



## ARLINGTON COUNTY, VIRGINIA

**County Board Agenda Item  
Meeting of December 12, 2009**

**DATE:** December 4, 2009

**SUBJECT:** ZOA-09-09 Zoning Ordinance amendment to Section 36. Administration and Procedures 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 ordinance (ZOA-09-09) to amend, reenact, and recodify Section 36 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 to make other minor modifications to the language in Section 36. to more accurately reflect the specific, recently amended enabling authority found in the Code of Virginia as well as current County practice.

**ISSUES:** This is a Zoning Ordinance amendment 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 to make other minor modifications to the language in Section 36. to more accurately reflect the specific, recently amended 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, with this amendment, staff proposes to modify the language of Section 36. for better consistency with the Code of Virginia.

County Manager: BMD/GA

County Attorney: CWM

Staff: Jill Griffin, Real Estate Development Group, AED

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**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.

Quality child care is a key component of a world-class community. The paper highlighted the importance of quality child care in Arlington, to remain competitive as the preeminent place to live, work, and play in the region, 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 at a work session in June 2009. Upon the presentation, staff was asked 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 Board 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. Providing such an incentive will allow for the planning and incorporation of a child care center within a project prior to construction: placing a child care center into an existing building can be challenging due to both indoor and outdoor play space requirements.

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, bonus density would be necessary to encourage developers to dedicate space for a child care center within a project. In evaluating proposals, staff expects 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 findings in “Child Care in the Commercial Corridors,” 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 reflect the specific, recently amended 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.

“Community facilities” language is included within the Zoning Ordinance but only under the provision of affordable housing. The inclusion of “community facilities,” as a basis for bonus density within the general provision language of Section 36.H.5.a, 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

At a later time, it may be prudent to combine the two provisions in a more comprehensive review of the Zoning Ordinance.

**Proposed Child Care Incentive Density Provision:** As recommended by staff, the bonus density associated with the provision of child care would be evaluated based on several variables, including the cost of construction, the anticipated rental rate for the new space, the proposed rental rate of the child care center, the size of the center and the 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 overall 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.

In submitting a site plan application, which includes consideration of such bonus density, the developer would be expected to work in concert with a child care provider. The submission should include, among other things, the following for staff review and consideration. This list is not inclusive and staff may request additional information for their analysis.

- Size of the center
- Proposed number of children to be accommodated at 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 (net) of play area per child
  - Outdoor Facilities, with a conceptual plan for the space: 75 square feet of play area per child (ideally the space is located on-site but may be off-site if available & safely accessible)
- Appropriate rental rates and term for the child care provider
- Documentation as to how the bonus density request results in a cost-neutral return to the developer for the provision of the child care center.
- 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, before 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 County Board. The County Board would rely, in part, upon the determination by the DHS staff of

an appropriate number 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 who 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, and could be limited by the County Board's assessment of the land use consideration.

- 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.
- Finalized 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 and 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 apply to the space occupied by a child care center.

The staff analysis of the proposal, as well as the developer's commitment (via condition language) to the child care center, would inform the County Board as to the commensurate amount of bonus density to be considered. The County Board, in its review, may also consider other aspects of the proposal including, but not limited to, the affordability of the child care and the public accessibility to the 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 met with the Economic Development Commission (EDC) on November 10, 2009; the EDC supports the proposal.

Planning Commission Recommendation: At its November 30, 2009 meeting, the Planning Commission voted (9-3) to recommend that the County Board adopt the attached Ordinance, with one amendment to the Ordinance and a further recommendation that the County Board develop a policy for bonus density for the provision of child care centers.

- Eliminate the phrase “including increased project density” from the proposed Zoning Ordinance Amendment.  
*Staff Response:* The existing language within Section 36.H.5.a, “...modify the uses permitted and use regulations...”, grants the County Board the authority to approve bonus density. However, staff would contend that retaining the phrase “including increased project density” better articulates the types of regulations which may be modified. While redundant, the language provides clarity and is in keeping with the specific, recently amended enabling authority found in the Code of Virginia.
- County Board develop a policy based on, but not limited to, the points on pages 4 and 5 of the November 24, 2009 staff report to the Planning Commission, public availability, and affordability.

*Staff Response:* This report and the attached ordinance establish a framework which permits the County Board to approve additional density for the provision of a child care center within a development project. In crafting this framework, staff strived to retain maximum flexibility. In keeping with this flexibility, staff would recommend, that rather than adopting a formal policy, administrative guidelines associated with this density provision be crafted for staff to analyze the requests. These guidelines would include the submittal requirements listed in this report; a description of the review process, including staff review areas of planning, child care, economic development, transportation, and others as appropriate; draft conditions, as referenced in this report; and other considerations which may be factors including, but not limited to, affordability of the child care space and public accessibility to the child care space.

**CONCLUSION:** The social benefits of early childhood education have long been recognized and promoted; now, new fiscal and economic benefits have been identified. This proposed Zoning Ordinance Amendment creates another tool in the County Board’s tool box to promote the development of quality child care in Arlington. Therefore, staff recommends that the County Board adopt the attached Ordinance to amend, reenact, and recodify Section 36. 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 to make other minor modifications to the language in Section 36. to more accurately reflect the specific, recently amended enabling authority found in the Code of Virginia as well as current County practice.

**ZOA-09-09**

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**AN ORDINANCE TO AMEND, REENACT AND RECODIFY THE ARLINGTON COUNTY ZONING ORDINANCE, SECTION 36. ADMINISTRATION AND PROCEDURES 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.**

Be it ordained that Section 36. Administration and Procedures of the Arlington County Zoning Ordinance is hereby amended, reenacted and recodified as follows 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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a. *Uses and Regulations Modified:* The County Board may, in appropriate cases, modify the uses permitted and use regulations, including increased project density, in harmony with the general purpose and intent of the district taking into consideration provisions made for certain features, design elements, uses, services, or amenities desired by the County including: the following

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- (1) ~~Provisions made for~~ Open space and other environmental amenities;
- (2) Grade, direction and intensity of traffic on adjacent streets;
- (3) Relationship to adjacent existing or permitted uses and buildings;
- (4) Particular dimensions, grade and orientation of the site; and
- (5) Particular construction problems and techniques
- (6) Environmentally sustainable and energy-efficient building design;

- 18           (7) Community facilities - In considering the approval of an office, motel, or apartment  
19           site plan, the County Board may permit additional height, not to exceed three (3)  
20           stories, and/or additional density, not to exceed .25 floor area ratio (F.A.R.) in an  
21           office structure, or ten (10) percent in a motel or apartment structure, providing the  
22           County Board judges that a contribution to required community facilities has been  
23           provided. Consideration of such facilities may include, but not be limited to, the  
24           provision of space for a library, fire station, public school facility, public transit  
25           facility, or a community recreation or health center. Such community facilities may be  
26           provided at appropriate off-site locations.;  
27           (8) Child care centers; and  
28           (9) The other provisions of Section 36, subsection H.