was discussed at length. The applicants indicated they were not sure that they would agree to the dedication. Staff stated the applicants needed to decide and the Planning Commission would take that into consideration at the public hearing.

Other Agency Comments were noted. The Committee forwarded the item to the full Commission.

STAFF ANALYSIS:

The R-2 zoned property located at 6724 West 32nd Street is occupied by a one-story church building and a 42 vehicle, paved parking lot. The church has existed at this site for many years. A conditional use permit is now being requested to allow for the addition of a small day care center to utilize a portion of the existing church building. The day care will serve up to 25 infants and toddlers. The day care is to be operated as an extension of the Savvy Kids Day Care located across the intersection.

The day care is proposed to occupy approximately 1,500 square feet of the building. Days and hours of operation are to be Monday through Friday, 7:00 a.m. to 5:30 p.m. The day care will have 3 employees. The church has an existing ground-mounted sign. No signage is proposed for the day care since it is in fact an extension of the day care across the intersection. A small playground area with movable playground pieces will be created on a portion of the parking lot on the east side of the church building.

Staff is supportive of the proposed CUP to allow the day care. The property is located at a node containing several institutional and nonresidential uses. The addition of this small day care operation within a portion of the existing church appears to be an appropriate use. The 1912 plat – bill of assurance does not address use issues.

The outstanding issue concerns the matter of required right-of-way dedication. Public Works staff has made note of the requirement to dedicate right-of-way to 30 feet from centerline on both West 32nd and Bryant Streets and to dedicate a 20 foot radius at the intersection of Bryant and West 32nd Street. The applicants have stated they do not wish to dedicate the right-of-way and are requesting a waiver of that requirement.

They have voiced opposition on two fronts. The first being their contention that the requirement to dedicate the right-of-way is an unfair exaction for the use being requested. The second is their concern that the dedication would result in a portion of the existing parking spaces being located in the new right-of-way.

Staff is not supportive of the requested waiver. Section 1A of the City's Master Street Plan "Authority, Jurisdiction and Enforcement" begins as follows:

Any subdivider of land or applicant for rezoning, variance, conditional use permit, site plan or a building permit (herein referred to as applicant) review within the official planning area of the City shall conform to the Plan by indicating on any plats, drawings or surveys submitted to the city for its review, any street identified in the Plan which traverses or abuts the said property. Applicants for site plan review and building permit are not required to dedicate or construct any bicycle path or route as described in the Plan.

Where the said property abuts a street included in the Plan, the property owner shall dedicate one half of the required right-of-way as established in the Plan.

Additionally, staff has stated that the parking and ground-sign can remain as located today with the issuance of a franchise permit.

It appears that approximately 5 feet of dedication may be required for West 32nd Street, as much as 10 feet for Bryant Street and the radial dedication is needed.

STAFF RECOMMENDATION:

Staff recommends approval of the requested CUP subject to compliance with the comments and conditions outlined in Sections 5 and 6 of the agenda staff report.

Staff recommends denial of the requested waiver of required right-of-way dedication.

PLANNING COMMISSION ACTION:

(JULY 14, 2016)

The applicants were present. There were no objectors present. Staff presented the item and a recommendation of approval of the CUP to allow the daycare. Staff recommended denial of the requested waiver of right-of-way dedication.

Mike Hood, Public Works Civil Engineering Manager, discussed the need for the right-of-way. He presented photographs of the street, indicating the right-of-way as being substandard. He said it was good policy to have adequate right-of-way and street width. Mr. Hood said the right-of-way included the franchised area for utilities. He said the city would franchise any on-site improvements that would be in the dedicated right-of-way, including the sign and parking.

Mr. and Mrs. Lemons addressed the commission and stated they would lose the parking along the Bryant Street perimeter of their property if ten (10) feet of right-of-way was dedicated. Mr. Lemons stated he felt the requirement was unfair and would result in the loss of property value.

Commissioner Hamilton asked if there were examples where right-of-way was dedicated and later street improvements were made that created an impact of the property. Mr. Hood responded that there were. He said this site was non-conforming in all ways and the commission must decide if it is appropriate to grant the waiver.

There was a general discussion of options and effects.

Commissioner Bubbas stated he felt the requirement was unfair and he would support a lesser dedication requirement.

Commissioner May commented that approval of the CUP would allow for an increase in business and money and the applicants needed to dedicate the right-of-way.

Mrs. Lemons reiterated her opposition to the requirement. In response to a question from Commissioner Finney, Mrs. Lemons said they had owned the property for about six (6) month.
Commissioner Latture called the question.

A motion was made to approve the CUP, including all staff comments and conditions. The motion passed with a vote of 10 ayes, 0 noes and 1 absent. A motion was made to approve the requested waiver of right-of-way dedication. The vote was 0 ayes, 10 noes and 1 absent.

A couple of commissioners commented that they were unsure of their vote. A motion was made to expunge the previous vote on the waiver request. That vote on expungement was 9 ayes, 1 noe and 1 absent.

A motion was again made to approve the requested waiver of right-of-way dedication. The vote was 4 ayes, 6 noes and 1 absent. The motion failed.