

PLANNING DIVISION STAFF REPORT

August 11, 2014

PREPARED FOR THE PLAN COMMISSION



Project Address: 7713 Twinflower Drive
Application Type: Conditional Use
Legistar File ID # [34905](#)
Prepared By: Kevin Firchow, AICP, Planning Division
Report Includes Comments from other City Agencies, as noted

Summary

Applicant: Sarah Tuttle; Bright Beginnings Day School; 933 South Holt Circle; Madison, WI

Contact: Barret V. Van Sicklen; DeWitt Ross and Stevens S.C.; 2 E Mifflin Street, Suite 600, Madison, WI 53703

Property Owner: Phurbu Tsering; 1105 Temkin Avenue; Madison, WI 53705

Requested Actions: The applicant requests conditional use approval to operate a family home daycare where the daycare license holder does not reside at the residence.

Proposal Summary: The applicant requests approval to operate a home daycare facility serving up to eight (8) children. An onsite "provider" will reside at the subject home as their principal place of residence.

Applicable Regulations & Standards: This proposal is subject to the standards for Conditional Uses [Section 28.183]

Review Required By: Plan Commission (PC)

Summary Recommendation: The Planning Division recommends that the Plan Commission find that the standards for conditional uses are met and **approve** the request to operate a home day care 7713 Twinflower Drive. This request is subject to input at the public hearing and the comments and conditions recommended by reviewing agencies.

Background Information

Parcel Location: The subject site is a 9,333 square foot property located at the southeast corner of the intersection of Twinflower Drive and South Highpoint Road. The property is within Aldermanic District 1 and within the limits of the Madison Metropolitan School District.

Existing Conditions and Land Use: The subject site includes a single-family home.

Surrounding Land Use and Zoning:

North: Single-family homes, zoned PD (Planned Development);

South: Daycare/preschool zoned A-1 Exclusive Agriculture in the Town of Middleton;

East: Single-family homes, zoned PD (Planned Development); and

West: Single-family homes, zoned PD (Planned Development).

Adopted Land Use Plan: The Comprehensive Plan recommends low density residential development for the subject property.

Environmental Corridor Status: The subject site is not located in a mapped environmental corridor.

Public Utilities and Services: This property is served by a full range of urban services.

Zoning Summary: The property is zoned PD-Planned Development. The "Valley Ridge" Planned Development includes a specific zoning text which states:

Single-Family Use. The lots shall be used exclusively for single family structures as defined in Section 28.02(2), Family as it relates to the R1 District of the Madison General Ordinances, as may be subsequently amended, having not less than one (1) nor more than three (3) enclosed and attached motor vehicle garage stalls and shall include all approved uses allowed in the R-1 single-family zoning District.

As noted above, the approved uses for the Valley Ridge development are those included in the R1 Single-Family Zoning District. As of January 2013, the new Zoning Code took effect and there is no longer an R1 District. The Zoning Code states that use lists and definitions applicable to previously approved planned development districts shall remain in force but shall be interpreted by the Zoning Administrator for consistency with the rules, definitions and other provisions of the current ordinance. In consultation with the City Attorney's office, the Zoning Administrator has interpreted that the applicant may request conditional use approval for a "day care home, family" consistent with current standards.

In the previous R1 District, home day care was listed as a permitted use. In all of the current residential districts, including the SR-C1 that most closely matches the previous R1 District, home day cares are also permitted or conditional accessory uses. Such uses require conditional use approval in instances, such as this, when the license holder does not reside at the family day care home.

Project Description, Analysis, and Conclusion

The applicant, Bright Beginnings Day School, requests conditional use approval to operate a family home day care at 7713 Twinflower Drive. As noted in the above Zoning Summary, the Zoning Administrator has determined that the applicant may request conditional use approval for this PD-zoned property. This request is subject to conditional use approval standards.

A "day care home, family" is defined in the City's zoning code as "an occupied residence in which a qualified person or persons residing in the dwelling provides care for four (4) to eight (8) children or adults."

The supplemental regulations for home day cares have recently been changed. An amendment to the Zoning Code was approved in January 2014 removing a requirement that the home day care also be the principal residence of the license holder and care provider. The Zoning Code now allows the home to be the principal residence of a "provider" as defined in State Administrative code, which is not necessarily the home owner or license holder. However, conditional use approval is required if the license holder does not reside at the subject home. It is for that reason that this request is before the Plan Commission. The recently approved zoning text amendment also removed the prohibition on employees who do not live at the home. Up to two employees who do not reside at the home are allowed by-right.

The applicant currently operates three home day care facilities, including the subject property. The letter of intent states that all locations, including the subject site are fully licensed and accredited. Operationally, the letter of intent states that the current license allows only eight (8) children in the home at any given time, provided the applicant meets State standards for the appropriate employee/child ratio. Other operational details, such as hours of operation, were not specified in the application materials.

The applicant has provided information related to the on-site provider that will be living at the subject residence. The Zoning Administrator has recommended a condition of approval which requires the licensee provide the Zoning Administrator with written annual notice that identifies the name of the provider and includes a statement that the provider resides in the residence as their principal residence. Should the provider move out of the residence at any time during the year, the licensee shall have a new provider residing within the residence within 30 days.

In regard to adopted plans, the Comprehensive Plan recommends low density residential uses for the subject property and surrounding areas. Day Care facilities are specifically listed among the "other uses within the district" that are recommended within such areas on a limited basis.

Staff has received comments in opposition to this request from the adjacent property owners noting concerns over the lack of owner-occupancy and concerns over parked vehicles and traffic safety. Those comments are attached.

If well-managed, staff believes the home day care could have minimal negative impacts on the surrounding properties. If approved, the Plan Commission would retain "continuing jurisdiction" authority, meaning that should complaints arise, the Commission could take further action, requiring additional restrictions or possible revocation of the conditional use should it find the approval standards cannot be met.

Recommendation

Planning Division Recommendation (Contact Kevin Firchow, 267-1150)

The Planning Division recommends that the Plan Commission find that the standards for conditional uses are met and **approve** the request to operate a home day care at 1109 Moraine View Drive. This request is subject to input at the public hearing and the comments and conditions recommended by reviewing agencies.

Recommended Conditions of Approval

Major/Non-Standard Conditions are Shaded

City Engineering Division (Contact Janet Schmidt, 261-9688)

1. The applicant shall submit, prior to plan sign-off, digital PDF files to the Engineering Division (Jeff Benedict or Tim Troester). The digital copies shall be to scale, and shall have a scale bar on the plan set. (POLICY and MGO 37.09(2)) PDF submittals shall contain the following information: a) building footprints, b) internal walkway areas, c) internal site parking areas, d) lot lines and right-of-way lines, e) Street names, f) Stormwater Management Facilities, and g) detail drawings associated with stormwater management facilities (including if applicable planting plans).

Traffic Engineering Division (Contact Eric Halvorson, 266-6572)

2. The City Traffic Engineer may require public signing and marking related to the development; the Developer shall be financially responsible for such signing and marking.
3. All parking facility design shall conform to MGO standards, as set in section 10.08(6).

Zoning Administrator (Contact Matt Tucker, 266-4569)

4. This dwelling must be the primary residence for the day care provider. The licensee shall provide the Zoning Administrator with written notice, to be provided annually by the 1st day of August of each subsequent year, identifying the name of the provider and including a statement the provider resides in the residence as their principal residence. Should the provider move out of the residence at any time during the year, the licensee shall have a new provider residing within the residence within 30 days. The licensee shall provide the Zoning Administrator with written notice, identifying the name of the provider and including a statement the provider resides in the residence as their principal residence.

Proof of principal residence shall include copies of utility bills, Wisconsin State driver's license or Identification card, or other materials as required by the Zoning Administrator.

Fire Department (Contact Bill Sullivan, 261-9658)

5. All smoke alarms shall be hard-wired and interconnected with battery backup, including any additional smoke alarms required by DCF.

Water Utility (Contact Dennis Cawley, 261-9243)

6. This property is not in a wellhead protection district. All wells located on this property shall be abandoned if no valid well operation permit has been obtained from the Madison Water Utility. The Water Utility will not need to sign off the final plans, and will not need a copy of the approved plans.

Metro Transit (Contact Tim Sobota, 261-4289)

This agency did not submit a response to this request.

Parks Division (Contact Kay Rutledge, 266-4714)

This agency did not submit a response to this request.