

STAFF REPORT LAND MANAGEMENT COMMITTEE

Land Management Committee Meeting, January 5, 2022

Agenda Item 5

Request: Discuss take action on potential code amendments for an Unclassified Use (Adult Daycare) pursuant to Pierce County Code §240-21.

Background:

The Zoning Office recently received an application for an “Adult Daycare.” The proposal is for a home to be utilized as an Adult Daycare (Special Needs Adults), five days a week, with meals and snacks provided. There would be no overnight stays.

The Zoning Code has a Family Daycare (PCC §240-36 C) which is a Permitted Use. “Family Day-care Home” is defined as:

“A dwelling unit where supervision and care and/or instruction for not more than eight children under the age of seven is provided for periods of less than 24 hours per day and which is licensed by the Wisconsin Department of Health and Family Services.”

There are no other regulations/restrictions on a Family Daycare (e.g. size, employees, etc.) imposed by the Zoning Code. Since the proposal is to care for adults, the “Family Day-care Home” designation did not apply.

Pierce County Code §240-21. Uses not listed - states the following:

- A. Determination of use classification by the Zoning Administrator. The Zoning Administrator shall determine if a proposed use can be classified as one of the principal uses already listed for any of the zoning districts. If a proposed use can be so classified, then the use shall be regulated as specified by this chapter.
- B. Unclassified uses. A proposed use that cannot be classified as one of the principal uses shall be considered an unclassified use and shall be regulated as follows:
 - (1) The Zoning Administrator shall determine if the proposed unclassified use is similar to other uses listed for the zoning district applicable to the site of the proposed unclassified use. If so, the application for the proposed unclassified use shall be processed as specified by this chapter.
 - (2) If the Zoning Administrator determines otherwise, then the application for the proposed unclassified use shall be denied and the applicant shall be so notified in writing.
 - (3) The Zoning Administrator shall refer unclassified uses to the Land Management Committee if the Zoning Administrator is uncertain how to classify any uses not listed.
- C. After making a determination regarding an unclassified use, the Zoning Administrator shall recommend an amendment to this chapter adding the previously unclassified use to the Table of Uses upon consideration of the appropriate zoning district.

- Pursuant to §240-21 (A) Staff has determined that the proposed use cannot be classified as one of the principal uses already listed in the Zoning Code.
- Pursuant to §240-21 (B)(1) Staff has determined that the proposed use is significantly similar to a “Family Day-care Home” with the only difference is the age of the clients/customers (children vs. adults). Given this, staff intends to proceed by processing the proposed use consistent with the principal use “Family Day-care Home” – which will result in the issuance of a Land Use Permit authorizing the proposed use.
- §240-21 (C) requires that staff, after making a determination regarding a proposed use, recommend an amendment adding the previously unclassified use to the Table of Uses. Staff believes that, in this case, a change in the definition of “Family Day-care Home” would be more appropriate.

Staff proposes the following modified definition:

A dwelling unit where supervision and care and/or instruction ~~for not more than eight children under the age of seven~~ is provided for periods of less than 24 hours per day and which is licensed by the Wisconsin Department of Health and Family Services.

This new definition removes any requirement relating to age and number of children. It would continue to require that the operation be licensed by the Wisconsin Department of Health and Family Services, so staffing requirements of the State would need to be followed.

Recommendation:

Staff recommends the Land Management Committee consider the above and determine if a code amendment is appropriate. If determined to be appropriate, staff should be directed to formalize ordinance amendments for future LMC consideration. The LMC could also consider whether such determinations regarding unclassified uses should be brought to the LMC for determination.

Submitted By: Brad Roy
Zoning Administrator