Vice-Chair John called the meeting to order at approximately 7:00 p.m. Those members attending included Philip Clithero, Fred Carroz, Dennis Hazelrigg, Martha John, and Rex Campbell. Also attending were the Deputy City Clerk, Megan Eldridge, Senior Planner, Steve MacIntyre, Planner, Clint Smith, Building Regulations Supervisor, John Simon (arrived at approximately 7:22 p.m.), and Assistant City Counselor, Ryan Moehlman.

The minutes from the regular meeting of July 14, 2015 were approved as submitted on a motion by Mr. Hazelrigg and a second by Mr. Clithero.

The following cases, properly advertised, were considered. All persons testifying were duly sworn by the Deputy City Clerk.

Case Number 1903 was a request by Central Missouri Community Action, f/k/a Central Missouri Counties Human Development Corporation, for a conditional use permit for the purpose of an early childhood education and learning center, including family development activities, on property located at 1402 and 1312 West Worley Street (Parcel No. 16-317-00-05-004.00 01).

Vice-Chair John opened the public hearing.

Caleb Colbert, an attorney with Brown Willbrand, P.C., offices at 601 E. Broadway, appeared on behalf of Central Missouri Community Action (CMCA), formerly known as Central Missouri Counties Human Development Corporation, and provided a handout of exhibits labeled A-D for the record, which included: certified copies of Sections 29-7 and 29-23 of the City Code, a copy of the application and supporting documents submitted by the applicant, a copy of the report from City staff recommending approval of the application, and a copy of documents on file with the Missouri Secretary of State in regard to the organization’s name change from Central Missouri Counties Human Development Corporation to Central Missouri Community Action. Mr. Colbert also presented a Power Point. He explained Central Missouri Community Action was a non-profit organization that offered Head Start programs to infants and toddlers from difficult socioeconomic circumstances. They had received a conditional use permit in 2005 to operate a Head Start facility on the two lots they owned at 1402 and 1312 West Worley Street. One of those lots was the location of the existing Head Start facility and the other was a vacant lot where the proposed additional Head Start facility would be located. He pointed out there was a long waiting list for services provided by CMCA at this facility, and CMCA believed their request was in the best interest of the community as they would be able to serve 23 additional students. The two facilities would share a parking lot, and another drive and parking lot could possibly be added in the future. He explained an early childhood education and learning center was an allowed conditional use in the R-2 zoning district, and the proposed plan complied with R-2 zoning district requirements. The proposed facility was similar in size to the existing facility and surrounding properties, and the site had adequate access, utilities, and parking. He asked the Board to approve the request of CMCA for a conditional use permit.

Rick Wiesner stated he did not live in the city, but owned property at 1401 West Worley, which was across from the CMCA facility. He noted there had been some parking issues in the past, and was
concerned that the parking requirements and the number of school buses and teachers would double. There were many times when he had seen a lot of people parked on both sides of Pennant Street, which was directly across the street from the school. He mentioned he wanted to know more about the proposed project and its size.

Lisa Meihls, 1403 West Worley, commented that when she purchased her house, she did not want to be next to a large school. She was concerned about the number of buses and the parking lot being doubled. She agreed with Mr. Wiesner that traffic at this location was a problem in the mornings. She mentioned that children screaming on the playground sometimes got out of hand, and felt 40 screaming children would be very loud. She wanted to know more about the proposal and the possibility of a different location for the project.

There being no further comment, Vice-Chair John closed the public hearing.

Mr. MacIntyre understood the proposed structure would be a classroom facility. The existing structure had an area of 1,800 square feet, and the proposed structure would be 2,400 square feet. The proposed structure would be relocated from another site and would set along the east property line. He noted the site plan showed the total number of parking spaces would be 32, which he believed was 10 more than the minimum number of parking spaces required. He thought the Board might want to consider requiring the expansion of parking sooner rather than later, and noted it could be added as a condition. He explained City staff was not aware of a parking shortage and recommended approval of the conditional use permit, subject to standard compliance with all applicable City building and zoning regulations for the site.

Mr. Moehlman commented that the standards to be considered by the Board were listed in the City staff report, and since this was a request for a conditional use permit, the Board did not need to consider a hardship standard.

Mr. Campbell stated Head Start was very important to the community and early childhood education, and he believed Head Start should continue to grow as a facility of this type was needed.

Mr. Hazelrigg thought this was a good program, which had a positive impact, but felt the Board also needed to balance the needs of the residential neighborhood. He believed doubling the number of students would increase traffic, and did not think he could be supportive unless the Board included a condition to add the future parking spaces sooner rather than later. Vice-Chair John understood the existing parking shown on the site plan was more than what existed currently.

Mr. Clithero asked if the applicant had demonstrated that the proposed use would provide the minimum parking required. He understood 32 parking spaces were shown on the site plan and that some of those were future parking spaces. He asked if the existing parking would meet the parking requirements of the additional building. Mr. MacIntyre replied he thought there would be a need to expand the parking and noted he would need to confirm the number of children and teachers. Mr. Hazelrigg commented that the aerial view appeared to show 13 existing parking spaces.

Tim Crockett, an engineer with Crockett Engineering, 2608 N. Stadium Boulevard, pointed out they would have to be in compliance with the minimum parking requirements when they applied for a building permit.
Mr. Campbell understood two portable units would be brought to the subject site and asked for a timeframe for having a permanent structure versus a portable structure.

Darin Preis, Executive Director of Central Missouri Community Action, 4803 Chilton Court, explained they planned to have a 10-year lease on the modular structure, but would assess the situation throughout that time. The structure would be similar to the modular buildings at Columbia Public Schools. He commented that 100 children were on the waiting list and he did not expect that need to go away any time soon. They had originally planned to build a permanent facility, but it was not feasible due to a large sewer easement that ran through the property. They believed a modular building could meet their needs for the next 10 years.

Mr. Carroz asked how parking requirements applied to modular buildings. Mr. MacIntyre replied the modular structure did not change the parking requirements. He explained the parking requirements were one parking space per employee at the school, two parking spaces for the first 10 children, and one parking space for every 10 children thereafter. Mr. Preis pointed out the parking would be for employees as parents would only be there for five or 10 minutes to drop off their children. He noted the proposed addition was for infants and toddlers, so there would not be as much screaming. He stated they would be happy to work with the neighbors to ensure everyone’s needs were met.

Mr. Campbell made a motion to approve the conditional use permit as requested subject to approval of building plans that demonstrated compliance with all applicable building, land disturbance, and zoning regulations prior to issuance of building permits. The motion was seconded by Mr. Clithero.

CASE NO. 1903 VOTE RECORDED AS FOLLOWS: VOTING YES: CLITHERO, CARROZ, HAZELRIGG, JOHN, CAMPBELL. VOTING NO: NO ONE. The conditional use permit was approved as requested subject to the approval of building plans that demonstrated compliance with all applicable building, land disturbance, and zoning regulations prior to issuance of building permits.

Case Number 1904 was a request by B&S Realty LLC (contract owner) for a conditional use permit for the purpose of a plumbing, heating, air conditioning, and electrical business, which may include related customary activities such as contracting, retail and wholesale sales and distribution, on property located at 900 Smiley Lane (Parcel No. 11-904-00-07-003.00 01).

Vice-Chair John opened the public hearing.

Caleb Colbert, an attorney with Brown Willbrand, P.C., offices at 601 E. Broadway, appeared on behalf of B&S Realty LLC and provided a handout of exhibits labeled A-C which included: certified copies of Sections 29-16 and 29-23 of the City Code, a copy of the application submitted by the applicant, and a copy of the City staff report.

Tim Crockett, an engineer with Crockett Engineering, 2608 N. Stadium Boulevard, stated this request was for a conditional use permit for a heating, ventilation and air conditioning wholesale facility. The property was adjacent to industrial-zoned property. He commented that this type of use was consistent with other uses in the area and noted neighbors of this proposal included a gas station, a fast food restaurant, an indoor shooting range, a mini-storage facility, a car wash, a trucking terminal, a tire store, and a contractor office. While some residential areas were in the vicinity of the subject property, they were disconnected by a street and development to the west. He noted they planned to locate this proposal to the far east portion of the subject property in order to
maximize the area between the residential area. He pointed out the report from City staff suggested additional landscaping beyond what was normally required, and questioned the effectiveness of it. He stated that they would be appreciative if the Board determined the landscaping was not needed, but would not oppose it. He understood screening was required for a parking lot within 20 feet of a right-of-way, and noted City staff was recommending the building be screened even though it was about 75 feet from the property line. He commented that a tractor trailer would make onsite deliveries about twice a week during normal business hours and would not disrupt the area or neighbors, and the streets were designed to handle tractor trailers.

There being no further comment, Vice-Chair John closed the public hearing.

Mr. Smith commented that the applicant had not implied any variance would be needed and City staff would review any variance request at the time of building and site reviews. Staff had recommended additional screening along the west property line where the additional parking, loading area, and loading dock would be located. He understood the applicant would put a brick façade on the front of the building to reflect its commercial nature, and the rear of the building was more industrial, which was why staff felt it was reasonable and appropriate to screen that as it would be less in line with the commercial zoning district. He stated this type of business was an allowed conditional use and was somewhat of a mixed commercial and industrial use. Staff felt the location was appropriate as the C-3 zoning district bordered the industrial district to the south. Other uses surrounding the subject property were more automobile-oriented, and staff felt the proposed use would not be out of place. Staff was recommending screening that would normally be required for a parking lot within 20 feet of a right-of-way, but would be open to other suggestions. He felt a screening of solid trees or something that would grow overtime to help the building blend in to the adjacent commercial districts would be appropriate. Staff had no concerns with off-street parking or access for tractor trailers, and the facilities and utilities were adequate. In addition to the landscaping condition, staff was recommending two other conditions: that the building and site plans comply with all City regulations and that the final site plan was in conformance with what the Board had viewed tonight.

Mr. Clithero asked for clarification on what the building would be screened from. Mr. Smith replied the industrial side of the building would be screened so it would have less of an industrial appearance from the right-of-way and the street to the west. Mr. Hazelrigg understood there were commercial buildings across White Tiger Lane. Mr. Smith stated the applicant was not required to put in landscaping per the current site plan, and staff thought a minimum amount of landscaping would be appropriate.

Mr. Moehlman commented that the section of the City Code with regard to screening was incorrectly listed as 29-25(3) in the City staff report and should instead be listed as 29-25(e)(3). He stated the appropriate section would need to be identified if that condition was included in the Board’s motion.

Mr. Campbell made a motion to approve the conditional use permit as requested subject to the conditions that building and site plans would comply with all applicable regulations, the final site plan would be in substantial conformance with the attached proposed site plan, and landscaping to screen the building would be included along the west property line consistent with requirements in 29-25(e)(3) for paved areas within 20 feet of right-of-way. The motion was seconded by Mr. Clithero.

CASE NO. 1904 VOTE RECORDED AS FOLLOWS: VOTING YES: CLITHERO, CARROZ,
HAZELRIGG, JOHN, CAMPBELL. VOTING NO: NO ONE. The conditional use permit was approved as requested subject to the conditions that building and site plans would comply with all applicable regulations, the final site plan would be in substantial conformance with the attached proposed site plan, and landscaping to screen the building would be included along the west property line consistent with requirements in 29-25(e)(3) for paved areas within 20 feet of right-of-way.

Case Number 1905 was a request by William and Joy Morgan for the Board to grant a special permit to allow an addition to a non-conforming building pursuant to Section 29-28(d) of the Code of Ordinances on property located at 4806 Lake Valley Lane.

Vice-Chair John opened the public hearing.

Daniel Beckett, an attorney with Smith Lewis, offices at 111 S. Ninth Street, Suite 200, appeared on behalf of William and Joy Morgan, and provided a handout of exhibits numbered 1-5 for the record, which included: a certified copy of Sections 29-6 of the City Code, a copy of Section 29-28 of the City Code, a proposed site plan, an aerial photo of the property and surrounding area, and letters from the Cedar Lake Home Owners Association (HOA) and adjacent properties in support of the application. The subject property was an R-1 zoned corner lot at North Cedar Lake Road and Lake Valley Lane. The applicants were members of the Cedar Lake HOA and their residence was subject to the Cedar Lake Declaration of Covenants and Restrictions. The existing structure was constructed in 1986 and contained 2,242 square feet, with 1,144 square feet on the first floor. The house was a non-conforming structure as it encroached nine feet into the 25 foot rear yard setback. He pointed out Section 29-28(d) of the City Code allowed the Board to grant a special permit for construction of an extension to a non-conforming building in cases of evident hardship, as long as the extension did not exceed 25% of the first floor. The applicants desired to construct a 72 square foot utility room on the first floor of their residence. The addition would be located on the south side of the residence and would encroach on the 25 foot rear yard setback, but not more than the existing structure. The total square footage with the proposed addition would be much less than 25% of the square footage of the first floor. He pointed out that the applicants were getting older and less ambulatory, and recognized their limitations. They wanted to avoid having to use stairs to get to the utility room, which was currently located in the basement. He stated it was clear an evident hardship existed and requested the Board grant a special permit to expand a non-conforming building and permit construction of a utility room per the site plan.

Mr. Moehlman asked for the square footage of the first floor. Mr. Beckett replied it was 1,144 square feet inclusive of the garage.

There being no further comment, Vice-Chair John closed the public hearing.

Mr. Simon explained City staff could not issue a permit because the existing structure was non-conforming, and the proposed addition would encroach into the rear yard.

Vice-Chair John commented that the rear yard appeared to be a side yard and asked how that was possible. Mr. Campbell mentioned that how the lot was located made this difficult. Mr. Simon stated the narrow end of a lot had been used to set the front and rear yards.

Mr. Moehlman noted Section 29-28(d) of the City Code was unique and rarely used. The Board had to implement the standard of evident hardship in determining whether to grant these types of special permits.

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permits. He mentioned he could not find a definition of evident hardship in the City Code or case law, and therefore it was up to the Board to use common sense and prudent judgment to determine what that meant.

Mr. Clithero made a motion to approve the special permit as requested. The motion was seconded by Mr. Hazelrigg.

Mr. Moehlman requested the Board’s motion specifically reference Exhibit 3 that was submitted by the applicant so it could be attached to the certificate of decision.

Mr. Clithero revised his motion to approve the special permit as requested per the submitted site plan marked Exhibit 3. Mr. Hazelrigg, who had seconded the original motion, was agreeable to the revised motion.

Mr. Carroz asked if the special permit remained in effect as long as the applicants owned the property. Mr. Moehlman replied it did not, and explained hardship standards generally implied that any approval would run with the land.

CASE NO. 1905 VOTE RECORDED AS FOLLOWS: VOTING YES: CLITHERO, CARROZ, HAZELRIGG, JOHN, CAMPBELL. VOTING NO: NO ONE. The special permit was approved as requested per the submitted site plan marked Exhibit 3.

Case Number 1906 was a request by Garry and Brenda Lewis for a conditional use permit for the purpose of a private outdoor swim club on property located at 4804 John Garry Drive (Parcel No. 16-919-00-02-026.00 01).

Vice-Chair John opened the public hearing.

Caleb Colbert, an attorney with Brown Willbrand, P.C., offices at 601 E. Broadway, appeared on behalf of Garry and Brenda Lewis and provided a handout of exhibits labeled A-C for the record, which included: certified copies of Sections 29-8 and 29-23 of the City Code, a copy of the application submitted by the applicant, and a copy of the City staff report.

Tim Crockett, an engineer with Crockett Engineering, 2608 N. Stadium, stated this conditional use permit request was unique because they were asking for a private swim club to serve multi-family residential developments, and noted that typically the Board heard requests for private swim clubs for single-family residential developments. The swim club would be located on a separate parcel across the street from the apartment complexes currently owned by the applicant. The applicant currently owned around 300 multi-family units in the area, and would have about 325 units after the additional units were completed. This proposal was not much different than those seen in student housing projects. He noted that although students resided in this development, it was not student housing as it catered to various individuals, and there would not be paid memberships or dues for the proposed facility. He pointed out that the subject property currently had C-1 zoning, and private swim clubs were not an allowed use or an allowed conditional use in that zoning district. The applicant would have to rezone the property to R-3 and request a conditional use permit for a private swim club, or would have to rezone the subject property to the C-3 zoning district or a planned designation in order to obtain a conditional use permit for a commercial use. The applicant felt it was more appropriate to rezone the property to the R-3 zoning district and obtain a conditional use permit as there was no interest in making the proposed swimming club public. The proposed...
facility would contain a swimming pool, clubhouse, workout room, meeting rooms, office space, leasing offices, theater room, and communal area. He explained Mr. Lewis felt it was necessary to keep up with other facilities in Columbia that had common spaces and resources by providing comparable facilities.

Peter Koukola, 603 S. Cedar Lake Drive, appeared on behalf of the Cedar Lake Home Owners Association and explained they were concerned about the drainage associated with the pool. He noted they had a situation on the other side of their neighborhood whereby Wilson’s Swim Club drained directly into their lake. He noted they were unsure about the stormwater and sewage system for this specific proposal, and wanted to ensure care was taken with a large amount of chlorinated water going into their lake if the pool would be drained into it. They were proud of their lake and its quality, and wanted to make sure care was taken in regard to drainage.

There being no further comment, Vice-Chair John closed the public hearing.

Mr. Smith stated the applicant was asking for a conditional use that was only permitted in the R-1, R-2 and R-3 zoning districts, but the subject property was currently on a C-1 and O-1 zoned lot. City staff was okay with processing this request, even though the property currently did not have the correct zoning. He noted the applicant had submitted a rezoning request which was being processed, and would not be able to utilize this conditional use until their rezoning request was approved. It had not been suggested by the applicant that any additional variances to City regulations would be required. The parking and access seemed to be adequate for the site, utilities were available for the site, and the character of the subject property was not out of character with the neighborhood. In addition to the conditions that building and site plans comply with City regulations and the final site plan needed to be in substantial conformance, City staff was recommending a third condition that the conditional use permit be void if the rezoning request was not approved within 12 months. He pointed out that if the rezoning request was withdrawn or plans changed, there would be confusion as to why the conditional use permit was granted since the property was never rezoned. He mentioned City staff felt the third condition was appropriate and the applicant seemed to be agreeable.

Mr. Hazelrigg asked if Mr. Smith or Mr. Crockett could respond to Mr. Koukola’s concerns. Mr. Crockett replied the water from this property would discharge into Mr. Lewis’s lake on John Garry Drive, where Las Margaritas was located. He understood Mr. Koukola’s concern and wanted to ensure the lake was protected. He explained all swimming pools had to go through the Health Department’s permitting process, which regulated where discharge could go, and they had not had any concerns or problems with the streams or waterways where pools had been discharged in the past. He stated that the City would hold them to the highest regulations.

Mr. Carroz thought a pool of this size should go into the sanitary sewer system. Mr. Crockett believed this proposed pool and all pools that were not single-family residential pools would discharge into the sanitary sewer system, but stated he was not 100% sure.

Mr. Moehlman stated the condition that the subject property be rezoned to a residential district must be included in the Board’s motion if they wished to approve this request; otherwise the conditional use permit would be ineffective. He noted a 12 month expiration date was a little longer than the minimum requirement.

Mr. Hazelrigg made a motion to approve the conditional use permit as requested subject to the
conditions that building and site plans would comply with all applicable regulations, the final site plan would be in substantial conformance with the attached proposed site plan, and the conditional use permit would expire within twelve (12) months of the date of approval if a rezoning to R-3 was not granted for the subject property. The motion was seconded by Mr. Carroz.

CASE NO. 1906 VOTE RECORDED AS FOLLOWS: VOTING YES: CLITHERO, CARROZ, HAZELRIGG, JOHN, CAMPBELL. VOTING NO: NO ONE. The conditional use permit was approved as requested subject to the conditions that building and site plans would comply with all applicable regulations, the final site plan would be in substantial conformance with the attached proposed site plan, and the conditional use permit would expire within twelve (12) months of the date of approval if a rezoning to R-3 was not granted for the subject property.

Mr. Hazelrigg made a motion to elect Philip Clithero as Chair. The motion was seconded by Mr. Carroz and approved unanimously by voice vote.

Mr. Clithero made a motion to elect Fred Carroz as Vice-Chair. The motion was seconded by Mr. Hazelrigg and approved unanimously by voice vote.

There being no further business, the meeting adjourned at 7:59 p.m.

Respectfully Submitted,

Megan Eldridge
Deputy City Clerk