

Jim
5-16-16



CITY OF MANITOWOC
WISCONSIN, USA
www.manitowoc.org



April 28, 2016

To: Mayor and Common Council

From: Manitowoc City Plan Commission

Subject: PC16-2016: Care Partners, LLC/Kadlec, Fluffy Investments, LLC; Request for a Conditional Use Permit for a Community Living Arrangement for nine or more individuals in an R-4 Single and Two Family Residential District pursuant to Section 15.150(3)f also request for an Exception to the 2,500' Separation and Density Requirements pursuant to § 62.23(7)(i)1 and § 62.23(7)(i)2.

Dear Mayor and Common Council:

At the regular April 27, 2016 meeting of the Manitowoc City Plan Commission, the Commission held a public informational hearing regarding a request from Care Partners, LLC a provider of group homes and services for disabled individuals. They are requesting that the City issue a Conditional Use Permit (CUP) for the creation of a 25 bed Community Based Residential Facility (CBRF) pursuant to Section 15.150(3)f of the Municipal Code. In addition to the CUP, Care Partners is requesting the granting of an exception to the 2,500' spacing and density requirements pursuant to Wis. Stats. § 62.23(7)(i)1 and § 62.23(7)(i)2.

The underlying zoning at the 3.2 acre parcel is "R-4" Single and Two-Family which requires a Conditional Use Permit for a CBRF with 9 or more beds. The Commission notes that CBRF's are classified as a Community Living Arrangement and are regulated under Wis. Stat. § 62.23(7)(i) which includes the following provisions: (i) Section (7)(i)1. regarding the 2,500' separation requirements for CBRF's and that an agent of a CBRF may apply for an exception to this requirement, and the exception may be granted at the discretion of the City; (ii) Section (7)(i)2 which details population density requirements; and (iii) Section (7)(i)3. which states that a CLA is entitled to locate in any residential zone without restriction as to the number of CLA's and may locate in any residential zone, without being required to obtain "special zoning permission", except for the annual review provision under Section (7)(i)9. of the statute.

The Commission notes that while a municipality may not intentionally discriminate against the disabled, it may be unlawfully discriminating by failing or refusing to make a reasonable accommodation, which means that it would have to demonstrate and prove that the accommodation was infeasible or impractical, or would impose undue financial or administrative burdens.

In closing, the Commission unanimously recommends to Council the following: i) grant Care Partners a CUP for up to 25 beds pursuant to the conditions attached, and ii) grant an exception to the 2,500' spacing and density requirements.

Respectfully Submitted,



Paul Braun
City Planner

Attachment
Granicus 16-0363

**REQUIREMENTS FOR A
CONDITIONAL USE PERMIT (CUP) APPROVAL FOR
CARE PARTNERS ASSISTED LIVING, LLC LOCATED AT 1850 MIRRO DRIVE
4/27/2016**

Re: PC16-2016: The CUP is granted exclusively to Care Partners Assisted Living, LLC (hereinafter "Owner", "Owners" or "Care Partners") pursuant to Section 15.150(3)(f) of the Manitowoc Municipal Code (hereinafter "Code"), as may be amended from time to time, for the land and building, and shall hereinafter serve as authorization for the location and operation of a Community Based Residential Facility ("CBRF") with a total capacity of not more than 25 individuals in the "CUP Area", as identified and highlighted on the attached map.

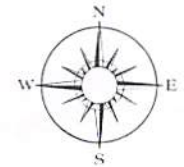
The Owners are required to comply with the following conditions:

1. If Care Partners does not secure CBRF licensing ("License") from the State of Wisconsin, Department of Health Services ("State") by December 31, 2017, this CUP is void and terminates effective January 1, 2018. Care Partners to provide the City Planner written documentation evidencing the issuance of the License for the 25-person CBRF in the CUP Area. In the event this license is not secured by January 1, 2018, Care Partners shall be required to re-apply to the City for a CUP.
2. The CUP authorizing the location and operation of a CBRF in the CUP Area shall not be approved until the Common Council approves the CUP as outlined herein, and shall not become effective until the latest date that all of the following have been approved and completed: (i) City Council approves the issuance of the CUP, (ii) the date that Care Partners takes title or signs a lease to the CUP Area, (iii) Care Partners completes all conditions related to the approval of a Site Plan and Development Agreement.
3. This CUP shall be terminated in the event Care Partners fails to acquire or lease the CUP Area Property.
4. This CUP does not waive or pre-empt any requirements under any building or zoning codes or any other requirements of any municipal, state or federal regulation, statute or law.
5. In the event the property comprising the CUP Area is sold or leased to a party other than an entity in which the Owner has a controlling interest, this CUP shall terminate effective the date of conveyance, unless the Owner is permitted to occupy the CUP Area under the new ownership.

6. **Non-compliance with the terms of the CUP may result in the modification of the terms and conditions of the CUP, issuance of citations and financial penalties, or immediate revocation of the CUP.**
7. **The CUP shall automatically terminate effective the date any License or certification granted to the Owner by the State, or any State-approved license which is assigned or transferred to a City-approved assignee or licensee for the CBRF at the CUP Area is closed, denied, revoked, or terminated by either the Owner or the State.**

REQUEST FOR CONDITIONAL USE PERMIT (CUP)

CITY OF MANITOWOC, WI



P. C. 16-2016

Legend



REQUEST FOR 25 BED
CBRF CUP IN A R-4

Manitowoc City Plan Commission
April 2016

Prepared by City of Manitowoc
Planning Department
www.manitowoc.org
Map Plotted: 4/13/2016

DISCLAIMER: Maps and associated data
are believed to be accurate, but are not
warranted. This information is not intended
for legal, survey, or other related uses.
Please obtain the original recorded documents
for legal or survey information.

