



Kent County

Department of Planning Services Division of Planning

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STAFF RECOMMENDATION REPORT March 2, 2017

Application Number : C-17-01 – Batson, Deborah
Present Zoning District : AR (Agricultural Residential)
Present Use : Residential
Proposed Use : Same with Home Occupation
(*At-home Day Care*)
Relation to Growth Zone : Outside
Area and Location : 0.69 ± acres on the northwest side of Persimmon Tree Ln. (Co. Rd. 337), approx. 225' southwest of Pleasanton Dr., north of Dover.

I. STAFF RECOMMENDATION:

The staff recommends **APPROVAL** based on the information submitted as the application demonstrates compliance with the conditions for approval as outlined in the Code, as follows:

§205-366. Home Occupations

Conditions of this use shall be as follows:

- A. The owner/operator shall secure a zoning certificate of use for a home occupation from the Department of Planning Services, Division of Planning. The dwelling shall be the bona fide residence of the operator of the occupation.
- B. The use shall not change the character of the dwelling unit or residential premise nor have any exterior evidence other than an identification sign as provided for in Article XVIII.
- C. There shall be no person engaged or employed other than members of the household residing on the premises.

- D. The use of property shall not change the general character of the neighborhood.
- E. The occupation shall create no noise, traffic, dust, vibration, smell, smoke, glare, electrical interference, fire hazard or any other hazard or nuisance to any extent greater or more frequent than that usually experienced for an average residential use in the district wherein located.
- F. The need for parking generated by such use shall be provided off street and shall be prohibited in the required front yard. Required parking shall be provided in accordance with provisions of Article XVII, Parking.
- G. The following types of uses shall not be considered home occupations: Child-care centers (more than nine children).

II. BACKGROUND INFORMATION:

- The applicant began the administrative processing of a home occupation for an at-home day care, serving no more than nine children, on or around October 20, 2016. The applicant is aware of and is willing to meet the requirements listed above. Additionally, the existing parking and turn around area appears to meet the conditions above (*see enclosed Exhibit C*).
- One letter of objection was received during this process from a neighboring property owner, causing the application to move to a Conditional Use process. The neighbor cites concerns of an increase in traffic, lack of adequate parking, and noise levels in proximity to the surrounding residential area as reasons for objection to the application.
- One additional letter of objection was received from a neighboring property owner during the transition period from the application moving from administrative to a conditional use, citing concerns of traffic speeds and concerns for children's safety and welfare in this location as reasons for opposition.
- The applicant is requesting this use within an existing dwelling within the AR zoning district; therefore it does not fall under the purview of the Adequate Public Facilities Ordinance as no new land development is proposed with this application. [§187-90.2(D)(8)]
- The Comprehensive Plan calls for low density residential uses in this area, with medium density residential areas to the south and southwest of the subject site.
- If approved, the proposed use would be compliant with the existing zoning district and the Comprehensive Plan.
- The 0.69± acre subject site is currently improved with a two-story single-family dwelling with accessory structures. The character of the surrounding area is mainly residential in nature, with some agricultural uses to the west and north of the subject site.
- The property owners of the subject site own an additional 10,000 sq. ft. of land adjacent to the subject site, which encompasses a portion of the existing driveway and an accessory structure. The applicant has been advised that these parcels were to be combined prior to the current owners taking ownership and may be done so with written permission from both legal property owners. For more information, please contact the Department of Planning Services at (302)744-2451.

- There have been no previous land use application on the subject property, and there has been one previous land application within the immediate area. Application C-02-08, for a property south of the subject site known as 49 Billings Drive, was approved on June 25, 2002 for an Home Occupation/At-Home Day Care.

III. AGENCY COMMENTS

A. KENT COUNTY – Department of Public Works, Division of Engineering – Contact: Brian L. Hall, Engineering Project Manager II

Requirement & Source:

1. N/A

Comment:

1. The Engineering Division grants “Approval with No Objection to Recordation.”

B. DELAWARE DEPARTMENT OF TRANSPORTATION – Contact: Jonathan Moore, Kent County Subdivision Manager Review Engineer

- The applicant should contact DelDOT to further discuss this project.

C. DNREC: Division of Air Quality – Contact: Ronald A. Amirikian, Planning Branch Manager

Based on air quality projections, the requested conditional use of the abovementioned location is not forecasted to have a significant impact on Kent County’s air quality levels. DAQ encourages land use decisions that take into consideration Delaware’s Air Quality including those that promote sustainable development, smart growth and include offsets to development where applicable. This includes generating mixed-use developments that are walkable, bikeable, and livable to lessen dependence on vehicular travel. The DAQ has no additional commentary on this application at this time

D. DNREC: Division of Fish and Wildlife - Species Conservation and Research Program- Contact: Kate Fleming, Wildlife Biologist/Environmental Review Coordinator

A review of our database indicates that there are currently no records of state-rare or federally listed plants, animals or natural communities at this project site.

E. Kent Conservation District- Contact: David C. Cahill

The reasons and conditions applied to this project and their sources are itemized below:

Source:

2014 Delaware Sediment and Stormwater Regulations

Requirements:

1. The Kent Conversation District has no objection to approving the proposed conditional use of the above referenced property.

Comments:

1. If at any time expansion or earth disturbing activity (clearing, grubbing tree clearing etc.) takes place and exceeds 5000 square feet; a detailed Sediment and Stormwater Control Plan must be submitted and approved to the Kent Conversation District.

F. DHSS, Division of Public Health –

Contact: William J. Milliken, Jr., Engineer III

See attachment for comments

This recommendation is offered without the benefit of public testimony and is based on the information presented when the application was received by the Department of Planning Services. The Regional Planning Commission shall give considerable weight to public testimony received during public hearing in considering its recommendation to Levy Court in this matter.

ENC: Data Sheet

Exhibit A – Location and Zoning Map

Exhibit B – Plot Plan

Exhibit C – Plot Plan

DHSS, Division of Public Health comments dtd. 2/1/17