

**PLANNING DIVISION REPORT  
DEPARTMENT OF PLANNING AND COMMUNITY  
AND ECONOMIC DEVELOPMENT  
of September 17, 2007**

**RE: LD. # 07501, Conditional Use Application – 3201 & 3209 Tanglewood Drive**

1. Requested Action: Alteration of an approved conditional use to remove a condition that prohibits the transfer of this conditional use to another party. The request is made to allow the continued operation of a nursery school at 3201 and 3209 Tanglewood Drive under a new owner.
2. Applicable Regulations: Section 28.12 (11) provides the guidelines and regulations for the approval of conditional uses. The provisions for a nursery as a conditional use in a R1 (Single-family Residence District) zoned district are set forth in Section 28.08 (2)(b).
3. Report Drafted By: Kevin Firchow, AICP, Planner

**GENERAL INFORMATION**

1. Applicant: Mark Kraemer; Country Grove Preschool; 3513 Field Crest Way; Madison, Wisconsin 53719
2. Development Schedule: The applicant wishes to transfer the conditional use as soon possible.
3. Parcel Location: 3209 Tanglewood Drive; Aldermanic District 7; Madison Metropolitan School District.
4. Parcel Size: Approximately 0.28 acres
5. Existing Zoning: R1 (Single-family Residence District)
6. Existing Land Use: Preschool Currently operates as an allowable conditional use.
7. Proposed Land Use: Same as existing
8. Surrounding Land Use and Zoning:

North: Country Grove Nursery School, zoned R1 (Single-family Residence District);

East: Greenway owned by the City of Madison, zoned A (Agriculture District), Blackcreek Condominiums, zoned R4 (General Residence District);

South: Single-family residences in the Tanglewood Addition to Country Grove subdivision, zoned R1;

West: Single-family residences in the Tanglewood Addition to Country Grove subdivision, zoned R1.

9. Adopted Land Use Plan: The City Comprehensive Plan and Cross Country Neighborhood Development Plan recommend this area for low-density residential use.
10. Environmental Corridor Status: The property is not located within a mapped environmental corridor. However, the City-owned drainageway to the east of the site is within a 100-year floodplain and mapped environmental corridor.

### **PUBLIC UTILITIES AND SERVICES**

The property is served by a full range of urban services.

### **STANDARDS FOR REVIEW**

This application is subject to the conditional use standards of Section 28.12 (11)(g).

### **ANALYSIS, EVALUATION AND CONCLUSION**

The applicant requests the transfer of a conditional use to operate a day care / nursery school at 3201 and 3209 Tanglewood Drive. This is an alteration of an approved conditional use. This transfer is necessary for a new owner to continue the current facility operations. The applicant intends to purchase the school operations and one of the facility's buildings from the current owner. This operation is considered to be a "nursery school" under the zoning code, which is an allowable conditional use within the R1 zoning district.

The facility consists of two buildings on two properties located approximately 200 feet south of McKee Road (CTH PD) on the east side of Tanglewood Drive. The corner property at 3201 Tanglewood Drive is the site of a school building and is used as the main operations for the nursery school. This facility is licensed for 61 children. The property at 3209 Tanglewood Drive includes a single-family home structure. This structure is currently used for school age children and after school programs. This facility is licensed for 25 children. The properties have a combined area of 1.03 acres.

The Plan Commission has previously granted two separate conditional use approvals for the nursery school operation. The first approval was granted in October 1995 to allow the operation of a nursery school at 3201 Tanglewood Drive. This approval automatically transfers to a new property owner. The second conditional use approval was granted in May 2004 to allow nursery school operations in the home at 3209 Tanglewood Drive. The latter approval included the following condition:

*That the conditional use be non-transferable and expire in seven (7) years from the date of issuance of the Certificate of Occupancy for the day care with no possibility of extension of the conditional use.*

Conditional uses typically "run" with the property. However, the condition highlighted above ties this approval to the current property owner/operator and not the property. Thus, amending the conditional use to remove the prohibition on transfer to a different owner is necessary to continue the operation under new day care ownership. This condition also places an expiration date of 2011 on this conditional use. Removal of the expiration date was not included in the applicant's request.

The pending sale includes the school operation and the school building at 3201 Tanglewood Drive. The current owner will retain and lease the property at 3209 Tanglewood Drive back to the applicant until 2011, the expiration date of that conditional use. A majority of the new ownership team is currently involved in school management. This includes the current school manager and a teacher. The new ownership team also includes an outside investor.

The letter of intent states that there is no plan to change the existing operations. The school currently operates with 15-20 full and part-time employees. Hours of operation are from 7:00 am to 5:45 pm, Monday through Friday.

The Country Grove Neighborhood Association approved the transferred conditional use at their May 2007 meeting. The applicant has met with the district alder, and the letter of intent states that the alder is okay with the proposed change.

The Planning Division does not object to the proposed alteration transferring this conditional use to the new owner. In reviewing the submitted materials, staff do not believe there will be any changes to the site or operations that would cause the nursery school facility to become inconsistent with the conditional use standards. Further, the operation of the facility and transfer of the conditional use are consistent with recommendations in the City Comprehensive Plan for this area. Finally, the Planning Division notes that all other conditions of approval for either property will remain in effect and that the Plan Commission maintains continuing jurisdiction over this conditional use.

### **RECOMMENDATION**

The Planning Division recommends that the Plan Commission find that the conditional use standards are met and **approve** the proposed alteration to the existing conditional use. Specifically, staff recommend that condition #12 from the May 5, 2004 approval letter for 3209 Tanglewood Drive be amended to remove the statement that the conditional use "be non-transferable". Staff further recommend that the remainder of that condition regarding expiration dates and all other conditions remain unchanged. This recommendation is subject to input at the public hearing and the comments from reviewing agencies.