



City of Elkins

Planning Commission Meeting

June 26, 2025

3:30 PM

RCDA - W. Va. Wood Technology Center
10 Eleventh Street
Elkins, WV 26241

AGENDA

1. **Call to order and roll call**
2. **Public comment**
3. **Minutes**
4. **New business**
 - a. Proposal to amend Elkins Code §152.090 ("CITY RESIDENTIAL (R-2) DISTRICT") to allow the use "Class 1 Daycare" either by right or conditionally
5. **Adjournment**



CITY OF ELKINS AGENDA ITEM REPORT

Meeting Date:	June 26, 2025
Section:	New business
Category:	Action Item
Agenda Item Name:	Proposal to amend Elkins Code §152.090 ("CITY RESIDENTIAL (R-2) DISTRICT") to allow the use "Class 1 Daycare" either by right or conditionally
Recommended By:	Citizen request
Summary:	<p>This item arises from an inquiry regarding the potential operation of a Class 1 daycare facility at 503 Lincoln Avenue, a property currently located in the City Residential (R-2) zoning district. Under the current zoning code, adopted in 2022, Class 1 daycares are permitted by right only in the Central Business (CB) and Commercial (C) zones. Class 1 and Class 2 daycares are not currently permitted either by right or conditionally in any residential zone, including City Residential.</p> <p>Please see attached memo for more information. (The memo includes the pre-2022 zoning code and map, as well as a sample application to the Board of Zoning Appeals for conditional use approval, included to illustrate the conditions that must be met for such approvals.) Links to the current zoning code and map are provided below.</p> <p>The request letter is also attached.</p> <p>Current (2022) Zoning Code:</p> <ul style="list-style-type: none"> • https://codelibrary.amlegal.com/codes/elkinswv/latest/elkins_wv/0-0-0-12652 <p>Current (2022) Zoning Map:</p> <ul style="list-style-type: none"> • https://coewv.maps.arcgis.com/apps/instant/lookup/index.html?appid=7e6637ee56764f2586f04a83fd5ec36a
Fiscal Impact:	n/a



CITY OF ELKINS AGENDA ITEM REPORT

Recommendation:	1. Discuss whether Class 1 Daycare is appropriate in the City Residential zone, and if so, under what conditions (e.g., conditional use vs. by-right); and 2. Determine whether to initiate the process of submitting a proposed change to Council.
Attachments:	1. Request - Daycare letter to Planning commission 2. Memo - Concerning Class 1 Daycares in City Residential - 2025_06_24



Rivers of Living Water
MINISTRIES
6301 Back Road Beverly WV 26253

June 2, 2025

To Whom it May Concern:

Rivers of Living Water Ministries, a non-denominational church, was founded in January 2006 by Rev. Michael and Alicia Boggs. Within a year, of its inception the church was able to purchase the building formerly owned by the Elkins First Church of the Nazarene located at 503 Lincoln Avenue in Elkins, WV. Since that time, Rivers of Living Water Ministries (RLWM) has held weekly services at this location, ministering to children, teens, families, and adults of all ages. In addition to worship services, Rivers has impacted the Elkins community through providing addiction recovery group ministries, sponsoring block parties and fishing derbies, hosting annual Vacation Bible School programs, participating in Feed the Team meal preparation for school sports teams, volunteering with school mentorship programs, providing clothing and necessities for children in need, participating in disaster relief, and working as a liaison for WorldVision Appalachia. Also, RLWM has had a positive impact on the community by sponsoring area-wide events, such as the Perry Stone Crusade, Dr. T.L. Lowery Ministry Event, and Nik Walker Crusade, generating funds for local businesses, i.e. restaurants and hotel services. For the past nineteen years, Rivers of Living Water Ministries has endeavored to bless the community by meeting both the spiritual and physical needs of the residents of the Elkins community.

On May 25, 2025, RLWM began holding church services in our new church building located at 130 Midway Loop. At this time a buyer stepped forward, desiring to purchase our Lincoln Avenue property, with the express intent of opening a Daycare facility. The couple approached our church leadership, discussing their vision to provide the Elkins area with a state-of-the-art Daycare facility, encompassing the church building, the attached parsonage, and the adjacent parking lot. Their business plan includes a facility which will accommodate up to fifty children, providing them with a safe place to stay, while receiving loving attention and pre-k guidance.

The proposed Daycare facility will positively impact the Elkins community by meeting the needs of many families who depend upon childcare so that they may work outside of the home. Also, the new facility will provide employment opportunities, generate tax revenue, and boost the commercial footprint of our wonderful city and the surrounding area.

We understand that the current zoning of the 503 Lincoln Avenue property does not provide for the operation of a Class I Daycare facility. However, upon review of the zoning codes, we have noticed that multiple business classes are allowed to operate within the 503 Lincoln Avenue zoning classification, including group homes and facilities, pre-k through 12 schools, community facilities, and reception facilities. With this in mind, we feel a Class I Daycare fits within the standards of use as allowed for these other facilities, and would not have a negative impact on this residential area.

Therefore, we are requesting the Planning Commission recommend to the City Council that a revision be made to this zoning classification to include Class I Daycare facilities in its list of approved businesses. If necessary, please provide a waiver to allow for the Class I Daycare facility to be approved and for the purchase of the 503 Lincoln Avenue property to take place.

In conclusion, by allowing this purchase to take place, and the Class I Daycare facility to occupy the 503 Lincoln Avenue property, you will be ensuring that the property will continue to have a positive impact on the Elkins community. If, for some reason, the proposed Daycare is prohibited and the property is not sold, Elkins will once again have a vacant building, along with all the issues that arise from a building sitting unused, to contend with.

If you have any questions, feel free to contact me at (304)940-0509. We look forward to discussing the matter further at the upcoming Planning Committee meeting scheduled for June 12.

Thank you for your consideration.

Sincerely,

Pastor Michael Boggs
Rivers of Living Water Ministries

Memo

To: Elkins Planning Commission

From: Sutton Stokes, City Clerk

Date: June 24, 2025

Re: Proposal to Amend §152.090 to Allow Class 1 Daycares in the City Residential (R-2) District

Background

This item arises from an inquiry regarding the potential operation of a Class 1 daycare facility at 503 Lincoln Avenue, a property currently located in the City Residential (R-2) zoning district. Under the current zoning code, adopted in 2022, Class 1 daycares are permitted **by right** only in the Central Business (CB) and Commercial (C) zones. Class 1 and Class 2 daycares are not currently permitted **either by right or conditionally** in any residential zone, including City Residential.

Zoning History

Prior to 2022, the property was zoned “B – Unrestricted Residential,” under which daycares were also not an allowed use. Although zoning enforcement may have varied historically, there is no evidence that a Class 1 daycare has ever been a legally permitted use at this location under either the current or previous zoning code.

The current City Residential district does allow other types of daycares by right, including:

- **Class 3** (care for 4–6 children under age six, in the provider’s residence), and
- **Class 4** (care for up to 3 children under age six, also in the provider’s residence).

Request

The property owner has expressed interest in pursuing an amendment to the zoning code to allow **Class 1 daycares** as a permitted use in City Residential. The specific request for Planning Commission consideration is whether to **recommend a zoning text amendment** that would:

- Add “Class 1 Daycare” to the list of **conditional uses** allowed in the City Residential district, **or**
- Alternatively, allow such uses **by right** in that district.

If this amendment were ultimately approved by Council, any future Class 1 daycare proposed in a City Residential district would still be subject to:

- Board of Zoning Appeals (BZA) review and approval, **if allowed as a conditional use**, or
- Applicable permitting and regulatory compliance **if allowed by right**.

Planning Considerations

If the Commission chooses to proceed with this request, potential considerations could include:

- Compatibility of Class 1 daycare operations with adjacent residential uses;
- Traffic, parking, and noise impacts;
- The availability of off-street parking and outdoor space at potential sites;
- Consistency with the goals and land use recommendations of the Elkins Comprehensive Plan;
- Precedent and potential implications for other properties in the same zone.

Should the Commission vote to initiate the amendment process, the City Attorney would prepare a draft ordinance for presentation to Council. Council would have to approve the change at two separate meetings before any changes to the zoning ordinance could take effect.

Recommendation

It is recommended that the Planning Commission:

1. Discuss whether Class 1 Daycare is appropriate in the City Residential zone, and if so, under what conditions (e.g., conditional use vs. by-right); and
2. Determine whether to initiate the process of submitting a proposed change to Council.

References:

- Current (2022) Zoning Code:
https://codelibrary.amlegal.com/codes/elkinswv/latest/elkins_wv/0-0-0-12652
- Current (2022) Zoning Map:
<https://coewv.maps.arcgis.com/apps/instant/lookup/index.html?appid=7e6637ee56764f2586f04a83fd5ec36a>
- Pre-2022 Zoning Code and Map (attached, for historical reference)
- BZA Conditional Use Application (attached for reference, if applicable)

Except as hereinafter provided, no building shall be erected or converted, nor shall any building or premises be used, for any purpose other than that permitted in the use district in which such building or premises are located. (3-5-59, § 2, (3).)

Section 21-13 Limited uses for animals and poultry.

It shall be unlawful for any person to build, construct and use any new, altered, converted or remodeled building or structure on any lot, area, tract or parcel of land within the corporate limits of the city for the housing and care of any domestic animal (other than dogs and cats or household pets) or of poultry of any kind customarily housed in barns, hog pens, poultry or chicken houses, or other outhouses or sheds. (3-5-59, § 2, (4) and (5); 7-19-79.)

Section 21-14 Electric fences prohibited; staking of domestic animals prohibited.

It shall be unlawful for any person to erect, maintain or operate any electric fence for any purpose within the corporate limits of the city, or to stake any cow, bull, horse, mule, goat or other domestic animal on any lot or parcel of land within the city. (3-5-59, § 2, (6); 7-19-79.)

Section 21-15 Permitted uses--In residential districts.

In the residential districts all buildings and premises, except as otherwise provided in these regulations, shall be erected for and used exclusively as:

- (a) Dwellings.
- (b) Apartment houses, flats and tenements in the B district only.
- (c) Hotels in the B district only.

Commercial uses which distinctly pertain to or are appropriate adjuncts to hotels as follows: Restaurant dining room, drug stand, including soda fountain, perfumery shop, florist shop, barbershop, beauty parlor, pressing or tailoring establishment, cigar and newsstand, and uses similar to these enumerated in the B district when approved by the board of zoning appeals.

- (d) Lodging or boardinghouses in the B district only.
- (e) Churches in the B district only.
- (f) Private clubs, fraternities and lodges in the B district only, except those the chief activity of which is a service customarily carried on as a business.
- (g) Repealed.
- (h) Transportation rights-of-way.
- (i) Farms, truck gardens, nurseries and greenhouses, in the B district only.

Elkins City Code

(j) Accessory buildings and uses of property customarily incidental to the district, when located on the same lot and not involving the conduct of a business on the premises.

The following usual accessories of a residence located on the same lot with that residence and not involving the conduct of a business shall be allowed:

(1) Repealed.

(2) A private garage located in a fireproof compartment within, adjoining or forming an addition to a building, or both; provided, that the total garage storage facilities on any one lot shall not exceed eight hundred square feet in area.

(3) A private garage located in the rear yard with a dwelling, and not less than ten feet from any point of such dwelling nor less than twenty feet from the building line of any street upon which the lot abuts; provided, that if the lot will not permit a garage to be located in conformity with this regulation, a garage may be approved by the board of zoning appeals, as provided in article VIII of this chapter; and provided further, that the total private garage storage facilities on any one lot shall not exceed eight hundred square feet in area.

(4) A public storage garage in an apartment house, where the floor area of the garage does not exceed one-fourth of the total floor area designed for use or used by the tenants; provided, that the vehicular entrances or exits are located seventy-five feet or more back of the building line of the nearest street, or are so located that dangerous traffic or otherwise objectionable conditions, as may be determined by the board of zoning appeals in article VIII of this chapter, will not be created.

(5) Open parking spaces accommodating motor-driven passenger vehicles of the persons residing in the building on the premises, provided, that no part of such parking space shall occupy any part of the side yards and courts nor more than thirty percent of the rear yard required by these regulations; and provided further, that any such parking space between the outside walls of the building and the line of any street upon which the lot abuts shall require the approval of the board of zoning appeals.

(k) A private garage which is not appurtenant to any of the above uses and housing not more than two motor-driven vehicles, nor exceeding eight hundred square feet in area, if located fifty feet or more back of the building line of the nearest street, and abutting and opening directly upon a public alley.

(l) In the B district, a public storage garage, or the temporary parking of motor vehicles on an alley lot, so recorded on the records of the city clerk or the county clerk, when no part of such garage or the space for such parking is located within twenty-five feet of any street building line, and when vehicular entrances and exits open directly on a public alley.

(m) In the B district temporary use of premises by fairs, circuses or carnivals, upon compliance with the applicable provisions of this Code.

(n) **Public or private schools**, municipal recreational uses, pumping stations and fire engine houses may be erected in any district. In the case of a fire engine house located in a residential district, a public hearing shall first be held by the mayor and common council. Police stations shall be located only in commercial and industrial districts.

Note: See article VIII of this chapter for other uses which may be approved in residential district by the board of zoning appeals. (3-5-59, § 3; 7-19-79; 7-17-80.)



APPLICATION FOR CONDITIONAL USE PERMIT

BOARD OF ZONING APPEALS

Version adopted April 4, 2024

Name of Applicant: _____ Are you the property owner? YES NO

Applicant Address: _____

Applicant Phone No: _____ Applicant Email: _____

Name of Property Owner if Different from Applicant: _____

Address of Structure: _____ Zoning District: _____

Proposed Use: _____

Was the existing structure originally used as a Permitted Use in the district? YES NO

In order for the Conditional Use Permit to be granted, the applicant must demonstrate to the Board that all standards described on the back of this application will be met.

In addition to this form, the following shall be submitted prior to review by the City of Elkins:

- 1. Application for Certificate of Zoning Compliance showing denial
2. A plan drawn to scale which shall depict the overall site layout including building location, parking area, circulation, setbacks, lighting, landscaping, screening, signage, and building location on adjacent parcels.
3. The preliminary building plans and elevations illustrating modifications and alterations including an indication of exterior materials, textures, and colors being used on the project.
4. A letter summarizing the request along with any other information deemed helpful by the applicant or necessary by the Board to explain the nature of the proposed use and its consistency with the standards outlined on the back of this application.
5. Legal Description (may be found in deed)
6. Application Fee of \$100. You will be billed separately for the cost of legal advertisement and notification posters.

I certify under penalty of perjury that the information contained in this application and its supplements are true and correct.

Applicant Signature

Date

Owner Signature

Date

The BZA shall approve an application for a conditional use permit, subject to such reasonable conditions and restrictions as are directly related to and incidental to the proposed conditional use permit, if it finds that the following general standards have been met:

1. The use is consistent with the policies and intent of the corresponding purpose for the zoning district in which it lies and the City's comprehensive plan.
2. The use is physically and operationally compatible with the surrounding neighborhood and surrounding existing uses.
3. The use will be designed, constructed, operated, and maintained so that it does not cause substantial injury to adjoining property.
4. The use will be adequately served by public facilities and services which include but are not limited to water, sewer, electric, schools, streets, fire and police protection, storm drainage, public transit, and public parks and trails.
5. Adequate off-street parking will be provided on the same property as the proposed conditional use as well as adequate ingress and egress to the property in compliance with the standards set forth in this code.
6. Any storage of hazardous material will comply with all state, federal, and local regulations, and all such material will be listed and made known to the Chief of the City of Elkins Fire Department.
7. The use will not endanger public health or safety or constitute a public nuisance.
8. The use will not conduct operations in connection with the use which are offensive, dangerous, or destructive of the environment.

Conditions may be imposed on a proposed conditional use to ensure that potential significant adverse impacts on surrounding uses will be reduced to the maximum extent feasible, including but not limited to conditions or measures addressing:

1. Location on a site of activities that generate potential adverse impacts such as noise and glare;
2. Hours of operation and deliveries;
3. Location of loading space and delivery zones;
4. Light intensity and hours of full illumination;
5. Placement of outdoor vending machines;
6. Loitering;
7. Litter control;
8. Placement of trash receptacles;
9. On-site parking configuration and facilities;
10. On-site circulation; and
11. Privacy concerns of adjacent uses.

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