



OFFICE OF THE CORPORATION COUNSEL

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November 2, 2021

Mr. Roger Lane
Dane County Zoning Administrator
Room 116, City-County Building
Madison, WI 53703

RE: Family Child Care Homes

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Dear Mr. Lane:

The Zoning and Land Regulation (ZLR) Committee has posed three questions regarding CUP #2533, regarding a Family Child Care Home in a single family residence in the SFR-08 Zoning District. State law requires that the County permit such use for 8 or fewer children if located in a district in which single family residences are permitted, and the facility is licensed by the State. It is my understanding that all of those requirements are met. Therefore, it is my opinion that ZLR should grant the CUP application.

Wis. Stat. §66.1017(1)(a) defines a “family child care home” as “a dwelling licensed as a child care center by the department of children and families under s. 48.65 where child care is provided for not more than 8 children.” Sub (2) then states: “No municipality may prevent a family child care home from being located in a zoning district in which a single-family residence is a permitted use. No municipality may establish standards or requirements for family child care homes that are different from the licensing standards established under s. 48.65.”

A single-family residence is a permitted use in the SFR-08 district. The applicant’s proposed use is licensed by the state pursuant to Wis. Stat. §48.65, and the proposed use is for no more than 8 children. In my opinion Wis. Stat. §66.1017 requires the County to grant a CUP for a family child care home under these circumstance. Furthermore, the only conditions that can be required are those mentioned in the statute; 1) child care for no more than 8 children, and 2) that a license from the department and children and families under Wis. Stat. §48.65 be maintained.

Please contact me if I can provide additional information on this matter.

Sincerely,

David R. Gault

David R. Gault

Assistant Corporation Counsel