

- d. Consider initiating a public hearing to consider a text amendment to Appendix B-Zoning of the City Code including, but not limited to:**
- 1. Article IV. Rules and Definitions.**
 - 2. Appendix A. “Listing of Permitted and Conditional Uses” including, but not limited to “Orphanages” and other new additional use(s).**

The City Commission or Planning Commission may initiate text amendments to the zoning code. Recently staff was contacted by someone wishing to open a “Group Boarding Home” as defined by DCF which means “*Twenty-four hour nonsecure care for five to ten children between the ages of infancy to 16 years of age.*” The individual that contacted staff indicated that they would have five to eight children in foster care ranging in ages from 8 to 18 years of age. Staff found on another DCF document that “*Facilities providing services to children age 16 and older only do not require a license*” so I anticipate that is why the previous DCF definition only addresses children 16 and younger. The individual stated they will have an in-house manager and that the requestor will not live in the house.

According to the City Attorney, this request does not meet the statutory definition of a “Group Home” which has additional requirements as it pertains to municipalities, since the requestor does not plan to house disabled children.

The only other previous zoning case I could find that compares to this request was in 2013 when a company came in and wanted to buy a nursing home at 715 S. 2nd and turn it into a Boys’ Home in which they requested the property be rezoned from R-2 to R-4. Action by the Planning Commission was initially tabled at their September 10, 2013 hearing pending more information and the requirement of a conditional use permit. On October 1, 2013 the Planning Commission approved a conditional use permit with several conditions but failed to address the rezoning. A valid petition was filed by the property owners within 200’. On October 23, 2013 the City Commission denied the rezoning on a unanimous vote stating that “*this use did not fit the character of the neighborhood.*”

In reviewing the current conditional and permitted table of uses, the closest uses staff was able to locate include “*Day care centers – more than four children*” and “*Orphanages*”.

Staff recommends that a public hearing be initiated to consider a text amendment that would add “*Children’s Home*” into the permitted and conditional use table which would be a permitted use in an R-5 zone, and a conditional use in the R-3 and R-4 Zones. It is suggested to either modify “*Orphanage*” to match the suggested permitted uses of a “*Children’s Home*” or combining it “*Children’s Home/Orphanage*” or deleting “*Orphanage*” as a use since the “*Children’s Home*” definition should cover both.

The following definitions are also proposed:

Children’s Home: Any place, home or institution providing twenty-four hour nonsecure care to five or more children under the age of 18 years for compensation in

which such children are under the custody of a state agency; provided, however, this definition shall not include children placed in family care in a family foster home, public and private schools organized, operated or approved under the laws of the state, children related by blood or marriage to the provider, caring for children within an institutional building while their parents or legal guardians are attending services, meetings or classes or engaged in church activities.

Family Foster Home: A child care facility that is a private residence, including any adjacent grounds, in which the resident(s) provide family care for 24 hours a day for one or more children in foster care and for which a license is required by the State of Kansas.

The above definitions were written to ensure that rezoning or conditional use permits would not apply to a family that serves as foster parent(s) in the home the foster parent(s) reside in.

In speaking with the City Attorney, if the applicant wishes to proceed with their request at the same meeting as the text amendment that can be permissible as long as the text amendment is heard before the request for rezoning or a conditional use permit. Since currently the closest use to the applicant's request is an "Orphanage", it has been suggested to the applicant to apply for rezoning to R-5 for an "Orphanage". The Planning Commission can recommend a lesser zoning classification with a conditional use permit after they have held the public hearing for the text amendment.

It should be noted that staff is cognizant of the need for foster care and is also supportive of local business opportunities that will bring additional jobs to the community. The City currently requires conditional use permits for daycares, so requiring a conditional use permit and/or rezoning for the requested use would not be out of line with the current code and would ensure that our zoning codes are consistent and fair to all.

Suggested Motion:

I move to initiate a public hearing to consider a text amendment to Appendix B-Zoning of the City Code including, but not limited to:

- 1. Article IV. Rules and Definitions.*
- 2. Appendix A. "Listing of Permitted and Conditional Uses" including, but not limited to "Orphanages" and other new additional use(s).*