



ARLINGTON COUNTY, VIRGINIA

**County Board Agenda Item
Meeting of December 13, 2008**

DATE: November 24, 2008

SUBJECT: U-3139-05-1 USE PERMIT REVIEW (CARRY-OVER): child care center; 825 S. 23rd St. (Maria Teresa Desaba) (RPC #36-031-005)

Applicant:

Maria Teresa Desaba
937 17th Street South
Arlington, Virginia 22202

C. M. RECOMMENDATION:

Renew the use permit for the child care center for one (1) year to allow commencement of the use, as evidenced by the applicant obtaining a Certificate of Occupancy by December 1, 2009, subject to all previously approved conditions, and with a County Board review in one (1) year (December 2009).

ISSUES: The child care center is currently under construction and has not commenced operation. If the use permit is to remain active, it requires renewal by the County Board. No issues have been identified.

SUMMARY: This is a review of a use permit for a child care center approved in December 2005. The center is still under construction and the use has not commenced. December 2009 will be the end of a three (3) year extension period permitted to allow commencement of the use. Given that construction is nearing completion, and that the applicant intends to have a Certificate of Occupancy by early 2009, staff recommends the use permit be renewed so that the use permit remains active. Therefore, staff recommends the County Board renew the use permit for the child care center for one (1) year to allow commencement of the use, as evidenced by the applicant obtaining a Certificate of Occupancy by December 1, 2009, subject to all previously approved conditions, and with a County Board review in one (1) year (December 2009).

BACKGROUND: The subject use permit to convert a single-family residence into a child care center was approved by the County Board on December 10, 2005. The applicant has offered family child care services for up to nine (9) children at another location under a use permit (U-3058-03-2), and expansion of the occupation has been a goal of the applicant. With renovation of a three-story, single-family home at 825 S. 23rd St., the applicant is pursuing such an opportunity.

County Manager: _____

Staff: Melanie Wellman, DCPHD, Planning Division

PLA-5139

DISCUSSION: The applicant received a building permit in September 2006 to commence renovation of the space to a child care center. Since that time, the child care center has intermittently been under construction. At this time the applicant appears to be moving forward, as evidenced by recent inspections for the interior, and a mechanical permit issued in November 2008 and a plumbing permit approved in November 2008. The applicant continues to work closely with Child Care staff and Child Care staff continues to monitor the renovations and improvements to the property to ensure that the center meets Child Care codes.

The Zoning Ordinance states that construction or operation of a use permit must commence within one (1) year of the date of issuance, except that the County Board may extend the commencement period up to three (3) years upon determination that additional time is needed to complete construction. Through action of deferring consideration of the use permit in December 2006, September 2007, and September 2008, the County Board has permitted the three (3) year extension period for the applicant to commence the use. The applicant is now approaching the end of the three (3) year extension. However, the applicant continues to diligently pursue the use and anticipates obtaining a Certificate of Occupancy by early 2009, once the final inspections are completed. In order for the use permit to remain active, the use permit should be renewed for one (1) year to allow the applicant to complete construction, obtain a Certificate of Occupancy, and commence the use.

Before obtaining a Certificate of Occupancy, the applicant is required by some of the conditions to submit information and/or obtain approval from staff on the following: scheduled outdoor play intervals (Condition #5); a comprehensive pick-up and drop-off plan (Condition #6); location of on-site and off-site parking (Condition #7); documentation evidencing that the top floor of the single-family home will not be used for actual child care (Condition #8); and designating a neighborhood liaison (Condition #9). The applicant has designated a neighborhood liaison. Staff has reiterated to the applicant that the remaining conditions must be met prior to obtaining a Certificate of Occupancy.

If a Certificate of Occupancy is not obtained by December 1, 2009, staff will recommend not renewing the subject use permit. Furthermore, should the use permit commence in 2009, staff may determine during the December 2009 review to review the use the following year (December 2010) to fully determine compliance with the use permit conditions and to evaluate any impact on the surrounding neighborhood.

CONCLUSION: The applicant appears to be moving forward with the final inspections needed and anticipates obtaining a Certificate of Occupancy by early 2009. In order for the use permit to remain active, it is necessary for the use permit to be renewed by the County Board. Therefore, staff recommends the County Board renew the use permit for the child care center for one (1) year to allow commencement of the use, as evidenced by the applicant obtaining a Certificate of Occupancy by December 1, 2009, subject to all previously approved conditions, and with a County Board review in one (1) year.

PREVIOUS COUNTY BOARD ACTIONS:

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| December 10, 2005 | Approve use permit (U-3139-05-1) subject to the conditions of the staff report, with a six (6) month administrative review (June 2006) and a County Board review in one (1) year (December 2006). |
| December 9, 2006 | Deferred use permit (U-3139-05-1) for a child care center to the September 2007 County Board meeting. |
| September 8, 2007 | Deferred use permit (U-3139-05-1) for a child care center to the September 2008 County Board meeting. |
| September 13, 2008 | Deferred use permit (U-3139-05-1) for a child care center to the December 13, 2008 County Board meeting. |

Approved Conditions:

1. The applicant agrees that the hours of operation will be weekdays from 7:00 a.m. to 6:00 p.m. with a maximum capacity of 34 children. Provided, however, that the Child Care Office may determine the final number of children that can be served in the program following the required renovations and improvements to the site. This number may be modified based on appropriate space ratios. The applicant agrees not to enroll more than 34 children, or such other number as the Child Care Office has determined can be accommodated and as evidenced by the certificate of occupancy.
2. The applicant agrees that once a certificate of occupancy is issued for a child care center and until such use is discontinued, the structure shall not be occupied as a dwelling.
3. Prior to submitting any application for a building permit, the applicant agrees to obtain approval of any plans for structural changes, either to the interior or exterior of the structure, from both the Child Care Office and the Zoning Administrator to ensure that the architectural integrity of the single-family residence remains intact.
4. The applicant agrees to meet all requirements of the Child Care Ordinance, Community Code Enforcement Office, Environmental Health Bureau and the Fire Marshal's Office, including securing the appropriate assembly permit prior to the issuance of a Certificate of Occupancy.
5. The applicant agrees that all outdoor play shall be planned at scheduled intervals acceptable to the Child Care Office to minimize potential neighborhood impacts. The applicant agrees to obtain the Child Care Office's approval of a plan for such play as minimizing neighborhood impacts prior to the issuance of any certificate of occupancy for the child care use on the site.
6. The applicant agrees to require parents of children attending the program (or persons designated by the parents) to escort their children to and from the center at all times. The applicant will also prepare, in coordination with the Child Care Office and the Planning Division, a comprehensive pick-up and drop-off plan, and will obtain the Child Care Office's and the Planning Division's approval of such plan prior to the issuance of any Certificate of Occupancy for a child care center on the site. The applicant agrees to implement the approved plan and to submit written documentation to the Zoning Administrator that a letter has been distributed to the parents of the children in care explaining the procedures for dropping off and picking up children in accordance with the plan prior to the issuance of a certificate of occupancy for a child care center.
7. Prior to issuance of a certificate of occupancy for a child care center, the applicant agrees to identify, in writing to the Zoning Administrator and to the Child Care Office, the location of the on-site and off-site parking that would accommodate staff associated with the proposed child care center prior to the issuance of a certificate of occupancy. Such staff parking shall not occur in any areas designated for pick-up and drop-off of children.

Any off-site parking provisions shall require documentation, in writing, of the permission of the property owner.

8. The applicant agrees that the top floor of the single family home shall not be used for actual child care. The applicant agrees to submit written documentation to the Zoning Administrator evidencing this agreement prior to the issuance of a certificate of occupancy.
9. The applicant agrees to designate a neighborhood liaison to communicate with nearby residents and neighbors to address concerns that may be related to this child care center. The name and telephone number of the liaison shall be submitted by the applicant to the Zoning Administrator, as well as to the Aurora Highlands Civic Association, prior to issuance of any building permit.
10. The applicant is aware and agrees that the required Virginia State and Arlington County Child Licenses will not be issued prior to the issuance of a certificate of occupancy for a child care center.