



ARLINGTON COUNTY, VIRGINIA

**County Board Agenda Item
Meeting of July 11, 2009**

DATE: June 30, 2009

SUBJECT: ZOA-09-07 Zoning Ordinance amendment to Section 3. "S-3A" Special Districts to permit child care centers and other programs licensed pursuant to Chapter 52 of the County Code by Use Permit approval.

C.M. RECOMMENDATION:

Adopt the attached ordinance (ZOA-09-07) to amend, reenact, and recodify Section 3 of the Arlington County Zoning Ordinance to permit child care centers and other programs licensed pursuant to Chapter 52 of the County Code by Use Permit approval.

ISSUES: This is a Zoning Ordinance amendment to permit child care centers and other programs licensed pursuant to Chapter 52 of the County Code by Use Permit approval in "S-3A" zoning districts. No issues have been identified.

SUMMARY: This is a Zoning Ordinance amendment that would allow child care centers and other uses licensed pursuant to Chapter 52 of the County Code, by Use Permit approval in "S-3A" Special Districts. Child care centers are compatible with public and private education uses already permitted in "S-3A" Districts.

BACKGROUND: Recently, a child care center seeking to temporarily relocate to the vacant Wilson School site has run into difficulty because that site is located in an "S-3A" Zoning District. The "S-3A" District permits school uses and uses of an educational nature, but does not allow child care as a primary use. In order to consider this issue, staff was prompted to examine the impact of allowing child care and other uses licensed pursuant to Chapter 52 of the Arlington County Code in "S-3A" Districts.

DISCUSSION: The proposed amendment would allow child care centers and other uses licensed pursuant to Chapter 52 of the County Code, in "S-3A" Districts, subject to securing a Use Permit. Chapter 52 of the County Code provides for licensing and regulation of child care centers, preschools, nursery schools, parent's day-out programs, and cooperative playgroup programs. "S-3A" Districts do not currently allow child care under most circumstances. Those programs that have been permitted under existing provisions, described below, would not be

County Manager: _____

County Attorney: _____

Staff: Deborah Albert, DCPHD, Planning Division

PLA-5300

impacted by the proposed amendment, as all of the established programs in “S-3A” are already subject to Use Permits.

Staff research identified nine programs that have been permitted through Special Exception Use Permits within “S-3A” Districts. Although not all of the existing Use Permits identify the provision under which the programs were permitted, all of the established programs include Head Start programs. Head Start programs are educational in nature, and therefore can be permitted as secondary uses under subsection 3.A.9, which allows secondary use of schools, churches, and public buildings and properties, including daily or hourly rental, for uses of a cultural, educational, recreational or public service nature. Schools and colleges and other public and private educational institutions are also permitted in “S-3A” Districts under subsection 3.A.10.c, subject to securing a Use Permit. However, child care is a defined use in the Zoning Ordinance, and as a primary use (i.e. in a vacant building), does not fall under either of these provisions.

A child care center is defined by the Arlington County Zoning Ordinance as “[a]ny facility operated for the purpose of providing care, protection, and guidance to a group of children separated from their parents or guardians during only part of the twenty-four (24) hour day, and that complies with the requirements of Chapter 52 of the Arlington County Code. Every child care center shall have a use permit as required in Section 5 of the Arlington County Zoning Ordinance.” Child care uses would be compatible with public and private education uses already permitted on public properties. Furthermore, schools and other buildings on properties that are publicly-owned, or planned for public use, may experience periods of vacancy due to fluctuation in school enrollment, shifting of school district boundaries, or other financial decisions impacting public services. The use of such vacant buildings for child care uses during extended periods of vacancy (where the primary use is no longer operating in the facility) could provide a beneficial use of vacant buildings as well as provide additional locations for child care in the County. If appropriate, the term of use for a child care center in a vacant building could be limited through Use Permit conditions that are coordinated with long-term plans and needs for the building in question. The proposed amendment would not limit child care uses to existing buildings.

Recent research performed by Arlington Economic Development (AED) showed that all of the full-time, licensed child care centers in Arlington’s commercial corridors are currently fully enrolled to capacity of existing staffing, and/or have waiting lists. In addition, suitable spaces for child care with access to required outdoor space are limited within the County. The addition of child care as a permitted use in “S-3A” Districts would supplement the pool of available locations.

Community Process: The proposed amendment was discussed at the Zoning Committee of the Planning Commission (ZOCO) meeting on May 12, 2009. No issues or objections were raised. The Planning Commission heard the proposed amendment at their June 29, 2009, meeting, and voted unanimously (10-0) to recommend approval.

CONCLUSION: Staff recommends that the County Board adopt the attached resolution to amend, reenact and recodify Section 3 of the Arlington County Zoning Ordinance to permit child and other programs licensed pursuant to Chapter 52 of the County Code by Use Permit approval.

ZOA-09-07

Note: Text to be added is shown with an underline. Text to be added, that has been modified since advertisement is shown with a double underline.

AN ORDINANCE TO AMEND, REENACT AND RECODIFY SECTION 3 “S-3A” SPECIAL DISTRICTS OF THE ARLINGTON COUNTY ZONING ORDINANCE TO PERMIT CHILD CARE AND OTHER PROGRAMS LICENSED PURSUANT TO CHAPTER 52 OF THE COUNTY CODE SUBJECT TO USE PERMITS, 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 3 “S-3A” Special Districts of the Arlington County Zoning Ordinance is hereby amended, reenacted and recodified as follows to allow child care and other programs licensed by Chapter 52 of the County Code, 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:

* * *

SECTION 3. "S-3A" SPECIAL DISTRICTS

* * *

A. Uses Permitted.

1. Public parks, playgrounds, recreational and community center buildings and grounds.
2. Semipublic or private parks and recreation areas, when owned and operated by a nonprofit organization.
3. Public buildings and properties of a cultural, recreational administrative or service type, including libraries, fire stations, museums and art galleries but not including repair garages, storage or repair yards or warehouses.
4. Country clubs, golf courses, and other private noncommercial recreational areas and facilities or recreation centers, including swimming pools.
5. Cemeteries, but not including crematoriums.
6. Churches and other places of worship and Sunday school buildings, but excluding rescue missions or temporary revivals.
7. Public and private arboretums, forests, wild life reservations and conservation areas, including stream valley drainage areas.
8. Single-family dwelling on lot with a minimum area of three (3) acres per dwelling unit.

- 23 9. Secondary uses of churches, schools, public buildings and public properties,
24 including the daily or hourly rental to profit or nonprofit entities of classrooms,
25 meeting rooms, auditoriums, multilevel parking structures and recreational
26 facilities for uses of a cultural, educational, recreational or public service nature.
27 The Zoning Administrator may approve, for periods not to exceed seven (7)
28 consecutive days, commercial uses incidental to and not inconsistent with the
29 above when he finds that such uses will not disrupt the surrounding community.
- 30 10. Conditional uses: The following uses may also be permitted subject to securing a
31 use permit as provided in Section 36.G., "Use Permits":
 - 32 a. Hospitals and institutions of an educational, religious, charitable, or
33 philanthropic nature, except animal hospitals and institutions of a
34 corrective nature; provided, however, that such buildings shall not be
35 located upon sites containing an area of less than five (5) acres.
 - 36 b. Public utilities and services such as railroad, trolley, bus, air or boat
37 passenger stations; right-of-way and tracks (but excluding car barns,
38 garages, railroad yards, siding and shops); static transformer stations,
39 transmission lines and towers, commercial and public utility radio towers,
40 telephone exchange (but excluding service and storage yards); provided,
41 that the exterior appearance of any building permitted under this
42 paragraph shall be in keeping with the character of the neighborhood in
43 which it is located.
 - 44 c. Schools and colleges and other public and private educational institutions.
 - 45 d. Institutional homes, counseling service, occupational therapy, and similar
46 social service uses.
 - 47 e. Accessory buildings, including a private garage, provided that a detached
48 accessory building shall be located as required in Section 32, herein.
 - 49 f. Public parking area on a transitional site if said area is located and
50 developed as required in Section 33.
 - 51 g. To permit the productive use of existing publicly owned structures on a
52 temporary basis, when the board determines it to be advisable to have such
53 structures available for possible public use at the end of the period of
54 temporary use, the County Board may permit commercial use of an
55 existing structure on a transitional site in conjunction with and primarily
56 for the purpose of providing services to an existing adjacent use for a
57 period not to exceed fifteen (15) years subject to the provision of parking
58 as required in Section 33. Such uses may be permitted notwithstanding the
59 fact that not more than twenty-five (25) percent of the area of the existing
60 structure is located outside the portion of the site within which transitional
61 uses are permitted.
 - 62 h. Off-site parking area incidental to a use permitted in an "S," "R" or "RA"
63 District. Unless located on publicly owned land, such parking area shall be
64 on land in the same fee ownership as the land on which the appurtenant
65 use is located.
 - 66 i. Publicly owned public parking area subject to the following conditions:

- 67 (1) The parking areas shall be developed in accordance with the
68 requirements of Section 33;
69 (2) No parking shall be located within twenty-five (25) feet of the
70 boundary of an "R" District;
71 (3) The parking area shall have frontage on a distributor street,
72 secondary arterial, primary arterial, or controlled access facility as
73 designated on the master thoroughfare plan.
74 j. Recycling centers.
75 k. Uses permitted and conducted in kiosks in accordance with the
76 requirements of Section 31.A.18.
77 l. Child care center or other programs licensed pursuant to Chapter 52 of the
78 Arlington County Code.
79 11. Properties that are located in the Columbia Pike Special Revitalization District
80 may be developed in accordance with Section 20. "CP-FBC" Form Based Code
81 Districts. After such development all uses permitted in Section 20 shall be
82 permitted on the property, subject to all regulations in Section 20.
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