



# STAFF REPORT COVER SHEET

April 10, 2024

ATTACHMENT 01

<b>Address</b>	100 Battle Street SE	<b>Case Number</b>	PF-1227863-CUP
<b>Regular Meeting Date</b>	4/10/2024	<b>Applicant</b>	Anastasia Abraham
<b>Board/Commission</b>	Planning Commission	<b>Owner</b>	Anastasia Abraham
<b>Existing Zoning</b>	RS-10	<b>Existing Land Use</b>	Low Density Residential
<b>Brief Summary of Request</b>	<p>Application for a conditional use permit for a Family Day Home to accommodate up to a maximum of twelve (12) children.</p> <p>Recommendation to Board of Zoning Appeals.</p>		
<b>Site Improvements</b>	n/a		
<b>Size of Property</b>	14,379 square feet / 0.33 acres		
<b>Public Notice Requirements:</b>	<ul style="list-style-type: none"> <li>Advertisement for two successive weeks in a newspaper having paid general circulation in the Town, announcing upcoming public hearing at Board of Zoning Appeals meeting.</li> <li>Staff posted a sign on the property on March 29, 2024, notifying residents of upcoming Planning Commission meeting.</li> </ul>		
<b>Official Submission Date for Approval:</b>	On March 14, 2024, the application was deemed by staff to be complete.		
<b>Deadline for Action:</b>	The BZA should take action by June 12, 2024, which is 90 days after the application was deemed complete. That date is directory, rather than mandatory; the Board does not lose jurisdiction to act after the time period has passed.		
<b>Brief Analysis</b>			
<b>PROPERTY HISTORY</b>			
<p>The current home was constructed in 1959. The footprint of that home was expanded in 1988 to include a deck. In 1993, a pool and attached garage was added. The interior was remodeled in 2017. Previous owners of the property received home occupation permits in the past to operate: 1) a home daycare in 1992 for no more than 8 children; 2) a home office for a builder in 1997; and 3) an electrical contractor business in 2004. These permits expired with changes in ownership of the home.</p>			
<b>COMPATIBILITY WITH THE COMPREHENSIVE PLAN</b>			
<p>The Future Land Use Plan in Chapter 3 of the <a href="#">Comprehensive Plan 2015 Update</a> designates the property as Low Density Residential. Daycare as a home business is consistent with the Low Density Residential designation (P.38). Chapter 4, Economic Development, measures “Growth in business licenses, including home businesses” (p. 55) as an indicator when determining whether identified economic goals, objectives, and implementation strategies for economic development are being met.</p>			

<b>COMPATIBILITY WITH THE ZONING ORDINANCE</b>	
The Town of Vienna regulates Family Day Homes as a use where the primary use is as a residence, in sections 18-324 and 18-827 of the 2024 Zoning Ordinance. Section 18-305 of the Zoning Ordinance requires a Conditional Use Permit for a Family Day Home to provide care to 5-12 children. (More than 12 children is not permitted in this zone.) As proposed, the requested Family Day Home use complies with the Town of Vienna’s Zoning Ordinance requirements for Family Day Homes as a Conditional Use.	
Attachments:	01 – Staff Report 02 – Application & Authorization 03 – Applicant Submission - Narrative & Photos 04 – Relevant Regulations 05 – Public Comments Received
Author:	Maggie Costello, Principal Planner

**I. EXISTING SITE CONDITIONS:**

The subject property currently consists of a split-foyer, 2,700-square-foot single-family home built in 1959 and is currently occupied as a single-family home.



Figure 1 – Orthophotography of existing dwelling located at 100 Battle Steet SE. The blue outline indicates the current lot shape and imagery. Source: Connect Explorer Pictometry

The home is located on a corner lot at the intersection of, and with ingress/egress on both, Center Street and Battle Street SE, in the 100 block of Battle Street Southeast. The existing 0.33-acre lot contains the

existing single-family-detached home, along with a two-car garage, rear deck, fenced-in yard, and a swimming pool. There is an existing 4-foot-wide sidewalk across the front of the property on both Center and Battle Streets.



Figure 2 – 1972 aerial image of site  
 Source: Fairfax County Aerials



Figure 3 – 2022 aerial image of site  
 Source: Fairfax County Aerials

Figure 2 is an aerial image of the subject site (identified with a blue dot) from 1972 with present day boundary lines outlined in yellow. The existing home was built in 1959. Figure 3 is an aerial image of the subject site from 2022. The parcel lines and land uses have remained unchanged over the 50-year period.



Figure 4 – Town of Vienna Future Land Use Map  
 Source: Town of Vienna 2015 Comprehensive Plan



Figure 5 – Town of Vienna Zoning Map  
 Source: Town of Vienna GIS mapping

The subject site is designated as Low Density Residential in the Future Land Use Map in Vienna’s Comprehensive Plan (see Figure 4). Low Density Residential Land Uses are predominately single-family detached dwellings on larger lots in the Town. The site is surrounded to the east, west, and south by land also designated as Low Density Residential. To the north, the site abuts land designated as Moderate Density Residential, an increase in intensity of land uses from Low Density Residential.

The lot is zoned RS-10, Single-Family Detached Residential, Residential, Single-Unit, on the 2024 Town of Vienna Zoning Map. The RS-10 zone is one of the implementing zones within the Low Density Residential Future Land Use designation. This zone primarily allows for single-family detached dwellings, along with associated accessory buildings, on lots no less than 10,000 square feet, or approximately 1/4 an acre. Other uses may be allowed in the RS-10 zone as conditional uses, per Section 18-305, Accessory Uses Table, of the Zoning Ordinance. The subject site is surrounded on the east, west, and south by land also zoned RS-10. To the north of the site, directly behind the property, land is zoned RMU, Residential Multi-Unit (see Figure 5). RMU is one of the implementing zones within the Moderate Density Residential Future Land Use designation and allows for land uses such as duplexes, cottage courts, townhomes, and multi-unit buildings and complexes.

## II. PROPOSED USE



Figure 6 - Front of existing home. Source: Provided by applicant (Attachment 03)

The applicant and owner of 100 Battle Street SE is requesting the approval for a conditional use permit to allow a daycare use accommodating up to 12 children in the split-foyer-style single-family home. The proposed use would take place on the main floor of the residence, with access to an existing deck for recreation. The main floor is accessed by going up the stairs when entering the front of the split-foyer house.

The proposed daycare will utilize approximately 695 square feet on the main floor of the structure, accommodating up to 12 children, ranging from birth to five years of age. The homeowner has proposed to restrict use of the deck area to only a portion that includes a covered play area. This area is to be gated, preventing access to stairs and the homeowner's swimming pool (see Attachment 03) for images of this area). The proposed 12 children are not inclusive of the owner/applicant's children on site. The applicant does not currently hold a license from the state to operate a daycare but has stated they will apply if the conditional use is approved. No signage or identification of the business will be visible to the surrounding properties. The lot has an existing 6-foot fence enclosing a large portion of the property. No additional landscaping or screening is proposed.



Figure 7 – Existing floor plan with proposed areas of use shaded in pink. Source: Provided by applicant. (Attachment 03)

### III. PROPOSED OPERATION AND HOURS

The applicant is proposing to operate the daycare between 8:00 a.m. and 6:00 p.m., Monday through Friday. One non-resident employee is proposed during these hours in addition to the homeowner/operator of the business. The applicant has stated that trash collection will not exceed normal schedule of trash collection for the neighborhood, and that noise levels will not exceed noise levels permitted by the Town.



Figure 8 – Driveway on Battle Street. Source: Google street view

The applicant has proposed a parking plan to include up to 8 total spaces on site, not including the two available spaces provided in the existing two-car garage (see Attachment 03). As this property is a corner lot, two points of access, both of which are driveways, exist. The portion of the lot which fronts Battle Street has a driveway measuring 35.4 long by 18.5 feet wide, which the applicant states will accommodate up to two parked vehicles. The portion of the lot fronting Center Street has a driveway measuring 41 feet long by 32.1 feet wide that has access to the existing two-car garage.

The applicant states that this driveway can accommodate between 4 and 6 vehicles and that the non-resident employee will usually rely on public transportation and will not need on-site parking. Patrons will bring the children to and from the house, with each vehicle expected to be parked for a couple of minutes. If parking areas are full, patrons may utilize available on-street parking on either Battle or Center Street.



Figure 9 – Driveway & garage on Center Street. Source: Google street view

Childcare providers will remain in the home during drop-off and pick-up times. Children will enter and exit the home using the front door only. Additional communication with parents will be provided electronically using an application to assist with the efficiency of drop-off and pick-up activity. The applicant states they

have received strong neighborhood support and are expecting a significant number of patrons to be residents within walking distance of the site.

#### IV. STAFF ANALYSIS

##### Town of Vienna 2015 Comprehensive Plan

The Town of Vienna Comprehensive Plan is used as a guide for future land use within the Town. The following Chapters contain objectives and indicators relative to the proposed Family Day Home as a Conditional Use:

- *Chapter 3: Land Use. Objective 1: Implementation Strategy:* Keep the current residential zoning classifications and densities in effect.

The site is designated as Low Density Residential on the Town's Future Land Use Map. The applicant is proposing to operate a daycare as a home business. The use is consistent with the Low-Density Residential designation; the density will not change with the addition of this use to the site.

- *Chapter 4: Economic Development. Indicators p. 55.* "Growth in business licenses, including home businesses" is identified as an indicator in determining if identified economic goals, objectives, and implementation strategies for economic development are being met.

The operation of a family day home is a type of home business and supports economic goals, objectives, and implementation strategies for economic development within the Town.

##### Town of Vienna Zoning Ordinance

The Town of Vienna Zoning Ordinance provides regulations based on the Town's Comprehensive Plan and other state or federal regulations which impact this proposed use (see Attachment 04) for full text of relevant Zoning Ordinance regulations):

- *Section 18-824 Conditional Use Permit:* Regulations include submission requirements, process, and conditions for approval for all uses allowed through a Conditional Use Permit.

The applicant has provided the required materials, including a site plan, a narrative description of all potential impacts to the neighborhood, and how these will be handled, along with detailed supporting documentation and photographs of both the interior and exterior of the property.

- *Section 18-324 Family Day Home:* Regulations include the following:
  - A. *State licensure is required when caring for 5-12 children.* The applicant has stated she will apply for licensure if the Conditional Use Permit is approved.
  - B. *Maximum number of 12 children allowed; resident children shall be excluded (this aligns with State Code requirements).* The applicant is proposing to care for a total of 12 children, excluding children living on site.

- C. *Facility shall be principal residence of the operator.* The applicant is the homeowner and resident.
- D. *The facility shall comply with all State and Town codes.* The applicant complies with the Town codes and has stated that all state codes will be followed.
- E. *One nonresident person may be employed.* The applicant will employ one non-resident employee.
- F. *Hours of operation are limited to 7:00 a.m. to 6:00 p.m., Monday through Friday.* The applicant will operate the business from 8:00 a.m. to 6:00 p.m., Monday through Friday.
- G. *No exterior evidence of operation shall exist other than the play equipment.* No signs or evidence of the operation will exist other than the existing deck area with play equipment.
- H. *Adequate space should be provided for drop-off and pick-up; staggering may be used.*

The Vienna Zoning Ordinance does not provide the minimum required parking spaces for Family Day Homes. During operating hours, the homeowner's vehicles will be inside the two-car garage. The applicant anticipates patrons and their cars will remain on site for a short time period. The applicant will be providing care for up to 12 children and has stated they have two existing driveways providing parking for up to 8 vehicles. As shown in Figure 10, staff analysis is that the applicant may be able to provide parking for a maximum of 5 vehicles on site. This estimate considers patrons' potential avoidance of stacking parked vehicles in the driveway fronting Center Street. The driveway fronting Battle Street is deeper, however, and is likely to allow the stacking of two vehicles.



Figure 10 – 2022 aerial image of site; parking areas in green. Source: Fairfax County Aerials

In addition to parking availability on-site, public parking is also available to patrons on-street, on both Battle and Center Streets. The Vienna Town Code, Section 9-12.3 provides specific restrictions regarding parking on public streets:

Section 9-12.3 – Where stopping, standing or parking prohibited:

- In front of a public or private driveway.
- Within 15 feet, in either direction, of the entrance to a fire station or building housing rescue equipment or ambulances, provided such buildings are plainly designated.

- Within 15 feet, in either direction, of a fire hydrant located on private or public property, or within a fire lane.
- Within 20 feet of the intersection of curblines, or if none, within 15 feet of the intersection of property lines at an intersection of streets.
- On a sidewalk or crosswalk
- On any street for a continuous period of 48 hours.
- Within 30 feet upon the approach to any flashing beacon, stop sign or traffic control device.
- Alongside or opposite any street excavation or obstruction when standing or parking would obstruct traffic.
- On the roadway side of any vehicle stopped or parked at the edge of or cure of a street
- Any place where official signs prohibit parking.
- Spaces reserved for handicapped persons.

Using the Town’s parking restrictions above, Figure 11 illustrates possible available on-street parking areas directly in front of the property on both Center Street and Battle Street, as well as across the street from the property. In this illustration, the possibility exists for on-street parking of up to 4 vehicles on Center Street and 3 vehicles on Battle Street at any given time. Areas for parking are identified in green, and areas restricted from parking are shown in yellow lines.

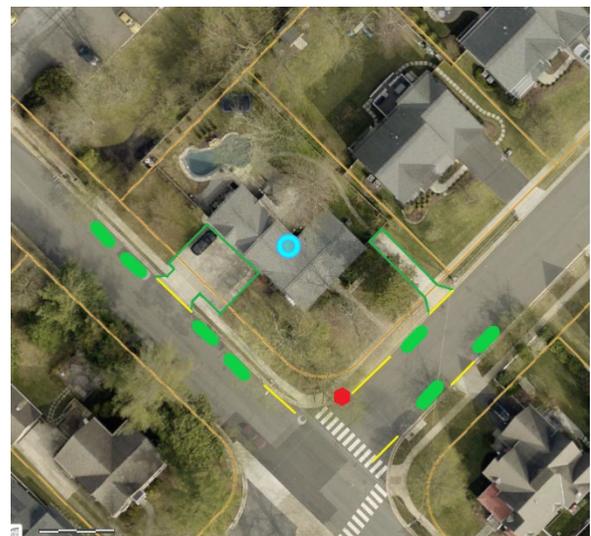


Figure 11 – 2022 aerial image of site; parking areas in green; restricted areas in yellow. Source: Fairfax County Aerials

As this is an application for Conditional Use Permit, additional conditions specifically to address parking based on the maximum number of vehicles expected to be on-site at any one time may be considered. Staff assesses that with both on-site and on-street parking availability, the applicant appears to be able to accommodate at least 12 vehicles at any given time, providing adequate parking for this use, especially considering the high likelihood that pick-up and drop-off times will be staggered.

- I. *The Board of Zoning Appeals may require landscaping and screening.* Staff does not believe that additional landscaping and screening is necessary for this use, as the property has a 6-foot-high fence and the play area is located on the deck, which is to the rear of the property. It is not anticipated that noise will increase beyond typical noise allowable in residential areas.
- J. *Any changes requiring an amendment.* The applicant has not indicated any future changes to the property or use as presented.

- *Section 18-827 Family Day Home Permit.* This includes the provision that Family Day Homes caring for more than four (4) children require a Conditional Use Permit.

Staff believes that, as presented, the applicant's proposed use will not adversely affect the health or safety of persons residing or working in the neighborhood and will not be detrimental to the public welfare or injurious to property or improvements in the neighborhood. The proposed use aligns with the Town's Comprehensive Plan and meets the required standards for Family Day Homes as required in the 2024 Town of Vienna Zoning Ordinance. However, as this is an application for a Conditional Use Permit, the Planning Commission may consider recommending conditions to address specific concerns that fall under the Conditions for Approval as described in section V. below.

#### **V. PUBLIC COMMENTS**

As of April 5, 2024, one comment has been received regarding this application. Please see Attachment 05.

#### **VI. REQUIRED COMMISSION/BOARD APPROVALS**

Review of the application (as established at §18-824 of the Vienna Town Code) requires initial consideration and recommendation by the Planning Commission and a subsequent public hearing with sworn testimony before the Board of Zoning Appeals, where the application will be acted upon.

§18-824.6.E. states that the Planning Commission shall make a recommendation on the application based on Conditions for Approval outlined in §18- 824.3, and applicable Use Standards outlined in Article 3 (see Attachment 04).

§18- 824.3: The Board of Zoning Appeals may issue a use permit for any of the uses indicated within Article 3, with a "C" (conditional) on the Use Table, provided the use for which the permit is sought:

##### *Conditions for Approval:*

- A. Will not affect adversely the health or safety of persons residing or working in the neighborhood of the proposed use;
- B. Will not be detrimental to the public welfare or injurious to property or improvements in the neighborhood;
- C. Will be in accordance with the purposes of the Town's comprehensive plan; and
- D. Meets use-specific standards outlined in Article 3 of this chapter (§18-324 Family Day Home applies).

The Town of Vienna Code of Ordinances §18-824.4 states The Board of Zoning Appeals shall fix a reasonable time for the hearing of an application, within ninety (90) days of the application being deemed complete. This time period is directory, rather than mandatory; the Board does not lose jurisdiction to act after the time period has passed.