

INTRODUCED: September 12, 2016

AN ORDINANCE No. 2016-240

To authorize the special use of the property known as 3325 Florida Avenue for use as a day nursery for up to 12 children, upon certain terms and conditions.

\_\_\_\_\_  
Patron – Mayor Jones (By Request)

\_\_\_\_\_  
Approved as to form and legality  
by the City Attorney  
\_\_\_\_\_

PUBLIC HEARING: OCT 10 2016 AT 6 P.M

WHEREAS, the owner of the property known as 3325 Florida Avenue, which is situated in a R-6 Single-Family Attached Residential District, desires to use such property for the purpose of a day nursery for up to 12 children, which use, among other things, is not currently allowed by section 30-412.1 of the Code of the City of Richmond (2015), as amended; and

WHEREAS, in accordance with section 17.11 of the Charter of the City of Richmond (2010), as amended, it has been made to appear that, if granted subject to the terms and conditions set forth in this ordinance, the special use granted by this ordinance will not be detrimental to the safety, health, morals and general welfare of the community involved, will not tend to create congestion in streets, roads, alleys and other public ways and places in the area

AYES:            9            NOES:            0            ABSTAIN: \_\_\_\_\_

ADOPTED:      OCT 10 2016      REJECTED:      \_\_\_\_\_      STRICKEN: \_\_\_\_\_

involved, will not create hazards from fire, panic or other dangers, will not tend to overcrowding of land and cause an undue concentration of population, will not adversely affect or interfere with public or private schools, parks, playgrounds, water supplies, sewage disposal, transportation or other public requirements, conveniences and improvements, and will not interfere with adequate light and air; and

WHEREAS, (i) the City Planning Commission has conducted a public hearing to investigate the circumstances and conditions upon which the Council is empowered to authorize such use, (ii) the City Planning Commission has reported to the Council the results of such public hearing and investigation and its recommendations with respect thereto, and (iii) the Council has conducted a public hearing on this ordinance at which the person in interest and all other persons have had an opportunity to be heard;

NOW, THEREFORE,

THE CITY OF RICHMOND HEREBY ORDAINS:

§ 1. **Finding.** Pursuant to section 30-1050.1 of the Code of the City of Richmond (2015), as amended, the Council hereby finds that the special use set forth in and subject to the terms and conditions of this ordinance will not (i) be detrimental to the safety, health, morals and general welfare of the community involved, (ii) tend to create congestion in streets, roads, alleys and other public ways and places in the area involved, (iii) create hazards from fire, panic or other dangers, (iv) tend to overcrowding of land and cause an undue concentration of population, (v) adversely affect or interfere with public or private schools, parks, playgrounds, water supplies, sewage disposal, transportation or other public requirements, conveniences and improvements, or (vi) interfere with adequate light and air.

§ 2. **Grant of Special Use Permit.**

(a) Subject to the terms and conditions set forth in this ordinance, the property known as 3325 Florida Avenue and identified as Tax Parcel No. N000-1264/024 in the 2016 records of the City Assessor, being more particularly described in a deed recorded in the Clerk's Office of the Circuit Court of the City of Richmond, Virginia, as Instrument No. 15-7102, hereinafter referred to as "the Property," is hereby permitted to be used for the purposes of a day nursery for up to 12 children, hereinafter referred to as "the Special Use," substantially as shown on the drawing entitled "3325 Florida Ave, Richmond, Va 23222," prepared by an unidentified preparer, and undated, a copy of which is attached to and made a part of this ordinance.

(b) The adoption of this ordinance shall constitute the issuance of a special use permit for the Property. The special use permit shall inure to the benefit of the owner or owners of the fee simple title to the Property as of the date on which this ordinance is adopted and their successors in fee simple title, all of which are hereinafter referred to as "the Owner." The conditions contained in this ordinance shall be binding on the Owner.

§ 3. **Special Terms and Conditions.** This special use permit is conditioned on the following special terms and conditions:

(a) In addition to the uses permitted in the underlying zoning district, the Property shall be permitted for use as a day nursery for up to 12 children, not including children residing on the Property.

(b) The hours of operation for the day nursery shall be limited to the hours between 7:00 a.m. and 5:30 p.m., Monday through Friday.

(c) A minimum of 50 square feet of indoor space shall be provided for each child under care within the area of the building devoted to the day nursery use.

(e) A minimum of 100 square feet of outdoor play space shall be provided for each child under care.

(e) No more than two persons employed by the day nursery shall be present on the Property at any one time.

(f) Off-street parking shall not be required.

(g) A six-foot tall opaque privacy fence shall be constructed and maintained on the Property.

(h) The day nursery shall be licensed by the Virginia Department of Social Services.

§ 4. **Supplemental Terms and Conditions.** This special use permit is conditioned on the following supplemental terms and conditions:

(a) Facilities for the collection of refuse shall be provided in accordance with the requirements of the Director of Public Works. Such facilities shall be located or screened so as not to be visible from adjacent properties and public streets.

(b) Any encroachments existing, proposed on any plans or contemplated in the future shall require separate authorization and shall be subject to the applicable provisions of the Code of the City of Richmond (2015), as amended, and all future amendments to such laws.

(c) In all other respects, the use of the Property shall be in accordance with the applicable underlying zoning regulations.

§ 5. **General Terms and Conditions.** This special use permit is conditioned on the following general terms and conditions:

(a) No permit implementing this special use permit shall be approved until satisfactory evidence has been presented to the Zoning Administrator that any delinquent real estate taxes applicable to the Property have been paid.

(b) The Owner shall be bound by, shall observe and shall comply with all other laws, ordinances, rules and regulations applicable to the Property, except as otherwise expressly provided in this ordinance.

(c) Words and phrases used in this ordinance shall be interpreted to have the meanings ascribed to them by section 30-1220 of the Code of the City of Richmond (2015), as amended, unless the context clearly indicates that a different meaning is intended.

(d) Notwithstanding any other provision of law, this special use permit is being approved due, in part, to the mitigating effects of each and every condition attached hereto; consequently, if any portion of this ordinance is determined to be invalid for any reason by a final, non-appealable order of any Virginia or federal court of competent jurisdiction, the invalidity shall cause the entire ordinance to be void and of no further effect from the effective date of such order.

(e) The privileges granted by this ordinance may be revoked pursuant to the provisions of sections 30-1050.7 through 30-1050.11 of the Code of the City of Richmond (2015), as amended, and all future amendments to such laws. Failure to comply with the terms and conditions of this ordinance shall constitute a violation of section 30-1080 of the Code of the City of Richmond (2015), as amended, and all future amendments to such law, or any other applicable laws or regulations.

(f) When the privileges granted by this ordinance terminate and the special use permit granted hereby becomes null and void or when the Special Use of the Property as

authorized by this ordinance is abandoned for a period of 730 consecutive calendar days, whether as a result of the Owner relinquishing this special use permit in a writing addressed to the Director of Planning and Development Review or otherwise, use of the Property shall be governed thereafter by the zoning regulations prescribed for the district in which the Property is then situated.

§ 6. **Implementation.** The Zoning Administrator is authorized to issue a certificate of zoning compliance for the Special Use subject to the terms and conditions set forth in this ordinance. An application for the certificate of zoning compliance shall be made within 180 calendar days following the date on which this ordinance becomes effective. If the application for the certificate of zoning compliance is not made within the time period stated in the previous sentence, this ordinance and the special use permit granted hereby shall terminate and become null and void.

§ 7. **Effective Date.** This ordinance shall be in force and effect upon adoption.

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WHEREAS, (i) the City Planning Commission has conducted a public hearing to investigate the circumstances and conditions upon which the Council is empowered to authorize such use, (ii) the City Planning Commission has reported to the Council the results of such public hearing and investigation and its recommendations with respect thereto, and (iii) the Council has conducted a public hearing on this ordinance at which the person in interest and all other persons have had an opportunity to be heard;

NOW, THEREFORE,

THE CITY OF RICHMOND HEREBY ORDAINS:

§ 1. **Finding.** Pursuant to section 30-1050.1 of the Code of the City of Richmond (2015), as amended, the Council hereby finds that the special use set forth in and subject to the terms and conditions of this ordinance will not (i) be detrimental to the safety, health, morals and general welfare of the community involved, (ii) tend to create congestion in streets, roads, alleys and other public ways and places in the area involved, (iii) create hazards from fire, panic or other dangers, (iv) tend to overcrowding of land and cause an undue concentration of population, (v) adversely affect or interfere with public or private schools, parks, playgrounds, water supplies, sewage disposal, transportation or other public requirements, conveniences and improvements, or (vi) interfere with adequate light and air.

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authorized by this ordinance is abandoned for a period of 730 consecutive calendar days, whether as a result of the Owner relinquishing this special use permit in a writing addressed to the Director of Planning and Development Review or otherwise, use of the Property shall be governed thereafter by the zoning regulations prescribed for the district in which the Property is then situated.

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§ 7. **Effective Date.** This ordinance shall be in force and effect upon adoption.



# City of Richmond

900 East Broad Street  
2nd Floor of City Hall  
Richmond, VA 23219  
www.richmondgov.com

## Item Request

File Number: PRE. 2016-194

# RECEIVED

AUG 04 2016

OFFICE OF CITY ATTORNEY

O & R Request

4-5410  
**O & R REQUEST**

JUL 14 2016

Chief Administration Office  
City of Richmond

**TO:** The Honorable Members of City Council

**THROUGH:** Dwight C. Jones, Mayor *DCJ*

**THROUGH:** Selena Cuffee-Glenn, Chief Administrative Officer *SCG*

**THROUGH:** Lee Downey, Deputy Chief Administrative Officer for Economic Development and Planning *LD*

**FROM:** Mark A. Olinger, Director, Department of Planning and Development Review *MAO*

**SUBJECT:** To authorize the special use of the property known as 3325 Florida Avenue for use as a day nursery for up to 12 children, upon certain terms and conditions.

**ORD. OR RES. No.** \_\_\_\_\_

**PURPOSE:** To authorize the use of the property known as 3325 Florida Avenue as a day nursery for up to 12 children, upon certain terms and conditions.

**REASON:** The subject property is located in an R-6 Single-Family Residential district which does not permit the proposed day nursery use. The applicant is using the property as a day nursery for up to 12 children and is requesting a special use permit to legitimize the existing use of the property.

**RECOMMENDATION:** In accordance with the requirements of the City Charter and the Zoning Ordinance, the City Planning Commission will review this request and make a recommendation to City Council. This item will be scheduled for consideration by the Planning Commission at its September 5, 2016 meeting. A letter outlining the Commission's recommendation will be forwarded to City Council following that meeting.

**BACKGROUND:** The subject property is located at the corner of Florida Avenue and Milton Street and consists of a parcel with approximately 9,800 square feet of land area. The property is currently improved with a two and a half-story, single-family detached dwelling constructed in 1924.

Under normal zoning requirements, property owners in the R-6 Single-Family Residential district may provide day care for up to five children without special authorization. The applicant uses

approximately 600 plus square feet of the existing dwelling as a day nursery for up to 12 children and provides 1200 square feet of outdoor space for use by the children. The remaining portion of the dwelling is used as the applicant's residence. In addition, a six foot tall opaque privacy fence will be provide in the backyards.

The proposed ordinance would require the day nursery to be licensed. The ordinance would also limit the hours of operations for the day nursery from 7:00 a.m. to 5:30 p.m. daily. The total number of day nursery employees present at the daycare at any one time would be limited to two. No off street parking will be provided for the use.

The City of Richmond's Master Plan recommends Single-Family Low Density land use for the subject property. This category includes single-family detached dwellings at densities up to seven units per acre and residential support uses such as churches, parks, and recreational facilities (p. 133).

Properties to the north and east are located in R-5 Single Family Residential district. Properties to the south and west R-6 Single Family Residential district. All surrounding adjacent properties to the subject property are all single family detached dwellings located in the R-5 and R-6 Single-Family Residential district.

**FISCAL IMPACT:** The Department Planning and Development Review does not anticipate any impact to the City's budget for this or future fiscal years.

**COST TO CITY:** Staff time for processing the request; preparation of draft ordinance; and publishing, mailing and posting of public notices.

**REVENUE TO CITY:** \$300 application fee

**DESIRED EFFECTIVE DATE:** Upon adoption.

**REQUESTED INTRODUCTION DATE:** July 25, 2016.

**CITY COUNCIL PUBLIC HEARING DATE:** September 12, 2016.

**REQUESTED AGENDA:** Consent

**RECOMMENDED COUNCIL COMMITTEE:** None

**CONSIDERATION BY OTHER GOVERNMENTAL AGENCIES:** City Planning Commission, September 6, 2016.

**AFFECTED AGENCIES:** Office of Chief Administrative Officer  
Law Department (for review of draft ordinance)  
City Assessor (for preparation of mailing labels for public notice)

**RELATIONSHIP TO EXISTING ORDINANCES:** None.

**ATTACHMENTS:** Application Form, Applicant's Letter, Draft Ordinance, Deed

**STAFF:** Leigh V. Kelley, Planner II  
Land Use Administration (Room 511) 646-6384

## Applicant Letter

To Whom This May Concern:

My name is Latisha Jones and I reside at 3325 Florida Ave Richmond VA 23222. Currently I operate a licensed Family Day Home. My purpose for submitting this application is to apply for a Special Use Permit with Richmond City Zoning.

In August 2010 when I moved into the property I was licensed to operate my family day home, and provide care for up to 12 children. Unfortunately, in 2013 my license was modified and had to reduce my capacity to only 5 children.

My current hours of operation are 7am-5:30pm Monday – Friday with no outside employees. My mother resides with me and will maintain the role of my assistant, she has also completed state background checks and CPR & First Aid certified.

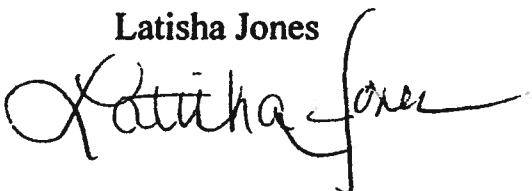
My house is located on the corner of Florida Ave & Milton St. My backyard is extremely large and spacious and has a tall 6ft privacy fence that separates my yard from my neighbor's yard on the right side of my house, and the privacy fence divides my property from the city street on my left.

With my backyard being so large I feel that it has enough square footage to accommodate more than 12 children. The same stands for my house. It is very spacious and will comfortably accommodate 12 children. I use the upstairs portion of my home for my personal living space for my family and no daycare children have stair access. My downstairs is strictly dedicated for childcare, and is child proofed beyond the standards of licensing.

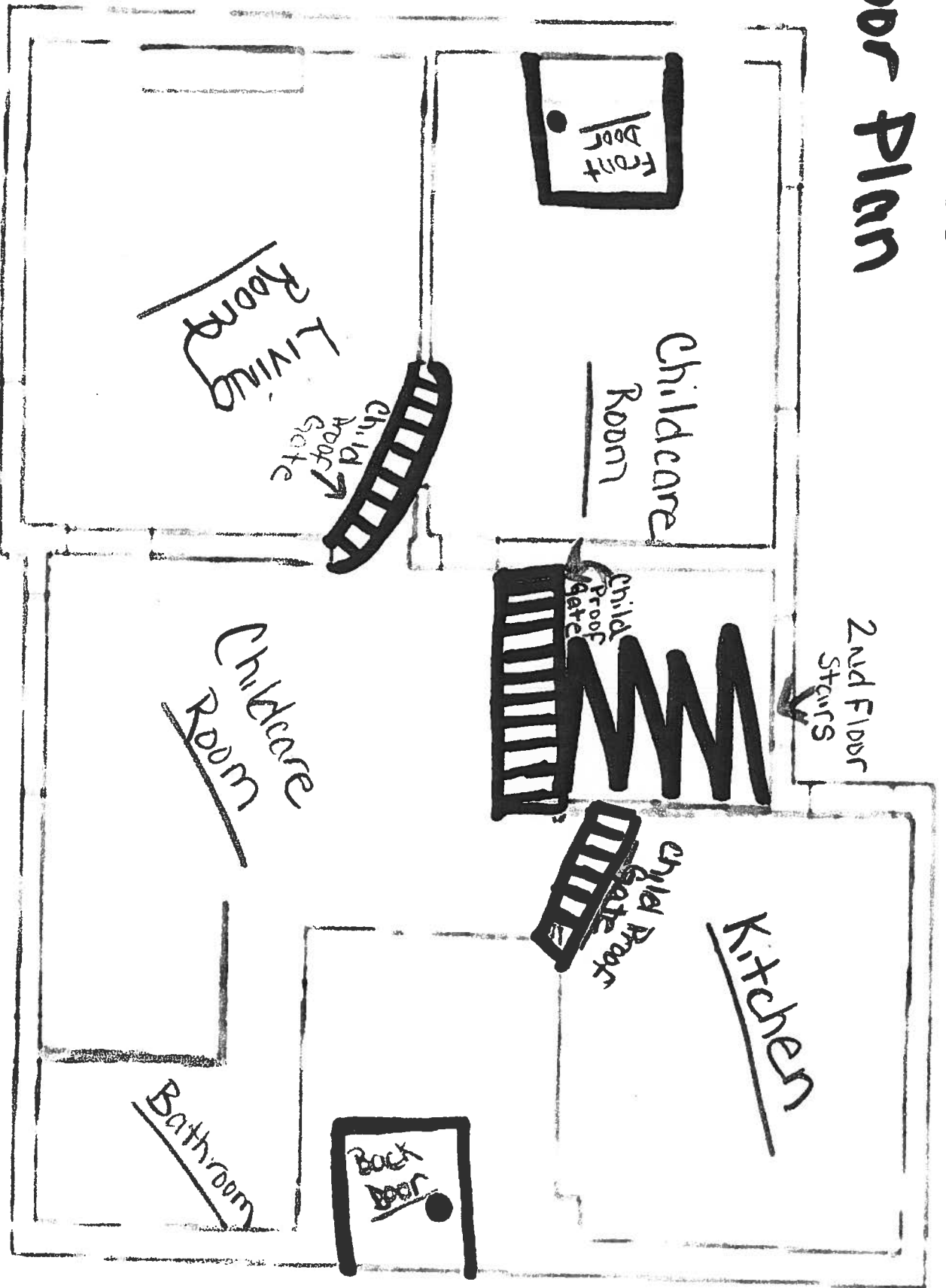
I've attached letters from my neighbors and also daycare parents, a sketched floor plan & also photos showing the front and back of my property including the privacy fence. I hope you will consider my requests.

Regards,

Latisha Jones

A handwritten signature in black ink that reads "Latisha Jones". The signature is written in a cursive style with a long, sweeping underline that extends to the right.

# First Floor Floor Plan



3325 Florida Ave Richmond VA 23222



# Application for SPECIAL USE PERMIT

Department of Planning and Development Review  
Land Use Administration Division  
900 E. Broad Street, Room 511  
Richmond, Virginia 23219  
(804) 646-6304  
<http://www.richmondgov.com/>

9829

Application is hereby submitted for: (check one)

- special use permit, new
- special use permit, plan amendment
- special use permit, text only amendment

### Project Name/Location

Project Name: Family Day Home Childcare Date: 1/15/2016

Property Address: 3325 Florida Ave Rich VA 23222 Tax Map #: N0001264024

Fee: \$300.00 Total area of affected site in acres: \_\_\_\_\_  
(See page 3 for fee schedule, please make check payable to the "City of Richmond")

### Zoning

Current Zoning: R10

### Proposed Use

(Please include a detailed description of the proposed use in the required applicant's report)

Existing Use: SINGLE FAMILY HOME

Is this property subject to any previous land use cases? NONE

Yes No  
 If Yes,  please list the Ordinance Number: \_\_\_\_\_

Applicant/Contact Person: LATISHA JONES

Company: KIDS CARE DAYCARE Childcare

Mailing Address: 3325 Florida Ave

City: Richmond State: VA Zip Code: 23222

Telephone: (804) 874-3471 Fax: ( )

Email: latishaj@gnail.com

Property Owner: The Beverley Group, LLC

If Business Entity, name and title of authorized signee: Mark Wetzel, Property Manager

(The person or persons executing or attesting the execution of this Application on behalf of the Company certifies that he or she has or have been duly authorized and empowered to so execute or attest.)

Mailing Address: 3906 Exeter Rd

City: Richmond State: VA Zip Code: 23221

Telephone: (804) 928-5595 Fax: ( )

Email: markwetzel@yahoo.com

Property Owner Signature: [Signature]

The names, addresses, telephone numbers and signatures of all owners of the property are required. Please attach additional sheets as needed. If a legal representative signs for a property owner, please attach an executed power of attorney. Faxed or photocopied signatures will not be accepted.

NOTE: Please attach the required plans, checklist, and a check for the application fee (see Filing Procedures for special use permits)