



# City of Harrisonburg, Virginia

DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

## STAFF REPORT

July 8, 2015

### **SPECIAL USE PERMIT – 521 BLUE RIDGE DRIVE – MAJOR FAMILY DAY HOME**

#### **GENERAL INFORMATION**

**Applicant:** Aneta and Christopher Smialek

**Tax Map:** 29-D-29

**Acreage:** 15,452 +/- square feet

**Location:** 521 Blue Ridge Drive

**Request:** Public hearing to consider a special use permit per Section 10-3-34 (6) of the Zoning Ordinance to allow a Major Family Day Home within the R-1, Single Family Residential District.

#### **LAND USE, ZONING, AND SITE CHARACTERISTICS**

The Comprehensive Plan designates this area as Low Density Residential. This designation states that these areas consist of single family detached dwellings with a maximum density of 1 to 4 units per acre. Low density sections are found mainly in and around well established neighborhoods and are designed to maintain the existing character of neighborhoods and to provide traditional areas for home ownership.

The following land uses are located on and adjacent to the property:

**Site:** Single family dwelling, zoned R-1

**North:** Single family dwelling, zoned R-1

**East:** Single family dwelling, zoned R-1

**South:** Across Country Club Road, non-conforming Southeastern trucking company, zoned R-1

**West:** Across Blue Ridge Drive, single family dwelling, zoned R-1

#### **EVALUATION**

The applicants are requesting a special use permit (SUP) per Section 10-3-34(6) of the Zoning Ordinance to allow a major family day home within the R-1, Single Family Residential District. Major family day homes (MFDH) are currently defined in the zoning ordinance as: *A child day care program offered in the residence of the provider or the home of any of the children in care for six (6) through twelve (12) children under the age of thirteen (13), exclusive of any children who reside in the home, when at least one (1) child receives care for compensation.* (Note: On the same agenda as this request, there is an amendment proposed to modify the definition of MFDHs. That amendment does not impact this request.)

The Virginia Department of Social Services (VDSS) regulates licensing standards of family day homes and ensures that the facility and the operation of the MFDH are favorable to the welfare of the children in care. Approval and licensing from the VDSS does not, however, exempt an applicant from maintaining compliance with local ordinances and laws. Approval of the SUP would allow for the applicants to operate as a major family day home, with the proper licensing from the VDSS.

In May 2009, the applicants received approval for the same SUP at the subject property on Blue Ridge Drive. At the time, the applicants were operating a minor family day home with the intent to expand to a MFDH, and then possibly to relocate the business to a child day care center, which is a use that cannot be the in the residence of the provider or any of the children in care. In May 2010, the applicants opened A Smiley Day Care Center at a commercial location and discontinued the MFDH use at their home. As with any SUP, per Section 10-3-130, if the use or activity should cease for any reason for a continuous period or two years or more, the permit shall become null and void and the approval of a new SUP shall be required prior to any subsequent reinstatement of the use. The 2009 SUP became void in May 2012. At this time the applicants desire to re-establish the use of their home as a MFDH.

During the review for the 2009 MFDH permit, staff made it clear that we believed a major family day home should not operate from this location. The property is located on the northeastern corner of a skewed and very busy intersection at Blue Ridge Drive and Country Club Road. Vehicles traveling on Country Club Road cannot make use of “right-on-red” and the traffic signal is split-phased so that cars waiting on either side of Blue Ridge Drive do not simultaneously utilize the intersection. Additionally, Country Club Road intersects another road, Clay Street, approximately 150 feet to the east of the Blue Ridge Drive intersection. There is also a transit bus stop situated at the junction of Country Club Road and Clay Street. This makes for an awkward scenario for traffic attempting to enter or exit the property at 521 Blue Ridge Drive.

The property has a driveway with entrances on both Blue Ridge Drive and Country Club Road. As was scrutinized during the 2009 SUP review, entering and exiting the property is difficult as anyone traveling to or from the subject property must maneuver through the controlled intersection to or from the property’s driveway entrances that are approximately 20 and 50 feet from the intersection. The two entrances allow vehicles to enter and/or exit from either road. As just discussed, entering the property is challenging, but exiting the property is even more difficult. Vehicles waiting to exit the property onto Country Club Road have no visual reference for any of the traffic signals; and therefore, must rely on the flow of traffic to figure out who has the green light. Vehicles waiting to exit onto southbound Blue Ridge Drive can see the traffic signal that controls traffic and can turn right onto that street when it is safe. Unfortunately, it is difficult to see if vehicles traveling west on Country Club Road are turning right onto Blue Ridge Drive or if they are driving straight through the intersection. If the person exiting the property wants to travel west onto Country Club Road, they must await their turn and travel with Blue Ridge Drive traffic, however they must move diagonally across the intersection to perform this task. Vehicles exiting the property to travel east on Country Club Road have to await their turn and travel with Blue Ridge Drive traffic patterns.

Staff recommended denial of the 2009 SUP request believing that any use increasing traffic at this unsafe intersection was not in the best interest of the City. However, it was ultimately

recommended for approval by Planning Commission (5-2) and unanimously approved by City Council (4-0, with one member absent), with the following conditions:

1. The “major family day home” shall be valid only for the current applicants.
2. Vehicles shall not be permitted to exit the property onto Country Club Road. All vehicles shall exit onto Blue Ridge Drive.
3. All existing shrubbery/plantings within the island created by the connecting portions of the driveway, near the southwestern property corner, shall be trimmed or removed to improve sight distance. All plantings within this area shall be low-lying and/or ground covering vegetation.
4. The connecting portions of the driveway shall remain open at all times to allow parents/guardians to maneuver on and off of the property without utilizing the public right-of-way. Therefore, parking is prohibited on these portions of the driveway.
5. If City Council finds traffic conditions warrant re-evaluation of the “major family day home,” they may require the applicant to return to Planning Commission to re-examine the use of the property. It shall be at the discretion of Planning Commission and/or City Council to determine if the re-evaluation shall necessitate a public hearing. Such re-evaluation may result in additional conditions being placed on the use or revocation of the special use permit.

During the public hearing for the 2009 SUP multiple different scenarios were discussed to try and improve the situation, such as: traffic signals for the driveway entrance, the angle of the traffic signal head, and relocating the existing driveway entrances. The City does allow traffic signals for private residences; it was not recommended to angle the traffic signal head; and the shifting of the entrances did not resolve the actual concern of vehicles entering and exiting the property. Ultimately, the City did change out the traffic signal heads from “tunnel visors” to “cut-away visors, which helped to alleviate some of the difficulty viewing the signal indicators.

The 2009 MFDH operated from this location for some time; staff did not receive concerns. Nonetheless, staff continues to have the same concerns regarding the traffic safety entering and exiting the site. If Planning Commission however, desires to recommend approval to City Council, staff suggests that the following conditions be placed on the special use permit:

1. Vehicles shall not be permitted to exit the property onto Country Club Road. All vehicles shall exit onto Blue Ridge Drive.
2. The existing island area created by the connecting portions of the driveway, near the southwestern property corner, shall remain open space for improved sight distance. All planting within this area shall be low-lying and/or ground covering vegetation.
3. The connecting portions of the driveway shall remain open at all times to allow parents/guardians to maneuver on and off of the property without utilizing the public right-of-way. Therefore, parking is prohibited on these portions of the driveway.
4. If City Council finds traffic conditions warrant re-evaluation of the “major family day home,” they may require the applicant to return to Planning Commission to re-examine the use of the property. It shall be at the discretion of Planning Commission and/or City

Council to determine if the re-evaluation shall necessitate a public hearing. Such re-evaluation may result in additional conditions being placed on the use or revocation of the special use permit.