



DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

Planning Division

m e m o r a n d u m

TO: The Urbana Zoning Board of Appeals

FROM: Jeff Engstrom, Planner II

DATE: April 11, 2014

SUBJECT: **ZBA Case 2014-C-03:** a request by Susan and Michelle Kozlowski to establish a Daycare Facility at 211 W. High St. in the R-2, Single-Family Residential Zoning District.

Introduction

This case is a request by Susan and Michelle Kozlowski for a Conditional Use Permit to allow the establishment of a Daycare Facility at 211 West High Street in the R-2 Single-Family Residential Zoning District. The home would become a state-licensed daycare for up to 11 children during the busiest times. The daycare operators would reside in the home.

Background

The subject property contains a four-bedroom single family home on a 6,670 square-foot lot. The property was a legally non-conforming duplex until 1992, when a building permit was issued to convert it into a single-family home. The subject house is proposed to be used as a single-family home with a Daycare Facility. The applicants would rent the home and use it as their residence. During the day they would care for up to eleven children in the home.

Survey of Comprehensive Plan Designation, Zoning, and Land Use

The subject property is located in a residential area in West Urbana, near Downtown Urbana on the southeast corner of High and Cedar Streets. The subject property, as well as properties to the east, south, west, and northwest are all single-family and duplex uses zoned R-2, Single Family Residential. North of the subject property is a five-unit apartment building zoned R-3, Single and Two-Family Residential. The following chart identifies the Comprehensive Plan designation, current zoning, and current land use of the site and surrounding properties.

Direction	Zoning	Existing Land Use	Comprehensive Plan – Future Land Use Designation
Subject Site	R-2, Single-Family Residential	Single-Family home	Residential – Urban Pattern
North	R-3, Single- and Two-Family Residential	Apartment Building	Residential – Urban Pattern
South	R-2, Single-Family Residential	Single-Family homes and duplexes	Residential – Urban Pattern
East	R-2, Single-Family Residential	Single-Family homes and duplexes	Residential – Urban Pattern
West	R-2, Single-Family Residential	Single-Family homes and duplexes	Residential – Urban Pattern

Comprehensive Plan

The 2005 Urbana Comprehensive Plan indicates the future land use for the surrounding area as “Residential – Urban Pattern”. The plan defines this land use as follows:

Residential (Urban Pattern)

Residential areas contain primarily single-family residential housing *but may also include a variety of compatible land uses such as duplexes, town homes, civic uses, institutional uses, and parks where zoning is appropriate.* Residential areas can have different physical patterns of development.

A pattern of development that is typically found in older, established neighborhoods. Includes a grid network of streets with, in some cases, vehicular access from rear alleys. Streets may be narrow in order to slow down traffic and favor the pedestrian. The urban pattern also contains a well-connected sidewalk system that encourages walking and provides convenient pedestrian access to nearby business centers. May include smaller lots where homes face the street and the presence of garages along the street is minimized.

There is a note on the Future Land Use Map for West Urbana that states:

1. *Explore “Neighborhood Conservation District” Strategies*
2. *Promote Single-Family Residential Uses in areas zoned for single-family*
3. *Preserve existing zoning protections*
4. *New development to respect traditional physical development pattern*

Discussion

The subject property is proposed to be used as a single-family home with a Day Care Facility. The applicants would rent the home and use it as their residence. During the day they would care for up to eleven children in the home. The applicants state that they are licensed by the State of

Illinois to care for seven children during the school day, and an additional four children before or after school. They anticipate averaging six to seven children per day.

The day care would operate Monday to Friday from 6:30 AM to 5:30 PM. If they have more than eight children on site the operators are required to have a third employee. The children would be cared for on the first floor of the home, as shown in the attached site plan. The required area for this number of children is 385 square feet, and the home will have 742 square feet dedicated to the day care use. Drop-off times are staggered and are busiest between 7:45 and 8:15 AM. Pick-up is also staggered from 4:45 to 5:30 PM. The day care is subject to Illinois Board of Education and Department of Children and Family Services regulations, as well as Federally Funded Food Program rules. The Department of Children and Family Services classifies a day care of this size as a "Day Care Home".

The Urbana Zoning Ordinance defines this type of use as a Day Care Facility, and according to Table V-1: "Table of Uses", a Day Care Facility may be permitted in the R2, Single-Family Residential Zoning District as a Conditional Use. The Zoning Ordinance contains the following definitions for Day Care Home and Day Care Facility:

Day Care Home: Any facility, in a home, for the care of no more than a total of five children or dependent adults, including those of the proprietor, during all or part of the day, of a commercial nature of a type commonly called "day nurseries," "nursery schools," or "private kindergartens," etc., which provide essential personal care, protection, supervision, or training of preschool or school age children or dependent adults. A day care home shall be considered a home occupation.

Day Care Facility: Any facility, other than a day care home, for the care of children or dependent adults, including those of the proprietor, during all or part of the day, of a commercial nature of a type commonly called "day nurseries," "nursery schools," or "private kindergartens," etc., which provide essential personal care, protection, supervision, or training of preschool or school age children or dependent adults. A day care facility shall not be considered a home occupation.

The Zoning Ordinance only has definitions for these two types of day care. Because the applicant plans on caring for more than five children, the use is categorized as a Day Care Facility instead of Day Care Home. If the applicants were to limit their home to five children, they could apply for a Home Occupation Permit to allow a Day Care Home. This permit application would be reviewed by the Zoning Administrator. However, any number of children above five is considered a Facility rather than a Home, and requires a Conditional Use Permit in nearly every zoning district.

The Zoning Board of Appeals has approved seven Conditional Use Permits for Day Care Facilities since the year 1993. Three of these are for large standalone facilities that serve 150 or more children and are located in the B-3 zoning district. One of them (1910 Kathryn) was for an adult dependent care of eight persons, which was located in a single-family home. Prior to 2000 there were three Day Care Facilities approved by the Zoning Board, but records are not available for how many persons were served by those facilities. The following table summarizes approved Day Care Facility CUP cases:

Case	Address	Notes
1993-C-01	1108 N. Harvey	Number of children unknown.
1995-C-02	1311 E. Florida	Number of children unknown.
1997-C-04	701 E. Florida	Number of children unknown.

2000-C-07	1603 Mumford	Large facility (150 children), in B-3.
2004-C-02	2501 Myra Ridge	Large facility (168 children), in B-3.
2007-C-04	1910 Kathryn	Adult dependent care in a single family house. (Approved for 8 daytime visitors at a time)
2008-C-02	2507 Myra Ridge	Expansion of existing daycare from 168 to 330 children.

Development Regulations

The existing house meets the R-2 zoning district Floor Area Ratio (FAR) and Open Space Ratio (OSR) requirements, as well as all required setbacks. The Urbana Zoning Ordinance Table-VIII-7 “Parking Requirements by Use” states that a Day Care Facility must have three off-street parking spaces for every two employees, plus a “drive-in facility for drop off of children”. There are four existing parking spaces (one in the garage and three gravel spaces), which accommodate the two resident/operators. The parking spaces are in the back yard and are accessed via a shared driveway that also provides access for the single family house to the east. However, there is no off-street “drive-in facility for drop off of children”. The operators propose to have parents park along Cedar Street and to bring children in through a gate in the back yard fence. Staff has visited the site during the time that morning drop-offs would occur. Traffic was very light, with one car passing by on Cedar Street every three to five minutes. The City Engineer has reviewed this proposal and has determined that up to seven drop-offs and pick-ups per day would be acceptable based on the low traffic volume on Cedar. The applicant has agreed to stagger the drop-off and pick-up times to avoid having too much traffic.

If approved, the operators would be required to meet Building Code requirements. They would be required to replace the back porch stairs and to modify the interior glass doors for safety. These issues have been identified by the Building Inspector as the primary concerns for the day care. All other code requirements appear to be met.

Requirements for a Conditional Use Permit

According to Section VII-2 of the Urbana Zoning Ordinance, an application for a Conditional Use Permit shall demonstrate the following requirements shown in italics. City Staff analysis follows each criteria.

- 1. That the proposed use is conducive to the public convenience at that location.*

It is not clear if the proposed use is conducive to the public convenience. The proposed day care use itself would fit on the ground floor of the house and would be within walking distance of several families. There is a yard with a privacy fence that would allow for children to safely play outside. However, the layout of the lot does not allow for an off-street drive-in facility to drop off children. Most Day Care Facilities in Urbana are on larger lots zoned for commercial use and only have a single use. These larger facilities have the required drop-off lane as part of their parking lot. The proposed use is on a standard residential lot, which does not have room for a parking lot and drop-off facility. However, most of the larger facilities care for over dozens to over a hundred children, while this facility would only have seven to eleven clients per day.

2. *That the proposed use is designed, located, and proposed to be operated so that it will not be unreasonably injurious or detrimental to the district in which it shall be located, or otherwise injurious to the public welfare.*

The proposed use may be detrimental to the district in which it is located if not properly operated. The use could have a similar impact to that of the five-unit apartment building across the street in terms of number of vehicle trips per day. However, staff is concerned that the use may result in multiple cars lined up on the street to drop off children during morning and afternoon rush hour traffic. Vehicles may end up blocking the shared driveway. The operators state that they will not allow this to occur and that drop-off and pick-up times will be staggered.

The Zoning Board of Appeals may add conditions to the proposed Conditional Use Permit that would reduce impacts of the use on the surrounding properties. Staff suggests if the Zoning Board approves this Conditional Use Permit that the Board adopt conditions limiting the number of children on site, the time between drop-offs and pick-ups, and the location of drop-offs and pick-ups, as detailed in the Recommendation section below. If the conditions of the permit are not adhered to, the Zoning Administrator may revoke the permit.

3. *That the proposed use conforms to the applicable regulations and standards of, and preserves the essential character of, the district in which it shall be located, except where such regulations and standards are modified by Section VII-3.*

The proposed use is potentially consistent with the general purpose and intent of the R-2 Single-Family Residential Zoning District. The Zoning Ordinances Sec. IV-2. J states:

"The Residential Districts generally are intended to provide desirable settings for residential uses within several density ranges described in Urbana's Comprehensive Plan, and for various types of dwelling units, with appropriate regulations regarding physical development. As appropriate, the districts also allow other uses compatible with residential areas, either as permitted or as conditional or special uses."

The proposed use would be of comparable intensity to the adjacent apartment building, but would be of higher intensity than most of the surrounding properties. The proposed use would conform to all setbacks and development regulations of the R-2 district in which it is located, except for the required off-street drop-off facility. In general, the lot would appear and act like a single-family home with the exception of the additional vehicles stopping to drop off or pick up children.

Consideration

According to Section XII-2, the Zoning Board of Appeals shall determine whether the reasons set forth in the application, and the evidence adduced during the public hearing, justify the granting of the conditional use permit, and whether the proposed use will be in harmony with the general purpose and intent of the Zoning Ordinance, and will not be unreasonably injurious or detrimental to the district in which it shall be located, or otherwise injurious or detrimental to the public welfare.

In addition, the Zoning Board of Appeals may also impose such additional conditions and requirements on the operation of the proposed use as are appropriate or necessary for the public health, safety, and welfare, and to carry out the purposes of the Zoning Ordinance, including but not limited to the following:

1. Regulate the location, extent, and intensity of such use;
2. Require the screening of such use by means of fences walls or vegetation;
3. Stipulate a required minimum lot size;
4. Regulate vehicular access and volume;
5. Require conformance to health, safety, and sanitation requirements as necessary;
6. Increase the required yards;
7. Any other conditions deemed necessary to affect the purposes of this Ordinance.

Summary of Findings

1. The subject property is zoned R-2, Single-Family Residential. The Urbana Zoning Ordinance allows “*Day Care Facility*” as a conditional use in the R-2 Zoning District.
2. The proposed use is to be located in the existing house at 211 West High Street.
3. The proposed day care would house seven children during the day and four additional children during early morning and after-school hours.
4. The operators have proposed procedures to reduce the impact of the proposed use on the neighborhood, such as staggering the times which children may be dropped off or picked up.
5. The proposed use is conducive to the public convenience at the location because it will fit within the existing house on the property and could serve neighborhood residents. However it may not be conducive to the public convenience if the intensity of the use is too great.
6. The proposed use could pose a detriment to the zoning district in which it is proposed to be located due to the potential for excessive street parking during busy times.
7. The proposed use conforms to all but one of the applicable regulations and standards of and preserves the essential character of, the zoning district in which it is located. The proposed use does not have the required off-street child drop-off facility.

Options

The Zoning Board of Appeals has the following options in Case No. ZBA-2014-C-03:

1. Grant the conditional use as submitted; or
2. Deny the conditional use as submitted; or

3. Grant the conditional use along with any additional conditions and requirements as are appropriate or necessary for the public health, safety, and welfare, and to carry out the purposes of the Zoning Ordinance.

Staff Recommendation

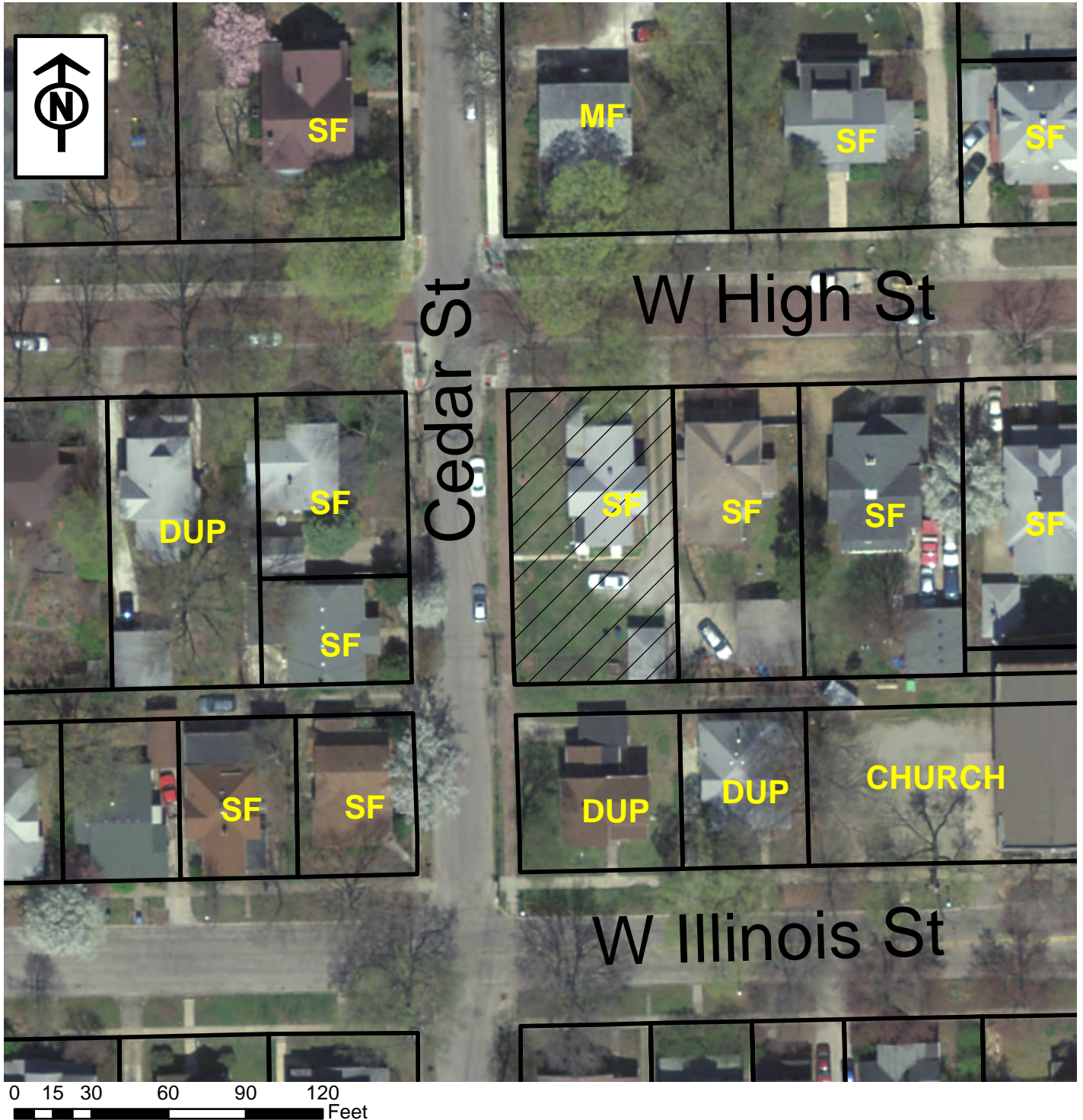
Staff has concerns about the proposed use. The use has the potential to be detrimental to the district. However, if properly operated and limited in scope the proposed use should not be a burden on neighboring residents. Based on the evidence presented in the discussion above, and without the benefit of considering additional evidence that may be presented at the public hearing, staff recommends that the Zoning Board of Appeals **GRANT** the proposed conditional use in case ZBA-2014-C-03 for the reasons articulated above and **subject to the following conditions:**

1. No more than seven child client visits shall be allowed per day;
2. Child drop-off and pick-up times must be staggered by at least ten minutes;
3. Drop-off and pick-up shall occur in the designated area along Cedar Street and shall not occur in the shared driveway;
4. The facility shall meet all applicable Federal and Illinois Department of Children and Family Services regulations; and
5. The use must conform to all applicable building codes and obtain a Certificate of Occupancy from the Building Safety Division.

Attachments: Exhibit A: Location and Existing Land Use Map
Exhibit B: Existing Zoning Map
Exhibit C: Future Land Use Map
Exhibit D: Application for Conditional Use Permit
Exhibit D: Site Photos

cc: Susan and Michelle Kozlowski

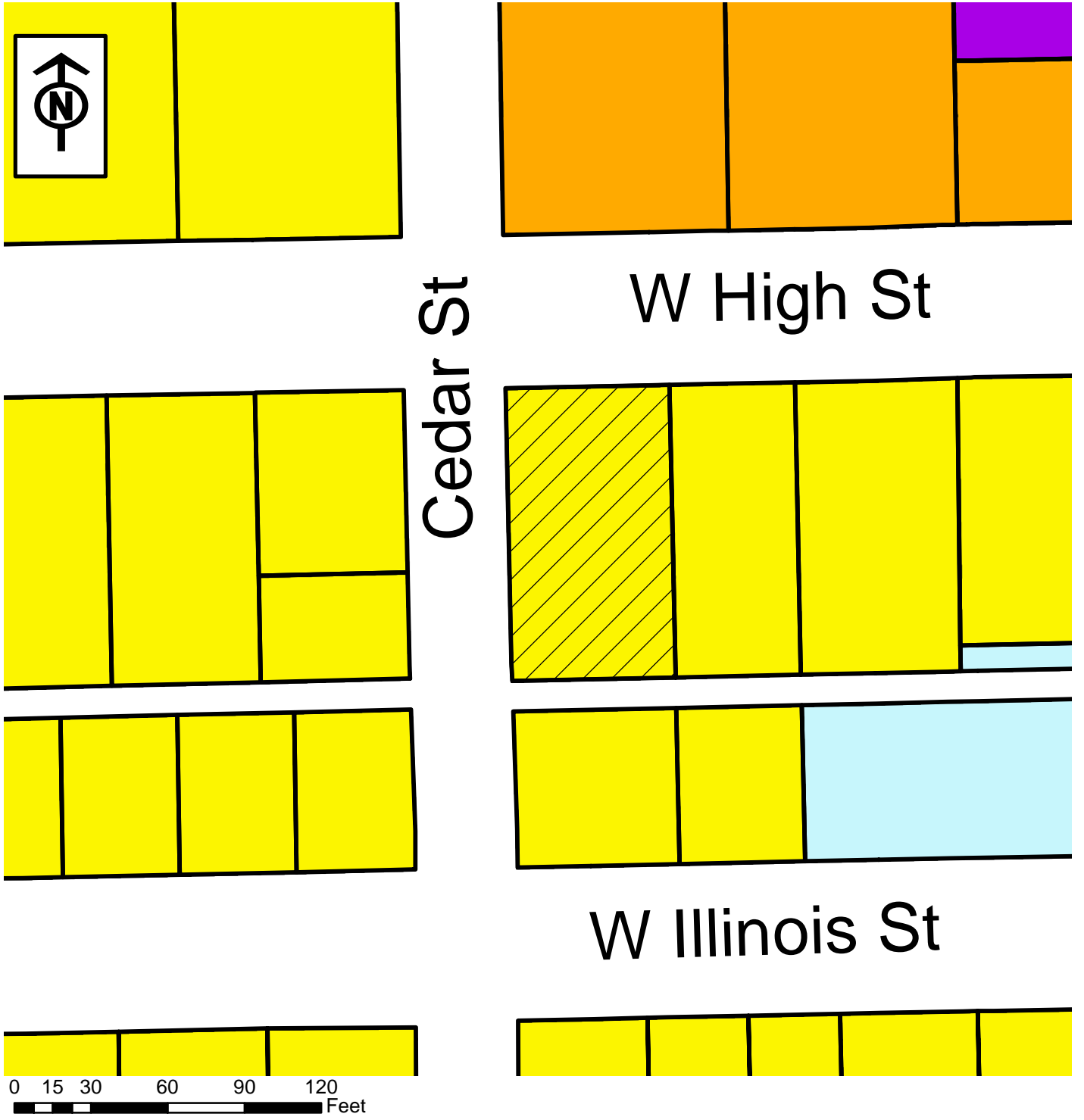
EXHIBIT A: LOCATION & LAND USE MAP



Case: ZBA-2014-C-03
 Subject: Application for CUP to allow Daycare Facility
 Location: 211 W. High St.
 Petitioner: Susan and Michelle Kozlowski

 Subject Property

EXHIBIT B: ZONING MAP



Case: ZBA-2014-C-03
 Subject: Application for CUP to allow Daycare Facility
 Location: 211 W. High St.
 Petitioner: Susan and Michelle Kozlowski






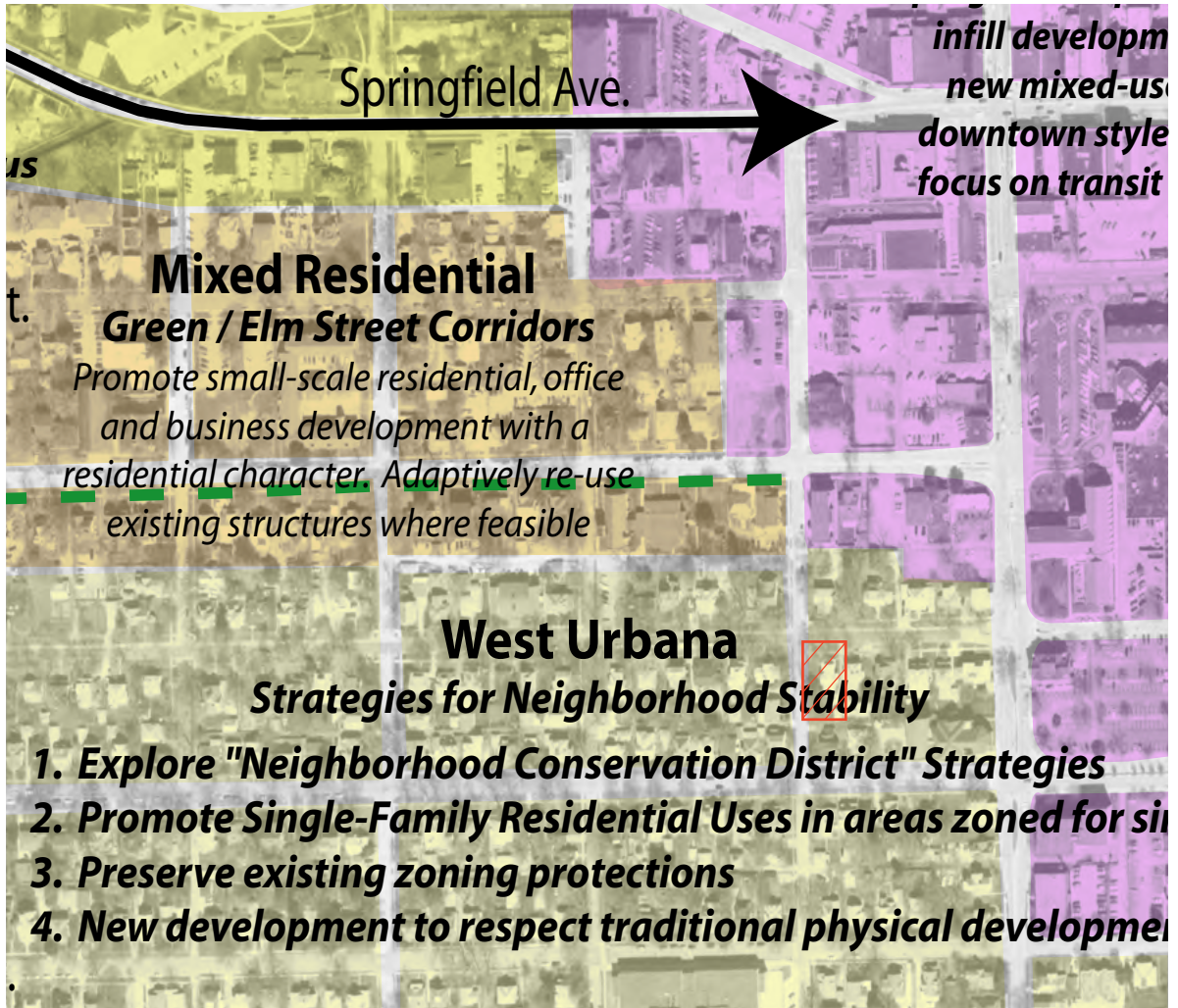
-  Subject Property
-  R2
-  MOR
-  R3
-  B4

EXHIBIT C: FUTURE LAND USE MAP



Case: ZBA-2014-C-03
Subject: Application for CUP to allow Daycare Facility
Location: 211 W. High St.
Petitioner: Susan and Michelle Kozlowski



Subject Property



Application for Conditional Use Permit

Zoning Board Of Appeals

APPLICATION FEE - \$150.00

The Applicants are responsible for paying the cost of legal publication fees as well. The fees usually run from \$75.00 to \$125.00. The applicant is billed separately by the News-Gazette.

DO NOT WRITE IN THIS SPACE - FOR OFFICE USE ONLY

Date Request Filed 03-17-2014 ZBA Case No. ZBA-2014-C-03
Fee Paid - Check No. MoneyGram Amount \$150.00 Date 03-17-2014

PLEASE PRINT OR TYPE THE FOLLOWING INFORMATION

A CONDITIONAL USE PERMIT is requested in conformity with the powers vested in the Zoning Board of Appeals to permit *(Insert Use or Construction Purpose)* Child Care on the property described below, and in conformity with the plans in the permit application.

1. APPLICANT CONTACT INFORMATION

Name of Applicant(s): Susan + Michelle Kozlowski Phone: 217-417-6927
Address (street/city/state/zip code): 211 W. High St. Urbana, IL 61801
Email Address: allthelittleangels08@yahoo.com
Property interest of Applicant(s) (Owner, Contract Buyer, etc.): renter

2. OWNER INFORMATION

Name of Owner(s): Dina Ruiz Phone: 773-447-9027
Address (street/city/state/zip code): 9118 N. Kolmar Skokie IL 60076
Email Address:

Is this property owned by a Land Trust? Yes No
If yes, please attach a list of all individuals holding an interest in said Trust.

3. PROPERTY INFORMATION

Location of Subject Site: 211 W. High St. Urbana, IL 61801
PIN # of Location: 92-21-17-143-001
Lot Size: _____

Current Zoning Designation:

Current Land Use (vacant, residence, grocery, factory, etc): residence

Proposed Land Use: residence + at-home family daycare

Legal Description: We wish to live at 211 W. High St and operate an at-home daycare licensed for more than 5 children.

4. CONSULTANT INFORMATION

Name of Architect(s):

Phone:

Address (street/city/state/zip code):

Email Address:

Name of Engineers(s):

Phone:

Address (street/city/state/zip code):

Email Address:

Name of Surveyor(s):

Phone:

Address (street/city/state/zip code):

Email Address:

Name of Professional Site Planner(s):

Phone:

Address (street/city/state/zip code):

Email Address:

Name of Attorney(s):

Phone:

Address (street/city/state/zip code):

Email Address:

5. REASONS FOR CONDITIONAL USE PERMIT

Explain how the proposed use is conducive to the public convenience at the location of the property.

We can use on-street parking for drop-off and pick-up (parents taking only a few minutes), so not tying up shared driveway. Parents filter in ^{out} slowly.

Explain how the proposed use is designed, located and proposed to be operated, so that it will not be unreasonably injurious or detrimental to the district in which it shall be located, or otherwise injurious or detrimental to the public welfare.

Daycare is open Mon-Fri 630 am - 530 pm. Children are cared for inside home and will play in the fenced yard weather permitting. Parent drop-off + pick up is staggered.

Explain how the proposed use conforms to the applicable regulations and standards of, and preserves the essential character of, the district in which it shall be located (except where such regulations and standards may be modified by Section VII-3 of the Urbana Zoning Ordinance, 1979).

We have no signs outside, it is after all our home as well. It is very much like a larger family living there during the day. We keep the property neat + safe, including shoveling snow off sidewalks. We are monitored by DEFS, the Board of Education + a food program to make sure we are following regulations.

NOTE: If additional space is needed to accurately answer any question, please attach extra pages to the application.

By submitting this application, you are granting permission for City staff to post on the property a temporary yard sign announcing the public hearing to be held for your request.

CERTIFICATION BY THE APPLICANT

I certify all the information contained in this application form or any attachment(s), document(s) or plan(s) submitted herewith are true to the best of my knowledge and belief, and that I am either the property owner or authorized to make this application on the owner's behalf.

Swan Kozlowski
Applicant's Signature

3-3-14
Date

Michelle D. Jush

3-3-14

PLEASE RETURN THIS FORM ONCE COMPLETED TO:

City of Urbana
Community Development Department Services
Planning Division
400 South Vine Street, Urbana, IL 61801
Phone: (217) 384-2440
Fax: (217) 384-2367

EXHIBIT E: SITE PHOTOS





211 W. High Street Daycare Zoning

Susan & Michelle Kozlowski

1. How many employees would you have and for what shifts?
The daycare would mainly be run by the two of us (between the hours of M-F 6:30 am -5:30 pm. If we get more than 8 children, we would hire a part-time assistant that would work either mornings 7:30 – noon or afterschool 3:30 – 5:30 ; dependent on what ages the extra children would be.
2. How many parking spaces are available?
Right now we can fit three cars behind the house by the garage. We will purchase one or two parking permits as well.
3. Do you have a site plan?
Employees (including ourselves) will park in the back. Drop off will occur by parking on the street and coming in thru the side gate. Quick and easy entrance and exiting. We will not have anyone blocking or backing out over sidewalks this way.
4. Do any of your patrons arrive by walking or bicycling?
We will have one possibly two families that will walk.
5. Which entrance would be used for drop-off and pick-up?
As stated in #3; our patrons will use the side gate off Cedar and enter/exit thru the back door.
6. How many rooms will be used in daycare operation? Do you have a floor plan or square footage?
We will use three rooms on the first level plus the bathroom for daycare. We will also offer the second bathroom if needed. We will also, of course, use the fenced in back yard. See attached sheet for floor plan.
7. How many kids on average?
Currently we have six - seven children on average. During our busiest time, we have seven. Three of these children are part-time.
8. When are the busiest drop-off and pick-up times?
The busiest drop-off times would be 7:45 to 8:15 am and the busiest pick-up time is 4:45 to 5:30pm.
9. How many would be dropping off and picking up at once?
Usually one or two at the same time.
10. Hours and days of operation?
We are open Monday thru Friday from 6:30 am to 5:30 pm. Closed on New Years Day, Memorial Day, July 4th, Labor Day, Thanksgiving and the day after Thanksgiving, Christmas Eve, Christmas and the day after Christmas.
11. What are state requirements for staff and square footage? Are their Health district requirements for your kitchen?
The state requirements are 1 person for the first 5 children, 2 people for 5-8 children and 3 people for 9-12 children. Square footage ranges from 25-35 square feet per child depending on age. We belong to a Federally Funded Food Program which monitors (with menus reported daily and at least three surprise visits per year) that we serve balanced foods to the children and uses

only the best forms of prep and sanitation procedures. Also part of DCFS procedures monitor our cleanliness. The Illinois Board of Education also comes out for surprise visits to inspect us.

12. What is the maximum number of children you will be licensed for?

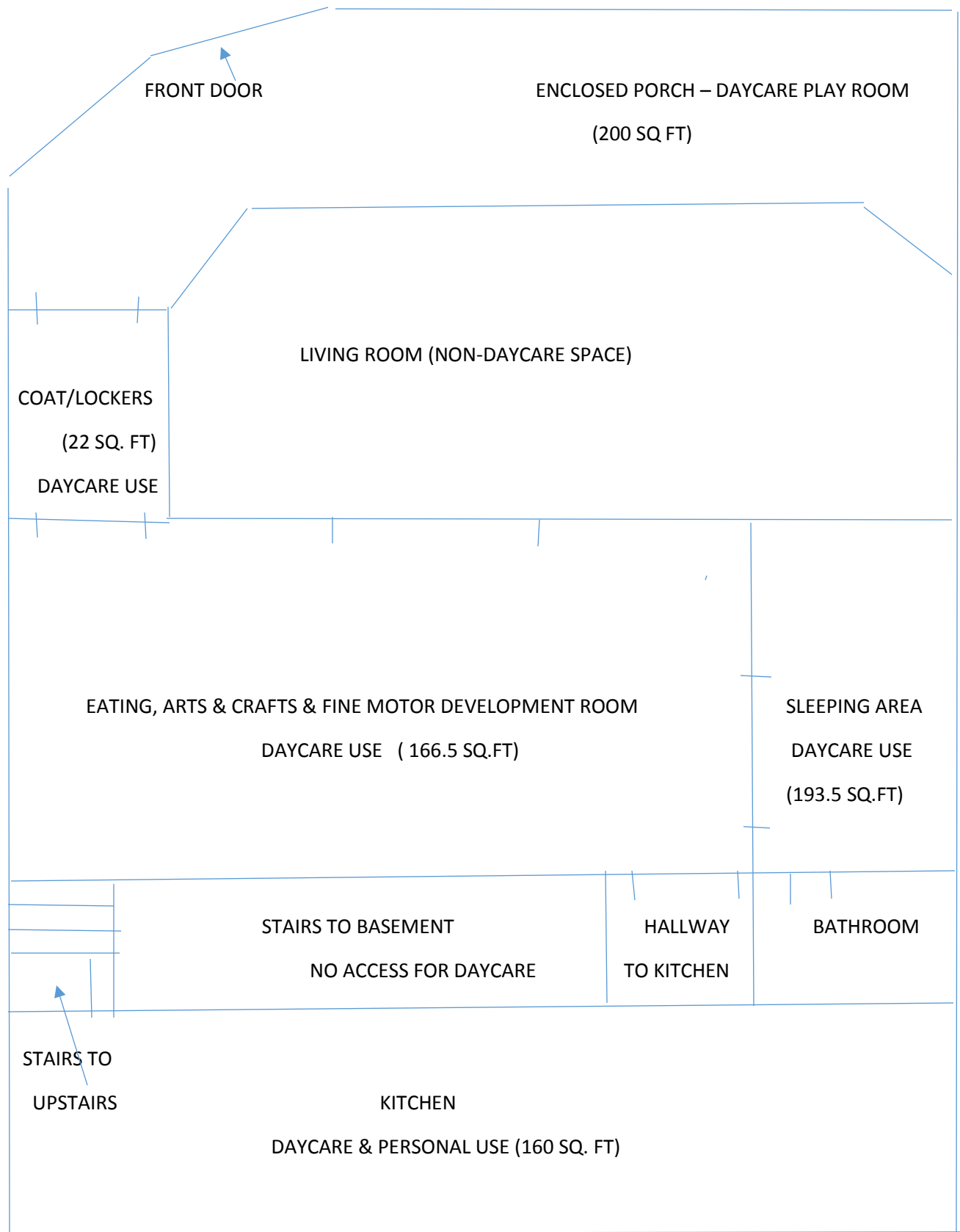
Currently, we are licensed for seven during the day and four more before/after school. This is for a family daycare home.

13. Is the home handicap accessible/visitable? Are there state requirements for that?

No we are not handicap accessible (stairs for both front and back doors). Currently, nothing is stated we have to be, it is considered a plus if you are. It is required to be if you care for a handicapped child however.

14. Have you spoken with your neighbors about the proposed daycare?

We have spoken to our direct neighbor to the east and discussed the workings of the daycare and if it affects the fact of our shared driveway. After the discussion, they are very open to the idea. In fact, it was stated it's a great spot for a daycare. Since we are not fully moved in yet, we have not had an opportunity to meet any other neighbors.



DAYCARE SQ. FOOTAGE = 742 SQ. FT

MAXIMUM REQUIRED SQ. FOOTAGE = 385 SQ. FT.