

**Albemarle County Planning Commission
May 3, 2016**

The Albemarle County Planning Commission held a regular meeting on Tuesday, May 3, 2016, at 6:00 p.m., at the County Office Building, Room 241, Second Floor, 401 McIntire Road, Charlottesville, Virginia.

Members attending were Mac Lafferty, Karen Firehock, Vice Chair; Pam Riley, Jennie More, Bruce Dotson, and Tim Keller, Chair. Absent was Daphne Spain. Bill Palmer, UVA Representative, was present.

Other officials present were J.T. Newberry, Planner; Rebecca Ragsdale, Senior Planner; David Benish, Acting Director of Planning; Sharon Taylor, Clerk to Planning Commission and Greg Kampfner, Deputy County Attorney.

Call to Order and Establish Quorum:

Mr. Keller, Chair, called the meeting to order at 6:00 p.m. and established a quorum.

ZTA-2016-00005 Family Day Home

The Planning Commission held a public hearing to receive comments on its intent to recommend adoption of an ordinance amending Sec. 18-5.1.56 to reduce the maximum number of children receiving child care services in a dwelling unit that would be considered and regulated as a single family use from 5 to 4 children, and to reduce the minimum number of children receiving child care services in a dwelling unit licensed and regulated as a family day home by the Virginia Department of Social Services from 6 to 5 children, all as provided by Virginia Code § 15.2-2292 and other State laws. (Rebecca Ragsdale)

Ms. Ragsdale presented a PowerPoint presentation on ZTA-2016-00005 Family Day Home. This is a zoning text amendment that the Planning Commission adopted a resolution of intent on a week or so ago for an amendment to the family day home regulations. It is a straight forward simple change and being done in response to a change to the State Code regulations for Family Day Homes that will be effective July 1, 2016.

When we say family day homes we are talking about in home child care and within a dwelling unit it is allowed in all our Residential, Rural Area and Planned Development Districts in any dwelling type. (RA Rural Areas and Residential (PRD, PUD, NMD VR, R-1, R-2, R-4, R-6, R-10, R-15). If you are caring for 12 children or less in a dwelling then it is called a family day home. That does not include your own children or children that live within the household.

The summary of the changes is related to the number of children you can care for that does not require a social services license or a zoning application. Right now you can care for five (5) or fewer children and it is treated as a single family use and no zoning application is required or licensing by the Virginia Department of Social Services. Caring for 6-12 children requires DSS Social Services license and the county's zoning application process that we have set up in compliance with those supplemental regulations in Section 5.1.5.6.

The change that will go into effect on July 1, 2016 is that number will go down from five (5) to four (4). Four (4) will now be the new number for how many children you can have in your family day home without having to go through the licensing processes with the county or the Department of Social Services. This zoning text amendment would change the number to four (4) children in

care and require a clearance for five (5) to twelve (12) children. This is proposed so that our ordinance is consistent with a change to the Code of Virginia effective July 1, 2016.

The proposed change in Attachment B of the staff report is as follows:

Family day home definition:

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 **(1) through twelve (12) children under the age of thirteen (13), exclusive of the provider's own children and any children who reside in the home**, when at least one child receives care for compensation. For the purposes of this definition, a child day program is a regularly operating service arrangement for children where, during the absence of a parent or guardian, a person has agreed to assume responsibility for the supervision, protection, and well-being of a child under the age of thirteen (13) for less than a twenty-four (24) hour period. (Added 10-3-01; Amended 9-11-13)

The change will be to those numbers that are at the beginning of the supplemental regulations. There won't be any changes to the definition within the ordinance. So going from four (4) to five (5) is the change.

The Planning Commission does not talk about family day homes very often because it is a zoning clearance application. So that means that they are typically reviewed by staff and they don't go through the public hearing process. Staff confirms the following:

- a) Social Services License
- b) Fire Marshal
- c) Compliance/Review by other agencies (Building Official, Health Department, etc.)
- d) Parking
- e) Entrance and access
- f) Traffic Limits

The Commission also saw the abutting neighbor notice requirement for this type of application, which can lead to the need for a special exception for a family day home. If a special exception is required then it is typically heard by the Board of Supervisors. We have approved twelve (12) family day homes under this process that has been in place since 2013. Staff has four (4) under review right now. There have been three (3) so far that have needed a special exception.

It is a response to the State Code changes so staff recommends approval of the draft ordinance as it is provided in Attachment B.

Mr. Keller invited questions for staff.

Mr. Lafferty asked staff to go back to the first chart. He asked the way that reads in the right hand column care for less than four (4) does that mean three (3).

Ms. Ragsdale replied that it was 4 or less.

Mr. Lafferty noted it needs a bar underneath the less sign to mean less than or equal to, and Ms. Ragsdale replied that it would be corrected.

Mr. Lafferty asked if staff has any reason why the state changed it from five (5) to four (4).

Ms. Ragsdale replied there were a number of fires and incidents in a year or two prior so they not only changed this part of the regulation; but, there are some other changes on the Social Services side of things that were proposed.

Mr. Lafferty asked if it was okay if four children burn up as long as you don't have the fifth one.

Ms. Ragsdale replied that she thinks that during the amendment process there was consideration for the safety of how many children that you are able to evacuate if there is an emergency. The five (5) to twelve (12) bracket or tier requires the Fire Marshall inspections and they are required to do the emergency planning and drills on a regular basis.

Mr. Keller opened the public hearing and invited public comment. There being none, the public hearing was closed and the matter before the Planning Commission for discussion and action.

Motion: Ms. Riley moved and Ms. Firehock seconded to recommend approval of the draft ordinance in Attachment B in the ZTA-2016-00005 Family Day Home staff report.

The motion passed by a vote of 6:0. (Spain absent)

Mr. Keller noted that ZTA-2016-00005 Family Day Home would be forwarded to the Board of Supervisors with a recommendation for approval on a date to be determined

(Recorded and transcribed by Sharon C. Taylor, Clerk to Planning Commission & Planning Boards)