



## DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

*Planning Division*

m e m o r a n d u m

**TO:** Urbana Zoning Board of Appeals  
**FROM:** Kat Trotter, Planner I  
**DATE:** September 10, 2021  
**SUBJECT:** **ZBA-2021-C-02:** A request by Nakia McFarland for a conditional use permit to allow a home daycare at 1506 Ogelthorpe Avenue in the R-2, Single-Family Residential zoning district.

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### Introduction

Nakia McFarland requests a conditional use permit to allow a home daycare at 1506 Ogelthorpe Avenue. The property is zoned R-2, Single-Family Residential. The daycare would require a Home Occupation, Type C permit, which is allowed only if a conditional use permit is granted.<sup>1</sup>

The Urbana Zoning Board of Appeals must review the conditional use permit application and hold a public hearing. The Board may vote to approve, approve with conditions, or deny the application. Staff recommends the ZBA approve the conditional use permit with three conditions, after finding that the conditional use criteria have been met.

### Background

The applicant has owned the property since 2017 and has been running a daycare out of her home for the last four years. Until recently, she was unaware that the City requires a home occupation permit and conditional use permit for her type of daycare. The daycare is licensed by the Illinois Department of Child & Family Services (DCFS), and the Savannah Green Home Owner's Association (HOA) has approved its operation, pending the approval of home occupation and conditional use permits from the City.

### Description of Site and Area

The property is approximately 5,500 square feet, and is located in the Savannah Green subdivision, north of East Florida Avenue, on the east side of Ogelthorpe Avenue. Nearby are other single-family residences. All adjacent properties are also zoned R-2, Single-Family Residential.

The following table identifies the current zoning and existing land uses of the subject property and surrounding properties (see Exhibits A and B).

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<sup>1</sup> Zoning Ordinance, Section V-12.C.

Table 1. Zoning and Land Use

<b>Location</b>	<b>Zoning</b>	<b>Existing Land Use</b>
Site	R-2, Single-Family Residential	Single-Family Home
North	R-2, Single-Family Residential	Single-Family Home
South	R-2, Single-Family Residential	Single-Family Home
East	R-2, Single-Family Residential	Single-Family Home
West	R-2, Single-Family Residential	Single-Family Home

## **Discussion**

The applicant requests a conditional use permit to allow the operation of daycare in her home. The conditional use permit procedures are meant to ensure that the proposed use is consistent with the R-2 zoning district.

**Employees:** Applicant/homeowner is primary caregiver; two employees live outside the home.

**Signage:** No signs on the exterior of the home.

**Exterior Visibility:** N/A. Day Care Homes are exempt from exterior visibility provisions to allow activities and equipment customary to Day Care Homes, such as outdoor play equipment.

**Customer Visits:** Daycare will be limited to 20 total customer visits per day; each pick-up and drop-off is counted as a separate visit. This will allow for a maximum of ten children at the daycare per day.

**Vehicles and Parking:** No vehicles will be used by the business, and the applicant's personal car will be parked in the garage. There are two parking spaces available on the applicant's driveway, and two on-street parking spaces available in front of the house on Ogelthorpe Avenue. No parking, loading or unloading will be permitted in the alley.

The applicant has run the daycare out of her home for the past four years. The daycare operates from 6am to 12am, in three shifts, to accommodate parents who work various hours. The applicant is the primary caregiver, and she has two other employees that live outside of the home. Between six and eight children attend the daycare daily, over the course of the three shifts. There are play areas inside and outside (in the fenced backyard), and the children have play time in 30-minute intervals. Per Section V-12 of the Zoning Ordinance, daycares are exempt from the exterior visibility provisions to allow for activities and equipment, such as outdoor play equipment. No vehicles are used by the business, and there will be no signs installed on the exterior of the home.

The applicant has two parking spaces in her driveway for pick-ups and drop-offs, and on-street parking is available on the east side of Ogelthorpe Avenue if additional space is needed. There have been some neighborhood concerns about traffic in the alley. As a condition of approval, staff recommend that no parking, loading or unloading will be permitted in the alley behind the property, and that all pick-up and drop-off will take place in the owner's driveway or immediately in front of the house. The HOA has consented to the operation of the daycare, with the conditions that no pick-up/drop-off

zone will be permitted. Prior to the ZBA meeting, the Building Official found that the home is up to code for a home-based daycare.<sup>2</sup>

Staff recommends applying three conditions to the conditional use permit, if granted:

1. The daycare will be limited to 20 visits per day (child drop-off and pick up count as two visits).
2. All drop-offs/pick-ups shall take place in the owner's driveway or immediately in front of the house. No loading/unloading will be permitted in the alley. The applicant shall not petition the Traffic Commission for a dedicated drop-off/pick-up zone.
3. The conditional use permit shall expire upon transfer of the property, or after six (6) verifiable nuisance complaints within a twelve-month period related to operation of the daycare, as determined by the Zoning Administrator.

## Requirements for a Conditional Use Permit

According to § VII-2 of the Urbana Zoning Ordinance, an application for a conditional use permit shall demonstrate the following requirements shown in italics.

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

The proposed daycare is conducive to the public convenience because it is close to families with children, schools and public transportation. The applicant has provided daycare for families in the neighborhood for several years, and the location is convenient for her clients.

- 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 daycare has operated on the property for the last four years, where it has not been unreasonably injurious or detrimental to the surrounding neighborhood. To address concerns about blocking the alley, a condition can be imposed such that no parking, loading or unloading will be permitted in the alley behind the property. Child drop-off and pick-up will take place either on the applicant's driveway, or in front of the house on Ogelthorpe Avenue. The proposed conditions of the permit would help to ensure that the use would conform to and preserve the essential character of the neighborhood. If there are repeated complaints stemming from the use of the property as a daycare, the conditional use permit can be revoked by the Zoning Administrator.

- 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 § VII-3.*

Daycares are permitted in the R-2 zoning district with a home occupation permit. A conditional use permit is required in this case, as there are more than ten customer visits per day. Between six and eight children come to the home daily for daycare, which increases the number of pick-up/drop-off visits to the home beyond what would be allowed for a Type B home occupation. The home occupation conforms to the zoning district, as it is complementary to the residential area and provides childcare for parents who live in and around the neighborhood. The home occupation and conditional

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<sup>2</sup> Type C, Home Occupation Daycares require such an inspection and a new Certificate of Occupancy.

use permits would allow for a home daycare to continue to operate on the property, as it has for the past four years, with new conditions in place to minimize traffic and congestion.

## **Consideration**

According to Zoning Ordinance § 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 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. Regulate vehicular access and volume;
4. Require conformance to health, safety, and sanitation requirements as necessary;
5. Any other conditions deemed necessary to affect the purposes of this Ordinance.

## **Summary of Findings**

1. Nakia McFarland proposes to operate a home daycare at 1506 Ogelthorpe Avenue in the R-2, Single-Family Residential zoning district. The daycare would require a Home Occupation, Type C, permit which is allowed by Section V-12.C of the Zoning Ordinance with a conditional use permit.
2. The proposed home daycare would exist entirely on the applicant's property, inside the home and in the backyard.
3. The proposed use is conducive to the public convenience due to the proximity to families with children, schools and public transportation.
4. The proposed use would not be a detriment to the R-2 district because the home has functioned as a daycare for the last four years, and the proposed conditions will help to ensure that the daycare is not unreasonably injurious and does not cause a nuisance to the surrounding neighborhood.
5. The proposed use is consistent with the applicable regulations and standards of, and preserves the essential character of, the R-2 zoning district in which it shall be located as the proposed daycare is complimentary to the residential area and provides childcare for parents living in and around the neighborhood.

## **Options**

The Zoning Board of Appeals has the following options in Case No. ZBA-2021-C-02:

1. **Approve** the conditional use as submitted; or
2. **Approve 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; or
3. **Deny** the conditional use as submitted.

## **Recommendation**

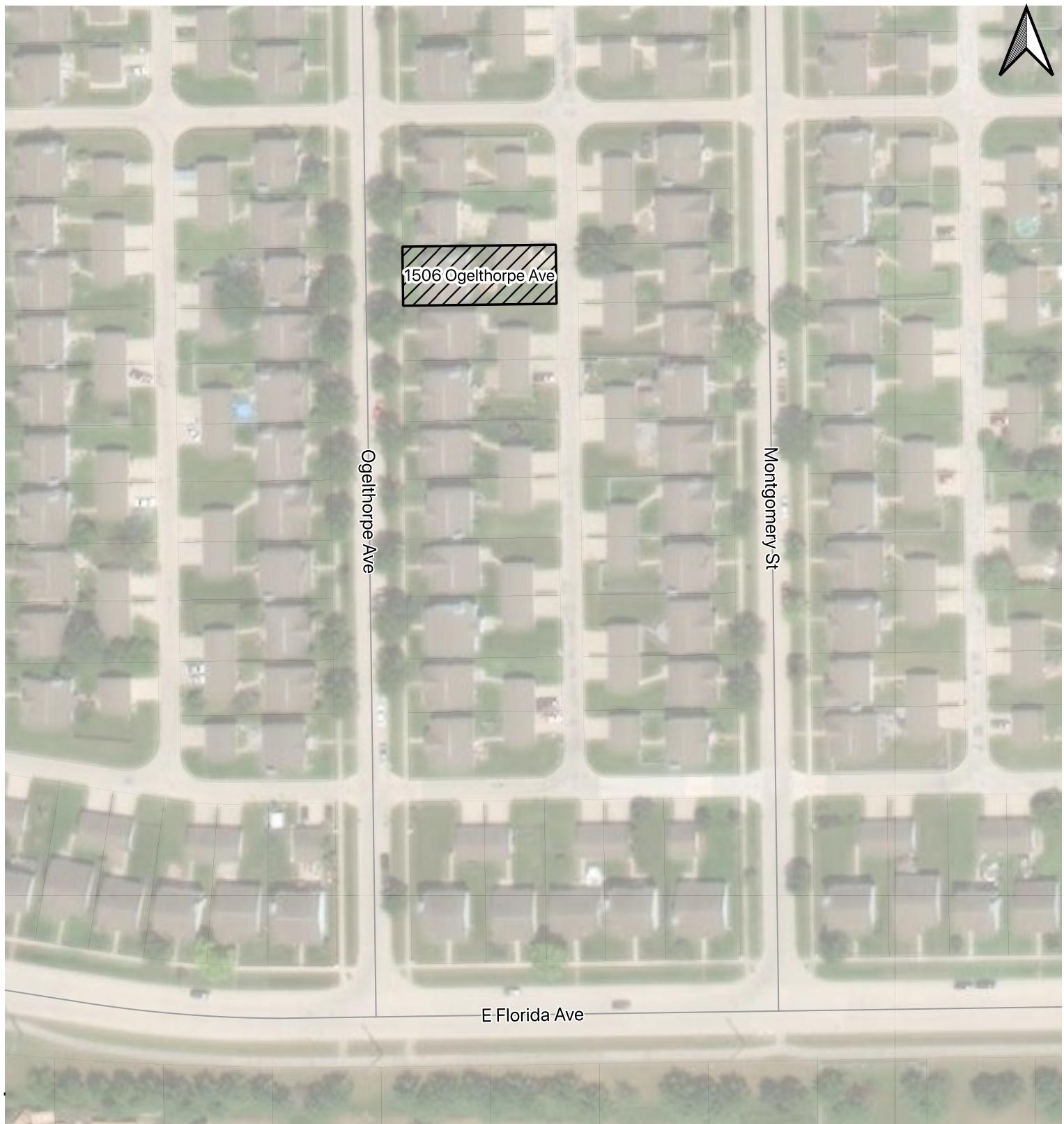
Based on the evidence presented in the discussion above, and without the benefit of considering additional evidence that may be presented at the public hearing, staff recommends that the Zoning Board of Appeals **APPROVE** the proposed conditional use in case ZBA-2021-C-02 with the following conditions:

1. The daycare will be limited to 20 visits per day (child drop-off and pick up count as two visits).
2. All drop-offs/pick-ups shall take place in the owner's driveway or immediately in front of the house. No loading/unloading will be permitted in the alley. The applicant shall not petition the Traffic Commission for a dedicated drop-off/pick-up zone.
3. The conditional use permit shall expire upon transfer of the property, or after six (6) verifiable nuisance complaints within a twelve-month period related to operation of the daycare, as determined by the Zoning Administrator.

Attachments:    Exhibit A: Location Map  
                    Exhibit B: Zoning Map  
                    Exhibit C: Future Land Use Map  
                    Exhibit D: Site Photos  
                    Exhibit E: HOA Approval Letter  
                    Exhibit F: Conditional Use Permit Application

cc:                Nakia McFarland, Property Owner/Applicant

# Exhibit A - Location Map



Case No. ZBA-2021-C-02  
Subject Conditional Use Permit & Home Occupation Permit  
Location 1506 Ogelthorpe Ave.  
Petitioner Nakia McFarland

Legend  
Subject Property  
Esri Imagery

0 100 200 ft

# Exhibit B - Zoning Map



**Case No.** ZBA-2021-C-02  
**Subject** Conditional Use Permit & Home Occupation Permit  
**Location** 1506 Ogelthorpe Ave.  
**Petitioner** Nakia McFarland

0      100      200 ft



## Legend

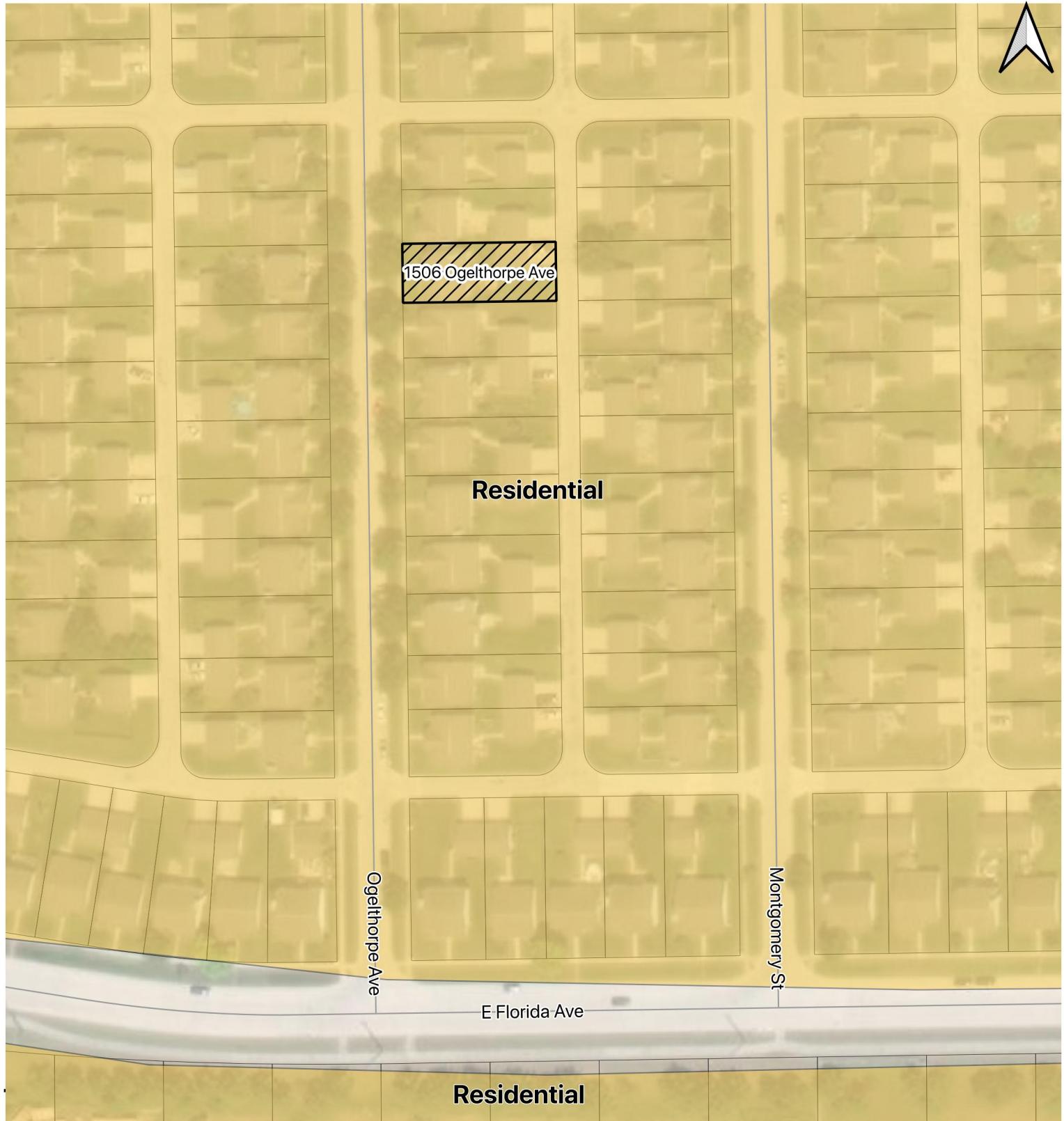
Subject Property

Zoning

R-2

Esri Imagery

# Exhibit C - Future Land Use Map



Case No. ZBA-2021-C-02  
Subject Conditional Use Permit & Home Occupation Permit  
Location 1506 Ogelthorpe Ave.  
Petitioner Nakia McFarland

0 100 200 ft

**Legend**  
Subject Property (diagonal hatching)  
Future Land Use (light beige)  
Residential (solid light beige)  
Esri Imagery

## EXHIBIT D – SITE PHOTOS



(front of house)



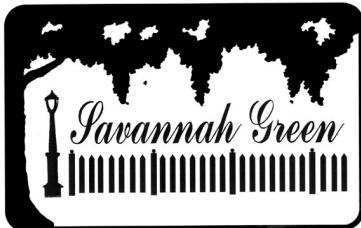
(rear of house, garage)



(on-street parking, facing north)



(on-street parking, facing south)



## Savannah Green Homeowner's Association of Urbana

P.O. Box 17451  
Urbana, Illinois 61803

Date: 07/23/2021

Property Street Address 1506 Ogelthorpe, Urbana IL

To Whom it May Concern,

A board vote has been taken on 07/23/2021 regarding an exemption from the Savannah Green Homeowner's Association of Urbana covenants Article 4 Section 13. According to the vote for the above listed address we have:

Granted an exemption

complete application was received

Majority board vote was in favor within the guidelines listed on the application.

(application attached)

Additional guidelines or regulations

In order to keep the exemption all parking and traffic requirements must be met. If complaints are made regarding the traffic and parking the exemption can be revoked.

Denied an exemption

Incomplete or no application

Majority board vote was not in favor within the guidelines listed on the application.

(application attached)

Additional Comments

Sincerely,

Christa Kennedy  
Secretary SGU HOA



## Application for Conditional Use Permit

## ZONING BOARD OF APPEALS

**The application fee must accompany the application when submitted for processing.**  
Please refer to the City's website at <http://www.urbanaillinois.us/fees> for the current fee associated with this application. **The Applicant is also responsible for paying the cost of legal publication fees.** Estimated costs for these fees usually run between \$75.00 and \$225.00. The applicant will be billed separately by the News-Gazette.

**DO NOT WRITE IN THIS SPACE - FOR OFFICE USE ONLY**

Date Request Filed 07-13-2021 ZBA Case No. 3BA-2021-C-02  
Fee Paid - Check No. Money Order 455649 Amount \$175.00 Date 07-13-2021

### 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 the following use or construction purpose:

on the property described below, and in conformity with the plans in the permit application.

#### 1. APPLICANT CONTACT INFORMATION

Name of Applicant(s): Nakia McFarland Phone: 217 372-0101  
Address (street/city/state/zip code): 1506 Ogelthorpe Ave Urbana IL 41802  
Email Address: Kias play house 06@yahoo.com  
Property interest of Applicant(s) (Owner, Contract Buyer, etc.):

#### 2. OWNER INFORMATION

Name of Owner(s): Nakia McFarland Phone: 217 372-0101  
Address (street/city/state/zip code): 1506 Ogelthorpe Ave Urbana IL 41802  
Email Address: Kias play house 06@yahoo.com  
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: 1506 Ogelthorpe Ave Urbana IL 41802  
PIN # of Location: 1506 Ogelthorpe Ave Urbana IL 41802  
Lot Size: 5,662 sq ft  
Current Zoning Designation: R2 Single family home Urbana IL 41802  
1506 Ogelthorpe Ave Urbana IL 41802

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.

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).

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

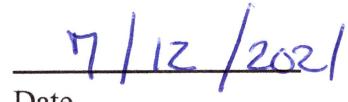
***By submitting this application, you are granting permission for City staff to post on the property a temporary yard sign announcing the public hearing to be held for your request.***

#### **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.



Applicant's Signature



Date



## Application for Home Occupation Permit

**HOME OCCUPATION**

**TYPE A**

**TYPE B**

**TYPE C**

**TYPE A** – There is no fee to apply for a Home Occupation Permit Type A.

**TYPE B** – Type B Home Occupation permits also require a Certificate of Occupancy, and therefore a \$75.00 application fee must be submitted prior to receiving the permit. The application for the Home Occupation Permit also serves as the application for the Certificate of Occupancy, so no additional application needs to be submitted.

**TYPE C** – Type C Home Occupation permits require a Certificate of Occupancy and approval of a Conditional Use Permit. The fee of \$75.00 for the Certificate of Occupancy will be waived. However, the applicant is required to submit an application for the Conditional Use Permit and submit a fee of \$150.00 in addition to submitting an application for the Home Occupation Permit.

See Section V-12, Home Occupation, of the Urbana Zoning Ordinance for criteria that determines which type of home occupation you will need. For more information about Home Occupations please call (217) 384-2440.

### **DO NOT WRITE IN THIS SPACE - FOR OFFICE USE ONLY**

Date Request Filed \_\_\_\_\_ Reviewed By \_\_\_\_\_

Fee Paid - Check No. \_\_\_\_\_ Amount \_\_\_\_\_ Date \_\_\_\_\_

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### **PLEASE PRINT OR TYPE THE FOLLOWING INFORMATION**

#### **1. APPLICANT CONTACT INFORMATION**

Name of Applicant(s): *Nakia McFarland* Phone:

Address (street/city/state/zip code): *1506 Ogelthorpe Ave Urbana IL 61802*

Email Address: *Kiasplayhouse06@yahoo.com*

Property interest of Applicant(s) (Owner, Contract Buyer, etc.):

#### **2. OWNER INFORMATION**

Name of Owner(s): *Nakia McFarland* Phone: *217 372-0101*

Address (street/city/state/zip code): *1506 Ogelthorpe Ave Urbana IL*

Email Address: *Kiasplayhouse06@yahoo.com* *61802*

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.

**-----PROPERTY OWNER'S ACKNOWLEDGEMENT OF HOME OCCUPATION-----**  
*(If applicant is not the owner)*

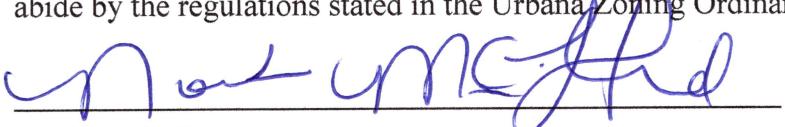
I hereby expressly acknowledge that I have read and fully understand the requirements and limitations of the Urbana Zoning Ordinance, Section V-12, Regulation of Home Occupation contained herein and agree to allow the applicant to conduct the following Home Occupation as a tenant at the specified location in accordance with the provisions of said Ordinance.



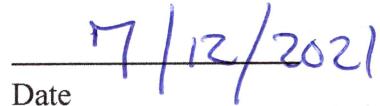
Signature of Property Owner

**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. I agree to abide by the regulations stated in the Urbana Zoning Ordinance.



Applicant's Signature



Date

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

**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

# Conditional permit

To whom it may concern,

Hello my name is Nakia McFarland an I'm reaching out to you concerning my application for conditional use permit, I'm applying for my home occupation permit and understand this is why I need a conditional use permit .I own a home daycare in Urbana.I choose this area for my daycare because I've had most of my children since they were born, and have built a bond with these parents.An most of my children live here in Urbana, or work in Urbana so its a convince to my parents.Also I felt this is a good size home,an good welcoming community.I apologize for any inconvenience I've caused my neighbors and the city.I live on a two way street,that allows street parking.Also I own a two car garage that is also available to my parents, and I park in my garage to keep more parking spots open on the street.There is a bus stop nearby it is further down the street but it does pass by.My daycare is open from 6am-12pm,but those are broken into three shifts mornings,noons and nighters.Which is from 6am-2pm ,11am -7pm and,4pm-12pm which allows different times for pickup and drop offs so it's not a problem for my neighbors throughout the day.As I stated before I've had most of my children since they were born and all my parents have multiple children,so there's only 5/6 families coming and going in a workday.i have 1 assistance and one helper as needed.I have 6/8 children coming in and out through the day.I have play areas inside as well as outdoors an allow them to be outside for up to 30 mins increments at a time,which I feel wouldn't disturb my neighbors because they have children of their own and understand the noise and were only in the backyard .while outside myself,assistant or my helper are always supervising and this would only be before 6pm.after that time children are kept inside where they are allowed to watch movies and play

Question comprehensive plan 3 My Daycare fits into the comprehensive plan because while the diversity in my area is growing from a predominantly white and Caucasian area to a now Hispanic/none Hispanic community the population is actually decreasing and I feel as though my business would show the growth of these different ethnic groups and bring more diversity in my community in the future

Nakia McFarland Date 07/12/2021

## Home occupation application answers

4) My daycare is open from 6am-12pm, but those are broken into three shifts mornings, noons and nighters. Which is from 6am-2pm, 11am -7pm and, 4pm-12pm. I have 1 assistance and one helper as needed. I have 6/8 children coming in and out through the workday. I own a two car garage that is also available to my parents, and I park in my garage to keep more parking spots open on the street. There is a bus stop nearby it is further down the street but it does pass by. and have informed all parents of the allowed and non allowed parking areas.

5) I feel as though my daycare would make a good fit in this neighborhood because this neighbor is less than a mile from a school, which is great for working and or busy parents, and all of my neighbors have children of their own so they are understanding of the noise. mainly I feel as thought I've created a home here and think my daycare would bring a fun and friendly look to our community      Nakia McFarland    Date 07/12/2021