



STAFF REPORT
PUBLIC HEARING ITEM

Item # 4a

SUBJECT: OA15-03 – Zoning Ordinance Text Amendment to Increase the Maximum Enrollment of a Home Child Care from Six to Twelve

DATE OF MEETING: November 19, 2015

STAFF CONTACT: Daniel Galindo, AICP – Senior Planner

SUMMARY and RECOMMENDATIONS:

Ana Maria Uceda of Purcellville, Virginia has submitted an application, coded by the Town as OA15-03, to amend Article 6, Section 7.1 of the Zoning Ordinance for the Town of Purcellville, Virginia to increase the maximum enrollment of a residential day care or home child care from six to twelve in all zoning districts. The submitted request would amend the ordinance based on its existing formatting, but if the comprehensive zoning uses amendment were to be adopted, this request could be fulfilled by amending the definition of “residential child care” and adding additional standards for the use as necessary. A public hearing on OA15-03 is scheduled before the Planning Commission on November 19, 2015.

Based on the guidance of the *2025 Land Use Policies* in the adopted Purcellville, Virginia 2025 Comprehensive Plan and the purposes of the R-2, R-3, R-8, and R-15 Districts contained in the Zoning Ordinance for the Town of Purcellville, Virginia, staff recommends denial of OA15-03 as submitted. However, as demonstrated by staff’s research of other Northern Virginia communities, some communities do allow Family Day Homes of up to 12 children as a by-right use, but only when a greater number of standards than are currently adopted by Purcellville are required. The Planning Commission should consider if the implementation of additional standards could address the potential effects of Family Day Homes with increased enrollments.

BACKGROUND:

On August 17, Town Council and the Director of Community Development received an email from Ana “Annie” Maria Uceda of Purcellville, Virginia requesting a “a text change to the R-8 District to allow child care for up to 12 children.” This was one of four requested zoning use

changes discussed by the Planning Commission at the September 10 work session which the Commission decided not to incorporate in the comprehensive Zoning District Use Changes amendment. This decision was made to allow the Planning Commission to consider each of these requests individually with the benefit of an analysis by staff.

After being contacted by Community Development staff about submitting a formal ordinance amendment application, the Town received a completed application from Ms. Uceda on September 30, coded by the Town as OA15-03, which instead requested the amendment of Article 6, Section 7.1 of the Zoning Ordinance for the Town of Purcellville, Virginia to increase the maximum enrollment of a “Residential Day Care” or “Home Child Care” from six to twelve in all zoning districts. Ms. Uceda is a property owner in the R-8 Townhouse Residential District where she currently runs Ms. Annie’s Home Day Care out of her home.

ISSUES:

Ms. Annie’s Home Day Care is an example of a “Family Day Home” which is defined in § 63.2-100 of the Code of Virginia as:

a child day program offered in the residence of the provider or the home of any of the children in care for one through 12 children under the age of 13, exclusive of the provider's own children and any children who reside in the home, when at least one child receives care for compensation. The provider of a licensed or registered family day home shall disclose to the parents or guardians of children in their care the percentage of time per week that persons other than the provider will care for the children. Family day homes serving six through 12 children, exclusive of the provider's own children and any children who reside in the home, shall be licensed. However, no family day home shall care for more than four children under the age of two, including the provider's own children and any children who reside in the home, unless the family day home is licensed or voluntarily registered. However, a family day home where the children in care are all grandchildren of the provider shall not be required to be licensed.

The importance of this distinction is that § 15.2-2292 of the Code of Virginia requires zoning ordinances to consider a Family Day Home “serving one through five children, exclusive of the provider's own children and any children who reside in the home as residential occupancy by a single family.” This means the use can not be treated more strictly than any single-family home. However, this section does not require the local governing body to allow a Family Day Home “serving six through twelve children, exclusive of the provider's own

children and any children who reside in the home.” Instead, the zoning ordinance may “allow a zoning administrator to use an administrative process to issue zoning permits for a family day home” and may:

contain such standards as the local governing body deems appropriate and *shall include a requirement that notification be sent by registered or certified letter 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 days of the date of sending the letter and determines that the family day home otherwise complies with the provisions of the ordinance, the zoning administrator may issue the permit sought. The ordinance shall provide a process whereby an applicant for a family day home that is denied a permit through the administrative process may request that its application be considered after a hearing following public notice as provided in § 15.2-2204. Upon such hearing, the local governing body may, in its discretion, approve the permit, subject to such conditions as agreed upon by the applicant and the locality, or deny the permit. The provisions of this subsection shall not prohibit a local governing body from exercising its authority, if at all, under subdivision A 3 of § 15.2-2286. (emphasis by staff)

This provides a locality with the ability to completely prohibit Family Day Homes serving six to twelve children, require a special use permit (SUP) for such a use, or allow approval by a simple administrative permit after the mailing of the required notice. Given this wide range of options, staff has reviewed the zoning ordinances in a range of other Northern Virginia communities to determine how Family Day Homes are regulated elsewhere. In summary:

- The Town of Hamilton and Town of Middleburg are the most restrictive localities researched as they do not allow enrollment of greater than the five children in Family Day Homes. Enrollment of six or more qualifies as a “Child Care Center” in both jurisdictions which requires a SUP everywhere it is allowed except for the Public and Semi-Public District (most similar to Purcellville’s IP District) in Hamilton and Planned Residential Developments (most similar to Purcellville’s PDH District) in Middleburg.
- The Town of Warrenton caps “Family Care Home” enrollment at six and requires a SUP everywhere it is allowed except for its Public and Semi-Public District (most similar to Purcellville’s IP District).
- The Town of Round Hill’s ordinance uses inconsistent terminology but appears to cap “Family Care Home” at eight children and requires a SUP everywhere such use is allowed.

- For enrollment of six to nine children, the Town of Lovettsville and Town of Leesburg permit Family Day Homes by-right, but subject to standards, as “Child Care Home” and “Family Day Home,” respectively. Nine children is a firm cap in Lovettsville, but Leesburg also allows Family Day Homes of ten to twelve children to be processed as a SUP.
- Subject to numerous standards, Loudoun County and the Town of Culpeper permit “Child Care Homes” and “Family Day Homes” of up to twelve children, respectively, as by-right uses everywhere they are allowed.
- Of the eight communities researched, there are none that allow Family Day Homes of up to 12 children as a by-right use without a greater number of standards than currently adopted by Purcellville. At a minimum, the Town would have to add a requirement to notify adjacent property owners as required by § 15.2-2292 to its existing standards.

Staff has attached its basic, rough research (Attachment 5) and encourages the Planning Commission to review the standards of these various localities. There is significant overlap in the regulations of the localities researched. Leesburg, Culpeper, Loudoun County, and Lovettsville have the most extensive standards. The regulations of Leesburg and Culpeper are almost identical.

ANALYSIS:

Any proposed amendment to the Zoning Ordinance for the Town of Purcellville, Virginia should comply with the various purposes noted in Article 1, Section 3. In the case of a request to modify a standard for a specific use, consideration of these purposes can be condensed in to the following questions:

1. Is the request supported by or contrary to the comprehensive plan?
2. Is the request suitable for the effected district(s)?
3. Are there any town-wide effects of the request?

Consistency with the Comprehensive Plan

The Purcellville, Virginia 2025 Comprehensive Plan (PCP) was adopted in 2006 to “provide guidance for the coordinated and harmonious development of the territory in accordance with present and future needs and resources that will best promote the health, safety, morals, order, convenience, prosperity and general welfare of the community” (PCP, p. 1). Accordingly, the Plan should serve as the basis for Town land use decisions, but its policies are silent regarding child care. It does note that “the number of children is expected to increase by 30 percent by 2030” (PCP, p. 12), and “the present and 2010 projected median

age of Purcellville residents is 36 years, indicating that many families are likely to have children” (PCP, p. 15). In fact, the median age found by the 2010 Census was an even younger 33.6.

Financial Planning for the Future

Purcellville continues to face costs for capital improvements and other enhancements designed to benefit the community, and this presents the challenge of maintaining fiscal balance and stability while paying for needed improvements. One method provided in the Plan to address this challenge is “*to better balance the Town’s tax base by working toward 30 percent of the value of the Town’s real property tax base from commercial property and 70 percent from residential property*” (PCP, p. 22). Additionally, the Plan cites selected fiscal policies of the Town’s adopted Fiscal Policy Guidelines including: “*The Town will maintain a diversified and stable revenue structure to protect it from short-term fluctuations in any one-revenue source*” (PCP, p. 22).

1. As Family Day Homes are located within residences, OA15-03 will not increase the Town’s commercial property tax base.
2. If OA15-03’s requested change were to allow existing Family Day Homes to be more prosperous or encourage new Family Day Homes to be established, it could help to diversify the Town’s revenue structure.

Staff Determination: OA15-03 partially complies with this portion of the Plan but would be unlikely to have tremendous effects on the Town’s overall tax base.

2025 Economic Development Guiding Principles

The Plan “*recognize[s] the importance of economic development to the health, well-being and quality of life for Purcellville’s residents*” (PCP, p. 64) and supports “*facilitat[ing] the recruitment and expansion of business and commercial services that support the needs of residents and visitors and increase potential markets*” (PCP, p. 65).

1. Family Day Homes exist within town, and approving OA15-03 could result in the expansion of these businesses or result in new Family Day Homes being created.

Staff Determination: OA15-01 generally complies with this portion of the Plan.

2025 Land Use Polices

The Plan expresses a desire to “*achieve a better balance between residential and commercial and industrial development*” as well as “*increase opportunities for commercial and industrial*

growth” (PCP, p. 110). The Plan also includes policies to “provide for managed community growth and land development that ensures harmonious, compatible and orderly land use patterns” (PCP, p. 111) and “provide a diversity of land uses that support the residential and business needs of Purcellville while ensuring economic, social and financial stability” (PCP, p. 111).

1. Approval of OA15-03 would have no effect on the balance between residential and commercial development, as these commercial businesses are located on residential land.
2. Increased accessibility to child care providers supports a need of Purcellville residents, and the effects of any single Family Day Home are not likely to be significant. However, the text change requested by OA15-03 would double the maximum capacity of Family Day Homes in all zoning districts without requiring such uses to meet any additional standards. This does not ensure harmonious, compatible or orderly land use patterns nor economic, social or financial stability as it could encourage a proliferation of larger “Residential Day Cares” or “Home Child Cares” (i.e. Family Day Homes) within the town and its residential neighborhoods where they are currently allowed by-right.

Staff Determination: OA15-03 is contrary to this portion of the Plan.

Other 2025 Policies

Staff Determination: OA15-03 is not particularly applicable to the Plan’s policies for: Housing; Parks, Recreation and Open Space; Historic Resources; Public Services; Public Utilities; Transportation; or the Environment.

Suitability for the Town’s Residential Districts

Article 2, Section 1 of the Zoning Ordinance for the Town of Purcellville, Virginia states that zoning districts are established “in order to regulate and restrict the location and use of buildings and land...in accordance with the comprehensive plan.” In addition, the same section notes that:

The purpose statements which accompany each district are intended to describe in a general way the character of uses to be encouraged in the district, to assist with selection of appropriate districts for application to various conditions of land use, existing or planned, and to assist with interpretation of questions which may arise with respect to particular land uses in particular

locations. In any case of difference between the purpose statement and the use regulations for the district the use regulations shall control.

The purposes of the R-2, R-3, R-8 and R-15 Districts do not provide direct support for the enlargement of “Residential Day Cares” or “Home Child Cares” as permitted commercial uses, but they all state that “certain special care facilities...are permitted by special use permit subject to such restrictions and requirements as will ensure compatibility with residential surroundings.” These child care uses are types of special care facilities, so the purposes of these residential districts provide guidance on how larger “Residential Day Cares” and “Home Child Cares” should be allowed in these districts.

Staff Determination: The purposes of the Town’s residential districts do not support OA15-03’s request to double the allowable size of by-right Family Day Homes, but the addition of further standards and/or making such larger child care uses a SUP could be supported.

Town-wide Effects

As noted above, the effects of any single Family Day Home are not likely to be significant, but there could be issues of increased noise or moderately increased traffic on adjoining neighbors. At a neighborhood or town-wide scale, there is a possibility that the establishment of numerous large Family Day Homes could amplify the more minor negative effects of a single Family Day Home since OA15-03 does not include any additional standards to address the possible issues that could result. However, the significance of these effects will depend on the degree to which existing Family Day Homes expand and/or new Family Day Homes are established.

Staff Determination: The town-wide effects of OA15-03 are likely to be small in the short-term, but the lack of additional standards could lead to more significant effects in the long-term.

FINDINGS:

1. OA15-03 is partially to generally supported by the *Financial Planning for the Future* and *2025 Economic Development Guiding Principles* sections of the Purcellville, Virginia 2025 Comprehensive Plan; however, it is contrary to the *2025 Land Use Policies* section.
2. OA15-03 is not supported by the purpose statements of the R-2, R-3, R-8 and R-15 Districts as submitted.

3. Town-wide effects from OA15-03 are possible, but they are not guaranteed.

ATTACHMENTS:

1. OA15-03 Original Email Request
2. OA15-03 Application
3. OA15-03 Letter from Neighbors
4. OA15-03 Letter from Purcellville Ridge HOA
5. Staff's Research on the Regulation of Family Day Homes