

SUBSTITUTE BILL 10542

ORDINANCE 10402

AN ORDINANCE GRANTING A SPECIAL USE PERMIT AMENDMENT AND APPROVING THE SITE PLAN FOR A MUSEUM LOCATED ON THE PROPERTY AT 516 SOUTH KIRKWOOD ROAD SUBJECT TO CERTAIN CONDITIONS.

WHEREAS, the Magic House made application (PZ-07-17) for an amendment to its current Special Use Permit granted by Ordinance 6098, 6512, 7169, 7553, 7880, 8159, 8350, 8897, 9484, 10011, and 10045 for an expansion of the existing parking lot into the properties known as 206 and 208 East Woodbine Avenue and for additions to the existing building; and

WHEREAS, the Planning and Zoning Commission did on the 4th day of January, 2017, by adopting the Planning and Zoning Commission Report dated January 4, 2017, (attached hereto as Exhibit "A" and incorporated by reference herein), recommend the granting of said Special Use Permit Amendment subject to certain conditions and did find that granting of said amendment would not substantially increase traffic hazards or congestion, would not substantially increase fire hazards, would not adversely affect the character of the neighborhood, would not adversely affect the general welfare of the community, and would not overtax public utilities, and that granting such permit would be consistent with the zoning laws; and

WHEREAS, the Council did on the 2nd day of February, 2017, hold a public hearing with respect to such application after duly advertising and giving proper notice of such hearing and does find that the granting of an amendment to the existing Special Use Permit for expansion of the existing parking lot into the properties known as 206 and 208 East Woodbine Avenue and the addition of an enclosed walkway addition, subject to certain conditions, would not substantially increase traffic hazards or congestion, would not substantially increase fire hazards, would not adversely affect the character of the neighborhood, would not adversely affect the general welfare of the community, and would not overtax public utilities; and

WHEREAS, the Council does find that the granting of an amendment to the existing Special Use Permit for additions to the existing building, except for the enclosed walkway addition previously mentioned, would substantially increase traffic hazards or congestion, would adversely affect the character of the neighborhood, and would adversely affect the general welfare of the community, and therefore denies such amendment; and

Whereas, given the Council's finding expressed in the preceding paragraph, it is Council's intention that this and any further building expansion, except for the enclosed walkway addition previously mentioned, or any expansion of the current footprint of the entire parcel now held by the Magic House known as 516 South Kirkwood Road, 206 East Woodbine Avenue and 208 East Woodbine Avenue likewise should be denied on the same grounds as expressed herein.

WHEREAS, the Council does further find that the general welfare requires that the aforementioned amendment regarding the expansion of the existing parking lot and enclosed walkway addition shall be subject to the conditions hereinafter set out.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF KIRKWOOD, MISSOURI, AS FOLLOWS:

SECTION 1. A Special Use Permit Amendment and Site Plan Approval for the expansion of the existing parking lot and enclosed walkway addition is granted to the Magic House for the properties known as 516 South Kirkwood Road, 206 East Woodbine Avenue, and 208 East Woodbine Avenue subject to the following conditions:

1. The project shall be constructed in accordance with the site plan prepared by Grimes Consulting, Inc. stamped "Received November 21, 2016 City of Kirkwood Public Works Department" except as noted herein. Prior to the issuance of any permits, revised plans that incorporate all conditions of approval herein shall be submitted to the Public Services Department.
2. Based on the finding that Building Additions #1, #3, and the Café Porch enclosure, as depicted on Sheet 1 of the Site Plan prepared by Grimes Consulting, Inc. stamped "Received November 21, 2016 City of Kirkwood Public Works Department", will substantially increase traffic hazards or congestion, adversely affect the character of the neighborhood, and adversely affect the general welfare of the community, said additions are not permitted. However, Building Addition #2, proposed for the purpose of an enclosed walkway is not found to have the same negative effects and shall therefore be permitted.
3. A performance guarantee, in an amount to be determined by the Public Services Department, and an administrative fee shall be submitted to the City within 12 months of approval and prior to the issuance of any permits.
4. An 8 foot high sight-proof fence shall be provided along the eastern property line and along the portion of the southern property line adjacent to single family residential uses. Said fence shall be constructed of cementitious material or a product approved by the Public Services Department that is comparable to Simtek composite fencing.
5. Landscaping shall be provided and maintained according to the Landscape Plan stamped "Received March 16, 2017 City of Kirkwood Public Works Department." All new proposed landscape areas shall be irrigated or an alternative method of maintenance shall be approved such as a professional landscape maintenance company.
6. Parking for buses and commercial trucks shall be prohibited in the new portion of the parking lot with signs provided indicating this at the drives connecting the new parking lot addition. Additionally, bus/truck idling is prohibited in the area east of the access point from Woodbine Avenue. Two additional signs stating "no bus/truck idling" shall be placed in the main landscape island that runs north-south near the center of the parking lot and one sign in each of the smaller islands on the south ends of the two existing parking bays.
7. The existing permanent sign which directs patrons to using designated lots for parking rather than street parking shall be maintained.
8. In the event that the Magic House parking lot reaches full capacity, the Magic House shall place temporary signs along Woodbine that direct patrons to overflow parking at

Nipher Middle School and Concordia Lutheran Church as permitted by the private agreements with those entities.

9. The entrance/exit drive on Woodbine Avenue shall remain designed as a “left turn only” exit.
10. Adequate parking for the proposed building addition shall be provided in accordance with Zoning Code Section A-1000.
11. All existing hazardous public sidewalk conditions adjacent to the property shall be repaired at the City’s direction.
12. The existing residential entrance at 206 E. Woodbine Avenue shall be removed, restored with sod, and replaced with concrete curb as directed by the City.
13. The approximately 5’ wide strip of land on the southern half of the property along Kirkwood Road shall be dedicated to the City of Kirkwood as right-of-way so that the new right-of-way line is continuous with the northern portion of the site.
14. A revised lighting plan reflecting the correct lighting fixture model number shall be provided prior to issuance of any permits. All planned site lighting shall be designed in accordance with Zoning Code Section A-1040.
15. A bicycle rack shall be installed on site to accommodate a minimum of 6 bicycles.
16. Outdoor activities shall be permitted as follows:
 - a. In front of the building:
9:30 a.m. until 10:00 p.m. year round
 - b. Behind the front building line:
9:30 a.m. until 8:00 p.m. April 1 through October 31
9:30 a.m. until 5:30 p.m. November 1 through March 31
17. Outdoor music and amplified sound shall be permitted as follows:
 - a. In front of the building:
9:30 a.m. until 10:00 p.m. year round
 - b. Behind the front building line:
Not permitted. No loud speakers, sound systems, orchestras, bands, choirs, or the playing of any musical instruments shall be permitted outside except as outlined in subsections c and d below.
 - c. A speaker with volume adjustable by a Magic House employee and used to communicate with guests of the Magic House in the semi-enclosed area commonly referred to as the Construction Zone is permitted. The speaker design and installation shall be in such a manner as to minimize the amount of sound audible outside of the Construction Zone, and specifically at the eastern most property line.

- d. Two way radios (walkie-talkies) whose primary purpose is to communicate between Magic House employees shall be allowed in all outside areas.
18. No activity, other than parking, shall be permitted on the new portion of the parking lot.
19. Architectural Review Board shall approve all signs and building architecture prior to the issuance of any building permits.
20. All new rooftop mechanical equipment shall be fully screened from view of adjoining properties. The exact dimensions and materials of the screening shall be approved by the Building Commissioner.
21. Storm water management plan shall be submitted to the Metropolitan St. Louis Sewer District (MSD) and City for review and approval prior to the issuance of a grading, foundation, or building permit. Storm water greater than one c.f.s. shall not be directed across the public sidewalk or driveway entrances.
22. The water system shall meet the requirements of the Kirkwood Fire and Water Departments.
23. Erosion and sediment control devices shall be sufficient to protect all off-site property from siltation and shall be installed prior to the beginning of any grading or construction. The siltation control measures shall be installed and approved by the Public Services Department prior to issuance of any permits and shall be maintained during construction activities.
24. During excavation and construction activities, the construction area, as designated by the Building Commissioner's Office, shall be fully enclosed by a 6 foot high chain-link fence to prevent the entry of unauthorized persons. The gate for the fence shall be locked during non-working hours.
26. All existing chain-link fence along the subject property line in common with 517 Angenette shall be removed. Said removal shall include all structural members including, but not limited to, the concrete piers for all posts.

SECTION 2. The approval of this special use permit amendment shall not authorize any person to unreasonably alter, increase, or redirect the surface water run off so as to cause harm to any person or property.

SECTION 3. The premises and improvements as approved by this Special Use Permit amendment shall be in good working order and maintained in good repair at all times.

SECTION 4. The applicant by accepting and acting under the Special Use Permit amendment herein granted accepts the permit subject to the reservations, restrictions, and conditions set forth in the Code of Ordinances and in this Ordinance and agrees to comply with each provision subject to the penalties prescribed under Section 1-8 of the Code of Ordinances and subject to revocation of this permit in the event such provisions are not complied with.

SECTION 5. The applicant and his successors and assigns by accepting and acting under the approval herein granted accepts the approval subject to the condition that failure to abate any violation of this approval or any provisions of the Code of Ordinances of the City of Kirkwood within five (5) days after notice by hand delivery or first-class mail shall result in an administrative investigation fee of \$500 due to the City of Kirkwood. An invoice shall be issued. A Stop Work Order to cease all work on the premises except such work as directed by the Public Services Director to abate the violation may be issued for any work on the premises until the investigation fee is paid in full. The City may demand payment of said fee from the holder of the letter of credit, any bond, or escrow if not paid within 30 days of the invoice.

SECTION 6. The applicant further agrees by accepting and acting under this Special Use Permit herein granted that this Ordinance does not grant applicant any special rights, privileges, or immunities.

SECTION 7. This ordinance shall become null and void in the event the petitioner does not obtain a permit for the construction approved by this ordinance within one year of the passage of this ordinance.

SECTION 8. This ordinance shall be in full force and effect after its passage and approval, as provided by law.

PASSED AND APPROVED THIS 20TH DAY OF APRIL 2017.

Mayor, City of Kirkwood

ATTEST:

City Clerk

Public Hearing: February 2, 2017

1st Reading: March 2, 2017

2nd Reading: April 20, 2017