

SUBSTITUTE BILL 9592

ORDINANCE 9484

AN ORDINANCE AMENDING THE SPECIAL USE PERMIT GRANTED TO THE MAGIC HOUSE AND APPROVING THE SITE PLAN FOR THE MAGIC HOUSE EXPANSION SUBJECT TO CERTAIN CONDITIONS.

WHEREAS, the Magic House made application (PZ-01-05) for an amendment to its Special Use Permit granted by Ordinance 6098, 6512, 7169, 7553, 7880, 8159, 8350, and 8897 and site plan approval for the purpose of including the properties known as the Riviera Townhouse Condominiums to expand their parking lot and existing facilities; and

WHEREAS, the Planning and Zoning Commission did on the 6th day of April, 2005, by adopting the subcommittee report dated April 6, 2005, (attached hereto and incorporated by reference herein), recommend the granting of said Special Use Permit and site plan approval subject to certain conditions and did find that granting of said permit 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 5th day of May, 2005, 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 such permit, 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 further find that the general welfare requires that such permit 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 are granted to the Magic House for the Magic House to include the properties at 502 through 508 South Kirkwood and 106 through 118 East Woodbine on the property known as 516 South Kirkwood and to expand their facilities subject to the following conditions:

1. The project shall be constructed in accordance with the site plan stamped "Received January 14, 2005" by the City of Kirkwood Public Works" except as noted herein.
2. A letter of credit in the amount of \$85,000 as approved by the Public Works Director shall be submitted prior to the issuance of a building or parking permit to insure the

completion of the parking lot, driveway entrance, walks, fencing, utilities, and landscaping and to replace public improvements damaged by construction activities (sidewalks, curbs, etc.). The letter of credit shall be in effect for a minimum of two years and may be extended in minimum six-month intervals as approved by the Department of Public Works. The Letter of Credit shall be drawn from a St. Louis area bank.

3. An administrative fee in the amount of \$2,500 shall be submitted before acceptance of the letter of credit by the City. The fee supports site inspection and project administration costs.
4. Any existing easements on the site that conflict with the proposed construction shall be vacated prior to the issuance of a foundation letter or building permit.
5. A ten-foot (10') wide utility easement shall be granted to the City for public utilities along the perimeter of the property, including along public rights-of-way. The easement may be modified where buildings or significant structures currently exist with staff approval.
6. A boundary adjustment/consolidation plat approved by the City and recorded in the St. Louis County Office of the Recorder of Deeds shall be filed in the Public Works Director's office prior to issuance of any permits for the project. All required city easements and dedication strips shall be shown on the consolidation plat.
7. Erosion and sediment control devices shall be sufficient to protect all off-site property from siltation and shall be installed prior to beginning of any grading or construction. The siltation control measures shall be installed and approved by the Public Works Department prior to issuance of a building permit. These devices shall be maintained during the construction activities. Failure to maintain these devices authorizes the Public Works Department to issue a Stop Work Order for the building permit until such devices are restored.
8. The sidewalk along the Kirkwood Road and Woodbine Avenue frontages adjacent to the new construction area shall be removed and reconstructed as a six-foot wide sidewalk.
9. The Kirkwood Road entrance to the property shall be removed and the reconstructed sidewalk shall be extended across the original entrance area.
10. The entrance/exit drive on Woodbine Avenue shall remain designed as a "left turn only" exit.
11. The petitioner shall provide a traffic signage, circulation, and parking plan for the entire property. The parking plan shall provide a minimum of 240 parking spaces for this development. This plan may be incorporated into the final site development plan.
12. The water system shall meet the requirements of the Kirkwood Fire and Water Departments. The Fire Department shall approve the water flow for the project. If

satisfactory water flow is not available from the existing water system the petitioner shall install the necessary mains and accessories, in accordance with City policy.

13. Storm water management and sanitary sewer plans shall be submitted to Metropolitan Sewer District (MSD) and City for review and approval prior to 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.
14. Any planned site lighting for this use shall be designed with recessed lighting fixtures that are aimed at a 90-degree angle to the grade below. Such fixtures shall have recessed bulbs where the bulb is not visible from neighboring properties. The lighting fixtures shall be designed and oriented to minimize light “trespass” onto neighboring properties. Any “wall pack” lights shall be screened from view of neighboring residential properties and shall not be permitted on the north side of the proposed building.
15. The dumpster enclosure shall be constructed of sight-proof materials (e.g. board-on-board, masonry, split-faced concrete masonry units, etc.) not less than six feet in height. Latching gates of similar or complementary materials shall be required to completely enclose the dumpster.
16. The driveway to the dumpster area within 20 feet and the dumpster pad shall be constructed of seven-inch (7”) thick concrete pavement on a six-inch (6”) thick rock base.
17. The pavement radii at the northeast and southeast corners of the intersection of Kirkwood Road and Woodbine Avenue shall be reconstructed to a 32-foot radius with six-inch high full depth vertical curb except at wheelchair locations. Wheelchair ramps shall satisfy the requirements of the City of Kirkwood.
18. An area at the corner of Kirkwood Road and Woodbine Avenue formed by the arcs of a 20-foot radius shall be dedicated to the City of Kirkwood for public use prior to the issuance of permits.
19. All rooftop equipment, air-conditioning units, and mechanical equipment shall be completely screened from view of adjoining properties and public right-of-way.
20. During excavation and construction activities, affected portions of the site 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.
21. All trees on the premises required to be saved by the Planning and Zoning Commission including any tree designated to be saved on the approved site/landscape plan shall be protected by a tree protection barrier. A tree protection barrier shall also be required to protect all trees on public right-of-way abutting the premises. Unless the site/landscape plan includes a tree protection plan, the barrier shall be constructed of chain link or similar wire with steel posts driven one foot or more below grade on minimum of 5-foot centers at least ten foot from the trunk of the tree. The Public Works Department may at

its sole discretion require or allow different barrier designs or methods to protect the tree. The tree protection barrier shall be installed prior to any work on the site including grading, demolition or construction; and prior to the issuance of any permits for such work. The protective barrier shall be maintained in good order until construction is completed and the Public Works Department has authorized its removal. Failure to maintain the barrier during construction activities shall authorize the Public Works Department to issue a Stop Work Order for all construction on the site until the barrier is restored to good order.

22. All new proposed landscape areas shall be irrigated or an alternative method of maintenance shall be approved, such as a professional landscape maintenance company.
23. A final landscape plan shall be submitted with the final plan set which indicates the varieties and sizes of trees and shrubs to be installed. That plan shall be consistent with the preliminary landscaping shown the current site plan and shall match the quantities and sizes of plant material shown.
24. The Final Site Plan shall show construction mobilization area and construction parking. No parking of construction trailers, material storage, equipment storage nor construction is authorized on the public streets at any time, or on the site unless actively in use for the site development and building construction.
25. Prior to the issuance of a building permit or occupancy permit, three copies of a revised site plan set signed and sealed by a professional engineer shall be submitted to the Public Works Department that fully incorporates the conditions of approval. The revised site plan set shall include a separate landscape plan signed and sealed by a landscape architect. When these plans are approved the petitioner shall file the approved site plan with the building permit application and the site plan shall become a part of the building permit application.
26. The parking for buses shall be in the location identified on the site plan or in spaces comparably located in the western portion of the parking lots to the extent possible, and a sign stating "No Idling" shall be placed in the parking area in the vicinity of the area designated as parking for the buses.
27. All previous conditions of approval associated with the Magic House property shall remain in effect as applicable, except as amended herein.

SECTION 2. The approval of this special use permit and site plan 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 and Site Plan Approval 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 and Site Plan Approval 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 Works 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 and Site Plan Approval 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 building permit for the construction approved by this ordinance within three years of the passage of this ordinance. This time limit has been increased in anticipation of the expected project design and preparation period.

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

PASSED AND APPROVED THIS 19TH DAY OF MAY 2005.

Mayor, City of Kirkwood

ATTEST:

City Clerk

Public Hearing: May 5, 2005

1st Reading: May 5, 2005

2nd Reading: May 19, 2005