

## **Attachment - Staff Analysis**

**STAFF PERSON:** Rebecca Ragsdale, Principal Planner  
**BOARD OF SUPERVISORS:** May 1, 2019  
**PROJECT:** CLE 2018-250 Blossom Play School  
**PROPERTY OWNERS:** Elizabeth E. Gruss and Kathleen Williams Gruss  
**APPLICANT:** Elizabeth E. Gruss  
**LOCATION:** 1141 Fox Ridge Drive  
**TAX MAP/PARCEL:** 031B0-00-00-06800  
**MAGISTERIAL DISTRICT:** White Hall

### **BACKGROUND ON ZONING REGULATIONS FOR FAMILY DAY HOMES**

A “family day home” is a “child day program offered in the dwelling unit of the provider or the dwelling unit that is the home of any of the children in care for one through twelve children under the age of thirteen when at least one child receives care for compensation.” (Virginia Code § 15.2-2292 and County Code § 18-3.1 - definition of family day home). Family day homes caring for four or fewer children are treated as a residential occupancy and, therefore, no zoning-related approvals are required. The provider’s own children and any children who reside in the home are not counted in these numbers.

Family day homes are subject to supplemental regulations found in County Code § 18-5.1.56 that address parking, entrance and access, traffic limits, and compliance with building code, Fire Marshal inspection, and Department of Social Services licensing. (Attachment A)

Virginia Code § 15.2-2292 enables localities to administratively approve family day homes for five to twelve children, provided that notice is given to abutting owners and none of them object. If a timely objection is received, a public hearing is required before the governing body. (See Attachment A for the current regulations in § 18-5.1.56). When the County adopted the current regulations for family day homes in 2013, an expedited process was recommended. Therefore, the public hearing requirement is met through the special exception process. To-date, five family day homes have been approved by the Board through the special exception process and none have been denied.

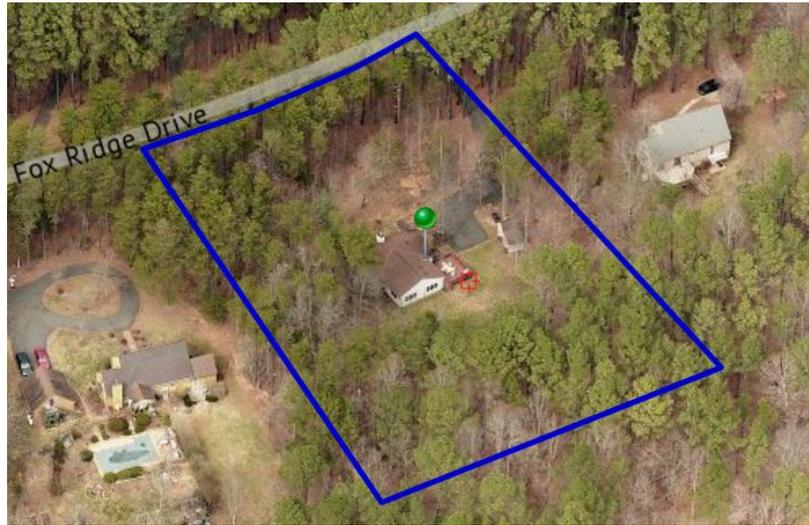
### **APPLICANT’S PROPOSAL:**

The applicant proposes to establish a family day home for up to 10 children at 1141 Fox Ridge Drive in Earlysville Forest. The family day home hours would typically be 8:30 a.m. to 5:30 p.m., Monday through Thursday, with Fridays eventually added. And up to one employee would be associated with the family day home. The applicant is currently operating a family day home serving up to four children on Simmons Gap Road in Dyke. Family day homes serving four or fewer children do not require a zoning clearance but may be voluntarily licensed with the Department of Social Services. The applicant is moving to Earlysville Forest and was initially seeking a license for up to 12 children. The applicant has amended the zoning clearance request and is now seeking approval for up to 10 children. Supplemental information provided by the applicant is included as Attachment C.

The applicant applied for a family day home for six to twelve children. After notice was sent to abutting property owners, the County received one objection to the proposal during the legal notification period of 30 days. An additional objection was received after the 30 day notification period. Because of the abutting owner objection, a special exception is required.

**CHARACTER OF THE AREA:**

The property is 1.47 acres in size and consists of an existing house set back halfway on the lot from Fox Ridge Drive approximately 150 feet. The lot is mostly wooded and the existing house is more than 100' from neighbors to the left and right. The yard will have a fenced playground area located in the back yard, which adjoins open space. Fox Ridge Drive is a public road approximately 20 feet in width that ends in a cul-de-sac with 25 single family homes along the road.



**COMPREHENSIVE PLAN:**

The property is designated as Rural Area in the Comprehensive Plan. This designation includes preservation and protection of agricultural, forestal, open space, and natural, historic, and scenic resources. Staff does not believe the family day home use will be in conflict with these overall goals of the Comprehensive Plan as it is proposed within an existing residential neighborhood.

**ANALYSIS OF THE SPECIAL EXCEPTION REQUEST:**

County Code § 18-5.1.56(b)(7)(b) (below) provides that, in acting on a special exception, the Board “shall consider whether the proposed use will be a substantial detriment to abutting lots.” Staff has provided a response to neighbor concerns below.

b. *Special exception.* If the zoning administrator receives a written objection to the family day home from the owner of an abutting lot within thirty (30) days after the notice was mailed or delivered, the zoning clearance shall not be approved until after the applicant obtains a special exception for the family day home as provided in sections 33.5 and 33.9. In acting on a special exception, the board shall consider whether the proposed use will be a substantial detriment to abutting lots.

ABUTTING OWNER CONCERN	STAFF COMMENT
<b>COMPLIANCE WITH HOA COVENANTS</b>	<p>During the required 30-day notification period, a letter of objection (Attachment D) was received from the Earlysville Forest Homeowners Association, which owns parcel (TMP 31-B1) that abuts the applicant’s property to the rear. The objection was based solely on Earlysville Forest covenants, which limit the number of children for this use to five, including the caregiver’s children. Zoning provisions allow up to 12 children in care, exclusive of the provider’s children.</p> <p>A zoning clearance for a family day home on Rowan Court was approved for up to 8 children on January 12, 2015. That parcel also abutted open space and the Earlysville HOA received notice but did not object to that request.</p>

	<p>The HOA did not cite any objections based on substantial detriment to the abutting open space parcel or the neighborhood. Therefore, staff does not believe this is a basis for denying the special exception request.</p>
<p><b>PERCEIVED BUSINESS ON A RESIDENTIAL STREET</b></p>	<p>One objection from an abutting property owner was received after the 30-day notification period had ended. They also requested their objection remain in confidence so the entire letter it is not attached to this report. The neighbor indicated an objection based on “our residential street having a business proposed.” The abutting owner who submitted the objection is located approximately 340 feet across the street from the applicant and the two homes are buffered by woods in between. The applicant has proposed to locate the outdoor play areas for the family day home in the back of the property, further away from the concerned neighbor’s property. In addition, family day homes are only permitted as an accessory use to a single family dwelling, limited by size and scope in the definition of the use. Supplemental regulations are intended to mitigate any neighbor concerns such as by limiting traffic.</p> <p>Because this objection was received after the 30-day notification period and there is no finding of substantial detriment or change to residential character of the neighborhood, staff finds no basis to deny the family day home request.</p>

Staff opinion is that authorizing the family day home to provide care for up to 10 children, with the proposed conditions, would not create a substantial detriment to abutting lots or change the character of the neighborhood. The application will meet all requirements of County Code § 18-5.1.56. The neighbor concern about a “business” is addressed through supplemental regulations, which limit the proposed use which is accessory to the single family dwelling, and recommended conditions of approval.

**RECOMMENDATION:**

Staff recommends that the Board adopt the attached resolution (Attachment G) to approve the family day home special exception, subject to the following conditions:

1. No more than ten (10) children may be in care at the family day home, exclusive of the provider’s own children and any children who reside in the home.
2. Child drop-off and pick-up times shall be staggered at a minimum ten (10) - minute interval so that no more than two vehicles arrive to drop off or pick up at the same time.

**ATTACHMENTS:**

- A. County Code § 18-5.1.56 Family Day Home supplemental regulations
- B. Location Map
- C. Supplemental Information Provided by Applicant
- D. Earlysville Forest HOA Objection letter
- E. Staff Analysis
- F. Letters of Support
- G. Resolution