




STAFF REPORT COVER SHEET

June 5, 2024

Address	108 Yeonas Circle SE	Case Number	PF-1032500-BZA
Regular Meeting Date	6/5/2024	Applicant	Happy Younglings Family Daycare
Board/Commission	Board of Zoning Appeals	Owner	Tania Giviani-Faris & Kambiz Faris
Existing Zoning	RS-10	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	30,171 square feet / 0.69 acres		
Public Notice Requirements:	<ul style="list-style-type: none"> • 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 May 23, 2024 and May 30, 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 May 24, 2024 notifying residents of the upcoming Board of Zoning Appeals meeting. • Certified letters are required to be sent to property owner and surrounding property owners at least 5 days prior to the public hearing. Staff mailed letters on May 24, 2024. • 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 May 24, 2024. • A certified letter is required to be sent to the applicant and/or owner at least 10 days prior to the public hearing. Staff sent a certified letter to the applicant on May 24, 2024. 		
Official Submission Date for Approval:	On April 11, 2024, the application was deemed by staff to be complete.		
Deadline for Action:	The BZA should take action by July 10, 2024, which is 90 days after the application was deemed complete. The Planning Commission will have its May and June 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.		

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Brief Analysis	
<p>PROPERTY HISTORY</p> <p>The current home was built in 1959. The current owners purchased the home in 2008 and received a permit to operate a “home daycare” for no more than 8 children in 2009. In 2018, a conditional use permit was approved to allow care for up to 10 children, with a condition requiring that the conditional use permit be renewed after 1 year. The conditional use permit was renewed in 2019, and the renewal condition was removed at that time.</p>	
<p>COMPATIBILITY WITH THE COMPREHENSIVE PLAN</p> <p>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.</p>	
<p>COMPATIBILITY WITH THE ZONING ORDINANCE</p> <p>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 Permit (CUP) be approved for a Family Day Home to provide care to 5-12 children. (Fewer than 4 children is permitted without a CUP. More than 12 children are not permitted under any conditions 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.</p>	
<p>Attachments:</p>	<p>01 – Staff Report 02 – Application & Authorization 03 – Applicant Narrative and Documents 04 – Site Plan and Floor Plan 05 – Applicant Photos 06 – Previous Approvals 07 – Relevant Regulations 08 – Planning Commission Memo 09 – Notification Affidavit</p>
<p>Author:</p>	<p>Maggie Costello, Principal Planner</p>

I. EXISTING SITE CONDITIONS:



The subject property currently consists of a split-foyer, 1,450-square-foot single-family home built in 1959 and is currently occupied as a single-family home with an existing family day home.

The home is located on a cul-de-sac with ingress/egress on Yeonas Circle SE, in the 100 block. The existing .69-acre lot contains the existing single-family detached home, along with a large patio area, fenced-in area in the backyard with play equipment. There is an existing 4-foot-wide sidewalk across the front of the property.

Figure 1 – Street view of front of home.
Source: Staff Photo of Site 4/18/24

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. Figure 3 is an aerial image of the subject site from 2023. The parcel lines and land use have remained unchanged over the 50-year period, and the only notable change to the site is the expansion of the driveway and the backyard recreational area.



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

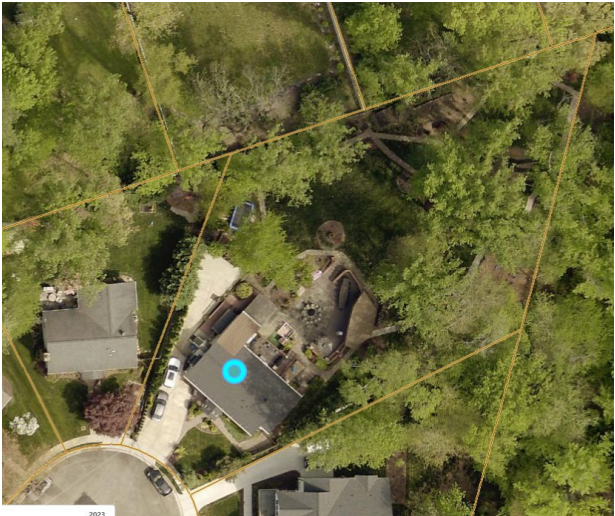


Figure 3 – 2023 aerial image of site
Source: Fairfax County Aerials

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

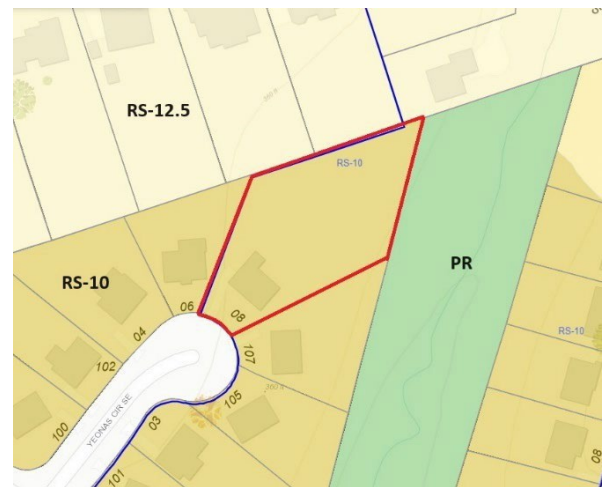


Figure 5 – Town of Vienna Zoning Map
Source: Town of Vienna GIS mapping

The subject site is designated as Low-Density Residential Future Land Use in the Town of Vienna Comprehensive Plan (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 north, south, southeast, and west by land also designated as Low-Density Residential. To the east, the site abuts a Vienna Stream Valley park, whose Comprehensive Plan land use designation is Parks, Recreation and Open Space.

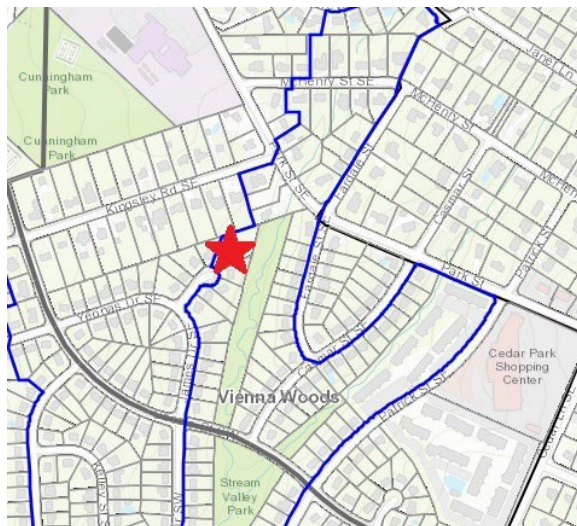


Figure 6 – Site location within Town's designated RMA. Source: Fairfax County Aerials

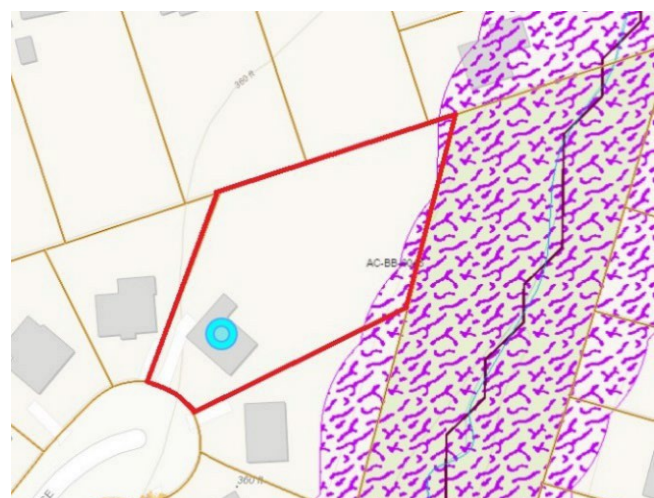


Figure 7 – 100-foot stream buffer shown in Purple encompassing Accotink Creek
Source: Fairfax County Aerials

As seen in Figure 6, the subject site is within the Town's designated Resource Management Area, or RMA. RMAs are components of the Chesapeake Bay Preservation Area (not classified as a Resource Protection Area, or RPA). Land in this area may have floodplains, highly erodible soils and/or slopes in excess of 15%, highly permeable soils, or other lands identified by the Town to be protected for state water quality.

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A small portion to the rear of the lot (approximately 6%) contains an area within the 100-foot stream buffer for Accotink Creek, which runs parallel to the property (Figure 7). This stream buffer is used to estimate a floodplain when no other floodplain study has been conducted and is applied to stream segments with a drainage area of greater than 70 acres but less than 360 acres.

As shown in Figure 5, the lot is zoned RS-10, Single-Family Detached Residential, Residential, Single-Unit, on the 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 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 west and south by land also zoned RS-10. To the north of the site, land is zoned RS-12.5, Single-family detached residential. RS-12.5 is also one of the implementing zones within the Low Density Residential Future Land Use designation. To the east of the site lies Accotink Creek, which is encompassed by the zoning designation PR, Parks and Recreational. The subject site's northeastern boundary abuts this designation (see Figure 5). Uses in the PR zone typically contain parks, playgrounds, and stream valley parks, along with conditional uses such as recreational facilities, athletic fields, swimming pools, tennis courts, etc.

II. SITE HISTORY

The owners of the property initially began a home daycare through a certificate of occupancy issued in 2009 to allow for no more than five children, in addition to their own children; and not to exceed eight children in total. In 2013, a new certificate of occupancy was issued to allow seven children plus one preschooler, not to exceed eight children. The preschooler was intended to be involved in some other schooling program that is off the premises during some portion of the work week.

In 2018, the applicants requested a Conditional Use Permit to increase attendance to 10 children. In this application, space for 7 to 11 parked vehicles were identified for short-term parking between the existing driveway and on-street parking in the cul-de-sac. Hours of operation were proposed to be from 7:30 a.m. to 6:00 p.m. The applicants had two off-site employees, but at different times (one between 7:30 a.m. to 3:00 p.m., and the other 3:00 p.m. to 6:00 p.m.). The Town approved the Conditional Use Permit with the condition that they return in one year to renew the Conditional Use Permit. This was done to ensure the operation is successful and did not create negative impacts to the surrounding area. In 2019, the applicants returned for their Conditional Use Permit renewal. The permit was renewed, and the renewal condition was removed.

In March 2024, the applicants met with staff to explore the possibility of increasing attendance again, to 12 children, to accommodate existing patrons' siblings.

The applicants created the play area adjacent to the wooded area behind the property to help mitigate any playground noise heard by neighboring properties. Since the Conditional Use Permit was issued in 2019, the applicants have expanded their driveway to increase on-site parking. To continue their efforts in sound mitigation, they have also planted close to 60 evergreen trees, on all borders of the property, which now range anywhere from 15 to 30 feet in height. To date, Planning and Zoning records reveal no violations or neighborhood complaints having been received by Town staff regarding this use.

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III. EXISTING/PROPOSED USE

The applicants are requesting to keep the current operation hours from 7:30 a.m. to 6:00 p.m., Monday through Friday, with this expansion request. One non-resident employee is proposed during these hours, in addition to the homeowners/operators of the business. The applicants have stated that they have minimal amounts of trash for pick-up and that odors have not been an issue.

The existing use takes place in the lower level of the home, which is accessed by utilizing stairs from the entry area leading down to the family day home area. The interior area used for the family day home currently is approximately 1,200 square feet. In this space exists a play area, small kitchen, full bathroom, and three entry/exit points (see Attachment 4). The applicants have 7 fire, smoke, and carbon monoxide alarms throughout the home, and 3 fire extinguishers. The applicants include the children in monthly fire drills to ensure safety. The applicants also offer handicap access to both the indoor daycare and outside playground area.

The existing large play area in the rear yard behind the home is approximately 15,000 square feet (see Attachments 4 & 5). The yard is fully fenced in, with gates on either side of the property, and has a natural surrounding wooded buffer area. Multiple pieces of play equipment are offered in this area for a variety of age groups.

The homeowners/operators are currently able to accommodate approximately 5 vehicles in the existing driveway, which includes one of the applicant's vehicles. They have stated that current patrons of the business typically utilize the on-street parking space available directly in front of the home, giving a total of 6 available car parking areas in and in front of the site. In addition, the applicants also offer nearby James Drive as having available additional parking if necessary.

Drop-off and pick-up times are typically staggered between 7:30 a.m. and 10:00 a.m. and the operators also offer a call-ahead option to make sure children are ready to leave promptly once the patrons arrive. The applicants state that they have been successful in ensuring that patrons remain on site for a brief time period with the current operation.

The applicants voluntarily provide a letter to every patron outlining where parking is available, along with drop-off and pickup times and procedures (see Attachment 3). No changes are proposed to the current approach.

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.

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The site is designated as Low Density Residential on the Town's Future Land Use Map. The applicant is proposing to expand their home business. The use is consistent with the Low-Density Residential designation; the density will not change with the expansion 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.

- *Location within Resource Management Area (RMA) and 100-foot Accotink stream buffer.*

There will be no impact to the RMA or to the 100-foot stream buffer, as there are no land disturbances proposed on-site with this application.

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 07) 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.* As the applicants already hold a Conditional Use Permit to operate a family day home for up to 10 children, they also hold the required licensure.
 - B. *Maximum number of 12 children allowed; resident children shall be excluded (this aligns with State Code requirements).* The applicants are proposing to care for a total of 12 children and are aware of this exclusion.
 - C. *Facility shall be principal residence of the operator.* The applicants are both the homeowners and residents at this location.
 - D. *The facility shall comply with all State and Town codes.* The applicants currently comply with the State and Town codes.
 - E. *One nonresident person may be employed.* The applicants have one non-resident employee and will continue employing the same employee.

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- 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 7:30 a.m. to 6:00 p.m., Monday through Friday and will continue with these hours.*
- G. *No exterior evidence of operation shall exist other than the play equipment. No signs or evidence of the operation exist at this site other than the existing backyard play area and play equipment. No changes to the play area are proposed.*
- 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 applicants have been continually utilizing parking for up to 4 patrons on site, and 1 off-site immediately in front of the home. After staff's analysis of the site, Figure 8 appears to provide parking for a maximum of up to 6 vehicles on site, which would include spaces for two of the homeowner's vehicles to the rear of the driveway. This estimate considers applicants' statement that existing patrons are already briefly stacking vehicles in the driveway, and that this seems to be the preferred parking area used the most in the past 15 years of operation.

In addition to parking availability off-street, public parking is also available to patrons on-street, on Yeonas Circle SE, a public street. The Vienna Town Code, Section 9-12.3 provides specific restrictions regarding parking on public streets:



Figure 8 – 2023 aerial image of site; parking areas in green. Source: Fairfax County Aerials and staff illustrations

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.

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- 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 9 illustrates possible available off- and on-street parking areas directly in front of the property and at various points within the cul-de-sac. In this illustration, the possibility exists for off-street parking for up to 4 patron vehicles, and at least 8 on-street parking spaces on Yeonas Circle (parking in green).

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 be considered. Staff estimates 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. Given that arrivals and departures to and from the site are likely to be staggered, and time spent on site by each patron would be minimal, it is also unlikely all 12 vehicles would be arriving and parking simultaneously.



Figure 9 – 2023 aerial image of site; parking areas in green.

Source: Fairfax County Aerials and staff illustrations

- The Board of Zoning Appeals may require landscaping and screening.* Staff does not believe that additional landscaping and screening is necessary for this use. The play area in the rear of the yard is enclosed with wood fencing. The applicants have provided a generous amount of screening on the site to help mitigate impacts to surrounding properties. It is not anticipated that noise will increase beyond typical noise allowable in residential areas given the current landscaping and screening being used on this site.
 - 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.* Includes the provision that Family Day Homes caring for more than four (4) children requires a Conditional Use Permit.

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Staff believes that, as presented, the applicant's proposed increase in children on the site from 10 to 12 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. In addition, performance under the existing Conditional Use Permit for the past 15 years has not led to adverse impacts of which staff is aware. However, 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.

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 07).

§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 heard the request for a Conditional Use Permit to expand a Family Day Home from 10 children to 12 at their regular April 24, 2024 meeting. During the public

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hearing, one Town resident and current patron of the existing Family Day Home spoke in favor of the requested expansion. She noted that the existing staggered drop-off and pick-up of the children that is implemented by the applicant results in very few cars being parked on the street at any given time. No written or spoken opposition of the application was received.

After hearing from the applicant, the Planning Commission briefly discussed the possibility of adding more restrictions where patrons could park. The Commission also highlighted the lack of complaints from neighbors and violations, along with alignment with the Comprehensive Plan's support of home-based businesses. The Planning Commission voted 7-0 on a motion to recommend approval to the Board of Zoning Appeals. A memo from the Planning Commission chair is included with this application (see Attachment 08).