

Ms. Vickie Skutans has applied for a special use permit to operate a child day care center out of her home located at 108 Leon Drive, in the Indigo Park subdivision. The applicant proposes to renovate her existing two-car garage into space for a day care center for up to ten children between the ages of 15 months and five years. The applicant's mother-in-law will provide assistance in running the day care since State law requires an additional employee for centers with greater than eight children. No other employees will be part of the business. A child day care center with up to five children is permitted as a home occupation. Greater than five children requires State licensing and a special use permit.

Surrounding Zoning and Development

The property is located on Leon Drive, within the Indigo Park subdivision, off of John Tyler Highway near the intersection of Route 199. The site is surrounded by single-family homes within Indigo Park. A vacant parcel exists across the street from the site. All other adjacent properties contain single-family homes. Staff does not find that a business of this size is consistent with the surrounding development and single-family residential character of the area.

Topography and Physical Characteristics

The .75 acre site is relatively flat, with a line of cedar trees along the northern and western perimeter of the property. A fence surrounds the property.

Public Utilities

The property is served by public water and sewer. The James City Service Authority (JCSA) initially determined that the existing 5/8-inch water meter would not be sufficient to accommodate the additional water usage as a result of the day care center. JCSA determined that a 3/4-inch water meter would be required to accommodate the additional water fixtures proposed for the day care addition.

The applicant and JCSA staff then discussed this matter in more detail and determined that the bathrooms in the house and the day care facility would not be used simultaneously. The JCSA is therefore willing to allow the applicant to continue using the existing 5/8-inch water meter. However, if future problems are encountered with the water service, JCSA will require the applicant to upgrade the current 5/8-inch water meter to the required 3/4-inch water meter. All necessary fees, including water and sanitary sewer, to upgrade the existing water service, shall be the applicant's responsibility.

Traffic Impacts and Access

The property is located on a corner lot on Leon Drive in the interior of Indigo Park. The property contains an 80-foot driveway which could accommodate up to eight vehicles. The applicant has stated that the property owner of a vacant lot across the street has granted permission for overflow vehicles to park on the property if necessary.

The Virginia Department of Transportation (VDOT) reviewed the proposal and has concerns with the on-site parking and vehicle circulation on Leon Drive as customers drop off children. Staff shares these concerns considering the site is located within a neighborhood and not on a street designed to handle more traffic than typically generated in a single-family residential neighborhood.

Comprehensive Plan

The property is designated as Low Density Residential on the Comprehensive Plan Land Use Map. Examples of acceptable land uses within this designation include single-family homes, recreation areas, community oriented public facilities, schools, churches, and very limited commercial establishments. Non-residential uses should not alter, but rather, complement the residential character of the low-density residential area in which they are located. Very limited commercial establishments, schools, churches, and community-oriented facilities should be located on collector roads at intersections where adequate buffering and screening can be provided to protect nearby residential uses and the character of the surrounding area. Since this site is located in the interior of an existing subdivision and not on a collector road, staff finds the proposal to be inconsistent with the Comprehensive Plan. As a point of information, home occupations are generally permitted in residential districts. Child day care centers with more than five children are not considered home occupations under the Zoning Ordinance. It is important to note that the proposal generates impacts, including traffic, noise, and number of employees, in excess of those permitted for home occupations.

Planning Commission Policy on Child Day Care Centers

At its June 4, 2001, meeting, the Planning Commission deferred this case to allow the Policy Committee the opportunity to study the issue of child day care centers located in the interior of residential subdivisions. The Policy Committee met on June 12, 2001, and prepared a proposal, which was presented at the July 2, 2001, Planning Commission meeting. The policy is attached for your reference, and the proposed special use permit conditions have been revised to reflect the recommendations in the policy.

Recommendation:

Staff finds the proposal to be inconsistent with the surrounding zoning and development, and inconsistent with the Comprehensive Plan. Specifically, the amount of traffic and noise generated by a day care center business with ten children under the age of five conflicts with the single-family residential character of the neighborhood. It also substantially exceeds the scope of home occupations that are generally permitted in residential districts and sets a precedent for similar requests. At its July 2, 2001, the Planning Commission voted 4 to 3 to deny this proposal. Staff recommends the Board of Supervisors deny this proposal. If the Board chooses to approve the project, staff recommends the following conditions:

1. If a certificate of occupancy has not been obtained for the project within 36 months from the issuance of the special use permit, the permit shall become void.
2. No more than ten children shall be permitted at the day care center.
3. The applicant shall submit a written Agreement outlining the requirements for water meter upgrades and provide an implementation schedule to the James City Service Authority (JCSA), and shall receive approval of this Agreement, and any improvements from JCSA, prior to issuance of a certificate of occupancy.
4. The owner/operator of the child day care center shall reside on the property.
5. All play areas shall be screened with fencing or shrubbery to be approved by the Planning Director.
6. Hours of operation shall be limited to 7:00 a.m. to 5:30 p.m., Monday through Friday.
7. A site plan shall be submitted to and approved by the Planning Director.

8. This special use permit shall be valid for a period of 36 months from the date of issuance of this special use permit.
9. No additional exterior lighting shall be permitted on the property other than lighting typically used at a single-family residence.
10. No signage shall be permitted on the property.
11. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

Jill E. Schmidle

CONCUR:

O. Marvin Sowers, Jr.

JES/gs
vickiedaycare.wpd

Attachments:

1. Planning Commission Minutes
2. Location Map
3. Project Layout
4. Letters (8)/Petition of Support
5. Planning Commission's policy for child day care centers located in the interior of residential neighborhoods
6. Resolution