



CITY OF HARRISONBURG COMMUNITY DEVELOPMENT

409 SOUTH MAIN STREET, HARRISONBURG, VA 22801
OFFICE (540) 432-7700 • FAX (540) 432-7777

To: Ande Banks, City Manager
From: Adam Fletcher, Director, Department of Community Development and Harrisonburg Planning Commission
Date: September 10, 2024 (Regular Meeting)
Re: Special Use Permit – 1561 Gilmer Circle (To Allow a Major Family Day Home)

Summary:

Project name	N/A
Address/Location	1561 Gilmer Circle
Tax Map Parcels	91-L-24
Total Land Area	+/- 16,140 square feet
Property Owner	Paulin Mupenda Makungu and Beni Ndjoni Tambwe
Owner's Representative	N/A
Present Zoning	R-1, Single-Family Residential District
Special Use Permit Request	10-3-34 (6) to allow major family day home
Staff Recommendation	Approval
Planning Commission Recommendation	August 14, 2024 (Public Hearing) Approval (6-0)
City Council	September 10, 2024 (Public Hearing)

Background:

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

Site: Single family detached dwelling; zoned R-1

North: Across Gilmer Circle, single family detached dwelling; zoned R-1

East: Single family detached dwelling; zoned R-1

South: Single family detached dwelling; zoned R-1

West: Single family detached dwelling; zoned R-1

Major family day home (MFDH) is 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 five (5) 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.”* MFDHs are permitted only by special use permit (SUP) in all residential districts, except the R-5 district, where they are not permitted.

When considering a MFDH it is helpful to know how it differs from a minor family day home. A minor family day home is allowed by right within all residential districts and is defined as: *“A child day care program offered in the residence of the provider or the home of any of the children in care for one (1) through four (4) 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. A minor family day home shall be considered a home occupation and therefore requires that a home occupation permit be granted by the zoning administrator; however, no conditions more restrictive than those imposed on residences occupied by a single family shall be imposed on the day home.”*

The applicant has been advised by staff to work with the Virginia Department of Education (VDOE) for licensure requirements. The VDOE 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 VDOE require an applicant to maintain compliance with local ordinances and laws. VDOE requires applicants to submit a form signed by the locality’s Zoning Administrator to verify that the use is allowed at the requested location. Approval of the SUP would allow for the applicant to operate as a MFDH at the subject location with the proper licensing from the VDOE.

Key Issues:

The applicant is requesting a special use permit (SUP) per Section 10-3-34 (6) of the Zoning Ordinance to allow a major family day home (MFDH) within the R-1 District. The +/- 16,140-square foot property is addressed as 1561 Gilmer Circle and is identified as tax map parcel 91-L-24.

The applicant is planning to care for a up to 10 children and to operate Monday through Friday from 6:00 am to 5:00 pm. Staff is not recommending conditions on the hours of operation or facility schedule, and therefore, if the request is approved as submitted, the hours of operation, facility schedule, and number of children in their care may change at times, up to 12 children.

Land Use

The Comprehensive Plan designates this site as Low Density Residential and states:

These areas consist of single-family detached dwellings in and around well-established neighborhoods with a target density of around 4 dwelling units per acre. The low density residential areas are designed to maintain the character of existing neighborhoods. It should be understood that established neighborhoods in this designation could already be above 4 dwelling units per acre.

Transportation and Traffic

A traffic impact analysis (TIA) was not required for the SUP request.

Public Water and Sanitary Sewer

Staff has no concerns with the special use permit as it relates to water and sewer matters.

Recommendation

Staff believes the intended MFDH use should have little impact on the surrounding neighborhood and recommends approval of the SUP request with no conditions.

Environmental Impact:

N/A

Fiscal Impact:

N/A

Prior Actions:

N/A

Alternatives:

- a. Approve the special use permit request as submitted by the applicant;
- b. Approve the special use permit request with suggested conditions;
- c. Approve the special use permit with other conditions(s); or
- d. Deny the special use permit.

Community Engagement:

As required, the request was published in the local newspaper twice advertising for Planning Commission’s public hearing and twice advertising for City Council’s public hearing. The advertisement was published as shown below:

Special Use Permit – 1561 Gilmer Circle (Major Family Day Home in R-1)

Public hearing to consider a request from Paulin Mupenda Makungu and Beni Ndjoni Tamnwe for a special use permit per Section 10-3-34 (6) of the Zoning Ordinance to allow a major family day home in the R-1, Single Family Residential District. The +/- 16,140-square foot property is addressed as 1561 Gilmer Circle and is identified as tax map parcel 91-L-24.

In addition, adjoining property owners were notified of the public hearing; the property was posted with signage advertising the request; and a notice was provided on the City’s website at <https://www.harrisonburgva.gov/public-hearings>.

Recommendation:

Staff recommends alternative (a) special use permit request as submitted by the applicant

Attachments:

- 1. Extract from Planning Commission
- 2. Site maps
- 2. Application and supporting documents
- 3. Public Comments
- 4. Additional Public Comments

Review:

Planning Commission recommended approval (6-0) of the special use permit with the following condition:

- If in the opinion of Planning Commission or City Council, the use 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.

Commissioner Washington was absent.