



City of Harrisonburg, Virginia

DEPARTMENT OF PLANNING & COMMUNITY DEVELOPMENT

409 South Main Street

Harrisonburg, Virginia 22801

Website: <http://www.harrisonburgcommdev.com/>

Telephone: (540) 432-7700 Fax: (540) 432-7777

August 4, 2015

TO THE MEMBERS OF CITY COUNCIL CITY OF HARRISONBURG, VIRGINIA

SUBJECT:

Public hearing to consider a request from Aneta and Christopher Smialek for a special use permit per Section 10-3-34 (6) of the Zoning Ordinance to allow for a major family day home in the R-1, Single Family Residential District. The 15,452 +/- square foot property is located at 521 Blue Ridge Drive and is identified as tax map parcel 29-D-29.

EXTRACT FROM MINUTES OF HARRISONBURG PLANNING COMMISSION MEETING HELD ON: July 8, 2015

Chair Fitzgerald read the request and asked staff for 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 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

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.

Additionally, during the Planning Commission site visit yesterday there were some questions regarding traffic counts for this intersection and I have some information on that to share. On January 6, 2009, the City had a traffic counter positioned on Country Club Road between Blue Ridge Drive and Carlton Street; there were 4,658 vehicles that traveled eastbound and 4,994 vehicles that traveled westbound on Country Club Road. Most, if not all, vehicles traveled through the Country Club Road/Blue Ridge Drive intersection. Furthermore, based upon the Virginia Department of Transportation’s (VDOT) annual average daily traffic volume estimates, 4,400 vehicles traveled Blue Ridge Drive between Star Crest Drive and Country Club Road. The City’s most recent count was from April 2012, on Country Club Road between Vine Street and Carlton Street; there were 6,020 vehicles that traveled westbound and 5,321 vehicles that traveled eastbound. The difference between this 2012 study and the one completed in 2009 is likely related to the difference in locations (north of Carlton in 2012; south of Carlton in 2009) and the fact that the 2009 count was done while JMU was on winter break, while the 2012 count was done while classes were still in session. The 2013 VDOT traffic count for Blue Ridge Drive between Star Crest Drive and Country Club Road was 4,300 vehicles.

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.

Dr. Dilts asked if staff discussed, or if it was discussed at the last public hearing, the idea of limiting turns out of the driveway on to Blue Ridge Drive, to right turns only.

Mr. Fletcher replied we did not discuss that during this review and I do not recall from the last public hearing in 2009. There were so many different scenarios that were talked about in the public hearing as well as with staff when reviewing the 2009 SUP.

Mrs. Turner said it was discussed in the public hearing format last time. I believe at that time some of the parents spoke about the hardship it would cause them if that was the case.

Dr. Dilts said in what sense would it be a hardship?

Mrs. Turner said only being able to turn right on to Blue Ridge Drive. It was not a direct route for them and would require some of the parents to go a great distance out of their way.

Dr. Dilts said it appears to be a safer way.

Mrs. Turner said I do not know how seriously anyone on Planning Commission considered it; but, it was discussed and I recall the opposition from some of the parents.

Dr. Dilts said if you turn left on to Blue Ridge Drive, you go directly into the intersection. If this were approved, it seems that it would be better to require a right turn only; it appears to be safer.

Chair Fitzgerald asked if there were any further questions for staff. Hearing none, she opened the public hearing and asked the applicant or the applicant’s representative to speak.

Aneta Smialek, 521 Blue Ridge Drive, said she is the applicant. I would like to state that we did operate from this location for eleven months. We had no incidents or accidents. All of our parents had been provided instructions as part of their application on how to maneuver in and out, where to park, and we had signage on the property as to which direction they could leave. If there were questions from the parents, we would show them how to enter, park, and exit. All the parents followed the directions.

Chair Fitzgerald asked if there was anyone else desiring to speak regarding the SUP request. Hearing none, she closed the public hearing and asked if there were any further questions or perhaps discussion on the request.

Dr. Dilts said she would like to re-introduce the right turn only idea. If we were to recommend approval I would like to see a condition of right turn only out of the driveway onto Blue Ridge Drive.

Mr. Colman said I completely agree with you. As we saw yesterday there is just no way to exit and turn left safely. The only things we do not know are the hours of operation for the MFDH. What time are pick-up and drop-offs? That could mitigate some of the concerns. Do we have that information?

Ms. Smialek said the day home would operate 24/7.

Chair Fitzgerald said there is some data to show that traffic on one of the roads at the intersection has measurably increased between 2009 and now.

Mr. Colman said do we have the most current accident data on that particular intersection?

Mr. Fletcher said nothing current.

Chair Fitzgerald said the fact is that children could be dropped off at any time; from dead-of-night with little traffic, to very busy times like we saw yesterday.

Mr. Heatwole said I realize we were there at the worse time of day yesterday; but, I am inclined to agree with Commissioner Dilts that if there was a right turn only restriction, it could make it a bit safer.

Ms. Smialek said the shifts for the day home are generally from 5:30 a.m. to 2:30 p.m.; 2:30 p.m. to 11:30 p.m.; and a night shift until 5:30 a.m.

Chair Fitzgerald said there are predictable times for when the children arrive and leave.

Ms. Smialek replied yes.

Mr. Way moved to recommend approval of the requested special use permit with conditions as presented and the condition of a right turn only when exiting onto Blue Ridge Drive.

Dr. Dilts seconded.

All voted in favor of the motion (6-0).

Chair Fitzgerald said this will move forward to City Council on August 11, 2015 with a favorable recommendation.

Respectfully Submitted,

Alison Banks
Senior Planner