



MEMO

PLANNING & COMMUNITY DEVELOPMENT

To: Plan Commission
From: Dave Kittel Director of Planning and Community Development
Date: October 31, 2024
Re: Special Exception Request – 2108 Sullivan Ave

A Special Exception Request has been received and has been reviewed by the Plan Commission. This included a public hearing that was held by the Plan Commission. During the Hearings many concerns were brought forth on the special exception regarding safety and maintenance of the property. The business is not currently operating at the property and has addressed many of the maintenance concerns brought forth and is confident that their presence in the neighborhood will not disrupt the area or cause safety concerns. The Plan commission ultimately decided to deny the special exception request due to additional stress on EMS and two other facilities within 2,500 feet of this location. Below is the memo and information provided to the Plan Commission for the Council to review:

Tonic Home Care LLC operates an adult assisted living service and has submitted an application for a Special Exception for parcel 323141800 – address 2108 Sullivan Ave. The parcel is zoned Residential Two Family (RTF), and the current use of the property is single family dwelling. Staff has spoken with the applicant and the property owner to gather the following information:

- *The property in question is a 3-bedroom single family dwelling with one client in each room. The assisted care is 24 hours.*
- *The operator has the appropriate license from the Department of Health Services (DHS)*
- *The clients are adults. The assisted living service provides transportation for the clients, they do not have their own vehicles. There is a driveway and attached garage for the property adequate for parking of staff. If there are visiting hours, it would be arranged and the driveway can be utilized accordingly.*

The applicant has provided additional information in an attached letter.

The City of Kaukauna Code of Ordinances, [Section 17.18 \(3\)](#) “allows community living arrangements/group homes, subject to Wis. Stats. § 62.23(7)(i)” as a special exception.

According to [Section 17.47 \(4\)](#), Plan Commission shall use the following criteria:

Before any special exception shall be recommended for approval, the city plan commission shall make findings that the granting of a special exception will not adversely affect the public interest and certify that the specific requirements governing the individual special exception, if any, have been met by the applicant. No special exception shall be recommended for approval unless the plan commission shall find:

- a. That the establishment, maintenance, or operation of the special exception use or structure will not be detrimental or injurious to the use and enjoyment of adjacent properties or properties in the immediate vicinity.*
- b. That the special exception is compatible with the adjacent existing uses and structures or uses and structures likely to develop which are permitted in the district.*
- c. That adequate public facilities and services are available to the development.*
- d. That adequate measures are taken to provide for drainage.*
- e. That ingress and egress to the property is provided in such a manner as to minimize traffic hazards and congestion.*
- f. That adequate parking and loading areas are provided.*

Notice for a public hearing was placed in the newspaper and letters sent to property owners within 500ft of the property. The Hearing was held on October 10th 2024 with a number of residents speaking out opposed to the requested special exception. Some of the concerns presented where:

- maintenance of property with mowing/weeds and the structure in general*
- Parking concerns*
- Safety concerns*
- Not fitting of the area as a residential single-family neighborhood*
- Concerns on effect on property value*

A few emails have been received by staff that where not able to be included in the previous report due to timing but, the concerns where mentioned during the meeting. Those emails are attached at the end of the report and a general recap of the comments from residents during the hearing may be found in the minutes. Some additional phone calls have been received on this request with a few only requesting additional information on the proposal and most with the same general concerns presented above.

The proposed use of the property is not in operation and only calls received were for complaints on grass/weeds have been received with no police calls/EMS.

One of the biggest recurring concerns was in regard to safety of the residents in the neighborhood and not knowing who could be at this facility. Some of the items that have been

brought up by residents could be addressed with appropriate conditions. Items that are relating to whom could be at the facility may prove difficult to apply a condition that is actionable and not discriminatory.

It is important to note that the City of Kaukauna is above the 1% capacity requirement stated in [62.23\(7\)\(i\)2](#) and the City may prohibit Community Living Arrangements and require a special exception to operate at the discretion of the City. As well as there is a nearby facility that is within the 2,500 distance that may only be allowed if the City grants an exception as per [62.23\(7\)\(i\)1](#).

From many of the concerns raised to staff before this public hearing Staff would encourage the plan commission to look specifically at Sec 17.47(4) a and b that discuss compatibility and impact to those in the immediate area when deciding on this request.

Recommendation To Plan Commission:

It is up to the Plan Commission to determine if the special exception request to meet all the criteria set forth in [Section 17.47 \(4\)](#) of the City Municipal Code and make a recommendation to the Common Council based on the information gathered. If the Plan Commission determines this request meets all the criteria set forth then staff would recommend the following conditions be applied at a minimum:

- 1. All local ordinances are to be followed such as ordinances pertaining to weeds, lawn height and garbage.*
- 2. Fire Department to do yearly inspections to ensure compliance with all applicable fire code items*
- 3. The property is to be used for assisted living as licensed by Department of Health Services (DHS), and must maintain the license from DHS*
- 4. Property shall be maintained to not negatively impact the character of the neighborhood*
- 5. Yearly inspection done by Community Development Department or other designee to ensure compliance. This Special Exception is only for this specific address, and the specific company. If the unit or ownership changes, the applicant/property owner needs to go through the process again.*
- 6. If more than two complaints on the operation of the facility are received in a calendar year that are not in violation of the above restrictions the Plan Commission and Common Council can order a review of the Special Exception and take appropriate actions to address the concerns.*

Recommendation to Common Council:

To Review the information presented and either follow the Plan Commission Recommendation or if the Common Council feels this should be granted ensuring the conditions applied address the concerns presented during the hearing to ensure minimal impact to the area.

Received Correspondence:

Monica Hanagan<mhanagan@hotmail.com>

To: David Kittel

Cc:Monica Hanagan <mhanagan@hotmail.com>

Tue 10/8/2024 11:31 AM

I am opposed to the exemption. They bought a single family home-now they want to change the neighborhood. I have lived in this neighbor for 47 years. I do not want my neighborhood to change. If they want to have a group home, they should move to an area that is zoned to accommodate that.

Would you allow me to change my home into a duplex? "NO" same difference

