



City of Harrisonburg, Virginia

DEPARTMENT OF PLANNING & COMMUNITY DEVELOPMENT

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November 3, 2015

TO THE MEMBERS OF CITY COUNCIL CITY OF HARRISONBURG, VIRGINIA

SUBJECT: Public hearing to consider a request from Erica and Brock Dorsey to amend an existing special use permit allowing a Major Family Day Home in the R-1, Single Family Residential District per Section 10-3-34 (6) of the Zoning Ordinance. The existing special use permit was approved in July 2014 with the condition that the day home be limited to 10 children. The proposed amendment is to allow the maximum 12 children. Major family day homes can have from five to 12 children under the age of 13, exclusive of any children who reside in the home. The 21,444 +/- sq. ft. property is located at 1214 Windsor Road and is identified as tax map parcel 84-E-4.

EXTRACT FROM MINUTES OF HARRISONBURG PLANNING COMMISSION MEETING HELD ON: October 14, 2015

Chair Fitzgerald read the request and asked staff for a review.

Mrs. Banks said 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 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 and major family day home operation, zoned R-1

North: Single-family dwelling, zoned R-1

East: Single-family dwellings fronting along Nelson Drive, zoned R-1

South: Single-family dwelling, zoned R-1

West: Across Windsor Road, Single-family dwellings, zoned R-1

The applicant is requesting to amend an existing special use permit (SUP) allowing a Major Family Day Home (MFDH) in the R-1, Single Family Residential District per Section 10-3-34 (6) of the Zoning Ordinance (ZO). A major family day home is described as providing care for five to 12 children under the age of 13, exclusive of any children who reside in the home. Major family day homes are limited as to the number children that receive care in the residence at any one time; however, they are not limited to the number of children they may have enrolled.

Tots 'N Toyland, a MFDH, received approval of a SUP in July 2014 to operate from the 21,444 +/- square foot parcel located at 1214 Windsor Road. The property is located on a narrow cul-de-sac road, which allows parking along the street right-of-way; however, the street is not improved with curb,

gutter, or sidewalk. During the 2014 SUP process, staff expressed concerns regarding parking along the shoulder of the road, possibly impeding traffic; but ultimately recommended in favor of the SUP with a suggested condition that if parking became a nuisance, the SUP could be recalled for further review, which could lead to the need for additional conditions, restrictions, or the revocation of the permit. Planning Commission recommended approval (7-0) of the request with the suggested condition. At the City Council public hearing, there were neighborhood concerns regarding traffic increases and safety with the proposed MFDH use. The request was tabled awaiting further information from the Harrisonburg Fire Department and Rescue Squad, before eventually being approved (3-2) with an additional condition that the number of children served is limited to ten.

The applicant currently has a total of 11 children enrolled, either full-time or part-time and one employee who has been with Tots 'N Toyland since opening. The facility encompasses approximately 714 square feet within the home and has a large fenced, outdoor play area that is located about 150-feet from the roadway. Since being licensed by the Department of Social Services (DSS) last year there have been a total of three unannounced inspections by DSS with no violations.

The hours of operation for the MFDH are 7:30 a.m. until 5:30 p.m., Monday through Friday. Parents are instructed to park at the top of the driveway when dropping off or picking up children throughout the day. There is ample room for three vehicles to maneuver on site without blocking vehicles in. The employee parking is also at the top of the driveway beside the house or in the garage.

The applicant is requesting to increase the number of children from ten to the maximum 12. This increase is to accommodate the forthcoming birth of the sole employee's child and the forthcoming birth of a child, who will be the sibling of a currently enrolled child.

Staff has received no concerns regarding the use, parking, or traffic since the 2014 SUP approval. Staff recommends in favor of the request to amend the SUP with the following condition:

If in the opinion of Planning Commission or City Council, parking becomes a nuisance, the special use permit can be recalled for further review, which could lead to the need for additional conditions, restrictions, or the revocation of the permit.

Chair Fitzgerald said if I understand correctly the number of cars that go in and out of this facility every day will likely not change, because it is two pregnancies of existing persons coming to the site.

Mrs. Banks said that is correct.

Mr. Baugh said in all fairness, that is the near term plan, not a restriction.

Mr. Way said for clarification, 12 is the maximum number allowed for a MFDH.

Mrs. Banks said yes, this would bring it to the maximum allowed by DSS.

Mr. Baugh said for whatever reason, as someone who supported this the first time the number of ten was somewhat of a trade-off that happened at Council. The third consenting vote was comfortable with the total being reduced to ten and that is where the number came from.

Mr. Colman said is the 12 a total number or is it a total of children on site.

Mrs. Banks said 12 is the maximum number of children being served in the facility at any one time. Of course this is exclusive of the applicant's children.

Mr. Baugh said that was actually the issue with City Council. It is exclusive of the applicant's children; but, her children have friends that regularly come over. Because of the regulations ten was

the lowest number she could have on the premises; it is not that they are all actually enrolled in the day care.

Mr. Fletcher said these are the numbers that are regulated by the State; not a regulation of the City of Harrisonburg.

Mr. Colman said from that standpoint, traffic is not just limited to 12 parents and kids, it could be 24 kids enrolled.

Mr. Da'Mes said are you thinking instead of focusing on the number of children enrolled, we should be focusing on the number of vehicles coming and going.

Mr. Colman said the main concern is traffic.

Mr. Fletcher said remember at last year's public hearing, Planning Commission voted in favor of the maximum 12. Both staff and Planning Commission recommended in favor of the maximum students, it was not until it got to City Council that the number was reduced.

Chair Fitzgerald opened the public hearing and asked the applicant to come forward and speak.

Erica Dorsey, 1214 Windsor Road, said she is the applicant. She then introduced her neighbor Roger Jones, who lives next door. As it has already been stated, the need for the increase is my sole employee who is also my sister and has been there since the beginning of the program and will continue to be there, is expecting. Since we opened over a year ago we have had no complaints. As a matter of fact, I have spoken to each individual neighbor in person on my street, as well as Mr. Hopkins who lives behind on the other street. Mr. Hopkins had brought forward several concerns to City Council last year and he is completely in favor of this request.

We are the only Family Day Home that has not had any violations from the DSS. Safety is a huge concern of ours. There would not be an increase in traffic. We have 58 children on our waiting list since opening last year. I cannot operate without my employee because of the ratio required by DSS; therefore, if this request gets turned down, we will have to release one of our enrolled children to make room for her child. We do not want to do that, but it would be our only choice because the employee is vital to the entire operation. That is why we are here tonight and we would appreciate your support.

Mr. Roger Jones, 1216 Windsor Road, said he is the closest neighbor to the MFDH. Since the original permission was granted in July 2014, there has been no noise from the children that I am aware of. There has also been no problem with traffic; the only time I see traffic is when a parent is picking up a child. On Windsor Road there is not much traffic so you would notice.

Mr. Da'Mes said are you able to see all the traffic flow into and out of the day care facility?

Mr. Jones said there is not any traffic flow; there is just the occasional vehicle. There is no additional traffic on the road at all.

Mrs. Dorsey said of our current 11 children, there are two sets of siblings, so there are only maybe eight cars.

Mr. Heatwole said these vehicles are not parking on Windsor Road they are actually coming into the driveway to drop-off and turn around.

Mrs. Dorsey said correct, there are actually cars parked on Windsor Road, but they are not coming to my home or facility.

Chair Fitzgerald asked if there were any further questions for Mrs. Dorsey or Mr. Jones. Hearing none, she asked if there was anyone else wanting to speak in favor of or opposed to the request. Hearing none, she closed the public hearing and asked for discussion.

Mr. Colman moved to recommend approval of the request with the same condition as imposed by Planning Commission in 2014.

Mr. Heatwole seconded the motion.

Chair Fitzgerald called for a voice vote on the motion to recommend approval with the condition.

All voted in favor of the motion (7-0).

Chair Fitzgerald said this item will go to City Council on November 10th with a favorable recommendation.

Respectfully Submitted,

Alison Banks
Senior Planner