



COUNTY OF PRINCE WILLIAM

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PLANNING
OFFICE

Christopher M. Price, AICP
Director of Planning

July 3, 2014

STAFF REPORT

Zoning Text Amendment #PLN2014-00365, Apply Conditions to Family Day Home Permits
(Countywide)

Planning Commission Public Hearing Date: July 16, 2014

Staff Recommendation: Adoption

I. Background is as follows:

- A. Purpose of the Zoning Ordinance – Section 15.2-2283 of the Code of Virginia states that zoning ordinances shall be for the general purpose of promoting the health, safety, or general welfare of the public.
- B. Purpose of Amendment – The proposed amendment incorporates recent changes in State law. Virginia code allows the Board of County Supervisors to consider appeals for Family Day Home permits that have been denied administratively. This process was instituted by the County on May 7, 2013. The code, however, did not allow the Board of County Supervisors to impose conditions on Family Day Homes. The General Assembly has since passed HB 1209 that clarifies that a local governing body may, after notice and a public hearing, either approve, subject to conditions as agreed upon by the applicant and the locality, or deny a zoning permit application for a family day home serving six through twelve children.
- C. Proposed Remedy – The proposed amendment will enable the Board of County Supervisors to apply conditions to Family Day Home permits upon appeal and to amend the fee schedule for this use. This will allow the Board of County Supervisors, after notice and a public hearing, to either approve or deny a zoning permit application for a Family Day Home serving six through twelve children subject to conditions as agreed upon by the applicant and the locality.

II. Current Situation is as follows:

- A. Application of Current Language –The current process for approving Family Day Home applications incorporates notification of adjacent property owners, which provides those property owners an opportunity to comment on the family day

home. If the Zoning Administrator receives a response objecting to the family day home, they are obligated to deny the application. The applicant is given the option to request a hearing before the Board of County Supervisors. During the hearing process, the Board can either approve or deny the application but cannot apply conditions to ameliorate any impacts. In addition, the applicant is not charged a fee for requesting a hearing.

- B. Zoning Text Amendment Initiated – On May 20, 2014, the Board of County Supervisors initiated a Zoning Text Amendment to enable the Board of County Supervisors to apply conditions to Family Day Home permits and amend the fee schedule for this use. See Attachment B – BOCS Initiating Resolution.
- C. Zoning and Development Review Advisory Committee – The committee reviewed the proposed text amendment on June 20, 2014 and recommended approval.
- D. Planning Office Recommendation – The Planning Office recommends adoption of Zoning Text Amendment #PLN2014-00365, Apply Conditions to Family Day Home Permits, as proposed in Attachment A.
- E. Planning Commission Public Hearing – A public hearing before the Planning Commission has been properly advertised for July 16, 2014.

III. Issues in order of importance are:

- A. Policy – Does the amendment further the purposes of the Zoning Ordinance?
- B. Community Input – Have members of the community raised any issues?
- C. Legal – Are there any legal implications associated with this zoning text amendment?
- D. Timing – What are the timing considerations of the zoning text amendment?

IV. Alternatives beginning with the staff recommendation are as follows:

- A. Recommend Adoption of Zoning Text Amendment #PLN2014-00365, Apply Conditions to Family Day Home Conditions, to the Prince William County Zoning Ordinance.
 - 1. Policy – The proposed text will enable the Board of County Supervisors to apply conditions to the operation of a family day home to which an adjoining property owner has objected.
 - 2. Community Input – The Planning Office has not received any comments from the community as of the date of this staff report.

3. Legal – The adoption of the zoning text amendment will incorporate the proposed requirements into the Zoning Ordinance, which is enforceable by the County. Legal issues resulting from Planning Commission action would be appropriately addressed by the County Attorney’s Office.
 4. Timing – The Planning Commission has until October 14, 2014, 90 days from the first public hearing, to take action on this proposal. A recommendation to adopt the zoning text amendment would meet the 90-day requirement.
- B. Do Not Recommend Adoption of Zoning Text Amendment #PLN2014-00365, Apply Conditions to Family Day Home Permits, to the Prince William County Zoning Ordinance.
1. Policy – If the Board of County Supervisors does not adopt the proposed amendment, the Board will not have the flexibility to impose conditions and restrictions on the operation of a family day home for which one or more adjoining property owners have raised objections.
 2. Community Input – The Planning Office has not received any comments from the community as of the date of this staff report.
 3. Legal – Legal issues resulting from Planning Commission action would be appropriately addressed by the County Attorney’s Office.
 4. Timing – The Planning Commission has until October 14, 2014, 90 days from the first public hearing, to take action on this proposal. A recommendation to deny the zoning text amendment would meet the 90-day requirement.
- V. Recommendation is that the Planning Commission concurs with Alternative A and recommends adoption of Zoning Text Amendment #PLN2014-00365, Apply Conditions to Family Day Home Permits.

Staff: Nick Evers, 703-792-6861

Attachments:

- A. Proposed Text Amendment
- B. BOCS Initiating Resolution

ARTICLE III. AGRICULTURAL AND RESIDENTIAL DISTRICTS

PART 300. GENERAL REGULATIONS

Sec. 32-300.01. General Regulations.

Structures and uses in agricultural and residential districts shall be governed by the following regulations.

Sec. 21-300.02. Accessory Uses.

Accessory uses shall be permitted in all agricultural and residential districts, subject to the following limitations:

15. Family day homes, as defined in Section 63.2-100. VA Code Ann. shall be subject to the following standards:

(a) Family day homes on lots with five thousand (5,000) square feet or more and in a single-family detached dwelling unit:

(1) The keeping of five (5) or less children, in addition to a provider's own children, shall be subject to the same conditions imposed on residences occupied by persons related by blood, marriage, or adoption.

(2) The keeping of six (6) to twelve (12) children, in addition to a provider's own children, as defined in Part 100, shall be in accordance with the requirements of Chapter 17, Title 63.2-1700 through 63.2-1738, VA Code Ann. A home occupation certificate and certificate of occupancy shall be required. Prior to approval by the Zoning Administrator, notification shall be sent by certified mail to the last known address of each adjacent property owner. If the Zoning Administrator receives no written objection from a person so notified within thirty (30) days of the date of sending the letter and determines that the family day home may otherwise comply with the provisions of this ordinance, the Zoning Administrator may issue a permit for the family day home. An applicant who is denied a permit through the aforesaid administrative process may request a hearing before the Board of County Supervisors following public notice as provided in Sec. 15-2-2204, VA Code Ann. The Board may, in its discretion, either approve, subject to conditions as agreed upon by the applicant and the locality, or deny the zoning permit application for a family day home serving six through twelve children.

Attachment B – BOCS Initiating Resolution

MOTION: MAY

**May 20, 2014
Regular Meeting
Res. No. 14-354**

SECOND: CANDLAND

RE: INITIATE A ZONING TEXT AMENDMENT TO ENABLE THE BOARD OF COUNTY SUPERVISORS TO APPLY CONDITIONS TO FAMILY DAY HOME PERMITS AND AMEND THE FEE SCHEDULE FOR THIS USE – COUNTYWIDE

ACTION: APPROVED

WHEREAS, in accordance with Title 15.2-2285 of the Code of Virginia, Ann., the Board of County Supervisors may amend the Zoning Ordinance whenever it determines that public necessity, health, safety, convenience, general welfare and good zoning practice necessitate such change; and

WHEREAS, the State had implemented a law pertaining to Family Day Homes that did not allow the Board of County Supervisors to impose conditions on Family Day Homes and only allowed the Board of County Supervisors to uphold or overturn the administrative denial of a Family Day Home Permit; and

WHEREAS, the General Assembly has since passed HB 1209 that clarifies that a local governing body may, after notice and a public hearing, either approve, subject to conditions as agreed upon by the applicant and the locality, or deny a zoning permit application for a family day home serving six through twelve children; and

WHEREAS, amending the Zoning Ordinance for the above-referenced issue is required by public necessity, convenience, general welfare and good zoning practice, and is consistent with the intent of Title 15.2-2283 of the Code of Virginia, Ann; and

WHEREAS, on April 22, 2014, Chairman Stewart issued a directive that staff prepare, for Board of County Supervisors' consideration, an initiation for a Zoning Text Amendment that would enable the Board of County Supervisors to apply conditions to family day home permits and amend the permit fee schedule; and

WHEREAS, this action will authorize staff time and resources necessary for research, analysis and to conduct public hearings with the Planning Commission and the Board of County Supervisors; and

WHEREAS, the Prince William Board of County Supervisors believes that public general welfare, as well as good zoning practices, are served by the initiation of this zoning text amendment;

Attachment B – BOCS Initiating Resolution

May 20, 2014
Regular Meeting
Res. No. 14-354
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NOW, THEREFORE, BE IT RESOLVED that the Prince William Board of County Supervisors does hereby initiate a Zoning Text Amendment to the Prince William County Zoning Ordinance to enable the Board of County Supervisors to apply conditions to family day home permits and amend the fee schedule for this use.

Votes:

Ayes: Caddigan, Candland, Covington, Jenkins, May, Nohe, Principi, Stewart

Nays: None

Absent from Vote: None

Absent from Meeting: None

For Information:

Planning Director

County Attorney

ATTEST: _____



Chief Deputy Clerk to the Board