

Memorandum #08-131

To: Al Viereck, Interim City Manager
From: Dave Mingo, AICP Community Development Director
Subject: Planning Commission Action Number 08-17 / Resolution #08-24
Date: June 19, 2008

CONDITIONAL USE REQUEST

ACTION NUMBER: 08-17

E.T.J. MEMBER ACTION REQUIRED: No

APPLICANT / OWNER: Jessica Underwood, applicant.

ADDRESS / LOCATION: 641 Augusta Circle.

PROPERTY DESCRIPTION: Lot 6, Block 2, Clubhouse Estates Subdivision in the City of Yankton.

ZONING DISTRICT: R-2 Single Family.

PREVIOUS ACTION: None

COMMENTS: The applicant is requesting a Conditional Use Permit for a daycare facility at the site. To date, the site does not have the required fence. The applicant continues to work towards getting a contractor to install the fence. It has been four weeks since the submittal of the initial Conditional Use Permit application at which time the applicant was made aware of the fencing requirement.

Fencing is required for home based daycares to help keep this type of activity from imposing on the surrounding neighborhood. The intent of the ordinance is to allow necessary child care activities while providing some level of protection for the neighbors. The “condition” for receiving the permit is to have at least 100 square feet of separated (fenced) outdoor area available per child cared for. These areas must be in the rear or side yard. The 100 square feet per child is not typically an issue because most home daycares cannot have more than 12 children based on Department of Social Services regulations. That means 1,200 square feet of area must be fenced. The vast majority of backyards in Yankton are well over 1,200 square feet.

We typically grant weather related fencing waivers when applications are submitted during the months of November – March. In these instances, the commission has approved the permit with a deadline of June 1st for installation of a fence. Staff then monitors the site in the spring to make sure that the requirement is met.

In this instance, a seasonal waiver is not applicable and there has been time to install the fence. Staff has discussed this with the owner and she understands the requirement. The Planning Commission has three potential courses of action. They include:

1. Table action on the request until such time the fence is installed.
2. Recommend approval of the permit contingent upon the fence being installed before the issue is considered by the City Commission.
3. Recommend that the permit be denied.

Action one would be problematic because of the publishing requirements associated with delaying a recommendation from the Planning Commission. Any subsequent consideration of the issue by the Planning Commission would require an additional publication and notification process.

Staff does not recommend denying the permit because the owner continues to work on the fencing issue.

Staff recommends the action described in option number two. While this does place the onus on staff to revisit the issue prior to City Commission action, it also appears to represent the most reasonable solution to the situation. An emphasis on this issue will be relayed to future applicants in an effort to avoid this type of situation.

The staff recommends approval of the request contingent upon the required fence being installed prior to the permit being considered by the City Commission.

HEARING SCHEDULE:

- | | |
|----------------|--|
| May 12, 2008: | Planning Commission established June 9, 2008 as the date for a public hearing on the proposed request. |
| June 9, 2008: | Planning Commission conducts hearing and makes a recommendation to the City Commission. |
| June 23, 2008: | Tentative. City Commission considers resolution and makes a final decision. |

Planning Commission results: The Planning Commission recommended approval of the Conditional Use Permit contingent upon the fence being installed before the issue is considered by the City Commission (number 2 above).

June 19, 2008 Update: Construction of the fence has begun. The owner states that the fence will be substantially complete by Monday, June 23rd. Staff recommends approval of the request.

RESOLUTION #08-24
Conditional Use

WHEREAS, Jessica Underwood is the owner of Lot 6, Block 2, Clubhouse Estates Subdivision in the City of Yankton, South Dakota located at 641 Augusta Circle, and

WHEREAS, the above described property is zoned R-2 Single-Family residential which allows conditional uses under the City of Yankton's Zoning Ordinance No. 711 as amended, and

WHEREAS, this conditional use request is necessary for the property to be used as a daycare facility and such proposed use has been reviewed and recommended for approval by a vote of the City Planning Commission.

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of the City of Yankton, South Dakota hereby approves a conditional use permit for a daycare facility in accordance with all applicable ordinances and regulations on the above described property.

Adopted:

Daniel L. Specht, Mayor

ATTEST:

Ann Clough, Deputy Finance Officer

City of Yankton
City Planning Commission
Yankton, SD 57078

Re: Conditional Use Permit

Dear Commission Members:

This letter, pursuant to the City of Yankton's Zoning Ordinance, is an application hereby made for a Conditional Use Permit for the property herein described.

Description of Conditional Use Permit desired: Home based daycare facility.

The address of the property is: 641 Augusta Circle

Lot Number: 6 Block Number: 2
Addition: Clubhouse Estates
Zoning District: R-2 Single Family

Check One

of which I own, or
 of which I rent / lease (application must include consent document from the owner).

I/We have included a set of drawings or site plan, to scale, showing all conditions as to lot dimensions, building dimensions (proposed and existing), proposed uses of buildings (proposed, existing and future), location of off street parking, dimensions and number of spaces, the location of landscaping and/or screening that is proposed, and any easements that might exist or are proposed if necessary.

I/We have included a receipt for Fifty dollars (\$50.00), from the City Finance Department for processing this request.

I hereby depose and say that all the above statements and statements contained in this application and related attachments are true.

Thank you for your consideration,

Dated this 8 day of May, 2008

Jessica Underwood printed / typed name and title if applicable
Jessica Underwood signature

641 Augusta Cir
Yankton, SD 57078
address