



ARLINGTON COUNTY, VIRGINIA

**County Board Agenda Item
Meeting of November 14, 2009**

DATE: November 12, 2009

SUBJECT: Request to Advertise public hearings on a proposed amendment to Section 36. Administration and Procedures of the Arlington County Zoning Ordinance to permit, by special exception site plan approval, modification of density regulations, specifically to permit bonus density, for the provision of child care centers and community facilities and other minor modifications to the language in Section 36. to more accurately reflect the specific enabling authority found in the Code of Virginia as well as current County practice.

C.M. RECOMMENDATIONS:

Adopt the attached resolution to authorize advertisement of public hearings by the Planning Commission on November 30, 2009 and the County Board on December 12, 2009, on the attached ordinance to amend, reenact, and recodify the Arlington County Zoning Ordinance provisions in Section 36 to permit, by special exception site plan approval, modification of density regulations, specifically to permit bonus density, for the provision of child care centers and community facilities other minor modifications to the language in Section 36. to more accurately reflect the specific enabling authority found in the Code of Virginia as well as current County practice.

ISSUES: This is a request for authorization by the County Board to advertise public hearings on an amendment to the Zoning Ordinance to permit, by special exception site plan approval, modification of density regulations, specifically to permit bonus density, for the provision of child care centers and community facilities and other minor modifications to the language in Section 36. to more accurately reflect the specific enabling authority found in the Code of Virginia as well as current County practice. A broader question has been raised concerning the use of bonus density for the provision of County priorities.

SUMMARY: Quality child care is a key component of a world-class community. The social benefits of early childhood education have long been recognized and promoted; now, new fiscal and economic benefits have been recently identified. For Arlington to remain competitive as the preeminent place to live, work, and play in the region, a focus on access to quality child care is essential. One alternative strategy of increasing the supply of child care centers would be to incentivize the creation of child care centers through the development process. To achieve this strategy, staff proposes an amendment to the Zoning Ordinance to permit, by special exception site plan approval, modification of density for the provision of child care centers. Additionally,

County Manager: BMD/GA

County Attorney: SM

Staff: Jill Griffin, Real Estate Development Group, AED

with this amendment, staff proposes to modify the language for better consistency with the Code of Virginia.

BACKGROUND: In June 2009, Arlington Economic Development (AED) issued a white paper entitled, “Child Care in the Commercial Corridors.” This paper stemmed from a confluence of events:

- In mid- to late 2007, several child care providers spoke during the Public Comment portion of the County Board meetings about the lack of space for child care centers;
- Numerous inquiries of AED staff from relocating and/or expanding companies about the availability of child care centers; and
- A specific request on October 13, 2007 from the County Board directing the County Manager to consider adding space for child care centers in new site plan projects. At this time, the County Board stated that the provision of child care within Arlington is a priority.

The paper highlighted the importance of quality child care in Arlington and identified various issues pertaining to the lack of child care facilities, specifically in the commercial corridors. The paper set forth three recommendations:

1. Adopt development incentives for bonus density to facilitate new child care centers in the commercial corridors.
2. Add specificity to Arlington’s current retail policy to allow for child care centers to fill appropriate retail locations in the commercial corridors.
3. Identify specific partnership opportunities in Arlington which support child care workforce development.

The findings were presented to the County Board in June 2009. Upon the presentation, staff was directed to proceed with implementing the three recommendations. The first recommendation was to consider a Zoning Ordinance amendment to permit the County Board the flexibility to grant additional density to a developer providing space, for reduced rents, for a child care center.

DISCUSSION: Given that developable land is at a premium in Arlington, there is little opportunity for child care operators to construct free-standing centers; instead, they must lease space within existing mixed-use projects. However, rental rates in the main development corridors are high relative to the income that a child care center produces. Child care centers are beneficial for the other high-density uses and for the community in general. Therefore, in order to facilitate the use of such space for child care centers, the County should consider using the Special Exception Site Plan Process to provide incentives, such as bonus density, to developers who incorporate space into projects, at reduced rents, for child care centers. In this way, the County can encourage developers to include child care centers in projects for other uses.

In analyzing this incentive, the developer’s costs associated with adding a child care center must first be examined. Due to the strong returns on the development costs for residential and commercial projects within Arlington’s commercial corridors, relative to the return on the build out cost of a child care center, small amounts of bonus density would be necessary to encourage developers to include construction of the child care center within a project. In evaluating any

proposal, staff would make an effort to recommend approval of an appropriate amount of density to ensure that inclusion of the child care center would be cost-neutral to the developer.

Zoning Ordinance Amendment: Based on the above findings, staff recommends that Section 36. Administration and Procedures (36.H.5.a) of the Zoning Ordinance be amended to provide the County Board with the flexibility to approve bonus density within a special exception site plan project, in exchange for the development of suitable space for child care centers in both office and residential buildings. Additionally, staff is recommending minor modification to the language in Section 36.H.5.a. so that existing provisions for modification of use regulations are written in a way that more accurately reflects the specific enabling authority found in the Code of Virginia as well as current County practice. The Code permits the County to allow additional density where developers provide “certain features, design elements, uses, services, or amenities desired by the locality, including but not limited to, site design incorporating principles of new urbanism and traditional neighborhood development, environmentally sustainable and energy-efficient building design, affordable housing creation and preservation, and historical preservation, as part of the development.”

The phrase “environmentally sustainable and energy-efficient building design” found in the Code of Virginia better reflects the current density incentive provision used by the County for the green building density incentive.

Both “affordable housing creation and preservation” and “historical preservation” elements are found elsewhere within the Zoning Ordinance – with specific density provisions, so they are not being added to the existing language of Section 36.H.5.a.

Finally, the inclusion of “community facilities,” as a basis for bonus density, reflects current practice. Examples of such community facilities include, but are not limited to:

- The Newseum* – bonus density for a museum which is now Arlington’s Cultural Arts Center
- Navy League* – bonus density in consideration for funds contributed to the Courthouse Area Improvement Fund as a community facility
- Club on Quincy* – bonus density for a black box theater
- The Fairmont (The Spire)* – bonus density for substantial improvements to the western metro station entrance at Ballston

Proposed Child Care Incentive Density Provision: As recommended by staff, the bonus density associated with the provision of child care would be tied to several variables: cost of construction, which incorporates the financing structure (term length and rate); anticipated rental rate for the new space; proposed rental rate of the child care center; size of the center; and site area.

It is unlikely that a child care center size would fluctuate based on site size because of the minimum size needed for a viable child care center. Therefore, the square footage of bonus density would not fluctuate much as it would remain proportionate to the size and rental rates of the space. However, the total FAR increase would be dependent on the overall site area of the project and therefore might vary to some degree. Although the proposed amendment provides

the County Board with maximum flexibility to achieve a child care center through incentives, staff does not expect to recommend bonus densities of more than 0.5 FAR for child care centers.

Prior to consideration of such bonus density, the developer would be expected to work in concert with a child care provider to determine, among other things:

- Size of the center
- Space and access needs for the center as required by the Code of Virginia and Arlington County Code
 - Indoor Facilities: 35 square feet of play area per child
 - Outdoor Facilities: 75 square feet of play area per child (ideally the space is located on-site but may be off-site if available & safely accessible as determined by the Department of Human Services (DHS) – Child Care Office)
- Appropriate rental rates for the child care provider
- Appropriate drop-off and pick-up procedures and locations
- Child care center staff parking to be accommodated on-site or addressed via alternative modes of transportation through a Transportation Demand Management strategy.

Finally, in its approval of bonus density for the provision of a child care center, staff recommends that the developer have agreed to condition language that would include, but not be limited to, the following:

- Use Permit approval for the provision of child care (which may be approved concurrently with approval of a Site Plan).
- Specification of the variables: the rental rate for the child care center; the rent and term of the center; and the size of the space. Any change would require a site plan amendment.
- The conceptual plan for the outdoor space must be finalized, submitted and approved by DHS staff prior to the issuance of a Certificate of Occupancy for the center.
- The specific number of children approved for the space as determined by the DHS staff and application of space to student ratios as set forth in the Child Care Ordinance (Chapter 52). 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.
- 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, must be met prior to the issuance of a Certificate of Occupancy for the center.
- Drop-off/pick-up procedures including parking (if necessary) shall be submitted to the Department of Community Planning, Housing and Development (CPHD), the Department of Environmental Services (DES), and DHS for review and approval prior to the issuance of a Certificate of Occupancy for the center.
- Parents of children attending the program (or persons designated by the parents) required to escort their children to and from the center at all times.
- Possible provision for neighborhood children (i.e. priority of waitlists, etc.) when appropriate.

- Designation of 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 appropriate civic association, prior to the Certificate of Occupancy for the center.

Standard site plan conditions, such as signage and transparency, would not be exempted for the space occupied by a child care center.

Community Process: The proposed amendment was discussed at the Zoning Committee of the Planning Commission (ZOCO) meeting on October 6 and October 19, 2009. At the first meeting, several issues pertaining to the implementation of the proposed amendment were raised; the Green Building Density Incentive Policy was specifically referenced as an example. Also, several members requested specific scenarios to better understand the magnitude of the increased density. At the second meeting, staff sought to address the issues with several scenarios and a more specific implementation policy. However, at both meetings, although fully supportive of the need for quality child care, some members of ZOCO raised their concerns about the broader discussion of incentive density for various County priorities.

Additionally, staff has presented the findings and proposal to the Arlington Partnership for Youth, Children and Families and the Alexandria/Arlington School Readiness Council. Both groups have expressed their support for all of the recommendations found within the report. Staff will be meeting with the Economic Development Commission on November 10, 2009.

CONCLUSION: Staff recommends that the County Board authorize advertisement of public hearings by the Planning Commission on November 30, 2009 and by the County Board on December 12, 2009, on the attached amendment to amend, reenact, and recodify the Arlington County Zoning Ordinance provisions in Section 36. to permit, by special exception site plan approval, modification of density regulations, specifically to permit bonus density, for the provision of child care centers and community facilities and other minor modifications to the language in Section 36. to more accurately reflect the specific enabling authority found in the Code of Virginia as well as current County practice.

RESOLUTION TO AUTHORIZE THE ADVERTISEMENT OF PUBLIC HEARINGS TO CONSIDER THE PROPOSED AMENDMENTS TO SECTION 36. ADMINISTRATION AND PROCEDURES OF THE ARLINGTON COUNTY ZONING ORDINANCE AT THE NOVEMBER 30, 2009 PLANNING COMMISSION AND THE DECEMBER 12, 2009 COUNTY BOARD MEETINGS TO PERMIT BY SPECIAL EXCEPTION SITE PLAN, MODIFICATION OF DENSITY REGULATIONS, SPECIFICALLY TO PERMIT BONUS DENSITY, FOR THE PROVISION OF CHILD CARE CENTERS AND COMMUNITY FACILITIES AND OTHER AMENDMENTS NECESSARY FOR CONSISTENCY WITH THE CODE OF VIRGINIA AND IN ORDER TO FACILITATE THE CREATION OF A CONVENIENT, ATTRACTIVE AND HARMONIOUS COMMUNITY AND FOR OTHER REASONS REQUIRED BY THE PUBLIC NECESSITY, CONVENIENCE AND GENERAL WELFARE AND GOOD ZONING PRACTICE.

The County Board of Arlington County hereby resolves to advertise the following amendments to Section 36. Administration and Procedures of the Arlington County Zoning Ordinance for public hearings at the November 30, 2009 Planning Commission and the December 12, 2009 County Board meetings. This amendment would amend, reenact and recodify the proposed Zoning provisions in order to permit, by site plan approval, modification of density regulations, specifically to permit bonus density, for the provision of child care centers and community facilities and other amendments necessary for consistency with the Code of Virginia and to facilitate the creation of a convenient, attractive and harmonious community; and for other reasons required by the public necessity, convenience and general welfare and good zoning practice:

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1 **SECTION 36. ADMINISTRATION AND PROCEDURES**

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4 **H. Site Plan Approval.**

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7 a. *Uses and Regulations Modified:* The County Board may, in appropriate cases, modify the
8 uses permitted and use regulations, including increased project density, in harmony with
9 the general purpose and intent of the district taking into consideration provisions made
10 for certain features, design elements, uses, services, or amenities desired by the County
11 including: the following

- 12 (1) ~~Provisions made for~~ Open space and other environmental amenities;
13 (2) Grade, direction and intensity of traffic on adjacent streets;
14 (3) Relationship to adjacent existing or permitted uses and buildings;
15 (4) Particular dimensions, grade and orientation of the site; and
16 (5) Particular construction problems and techniques
17 (6) Environmentally sustainable and energy-efficient building design;
18 (7) Community facilities;
19 (8) Child care centers; and

(9) The other provisions of Section 36, subsection H.