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Home-based Child Day Care Zoning Issue

There has been a lot of discussion in the community and on social media about the recent home-based child day care zoning issue addressed by the Planning and Zoning Commission (P&Z) and the City Commission. Much of that information is misleading and incorrect. **IN CASE YOU CHOOSE NOT TO READ THE REST OF THIS ARTICLE, HERE IS THE MOST IMPORTANT INFORMATION YOU NEED TO KNOW. THERE IS A DEED RESTRICTION IN THAT NEIGHBORHOOD THAT DOES NOT ALLOW ANYTHING BUT RESIDENTIAL USE OF THE HOUSES IN THAT NEIGHBORHOOD. THOSE RESTRICTIONS PROHIBIT A HOME-BASED CHILD DAY CARE BUSINESS FROM GOING INTO THAT NEIGHBORHOOD. THE CITY CANNOT REMOVE THOSE RESTRICTIONS.** But here is the rest of the story:

On April 7th, Chief Code Enforcement Officer (CCEO) Calvin Chaney discovered the new owner, Nhat (John) Nguyen, of the property at 511 Westwood building a fence at that location without a permit. When the owner came to the City Offices on April 8th to get the fence permit, he informed the CCEO that he was renting the house out and it would be used for a home-based child day care facility. The CCEO informed him at that time that a home-based child day care facility would not be allowed in that neighborhood as it was not zoned to allow that usage of the property. At that time the house was still vacant.

On that same day, April 8th, City Commission member Rob Durham texted the CCEO that he had spoken with Crystal Briley (the future renter and owner of a home-based child day care business) and that she should be allowed to have her business in that location based on his understanding of the ordinance. Commission member Durham contacted City Manager Andy McCuiston and requested that the item be put on the next agenda.

The item was added to the May 7th Agenda. On that agenda Commission Member Durham requested that the City Commission remove restrictions in the ordinance effectively allowing home-based child day care businesses everywhere in the City. City Attorney Eileen Hayman informed the City Commission that the legal process required that it go before P&Z first. The City Commission referred the item to P&Z (which was set for June 3rd) with the stipulation that enforcement would be deferred until the decision from P&Z. (Ms. Briley apparently occupied the house and started her home day care business around May 28th knowing that current zoning prohibited home-based child day cares in that location.)

The P&Z meeting of June 3rd and the City Commission meeting of June 4th were advertised in the Breckenridge American on May 15th in adjacent columns. The Breckenridge Texan also ran an on-line article noting the dates and times of the two meetings. At the P&Z meeting on June 3rd Commission Member Durham was the only person to show up in support of the amendment to the ordinance allowing home-based child day care as a permissible home occupation in all residential districts in the City of Breckenridge. Eight persons spoke in opposition. An important point was brought up by the

opposition regarding the restrictions in that neighborhood limiting the housing addition to residential housing only. The P&Z voted not to pass the ordinance allowing home-based child day care everywhere in the City of Breckenridge, to revise home schooling verbiage, and to grandfather two existing home-based child day cares as non-conforming uses due to the length of time the day cares had been existence at those locations.

At the City Commission meeting of June 4th, a significant number of people supporting Ms. Briley's effort to have her home-based child day care at 511 Westwood were in attendance with many of them speaking on her behalf. A number of people were also there to speak against allowing the home-based child day care at 511 Westwood. Commission Member David Wimberley reminded everyone of the deed restrictions for the houses in the neighborhood and stated that even if the City Commission approved it, any homeowner in the neighborhood could get an injunction to stop it. The City Commission voted to approve the ordinance as re-written prohibiting home-based child day cares to be located in all zoning districts and grandfathering in the two non-conforming day cares.

On Thursday, June 6, 2019, Ms. Briley set up an appointment to speak with the CCEO and the City Manager to discuss her options. Ms. Briley and County Judge Michael Roach met with us and the decision was made by Ms. Briley to have her day care at Christian Fellowship Church located at 800 E. Elm Street. Immediately following the meeting, the CCEO went to that location with Ms. Briley to inspect the facility to advise her of any issues that needed to be addressed. Ms. Briley will have the State inspect the facility, which may take 30 days or so, at which time she will move her day care. The City will continue working with Ms. Briley and all involved to bring this issue to a successful conclusion.

Andy McCuiston, City Manager