

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2022-UV3-025 (Amended)
Address: 3335 North Sherman Drive (approximate address)
Location: Center Township, Council District #17
Zoning: D-5
Petitioner: Shantae Flemons, by David Kingen & Emily Duncan
Request: Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of a childcare facility.

ADDENDUM FOR DECEMBER 13, 2022

This petition was continued from the November 15, 2022 hearing to the December 13, 2022 hearing at the request of the petitioner.

Staff **continues to recommend denial** of the amended request.

If the Board is inclined to vote against Staff's recommendation, staff would request a limit of 16 children for the childcare facility.

ADDENDUM FOR NOVEMBER 15, 2022

This petition was continued and transferred from the October 18, 2022 hearing of Division I to the November 15, 2022 hearing of Division II at the request of the petitioner.

An amended final plan of operation was submitted by the petitioner noting the total number of anticipated children on site reduced to 24, but this change did not alter staff's recommendation on the matter. Therefore, staff **continues to recommend denial** of the amended request.

October 18, 2022

This petition was continued from the August 20, 2022 hearing to the October 18, 2022 hearing at the request of the petitioner.

RECOMMENDATIONS

Amendment: The petitioner filed a revised site plan to eliminate the variances for the one-foot southern side setback for the pedestrian gate and walkway and the two-foot north side setback for the building addition.

Staff **recommends denial** of this request.

(Continued)

STAFF REPORT 2022-UV3-025 (Continued)

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE

EXISTING ZONING AND LAND USE

D-5	Compact	Residential / Child Care Home
-----	---------	-------------------------------

SURROUNDING ZONING AND LAND USE

North	D-5	Residential (Single-family dwelling)
South	D-5	Residential (Single-family dwelling)
East	D-5	Residential (Single-family dwelling)
West	D-5	Residential (Single-family dwelling)

COMPREHENSIVE PLAN	The Comprehensive Plan recommends traditional neighborhood development.
--------------------	---

- ◇ The 0.46-acre subject site is developed with a single-family dwelling that has been operated as a child-care home. It is located mid-block and is surrounded by single-family dwellings with associated accessory structures.

VARIANCE OF USE

- ◇ The grant of the request would allow for the operation of a childcare facility, which is classified as a Day Care Center, in the D-5 district.
- ◇ Day Care Centers are permitted by-right within the C-1, C-3, C-4, MU-2, MU-3, MU-4, I-1, I-2 and all of the CBD Districts. They are not permitted within any of the dwelling districts.
- ◇ A special exception would be required for Day Care Centers within the D-6, D-6II, D-7, and D-8 districts and would be allowed as accessory uses in the D-9, D-10, and D-11 districts. Furthermore, Day Care Centers must meet the use-specific standards of Article III. Section 03.C that address a harmonious design of the facility with the surrounding neighborhood and providing adequate parking, loading, and drop-off facilities.
- ◇ Child Care Homes are permitted within the dwelling districts, as an accessory use, so long as the provider maintains the dwelling as their permanent residence, maintains their licensure with the State and complies with all provisions of Indiana Code Title 12.
- ◇ Child Care Homes are limited by the number of children that may be cared for at any given time, whereas Day Care Centers are not limited in this respect. Class I Child Care Homes must care for at least six children, but no more than 12 children at any given time with an exception for an additional three children during the school year who are enrolled in at least full-day kindergarten. Class II Child Care Homes must care for at least 12 children, but no more than 16 children at any given time. Neither type of operation may provide care for any individual child for a period which exceeds 24 consecutive hours.

(Continued)

STAFF REPORT 2022-UV3-025 (Continued)

- ◇ The initial request was to care for a total of 40 children but was reduced to a total of 28 children. The Day Care Center would be open Monday through Friday between 6:30 a.m. to 6:30 p.m. with drop-offs to occur between 7 a.m. to 10 a.m. and pick-ups to occur between 3 p.m. to 6:30 p.m. The business would have four employees and would propose four parking spaces on site.
- ◇ The operator includes time frames for anticipated drop-off and pick-up times throughout the day, but the City would not be able to enforce the proposed schedule to ensure that there would not be issues with traffic during rush hour. If the request is approved, Staff requests that it be subject to the plan of operation in the form of a recorded commitment.
- ◇ The neighborhood where the subject site is located is a long-established residential area. Staff finds that the need for the variance indicates that the operation has outgrown its current location and should be relocated to a new site that is appropriately zoned with a larger building to house the anticipated number of children and would allow for the additional traffic pattern proposed with an increased capacity.
- ◇ Additionally, the request would be a more intense use of the site and would constitute an undue commercial encroachment. Given the area's zoning, comprehensive plan recommendation, and existing development pattern, neighboring and nearby homeowners have a reasonable expectation of protection from commercial development, therefore, Staff finds that the request would negatively impact adjacent properties.
- ◇ Since the existing site could continue to be operated with the appropriate limitations of a Child Care Home, particularly if the residence were to continue to be the operator's primary residence, Staff determined that there would not be a hardship associated with the site warranting a recommendation of approval.

GENERAL INFORMATION

THOROUGHFARE PLAN	Sherman Drive is classified in the Official Thoroughfare Plan for Marion County, Indiana as a primary arterial, with a 60-foot existing right-of-way and a 56-foot proposed right-of-way.
SITE PLAN	File-dated August 17, 2022.
AMENDED SITE PLAN	File-dated September 15, 2022.
FINAL SITE PLAN	File-dated September 26, 2022.
FLOOR PLAN	File-dated September 26, 2022.
PLAN OF OPERATION	File-dated August 17, 2022.
AMENDED PLAN OF OPERATION	File-dated September 7, 2022.

(Continued)

STAFF REPORT 2022-UV3-025 (Continued)

3RD AMENDED PLAN OF
OPERATION

File-dated September 9, 2022.

FINAL PLAN OF
OPERATION

File-dated September 26, 2022.

AMENDED FINAL PLAN
OF OPERATION

File-dated October 21, 2022.

FINDINGS OF FACT

File-dated August 17, 2022.

ZONING HISTORY – SITE

EXISTING VIOLATIONS

None.

PREVIOUS CASES

None.

ZONING HISTORY – VICINITY

2019-HOV-052; 3366 North Denny Street (northeast of site), Variance of development standards of the Consolidated Zoning and Subdivision Control Ordinance to provide for a single-family dwelling and a detached garage with a four-foot rear setback from an alley (five-foot rear setback required), **granted.**

2018-HOV-018; 3365 North Denny Street (northeast of site), Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a front porch addition to a single-family dwelling, with a nine-foot front setback (minimum 18-foot front setback required), **granted.**

2017-DV1-070; 3394 North Denny Street (northeast of site), Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for an 18-foot tall, detached garage, taller than the primary dwelling (not permitted), **granted.**

MI

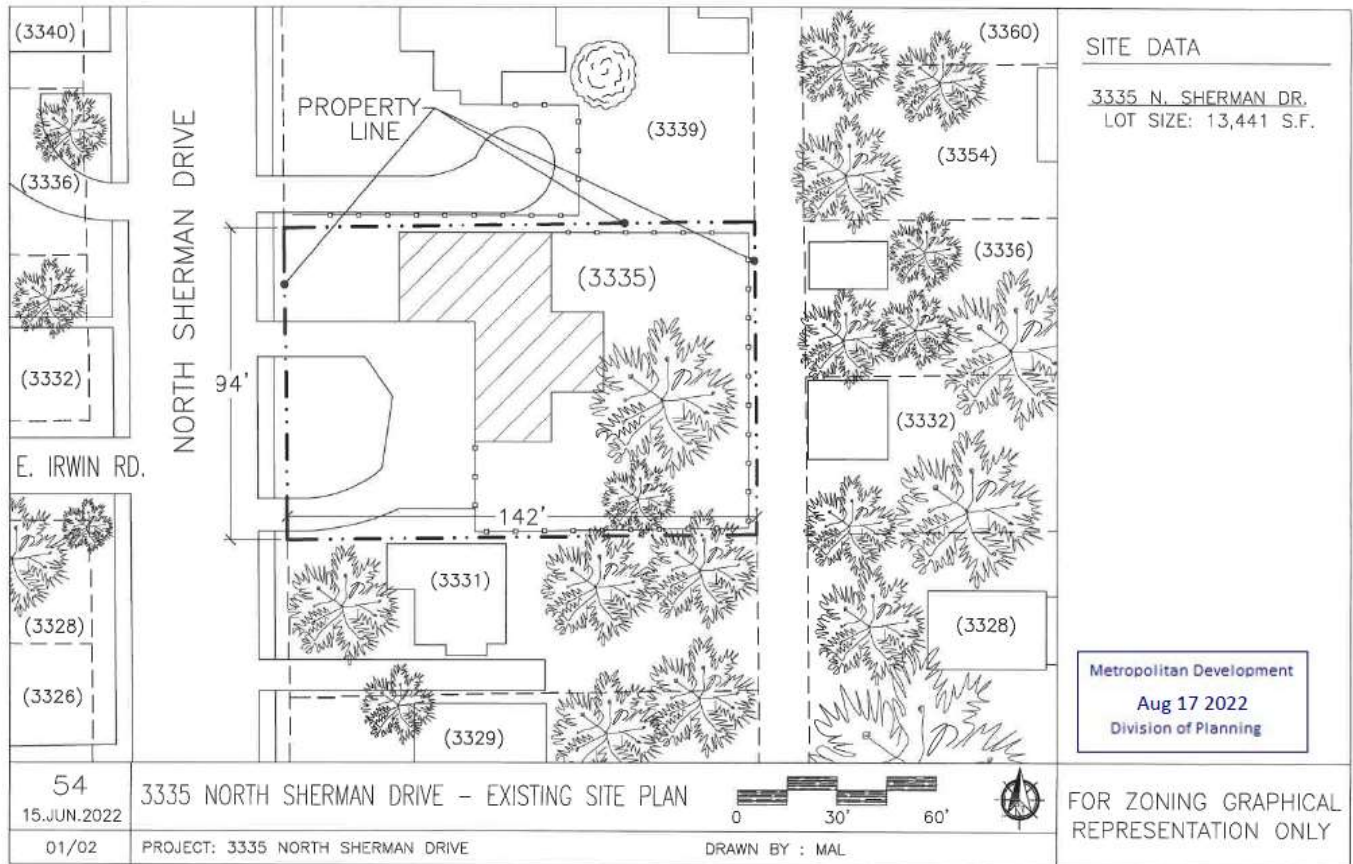
2022-UV3-025; Location Map



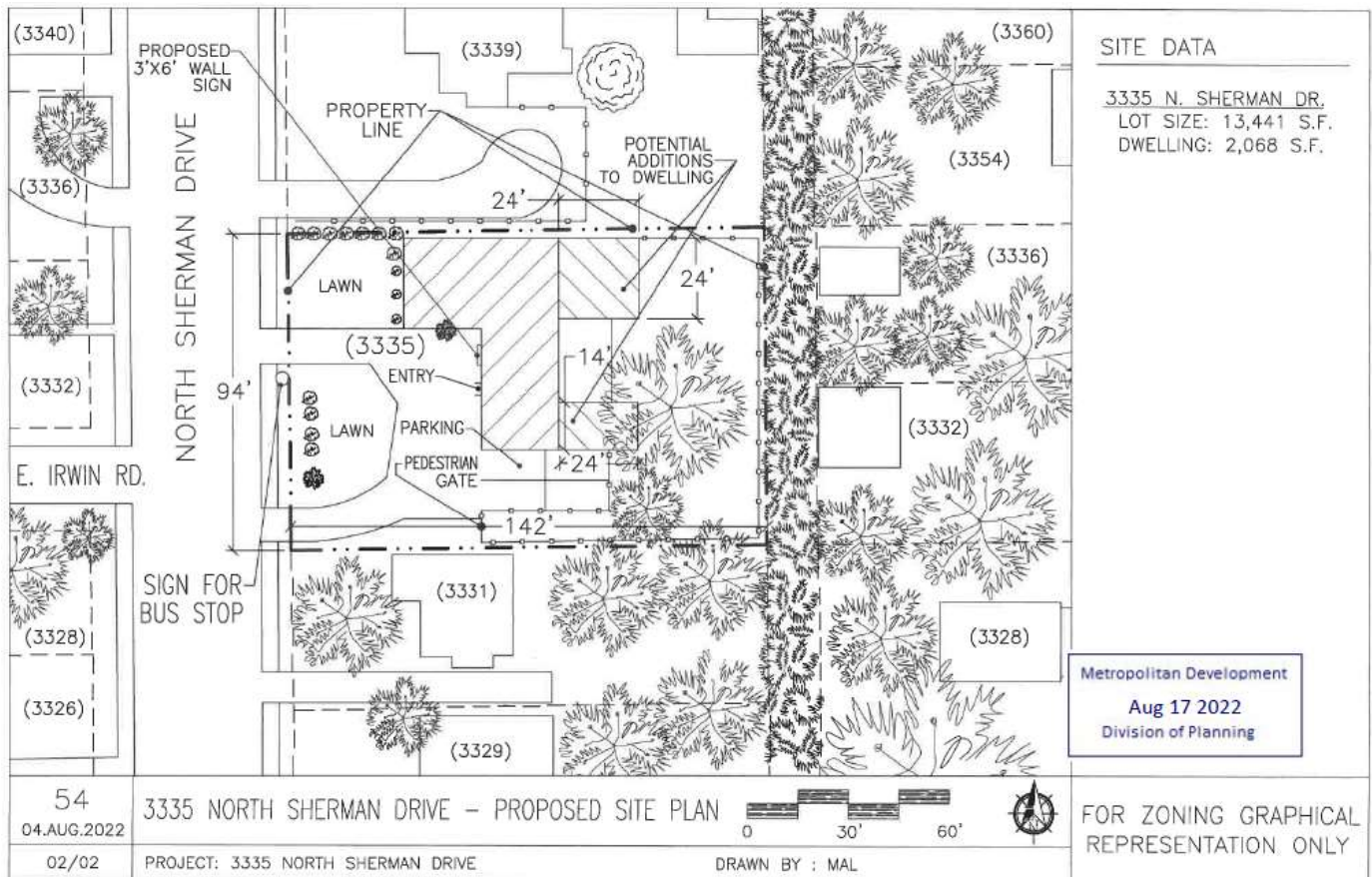
2022-UV3-025; Aerial Map



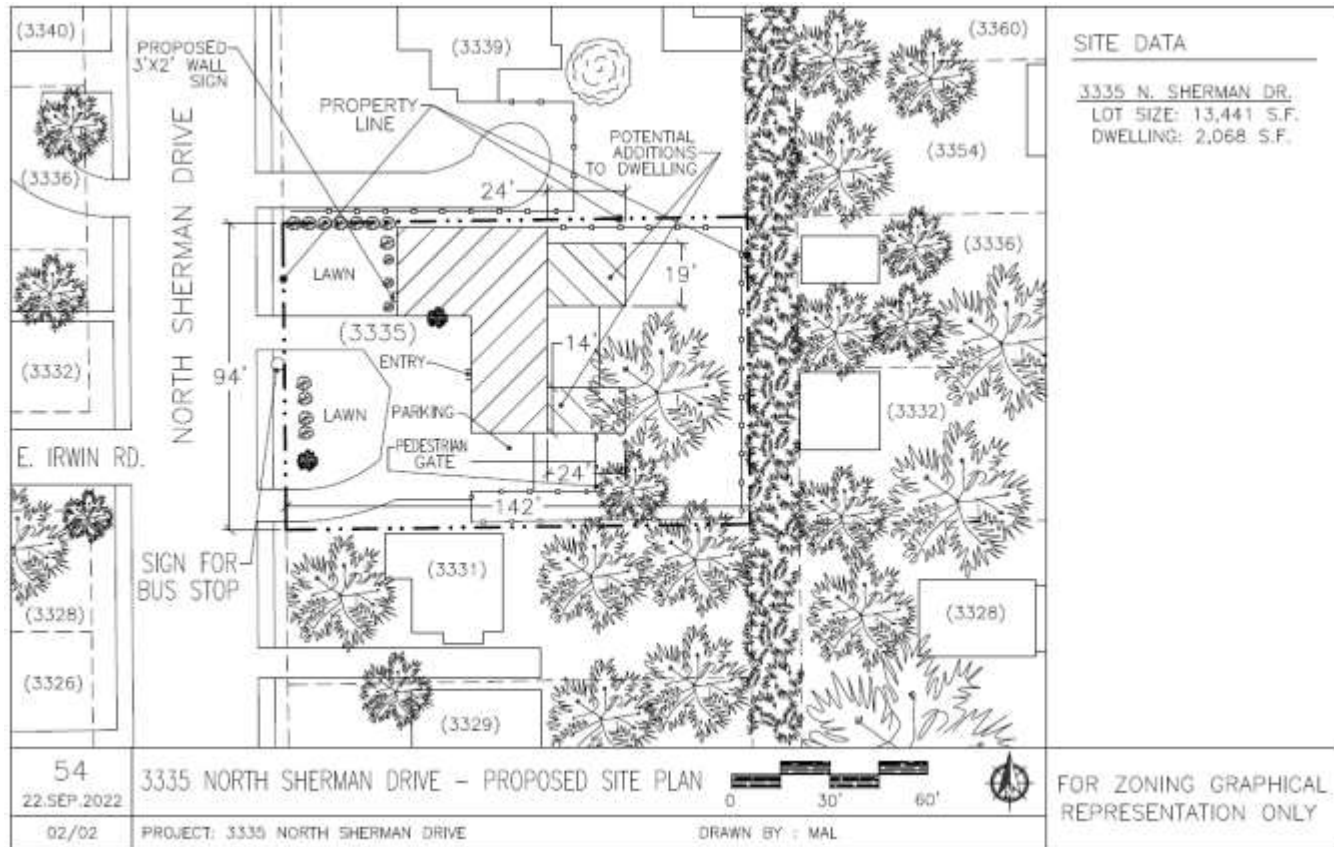
2022-UV3-025; Existing Site Plan



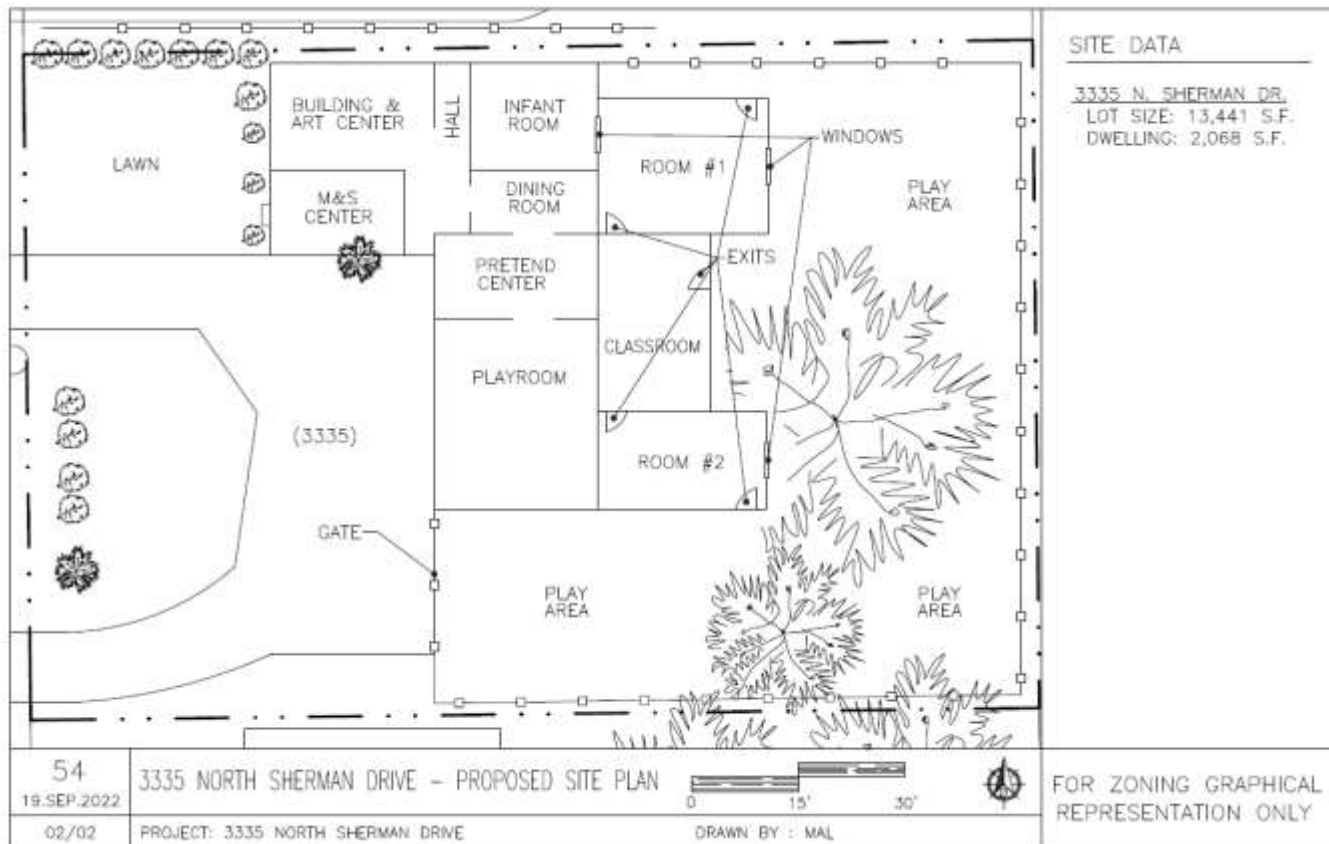
2022-UV3-025; Proposed Site Plan



2022-UV3-025; Amended Site Plan



2022-UV3-025; Floor Plan



2022-UV3-025; Plan of Operation

3335 North Sherman Drive

Plan of Operation

Fruit of the Holy Spirit Childcare (FHS) has been operating as a Class II Childcare Facility, serving children ages 6 weeks to 12 years, since January 2019.

Hours of Operation:

- Monday – Friday from 6:30am – 5:30pm (*closed on all major holidays*)
 - Drop Off:
 - 7:00am – 9:30am (*typical, but dependent on needs of individual families*)
 - Pick Up:
 - 4:00pm – 5:30pm (*typical, but dependent on needs of individual families*)

Staff:

- Currently employs 3 staff members
 - Current Hours: 8:30am – 5:30pm
 - Shift 1: 8:30am – 4:30pm
 - Shift 2: 12:00pm – 5:30pm
 - Proposed Hours: 6:30am – 5:30pm
 - Shift 1: 6:30am – 5:30pm
 - Shift 2: 8:00am – 5:00pm
 - Shift 3: 8:00am – 5:30pm

Parking:

- Currently 3 parking spaces (2 utilized by staff)
 - 4 spaces proposed (*per site plan on file*)
- *Typical day consists of no more than 2-4 cars doing drop off/pick up at the same time*

Signage:

- 2 - 3' x 6' Non-illuminated wall sign (*per site plan on file*)

Lighting:

- Typical residential lighting

Trash Removal:

- Enclosed dumpster buffered by landscaping (*per site plan on file*)

2022-UV3-025; Final Plan of Operation

3335 North Sherman Drive

Plan of Operation

Fruit of the Holy Spirit Childcare (FHS) has been operating as a Class II Childcare Facility, serving children ages 6 weeks to 12 years, since January 2019.

Children:

- Currently serving: 16
- Anticipated number: 28

Hours of Operation:

- Monday – Friday from 6:30am – 6:30pm (*closed on all major holidays*)
 - Drop Off: 7:00am – 10:30am (*typical, but dependent on needs of individual families*)
 - Pick Up: 3:00pm – 6:30pm

Staff:

- Currently employs 4 staff members
 - Current Hours: 8:30am – 5:30pm
 - Shift 1: 8:30am – 4:30pm
 - Shift 2: 12:00pm – 5:30pm
- Anticipate employing 4 staff members
 - Proposed Hours: 6:30am – 6:30pm
 - Shift 1: 6:30am – 6:30pm
 - Shift 2: 8:00am – 5:00pm
 - Shift 3: 8:00am – 6:30pm

Parking:

- Currently 3 parking spaces (2 utilized by staff)
 - 4 spaces proposed (*per site plan on file*)

Cars:

- Currently, 12 cars doing drop off/pick up throughout the day
 - 7-7:45am = 8
 - 8-8:30am = 3
 - 10-10:30am = 1
 - 3-3:45pm = 4
 - 4-5pm = 4
 - 5-5:30pm = 4
- Anticipate 19 cars throughout the day
 - 7-7:45am = 10
 - 8-9am = 5
 - 9-10am = 3
 - 10:30am = 1
 - 3-3:45pm = 4
 - 4-5pm = 8
 - 5-6:30 = 7

Signage: 1 - six square foot non-illuminated wall sign (*per site plan on file*)

Lighting: Typical residential lighting

2022-UV3-025; Amended Final Plan of Operation

3335 North Sherman Drive

Plan of Operation

DRAFT

Fruit of the Holy Spirit Childcare (FHS) has been operating as a Class II Childcare Facility, serving children ages 6 weeks to 12 years, since January 2019.

Children:

- Currently serving: 16
- Anticipated number: 24

Hours of Operation:

- Monday – Friday from 6:30am – 6:30pm (*closed on all major holidays*)
 - Drop Off: 7:00am – 10:30am (*typical, but dependent on needs of individual families*)
 - Pick Up: 3:00pm – 6:30pm

Staff:

- Currently employs 4 staff members
 - Current Hours: 8:30am – 5:30pm
 - Shift 1: 8:30am – 4:30pm
 - Shift 2: 12:00pm – 5:30pm
- Anticipate employing 4 staff members
 - Proposed Hours: 6:30am – 6:30pm
 - Shift 1: 6:30am – 6:30pm
 - Shift 2: 8:00am – 5:00pm
 - Shift 3: 8:00am – 6:30pm

Parking:

- Currently 3 parking spaces (2 utilized by staff)
 - 4 spaces proposed (*per site plan on file*)

Cars:

- Currently, 12 cars doing drop off/pick up throughout the day
 - 7-7:45am = 8
 - 8-8:30am = 3
 - 10-10:30am = 1
 - 3-3:45pm = 4
 - 4-5pm = 4
 - 5-5:30pm = 4
- Anticipate 13 cars throughout the day
 - 7-7:45am = 5
 - 8-9am = 4
 - 9-10am = 3
 - 10-10:30am = 1
 - 3-3:45pm = 4
 - 4-5pm = 3
 - 5-6:30 = 5

Signage: 1 - six square foot non-illuminated wall sign (*per site plan on file*)

Lighting: Typical residential lighting

2022-UV3-025; Photographs



Photo of the Subject Property: **3335 North Sherman Drive**



Photo of the existing driveway.



Photo of the sidewalk and curbcuts.



Photo of the southern property boundary and abutting single-family dwelling.



Photo of the single-family dwellings to the north.

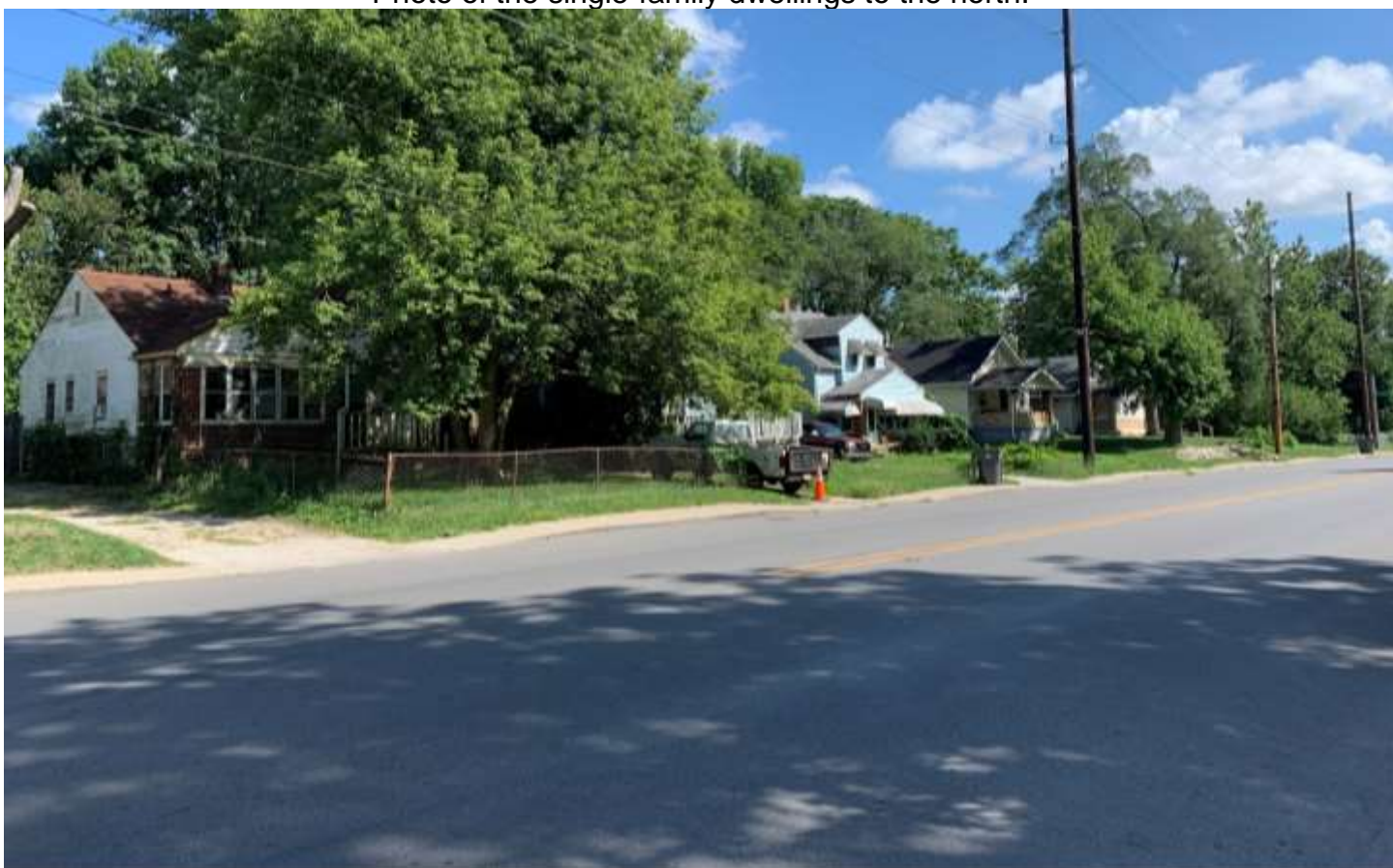


Photo of the single-family dwellings to the south.