



**STAFF REPORT**  
**ACTION ITEM**

Item # 11a

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

**DATE OF MEETING:** February 23, 2016

**STAFF CONTACT:** Daniel Galindo, AICP – Senior Planner

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**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 formatting prior to the adoption of Ordinance 15-11-01 on December 8, 2015. Ms. Uceda’s request could now be fulfilled by amending the definition of “Residential Child Care” and adding additional standards for the use as necessary.

After a public hearing before the Planning Commission on November 19, 2015, the Commission requested that staff develop alternative regulations that would fulfill the basic intent of OA15-03 while adding additional standards to mitigate any effects of allowing increased enrollments. An additional public hearing was held before the Planning Commission on these alternative regulations on January 7, 2016. A public hearing on the OA15-03 alternative regulations was held before Town Council on February 9, 2016.

Based on the guidance of the *Financial Planning for the Future, 2025 Economic Development Guiding Principles* and *2025 Land Use Polices* sections of the Purcellville, Virginia 2025 Comprehensive Plan as well as the purpose statements of the R-2, R-3, R-8 and R-15 Districts where a Residential Child Care is most likely to be located, staff recommends approval of the alternative regulations developed in response to OA15-03.

After the January 7<sup>th</sup> public hearing on the OA15-03 alternative regulations, the Planning Commission recommended approval by a 4-2 vote for the following motion:

I move that the Purcellville Planning Commission forward OA15-03 to Town Council with a recommendation to approve the Town's alternative to OA15-03 for the following reasons:

1. The Town's alternative proposal would fulfill the basic intent of OA15-03 while ensuring future residential child cares are harmonious with their surroundings;
2. The Town's alternative proposal is partially to generally supported by the *Financial Planning for the Future, 2025 Economic Development Guiding Principles* and *2025 Land Use Policies* sections of the Purcellville, Virginia 2025 Comprehensive Plan; and
3. The Town's alternative proposal is generally supported by the purpose statements of the R-2, R-3, R-8 and R-15 districts.

And, I would like to make the following modification:

1. That the words "or allowed by this zoning ordinance" be struck from standard xviii and that it end with "what may be required by the State Family Day Home License."

**NOTE:** The two Commissioners that voted against the motion noted during the meeting that their votes were due to the modification included in the motion and that they otherwise supported the recommendation for Council approval.

**BACKGROUND:**

On August 17, 2015, 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." 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 townhome. This was one of four requested zoning use changes discussed by the Planning Commission at their September 10<sup>th</sup> work session which the Commission decided not to incorporate in the comprehensive Zoning District Use Changes amendment (i.e. Ordinance 15-11-01). 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<sup>th</sup>, 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. Because Ms. Uceda’s request would have doubled the maximum possible enrollment of a Residential Child Care without adding any regulations to address the possibility of additional impacts, staff initially recommended denial of OA15-03 as originally submitted. See the [November 19, 2015 staff report](#) for additional analysis and information.

After the Planning Commission’s November 19<sup>th</sup> public hearing on OA15-03, the Commission discussed the possibility of alternative regulations and requested that staff prepare draft regulations for the December 3<sup>rd</sup> meeting which would fulfill the intent of Ms. Uceda’s requested amendment while including additional standards. Based on staff’s research in to the regulation of Residential Child Cares that was presented to the Planning Commission at their November 19<sup>th</sup> meeting, staff developed a proposal which borrowed from the regulations of Leesburg, Culpeper, Loudoun County and Lovettsville. After discussion of staff’s proposal on December 3<sup>rd</sup>, the Commission requested changes which staff then incorporated in to the proposal. See the [January 7, 2016 staff report](#) for a list of these changes. The revised proposal was presented at a public hearing before the Planning Commission on January 7, 2016 after which the Commission voted to recommend that Town Council approve the revised proposal with a single modification as noted in the motion included in the Summary and Recommendations section above.

As recommended by the Planning Commission, the proposed alternative regulations contained in Ordinance 16-02-01 (Attachment 1) would fulfill the basic intent of OA15-03 while including additional standards to mitigate any potential impacts. For comparison, these alternative regulations would differ from the standards of Loudoun County and/or Leesburg in the following ways:

- Residential Child Cares (RCC) would not be administratively approved in Purcellville and would always require a special exception.
- Purcellville would limit the location of RCCs to the provider’s dwelling. This matches Loudoun but differs from Leesburg which has no such limitation.
- Purcellville would not limit the location of RCCs by lot size but rather by the type of dwelling within which they could be located. This allows townhomes that can meet the necessary standards to house a RCC but prevents RCCs from being located in apartments and accessory dwellings which are typically significantly smaller.
- The hours of operation for RCCs would be limited in Purcellville. This matches Loudoun but differs from Leesburg which has no such restriction.

- Two non-resident employees would be allowed for RCCs. This matches Loudoun but differs from Leesburg which only allows one.
- RCCs could use HOA community parking spaces for employees in Purcellville with the permission of the HOA.
- Purcellville would cap the maximum number of children in a RCC at 12 including the provider's children and/or any children living in the home. This matches Loudoun but differs from Leesburg which excludes the provider's children or any that reside in the home.

**NOTE:** The Town Attorney has suggested that the Planning Commission's recommended language proposed for Article 4, Section 1.2, Subsection 27.a.1 be changed from "...a residential child care serving one *to* five children..." to "...a residential child care serving one *through* five children..." for clarity and to match the language used by Code of Virginia § 15.2-2292. Staff incorporated this change in Ordinance 16-02-01.

#### **ISSUES:**

Ms. Annie's Home Day Care is an example of a use that the Town's Zoning Ordinance considers a "Residential Child Care" and the Commonwealth of Virginia regulates as a "Family Day Home." The Code of Virginia places limitations on how localities can regulate Family Day Homes through zoning ordinances, and staff believes that the OA15-03 alternative regulations are in accordance with these limitations. See the [November 19<sup>th</sup> staff report](#) for the original discussion.

#### **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 Residential Child Cares are located within residences, the OA15-03 alternative regulations will not increase the Town's commercial property tax base.
2. If the OA15-03 alternative regulations allow existing Residential Child Cares to be more prosperous or encourage new Residential Child Cares to be established, it could help to diversify the Town's revenue structure.

Staff Determination: The OA15-03 alternative regulations partially comply 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. Residential Child Cares exist within town, and approving the OA15-03 alternative regulations could result in the expansion of these businesses or result in new Residential Child Cares being created.

Staff Determination: The OA15-03 alternative regulations generally comply with this portion of the Plan.

### **2025 Land Use Policies**

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 Residential Child Care are not likely to be significant. The text change originally requested by OA15-03 would have doubled the maximum capacity of Residential Child Cares in all zoning districts without requiring such uses to meet any additional standards. Staff did not believe that this would have ensured harmonious, compatible or orderly land use patterns nor economic, social or financial stability as it could have encouraged a proliferation of larger Residential Child Cares within the town and its residential neighborhoods where they are currently allowed by-right. However, the OA15-03 alternative regulations now include specific regulations designed to mitigate any possible effects of the increased maximum enrollment, and each large Residential Child Care would require approval as a special exception granted by the Board of Zoning Appeals. This ensures that each application is reviewed on a case-by-case basis.

Staff Determination: The OA15-03 alternative regulations generally comply with this portion of the Plan.

### **Other 2025 Policies**

Staff Determination: The OA15-03 alternative regulations are 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.

Residential Child Cares are predominantly found in the Town's residential zoning districts, and while the purposes of the R-2, R-3, R-8 and R-15 Districts do not provide direct support for the enlargement of Residential Child Cares as permitted commercial uses, 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."

1. These child care uses are types of special care facilities, so the purposes of these residential districts provide guidance on how larger Residential Child Cares could be allowed in these districts.
2. Staff and the Planning Commission considered this guidance when creating and recommending the alternative regulations currently being proposed. This is why the proposal includes regulations designed to mitigate any possible effects of the increased maximum enrollment of Residential Child Cares and also requires each application for the use to obtain approval as a special exception. Similar to the process for approval of a use allowed by special use permit, each special exception application is reviewed on a case-by-case basis by the Board of Zoning Appeals who are required to hold a public hearing on the application.

Staff Determination: While the purposes of the Town's residential districts do not support OA15-03's original request to double the allowable size of by-right Residential Child Cares, the OA15-03 alternative regulations are generally supported.

**Town-wide Effects**

As noted above, the effects of any single Residential Child Care are not likely to be significant, but adjoining neighbors could experience minor issues of increased noise or moderately increased traffic. At a neighborhood or town-wide scale, there is a possibility that the establishment of numerous large Residential Child Cares could amplify the more minor negative effects of a single Residential Child Care if no additional standards were implemented to address the possible issues that could result. However, the alternative regulations developed by staff and recommended by the Planning Commission were designed to mitigate the possible effects of large Residential Child Cares.

**Staff Determination:** The OA15-03 alternative regulations present no obvious town-wide effects.

**BUDGET IMPACT:**

There is no budget impact with this item.

**FINDINGS:**

1. The Town's alternative proposal would fulfill the basic intent of OA15-03.
2. The Town's alternative for OA15-03 is partially to generally supported by the *Financial Planning for the Future, 2025 Economic Development Guiding Principles* and *2025 Land Use Polices* sections of the Purcellville, Virginia 2025 Comprehensive Plan.
3. The Town's alternative for OA15-03 is generally supported by the purpose statements of the R-2, R-3, R-8 and R-15 Districts where a Residential Child Care is most likely to be located.
4. There are no obvious town-wide effects of the Town's alternative for OA15-03.

**MOTIONS:**

1. **Approval** – *Recommended by the Planning Commission*

I move that the Purcellville Town Council adopt Ordinance No. 16-02-01, as set forth in the Staff Report, ordaining text amendments to Articles 4 and 15 of the Zoning Ordinance, for the reasons stated therein.

**-OR-**



**2. Approval with Modifications**

I move that the Purcellville Town Council adopt Ordinance No. 16-02-01 ordaining text amendments to Articles 4 and 15 of the Zoning Ordinance, for the reasons stated therein, with the following changes:

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_, and
4. to make any additional changes that are necessary to properly implement Council's directed changes.

**-OR-**

**3. Direct Staff to Modify Ordinance**

I move that the Purcellville Town Council direct staff to modify Ordinance No. 16-02-01 in the following ways:

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_, and
4. to make any additional changes that are necessary to properly implement Council's directed changes.

I further move that the revised Ordinance No. 16-02-01 shall be brought back before Town Council at its March 8, 2016 meeting for further consideration.

**-OR-**

**4. Disapproval**

I move that the Purcellville Town Council not approve Ordinance No. 16-02-01 for the following reasons:

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_

**ATTACHMENTS:**

1. Ordinance 16-02-01

These materials and others pertaining to OA15-03 can be found at:

<http://purcellvilleva.gov/index.aspx?NID=696>