STAFF REPORT COVER SHEET

July 17, 2024

Attachment 01

Address	305 Jade Court NW	**Case Number**	PF-1032500-BZA
Regular Meeting Date	7/17/2024	**Applicant**	Zeinab Salem/Zeinab Home Daycare
Board/Commission	Board of Zoning Appeals	**Owner**	Yi Bian
Existing Zoning	RS-12.5	**Existing Land Use**	Low Density Residential
Brief Summary of Request	Application for a conditional use permit for a Family Day Home to accommodate up to a maximum of twelve (12) children.		
Site Improvements	n/a		
Size of Property	10,757 square feet / 0.25 acres		
Public Notice Requirements:	• 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. A public ad is scheduled to run on July 5, 2024 and July 12, 2024. • A sign is required to be posted on property at least 10 days prior to the public hearing. Staff posted a sign on the property on June 3, 2024 notifying residents of the upcoming Board of Zoning Appeals meeting. • A certified letter is required to be sent to the County Executive at least 10 days prior to the public hearing. Staff mailed a certified letter to the Fairfax County Executive on July 5, 2024. • A certified letter is required to be sent to the owner at least 10 days prior to the public hearing. Staff sent a certified letter to the applicant on July 5, 2024. • A courtesy letter was sent to surrounding property owners on July 7, 2024.		
Official Submission Date for Approval:	On July 1, 2024, the application was deemed by staff to be complete.		
Deadline for Action:	The BZA should take action by November 1, 2024, which is 90 days after the application was deemed complete. The BZA will have its July, September and October meetings in advance of this date. That date is directory, rather than mandatory; the Board does not lose jurisdiction to act after the time period has passed.		

Brief Analysis

PROPERTY HISTORY

The current home was built in 1969. The current owner purchased the home in 2004. In 2015, the resident and tenant at that time received a Certificate of Occupancy for a Home Occupation for a home business with client/customers allowed by appointment only. In 2017, the current resident/tenant, Zeinab Salem, received a Home Certificate of Occupancy for a Home Occupation to care for up to seven children on-site. In 2019, the

current resident/tenant was granted a CUP for a Family Day Home to allow up to 12 children. The CUP was valid for 24 months, with the condition that, once the time expired, the applicant must reapply for a continued CUP for up to twelve children. In 2021, the current resident/tenant was granted a new CUP allowing a family day home for up to twelve children with the condition the CUP expires in 36 months and must be renewed for the operation to continue.

COMPATIBILITY WITH THE COMPREHENSIVE PLAN

The Future Land Use Plan in Chapter 3 of the Comprehensive Plan 2015 Update designates the property as Low Density Residential. Family Day Home, 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.

COMPATIBILITY WITH THE ZONING ORDINANCE

The Town of Vienna regulates Family Day Homes as a use where the primary use is as a residence, in sections 18-305, 18-324 and 18-827 of the 2024 Zoning Ordinance. Section 18-305 of the Zoning Ordinance establishes the requirement that a Conditional Use Pemit (CUP) be approved for a Family Day Home to provide care to 5-12 children. Fewer than 4 children are permitted without a CUP. 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 Narrative and Documents 04 – Plat and Floor Plan 05 – Applicant Photos 06 – Previous Approvals 07 – Current License 08 – Relevant Regulations 09 – Planning Commission Recommendation Memorandum (to be attached once completed) 10 – Public Notification Affidavit
Author:	Maggie Costello, Principal Planner

I. EXISTING SITE CONDITIONS:

Figure 1 – Street view of front of home.
Source: Staff Photo of Site 7/2/24

The subject property currently consists of a split-foyer, 1,276-square-foot single-family home built in 1969 and is currently occupied as a single-family home rental with an existing family day home. The applicant has permission from the homeowner to operate the current family day home.

The home is located on a cul-de-sac with ingress/egress on Jade Court NW. There is an existing 4-foot-wide sidewalk across the front of the property.

The applicant has included photos of both the interior and exterior of the property currently being used as a family day home (Attachment 5) As can be seen in the photos provided by the applicant and in Figure 2, the existing .25-acre lot contains the original existing single-family detached home, along with a fenced-in backyard and outdoor play area. The only notable change in the original constructed building on the site is an addition added to the rear of the home in 1981.

Figure 2 – 2023 aerial image of site
Source: Eagleview/CONNECT Explorer

The subject site is designated as Low-Density Residential Future Land Use in the Town of Vienna Comprehensive Plan (Figure 3). Low-Density Residential Land Uses are predominately single-family detached dwellings on larger lots in the Town. The site is surrounded to the north, south, east and west by land also designated as Low-Density Residential.

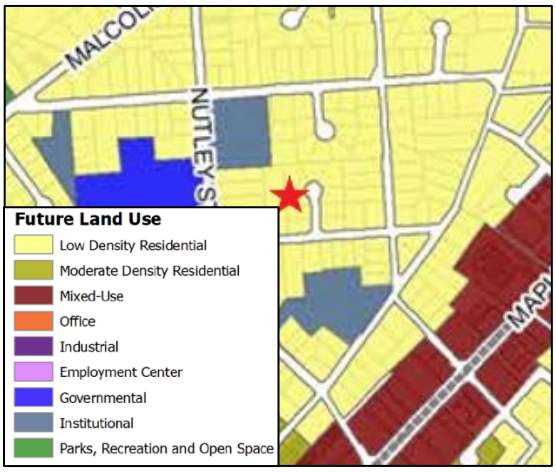

Figure 3 – Town of Vienna Future Land Use Map
Source: Town of Vienna 2015 Comprehensive Plan

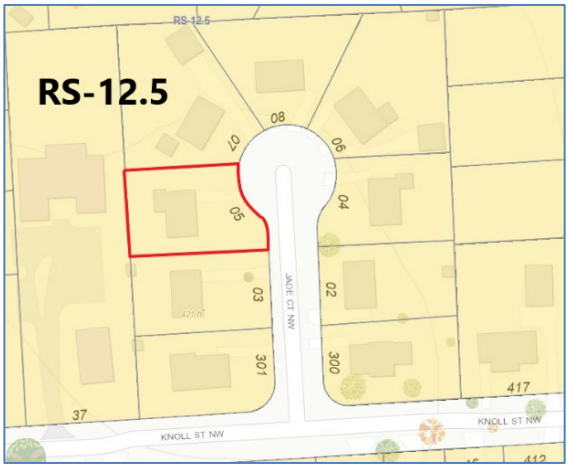

Figure 4 – Town of Vienna Zoning Map
Source: Town of Vienna GIS mapping

As shown in Figure 4, the lot is zoned RS-12.5, Single-Family Detached Residential, Residential, Single-Unit, on the Town of Vienna Zoning Map. The RS-12.5 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 12,500 square feet, or approximately 1/4 acre. Other uses may be allowed in the RS-12.5 zone as conditional uses, per Section 18-305, Accessory Uses Table, of the Zoning Ordinance. The subject site is surrounded by land also zoned RS-12.5.

I. BACKGROUND

The applicant and her spouse currently lease 305 Jade Court. The applicant has received written permission from the property owner to operate a family childcare business out of the home. In 2017, the applicant received a Home Certificate of Occupancy for a Home Occupation from the Town to care for up to seven children in the home. In 2019, she was granted a Conditional Use Permit (CUP) from the Town for a Family Day Home allowing care for up to 12 children. The CUP was valid for 24 months, with the condition once the time expired, the applicant must reapply for a continued CUP for up to twelve children. In 2021, the current resident/tenant was granted a new CUP, again allowing a family day home for up to twelve children. This most recent CUP also contained a renewal condition for the CUP, this time with the expiration time period of 36 months, or on August 6, 2024.

The property located directly across from the site, 304 Jade Court, also contains a family day home. This business is currently operating under a Certificate of Occupancy issued by the Town for a home business to care for up to four children in the home. The Planning Commission, at their May 22, 2024, meeting, reviewed an application for 304 Jade Court for a Conditional Use Permit to operate a Family Day Home for up to 12 children. The Planning Commission forwarded a recommendation of denial to the Board of Zoning Appeals citing concerns about increased traffic, limited parking, and the safety of children and pedestrians in the cul-de-sac and walking to neighborhood schools.

II. EXISTING/PROPOSED USE

The applicant is requesting to keep the current operation hours from 7:00 a.m. to 6:00 p.m., Monday through Friday. In the applicant's narrative, she states that she currently has 12 children enrolled and one resident employee in addition to herself. Trash is stored in a 64-gallon container and will not exceed typical residential waste capacity of a single-family home.

The existing use takes place in the basement area of the home. The interior area used for the family day home currently is approximately 364 square feet. In this space exists activity areas, a bathroom, and one entry/exit point (see Attachment 4).

The play area in the rear yard behind the home encompasses the full backyard, which is surrounded by a 6-foot wooden privacy fence that has an entry point/gate on the left side, if facing the front of the property. There is some vegetative buffering on site along the perimeter of the backyard, including mature trees offering shaded areas. Multiple pieces of play equipment are offered in this area for a variety of age groups. The entrance to the basement and family day home is accessed by entering the backyard gate and following a designated path to the basement door.

The operators will be using a combination of on-site parking in the existing driveway, and on-street parking on Jade Court. The applicant states that loading will occur in front of the home and that family drop-off and pickup will be brief and staggered. The applicant has included a sample drop-off and pickup sign-in sheet typical of the currently used process in Attachment 3. In addition, the applicant states they can park at least 2 vehicles in the existing driveway and can accommodate around 4 cars directly in front of the house. Further, the applicant states that there are 17 available parking areas within Jade Court, and that, on average, the existing business uses no more than 3 spaces at any given time.

The applicant also states that, since their last CUP was issued for the family day home in 2021, they have not had any issues related to parking.

III. 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 continue operating an existing successful home business. As home businesses are designed to create a similar character to typical residential uses, the use is consistent with the Low-

Density Residential designation; the property's density will not change with the continuation of this use on 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 8) 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 the current operation on site, 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 currently holds a Virginia State Family Day Home license, which expires June 4, 2025.

  B. *Maximum number of 12 children allowed; resident children shall be excluded (this aligns with State Code requirements).* The applicant is proposing to continue care for a total of 12 children and the applicant's resident children will be present on-stie during operating hours, but will not be present in the areas dedicated to the family day home.

  C. *Facility shall be principal residence of the operator.* The applicant has been leasing the residence where the family day home now operates, which will continue to be her principal residence.

  D. *The facility shall comply with all State and Town codes.* The applicant is aware of both State and Town code requirements.

  E. *One nonresident person may be employed.* The applicant is not proposing any non-resident employees. In addition to herself, one other resident will be assisting with the family day home operation.

  F. *Hours of operation are limited to 7:00 a.m. to 6:00 p.m., Monday through Friday.* The applicant is currently operating the permitted business from 7:00 a.m to 6:00 p.m., Monday through Friday and is proposing to continue with these hours.

G. *No exterior evidence of operation shall exist other than the play equipment.* No signs are proposed and currently, there is no evidence of the operation at this site, other than the existing backyard play area and play equipment.

H. *Adequate space should be provided for drop-off and pickup; staggering may be used.*

The Vienna Zoning Ordinance does not provide minimum required parking spaces for Family Day Homes. The applicant states that they can fit up to two vehicles or more on the site and about four vehicles in front of the house. After staff's analysis of the site, it appears the applicant is able to accommodate 2 vehicles on site, in addition to available space in the attached garage. Staff also found that up to four vehicles could be accommodated on-street, directly in front of the property, as the applicant has stated (Figure 5).

Figure 5 – 2023 aerial image of site; estimated parking areas in green.
Source: Fairfax County Aerials and staff illustrations

In addition to parking availability off-street, public parking is also available to patrons on-street, on Jade Court NW, a public street. 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 bousing 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 6 illustrates possible available parking spaces at various points within the cul-de-sac. Staff estimates that at least 15 vehicles at any given time can be accommodated on Jade Court. Although time spent on site by each patron is likely to be minimal, and it is unlikely that all potential 12 vehicles associated with this application would be arriving and parking simultaneously, staggering arrivals and departures should be considered. As this is an application for Conditional Use, additional conditions specifically to address parking based on the maximum number of vehicles expected to be on-site at any one time may also be considered.

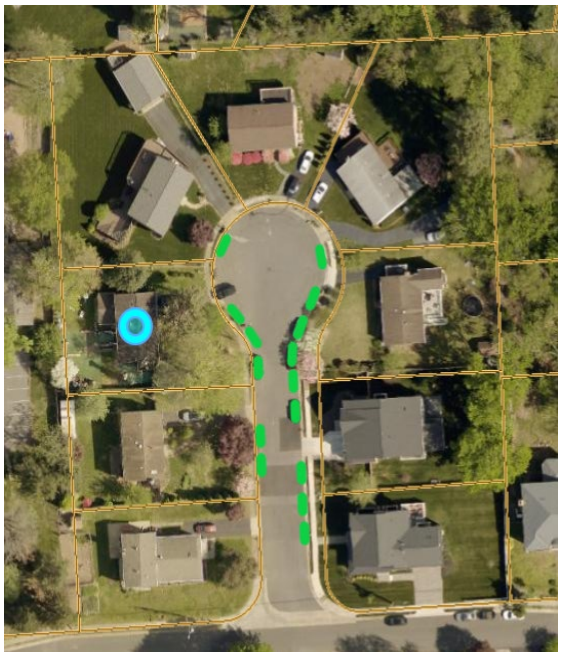

Figure 6 – 2023 aerial image of site; estimated parking areas in green.
Source: Fairfax County Aerials and staff illustrations

parking permit signage at entrance to Jade Court NW

In addition, there is signage at the entrance to Jade Court NW indicating that a parking permit is required between the hours of 7:00 a.m. and 3:00 p.m. The Town of Vienna Police Department is responsible for issuing parking permits in restricted areas within the Town. To receive a parking permit, proof of residence within the restricted parking area must be provided. Temporary parking permit passes of one-to-two days are also available to residences within restricted parking areas. Currently, there are 8 active parking permits for Jade Court NW. Staff is unaware of any parking violations issued for Jade Court.

Parking permit violations are enforced by the Town Police Department. Much of the enforcement stems from a citizen reporting a vehicle parked in an area without the proper permit. If an officer observes a vehicle physically parked in the restricted area without the proper permit, a parking citation will be issued.

Dropping off and picking up packages and people is a frequent activity in any neighborhood and is typically not enforced as a parking violation. As each instance is brief, police officers are typically not at the location to assess how long a vehicle has been parked in one place.

I. *The Board of Zoning Appeals may require landscaping and screening.* The backyard has a 6-foot

privacy fence, accompanied by a few mature shade trees. To date, staff have not received any complaints from neighbors regarding privacy or sound impacts to date.

J. *Any changes requiring an amendment.* The applicant has not indicated any future changes to the property or use as presented.

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

Summary

Staff believes that, as presented and compared to current conditions, the applicant's request to continue the 12-children family day home use at 305 Jade Court as currently operated 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 generally aligns with the Town's Comprehensive Plan and is an established business in the Town. The family day home has been in operation in the Town for over 8 years and fulfills an existing need for childcare within the area. The existing use has been providing adequate space for staggered drop-off and pickup since the operation began and meets the required standards for Family Day Homes under the 2024 Town of Vienna Zoning Ordinance.

As this is an application for a Conditional Use, the Board of Zoning Appeals may consider conditions to address specific concerns which fall under the Conditions for Approval, as described in section V., below. Staff presents the following conditions for consideration, should the Board of Zoning Appeals grant the conditional use:

- The Conditional Use Permit shall be declared null and void if the lease permitting the applicant to reside in the house expires.
- A copy of the active lease will be provided to Town staff and kept on file by the applicant, the property owner, and the Town.
- Each active lease must list the operator of the family day home as a resident Tenant.

Staff notes that the applicant's two previous Conditional Use Permit applications were approved by the Board of Zoning Appeals with conditions that required renewal of the permit after a specified period. The purpose of those conditions was to determine if any negative impacts from the use would lead the Board to not permit continuance of the use. With this application for renewal, the Board of Zoning Appeals may consider whether the renewal requirement is still warranted.

IV. PUBLIC COMMENTS

As of July 9, 2024, no comments have been received by the Town regarding this application.

V. 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 08).

§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.

VI. PLANNING COMMISSION RECOMMENDATION

The Planning Commission will be meeting to generate its recommendation on July 10, 2024. Subsequent to the meeting, the Planning Commission Chair will produce a memorandum reflecting the Commission's discussion. That memorandum will be provided as Attachment 9 to this staff report, along with any written comments from the public, forwarded to the Board of Zoning Appeals, and made available for public review.