

Department of Planning Services
Division of Planning

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STAFF RECOMMENDATION REPORT
July 5, 2018

Application Number	:	C-18-04 Edwards, Latisha
Present Zoning District	:	AC (Agricultural Conservation)
Present Use	:	Residential
Proposed Use	:	Same with Home Occupation (<i>Home Daycare</i>)
Relation to Growth Zone	:	Inside
Area and Location	:	0.51± acres on the southern side of Galway Court, approx. 224ft. southeast of the intersection with Tullamore Road, described as Lot 73 of Irish Hill subdivision, southwest of Magnolia

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 April 20, 2018. The applicant is aware of and is willing to meet the requirements listed above. Additionally, the existing parking and turnaround area appears to meet the conditions. (*See attached Exhibit B*).
- Two letters of objection were received during this process from neighboring property owners, causing the application to move to a Conditional Use process. One of the two objections received was later retracted. Cited reasons for concern included the following:
 - *I am concerned about the additional traffic and disruption a daycare would create next door. I also believe a daycare next door will have a negative effect of my property value and could increase my liability should a child get hurt on my property.*
 - *There's no room for a daycare. Plus, you open for more business to be open. This is our home, not a business. Plus, may increase my taxes. (This objection was later retracted.)*
- The applicant is requesting this use inside an existing dwelling within the AC 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.
- If approved, the proposed use would be conducted within an existing dwelling and would remain compliant with the existing zoning district and the Comprehensive Plan.
- The 0.51± acre subject site is currently improved with a two-story single-family dwelling. The character of the surrounding area is residential in nature, being lot #73 of the Irish Hill subdivision.

- There have been no previous land use applications on the subject property.
- There has been one similar request in the immediate vicinity:
 - HP-10-14 approved a home day care at property east of the subject site, known as 140 Galway Court.

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.”

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