



APPLICATION ACCEPTED: August 31, 2012
BOARD OF ZONING APPEALS: November 28, 2012
TIME: 9:00 a.m.

County of Fairfax, Virginia

November 21, 2012

STAFF REPORT

SPECIAL PERMIT APPLICATION NO. SP 2012-SP-059

SPRINGFIELD DISTRICT

APPLICANT: Monika E. Jedrol

OWNERS: Monika E. Jedrol
Jozef Jedrol

ZONING: R-3 (Cluster)

LOCATION: 6117 Lundy Place, Burke, 22015

SUBDIVISION: Bent Tree

ZONING ORDINANCE PROVISIONS: 8-305 and 8-914

TAX MAP: 78-4 ((13)) 331

SQUARE FOOTAGE: 11,423 square feet

SPECIAL PERMIT PROPOSALS: To permit a home child care facility and to permit reduction of minimum yard requirements based on an error in building location to permit an accessory storage structure to remain 2.6 feet from a side lot line.

STAFF RECOMMENDATION: Staff recommends approval of SP 2012-SP-059 but only subject to the proposed development conditions contained in Appendix 1.

It should be noted that it is not the intent of staff to recommend that the Board, in adopting any conditions, relieve the applicants/owners from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

O:\dhedri\Special Permits\11-28) SP 2012-SP-059 Jedrol (home child care)\SP 2012-SP-059 Jedrol staff report.doc
Deborah Hedrick

It should be further noted that the content of this report reflects the analysis and recommendations of staff; it does not reflect the position of the Board of Zoning Appeals. A copy of the BZA's Resolution setting forth this decision will be mailed within five (5) days after the decision becomes final.

The approval of this application does not interfere with, abrogate or annul any easements, covenants, or other agreements between parties, as they may apply to the property subject to the application.

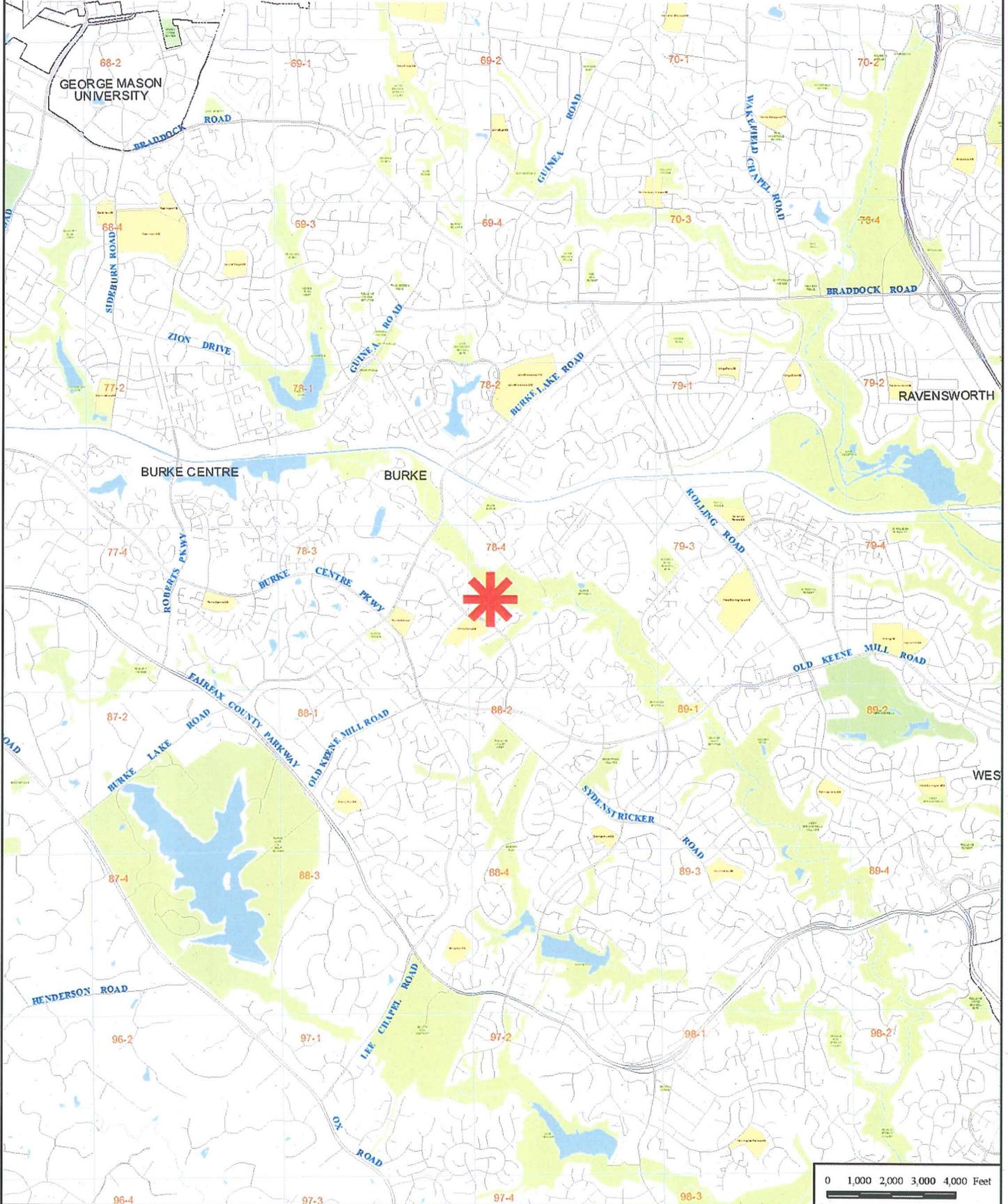
For additional information, call Zoning Evaluation Division, Department of Planning and Zoning at 703-324-1280, 12055 Government Center Parkway, Suite 801, Fairfax, Virginia 22035. **Board of Zoning Appeals' meetings are held in the Board Room, Ground Level, Government Center Building, 12000 Government Center Parkway, Fairfax, Virginia 22035-5505.**



Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 7 days advance notice. For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).

Special Permit

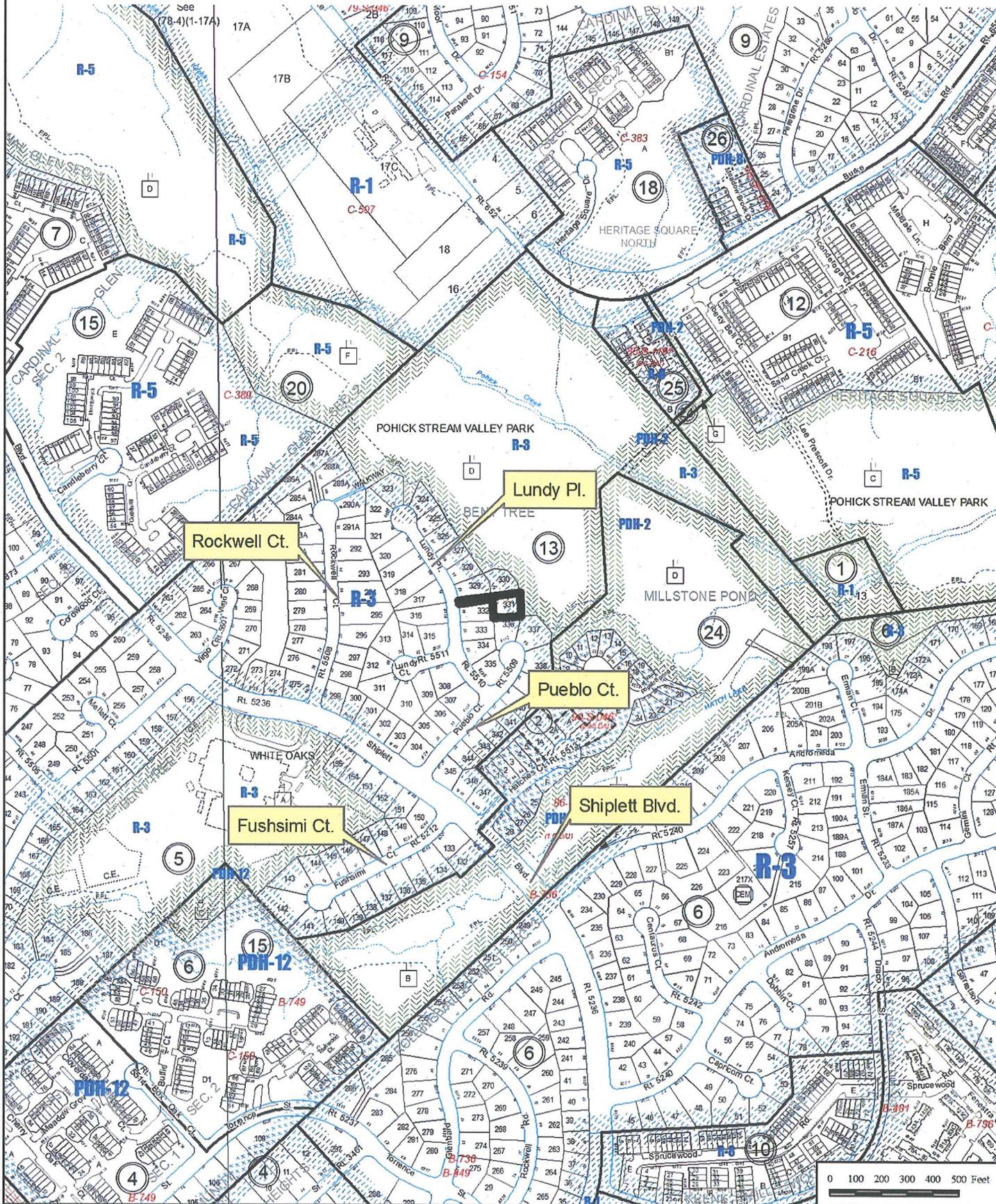
SP 2012-SP-059
MONIKA E. JEDROL

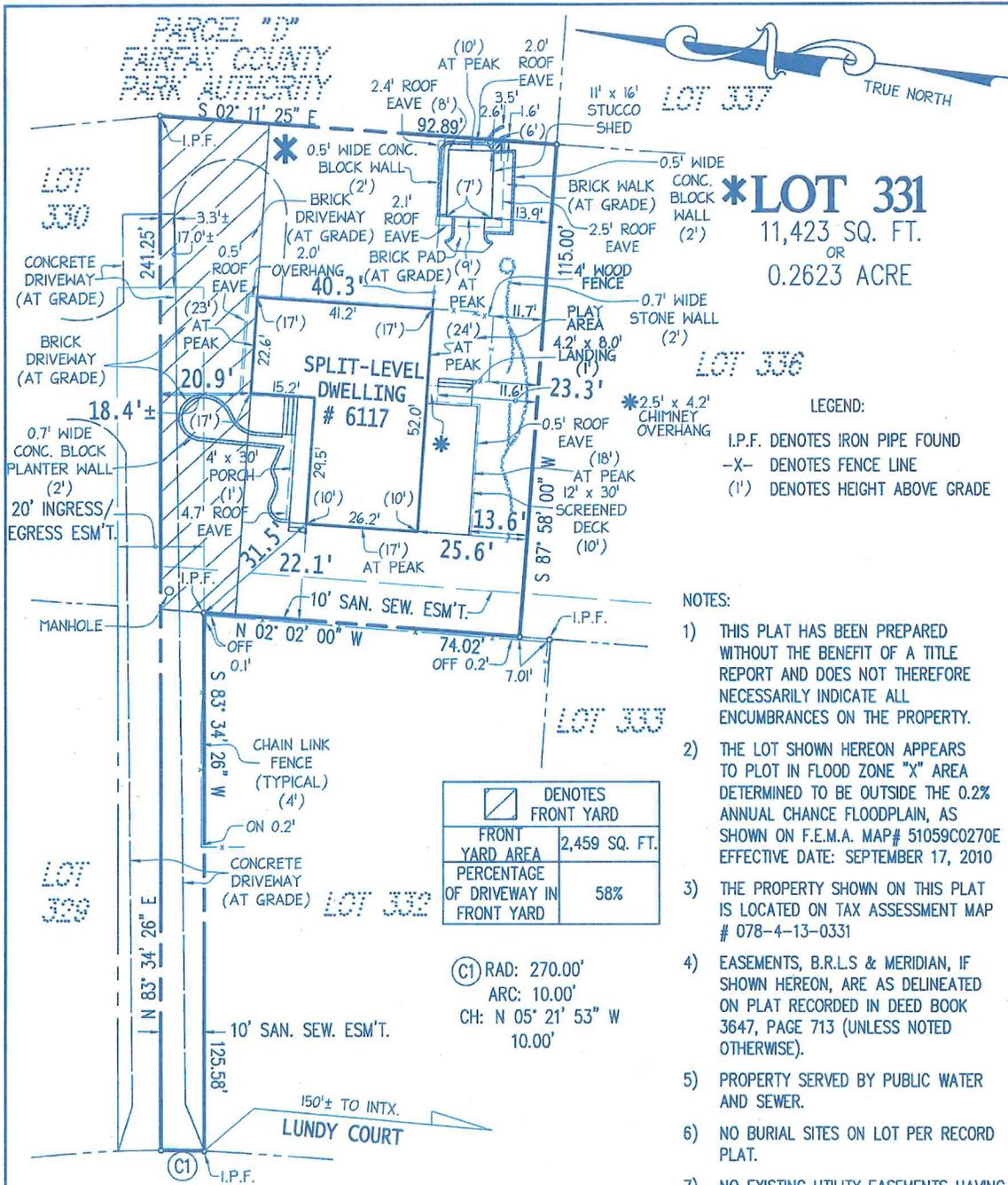


Special Permit

SP 2012-SP-059

MONIKA E. JEDROL





*** LOT 331**
 11,423 SQ. FT.
 OR
 0.2623 ACRE

LEGEND:
 I.P.F. DENOTES IRON PIPE FOUND
 -X- DENOTES FENCE LINE
 (1') DENOTES HEIGHT ABOVE GRADE

- NOTES:
- 1) THIS PLAT HAS BEEN PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT AND DOES NOT THEREFORE NECESSARILY INDICATE ALL ENCUMBRANCES ON THE PROPERTY.
 - 2) THE LOT SHOWN HEREON APPEARS TO PLOT IN FLOOD ZONE "X" AREA DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN, AS SHOWN ON F.E.M.A. MAP# 51059C0270E EFFECTIVE DATE: SEPTEMBER 17, 2010
 - 3) THE PROPERTY SHOWN ON THIS PLAT IS LOCATED ON TAX ASSESSMENT MAP # 078-4-13-0331
 - 4) EASEMENTS, B.R.L.S & MERIDIAN, IF SHOWN HEREON, ARE AS DELINEATED ON PLAT RECORDED IN DEED BOOK 3647, PAGE 713 (UNLESS NOTED OTHERWISE).
 - 5) PROPERTY SERVED BY PUBLIC WATER AND SEWER.
 - 6) NO BURIAL SITES ON LOT PER RECORD PLAT.
 - 7) NO EXISTING UTILITY EASEMENTS HAVING A WIDTH OF TWENTY-FIVE FEET OR MORE PER RECORD PLAT.

	DENOTES FRONT YARD
FRONT YARD AREA	2,459 SQ. FT.
PERCENTAGE OF DRIVEWAY IN FRONT YARD	58%

(C1) RAD: 270.00'
 ARC: 10.00'
 CH: N 05° 21' 53" W
 10.00'

LUNDY PLACE
 (50' WIDE) CENTERLINE

SPECIAL PERMIT PLAT
LOT 331
BENT TREE
 SPRINGFIELD DISTRICT
 FAIRFAX COUNTY, VIRGINIA



SETBACK TABLE
 ZONED R3

SETBACK REQUIREMENTS	
YARD	SETBACK
FRONT	20'
REAR	25'
SIDE	8' OR A TOTAL OF 20'

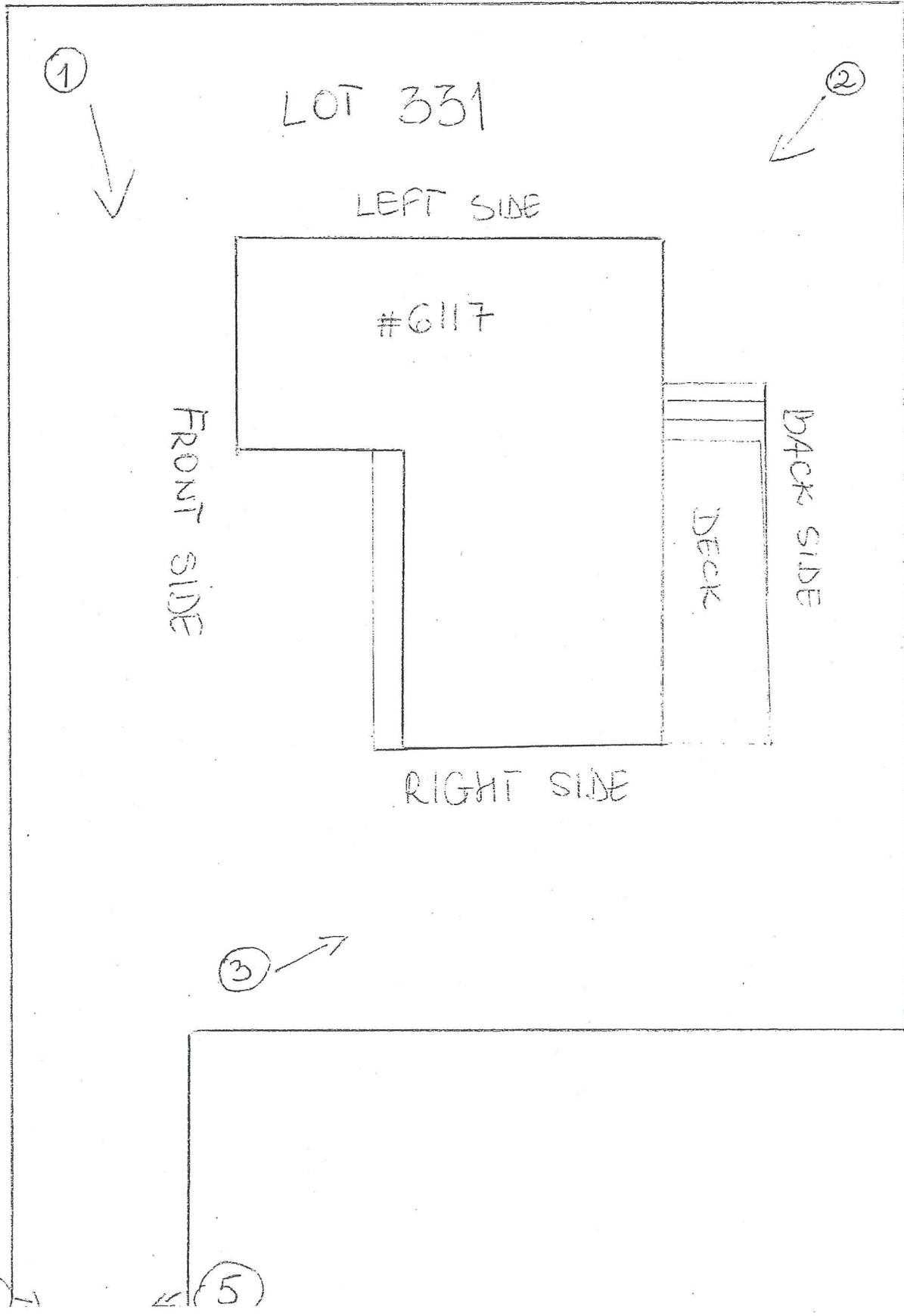
REVISION: 10/16/12 (FRONT YARD AREA) **101**
 REVISION: 10/3/12 (IMPROVEMENTS)

B.W. SMITH AND ASSOCIATES, INC.
 PROFESSIONAL LAND SURVEYING
 MANASSAS, VIRGINIA (703) 368-5866 1(800) 682-0996

FIELD CREW: J. SEEGER
 REVISION: 9/25/12 (LABELS)
 REVISION: 7/31/12 (FENCE)
 JOB# 20121475
 DATE: 6/12/12

DFT: M.K.S. CHK: T.J.F. NO TITLE REPORT FURNISHED SCALE = 1" = 30'

RECEIVED
Department of Planning & Zoning
APR 16 2012
Zoning Evaluation Division



①

FRONT SIDE



4/6/12

②

BACK SIDE



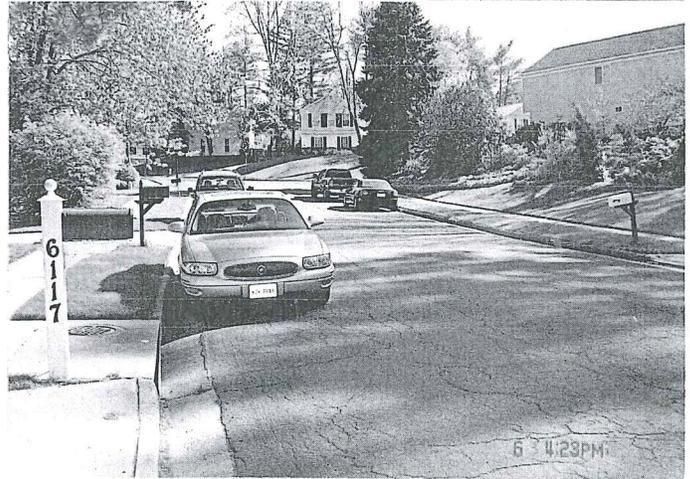
③

RIGHT SIDE



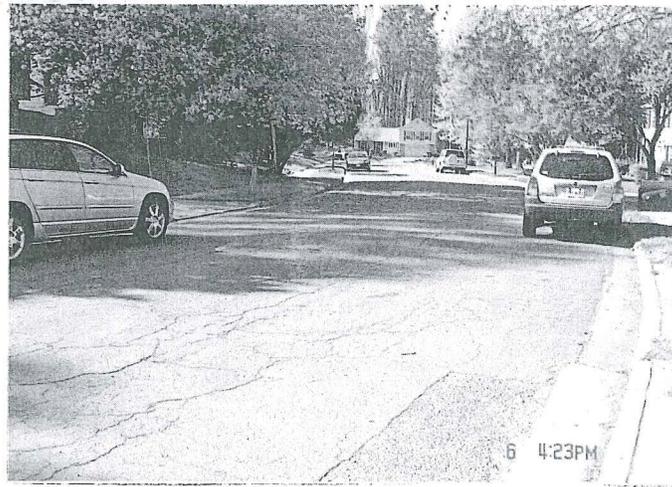
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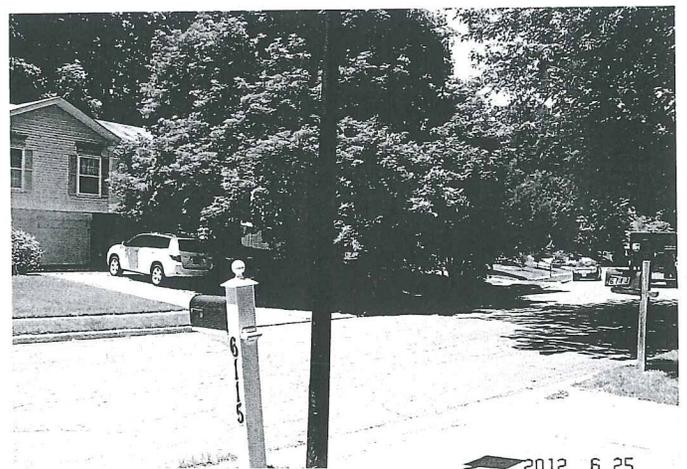
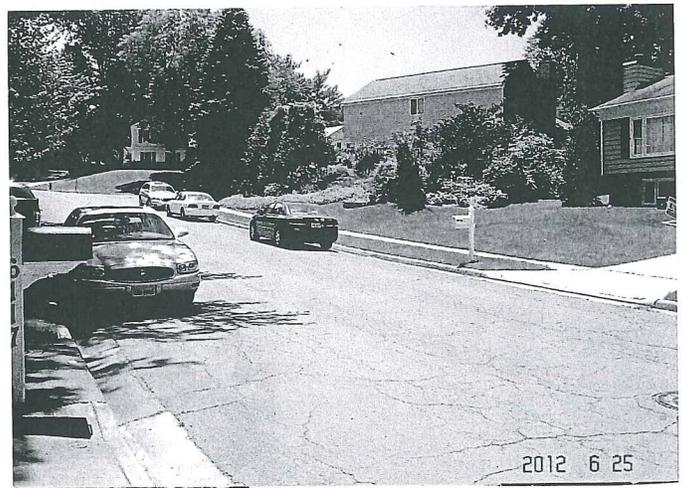
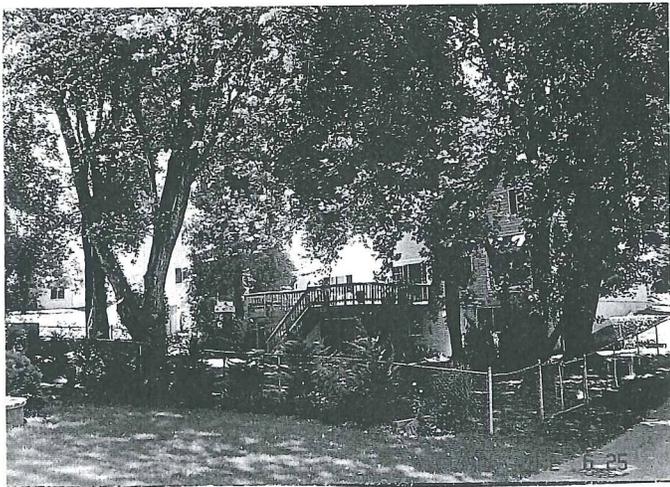
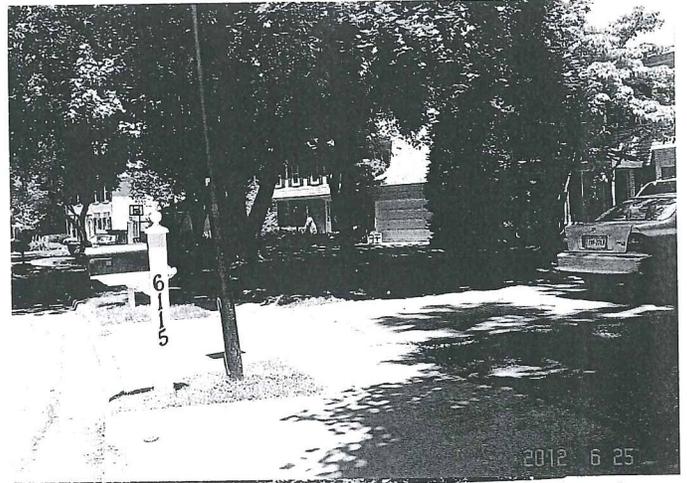
LEFT VIEW OF LUNDY PL.

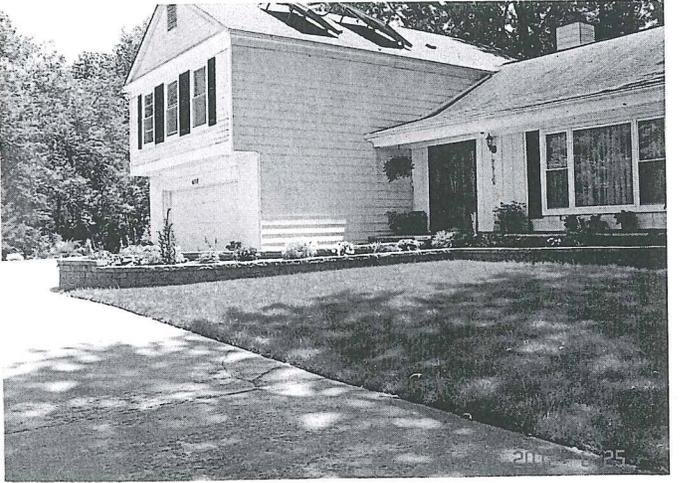
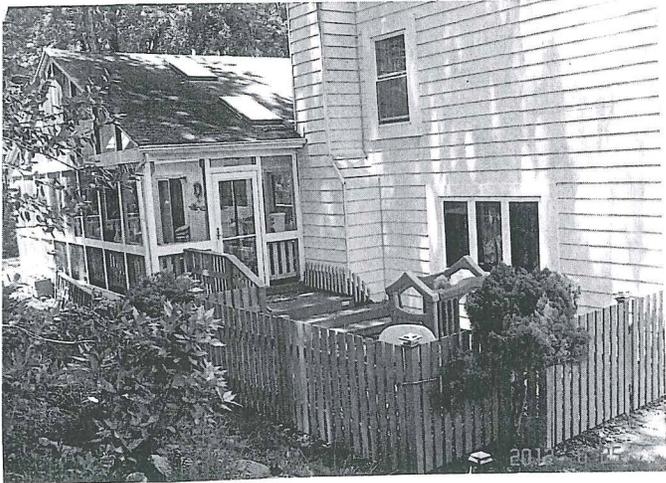
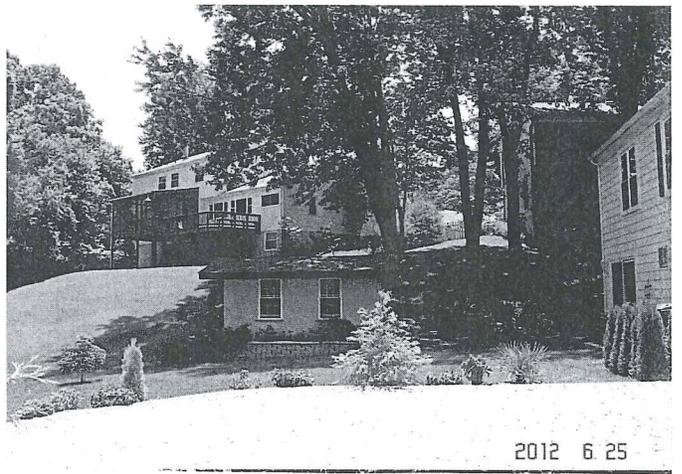


⑤

RIGHT VIEW OF LUNDY PL.







ROOMS USED FOR CHILDREN

4/6/12



BASEMENT ↗



KITCHEN ↗



← FAMILY



ROOM ↗



DECK ↗

DESCRIPTION OF THE APPLICATION

Special Permit Requests: To permit a home child care facility use.

Number of Children: The applicant proposes a maximum of 10 children on site daily. The applicant currently has 9 children who range in age from infant to 5 years old.

The Zoning Ordinance currently permits 7 children by-right; however, an applicant can request up to 10 children through special permit approval.

An amendment to the Fairfax County Zoning Ordinance is proposed to go before the Board of Supervisors (BOS) for authorization on December 4, 2012, which could among other things, allow an increase in the maximum number of children permitted by special permit from 10 to 12.

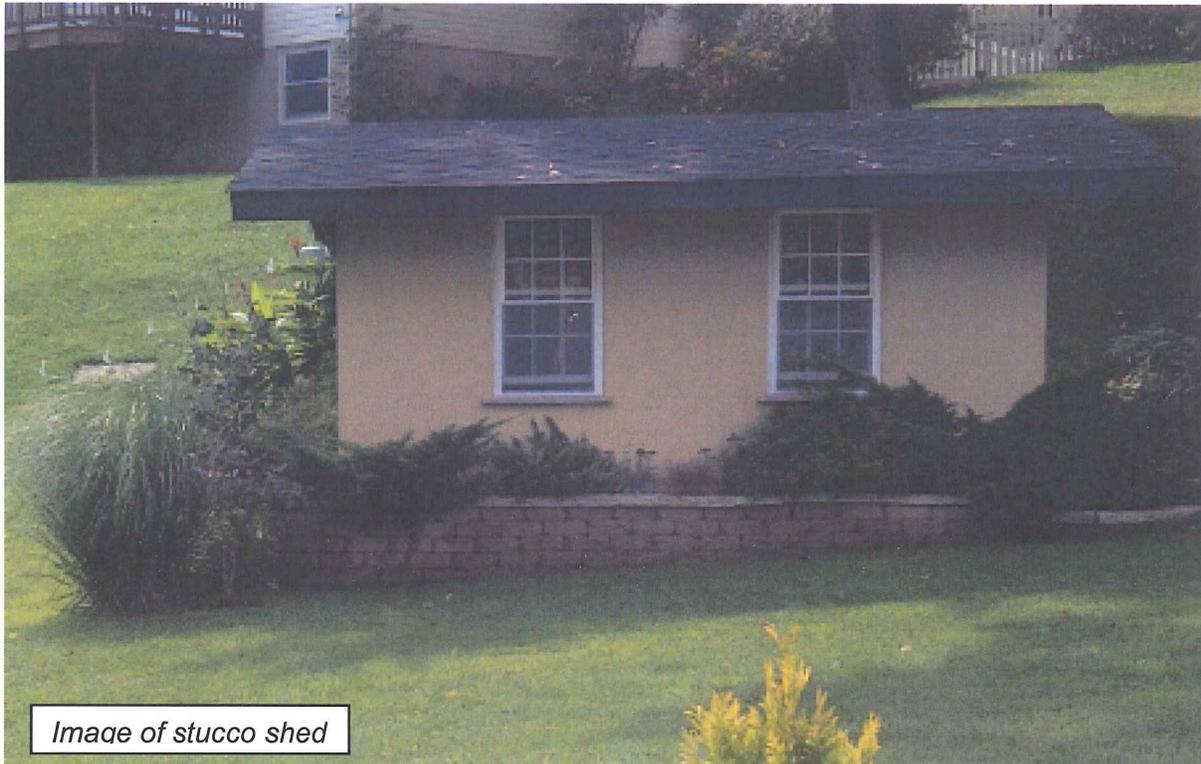
The Ordinance amendment, if authorized by the BOS, is tentatively proposed to go to public hearing before the Planning Commission (PC) on January 16, 2013, and a public hearing before the BOS on February 26, 2013.

If the Ordinance amendment is approved, the applicant has requested the ability to increase the maximum number of children from 10 to 12.

Hours of Operation: 7:00 a.m. – 6:00 p.m.
Monday through Friday

Employees: One or two employees are proposed depending on the age of the children, in addition to the applicant, Monika Jedrol.

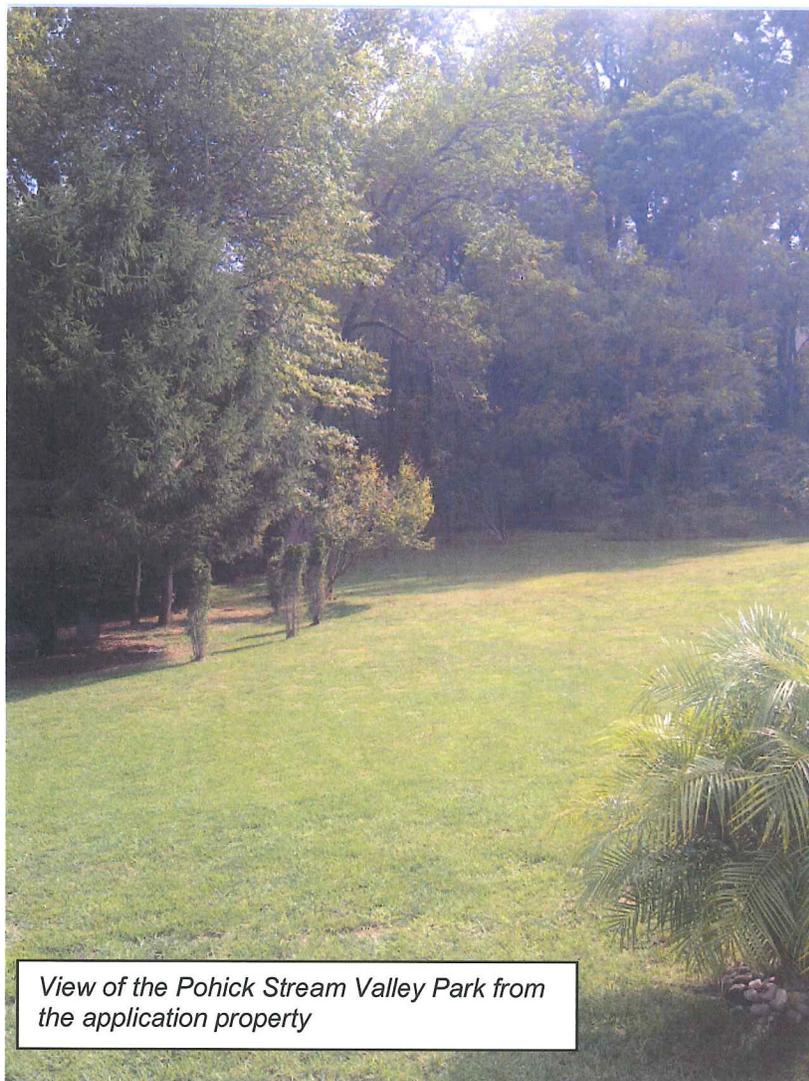
The applicant also requests special permit approval to permit reduction of minimum yard requirements based on an error in building location to permit an accessory storage structure, an 11 x 16 stucco shed, which measures 10 feet in height, to remain 2.6 feet to its eave from the eastern side lot line. As shown on the plat, the eaves on the structure range in size from 2.0 feet to 2.5 feet.



LOCATION AND CHARACTER OF THE AREA

Existing and Surrounding Site Description

The subject property is located at the end of a 20 foot ingress/egress pipestem easement which provides access to two parcels; the applicant property, Lot 331 and one additional lot to the north, Lot 330. The 11,423 square foot lot is located within the Bent Tree subdivision. The property is zoned R-3 and developed under the Cluster regulations. There is a single family, split level dwelling on the site which is accessed via a concrete and brick driveway from Lundy Place. A small fenced in area is located in the rear yard which serves as a play area with play equipment. An 11 x 16 detached stucco shed, 10.0 feet in height, is located in the southeastern portion of the lot. Single family detached dwellings are located to the north, east and west. The Fairfax County Pohick Stream Valley Park is located to the east of the subject property and is heavily wooded.



View of the Pohick Stream Valley Park from the application property

Direction	Use	Zoning
North	Single family detached dwelling	R-3 (Cluster)
South	Single family detached dwelling	R-3 (Cluster)
East	Fairfax County Park Authority – Pohick Stream Valley Park	R-3 (Cluster)
West	Single family detached dwelling	R-3 (Cluster)

BACKGROUND

On May 18, 2012, the applicant was issued a Notice of Violation (NOV) as a result of inspections made to the property between April 4, 2012 and May 15, 2012, which revealed the presence of a home child care facility with 12 or more children being cared for. A copy of the NOV is attached as Appendix 4. The applicant has a State license with the Virginia Department of Social Services which has an expiration date of November 12, 2012.

The applicant was issued a Vested Rights Determination dated October 22, 2012, attached as Appendix 5, to permit a screened porch located on the southern side of the dwelling to remain 13.6 feet from the rear lot line. A building permit was approved for the screened porch on May 6, 1987. At the time of the issuance of the building permit, the yard in question was considered a side yard, and at that time the screened porch met the minimum side yard requirement.

Article 11 of the Zoning Ordinance states:

"For single family detached dwellings on lots containing 36,000 square feet or less in the R-1, R-2, R-3 and R-4 Districts, all parking for vehicles or trailers in a front yard shall be on a surfaced area . . . In addition, in the R-1 and R-2 Districts, no more than twenty-five (25) percent of any front yard and in the R-3 and R-4 Districts, no more than thirty (30) percent of any front yard shall be surfaced area for a driveway or vehicle/trailer parking area . . . "

As shown on the special permit plat, approximately 58% of the front yard is covered with an impervious concrete and brick driveway used for the parking of vehicles. The applicant installed the brick paver portion of the driveway after purchasing the home in 2007. The applicant has indicated to staff that she will remove a portion of the brick paver driveway located along the side of the dwelling in order to meet the maximum coverage of 30% permitted in the R-3 Zoning District. Therefore, staff has included a development condition to resolve this issue.



ANALYSIS

Special Permit Plat (Copy at front of staff report)

Title of SP Plat: Special Permit Plat, Lot 331, Bent Tree, Springfield District

Prepared By: B.W. Smith and Associates, Inc.

Dated and Sealed: June 12, 2012, as revised through October 16, 2012

Proposed Use:

The applicant requests approval to permit a home child care facility with a maximum of 10 children, between the ages of infant to five (5) years old in a single-family detached dwelling. Par. 6 of Sect. 10-103 limits seven (7) children to a home child care facility within a single family detached dwelling as a permitted accessory use. The standards also state that the home child care facility must be operated by the licensed child care provider who is the primary dweller of the residence. The applicant, Monika Jedrol, is the operator of the home child care facility. The hours of operation proposed are 7:00 a.m. to 6:00 p.m., Monday through Friday. In addition to the resident/provider, there will be up to two additional employees on site, one of which is the applicant's adult daughter who also resides within the home. There is small fenced in area located

adjacent to the screened porch on the rear of the dwelling which contains play equipment and toys. A concrete driveway which is accessed via Lundy Place can accommodate two parking spaces in addition to the two spaces provided within the attached garage.



The applicant also proposes an existing stucco shed to remain in its current location, 2.6 feet from the side lot line.

Transportation Analysis (Appendix 6)

Issue: On-site parking

The applicant has indicated to staff the busiest traffic times are between 7:00 a.m. and 8:00 a.m. as outlined in the Statement of Justification, and noted below:

7:00 am – two cars	3:30 pm – one car
7:15 am – two cars	4:00 pm – two cars
7:30 am – one car	4:20 pm – one car
7:40 am – one car	5:00 pm – two cars
7:50 am – one car	5:30 pm – two cars

8:10- am – one car	5:45 pm – one car
9:00 am – one car	5:55 pm – one car
9 trips in the am	10 trips in the pm
(18 total trips in and out)	(20 total trips in and out)

Inspection staff noted during a site inspection between the hours of 6:55 a.m. and 8:30 a.m. that 6 vehicles entered into and exited the site.

The additional standards for home child care facilities state that parking shall be reviewed to determine if it is sufficient and off-street parking spaces in addition to the parking required for the dwelling may be required. Typically, staff requires the applicant to be able to park all vehicles connected with the proposed use on the application property in addition to the two required spaces for the dwelling. As outlined in a memorandum dated October 15, 2012, from the Fairfax County Department of Transportation (FCDOT), this particular application property is accessed via a narrow, 20 foot width, ingress/egress pipestem which provides access to two homes. Vehicles for the home child care facility must be able to get off the pipestem so as not to block the pipestem access for Lot 330.

Staff does not support drop off or pick up along Lundy Place, and the pipestem is narrow and heavily travelled by parents dropping off and picking up children. The applicant is requesting approval for 10 children daily on site with the possibility of increasing to 12 children if the Zoning Ordinance amendment is approved.

Resolution:

Staff believes that the applicant can support the number of children she currently cares for, which is 9; however, staff does not support the request for 10 children, or possibly 12 if the amendment to the Zoning Ordinance is approved to allow the number of children permitted to increase.

Currently, a large portion of the existing brick paver driveway/parking area must be removed to meet the maximum front yard coverage of 30% allowed by the Zoning Ordinance. Given that the dwelling has a two car garage, and two spaces in front of the garage which would be needed for the employees of the home child care use, staff would support one additional space along the side of the dwelling, which could accommodate a drop off/pick up space needed for parking. Staff does not believe that any additional parking area will remain after a reduction to the permitted 30% coverage occurs or believes that additional trips can be supported on the narrow pipestem without affecting the use of the adjacent pipestem property. Therefore, staff's conditions limit the applicant to a maximum of 9 children.

ZONING ORDINANCE PROVISIONS

Special Permit Requirements (See Appendix 7)

- General Special Permit Standards (Sect. 8-006)
- Standards for All Group 3 Uses (Sect. 8-303)
- Additional Standards for Home Child Care Facilities (Sect. 8-305)
- Provisions for Reduction to Minimum Yard Requirements Based on an Error in Building Location (Sect. 8-914)

General Special Permit Standards (Sect. 8-006)

Staff believes that the application for the home child care facility will meet all of the eight (8) General Special Permit Standards, particularly Standard 4, only with adoption of the proposed development conditions. Vehicular and pedestrian traffic associated with the proposed home child care facility should not adversely impact the existing and anticipated traffic in the neighborhood. Given the site is accessible only via a narrow 20 foot wide ingress/egress easement, staff believes the number of children should be limited to the applicant's current number of 9 children on site and no further expansion of the use can be supported without adversely affecting the adjacent Lot 330 on the pipestem.

Summary of Zoning Ordinance Provisions

All applicable standards have been satisfied only with adoption of the proposed development conditions.

CONCLUSIONS AND RECOMMENDATIONS

Staff concludes that the subject application is in harmony with the Comprehensive Plan and in conformance with the applicable Zoning Ordinance provisions only with the implementation of the Proposed Development Conditions contained in Appendix 1 of the Staff Report and recommends approval.

APPENDICES

1. Proposed Development Conditions
2. Affidavit
3. Statement of Justification
4. Notice of Violation dated May 18, 2012
5. Vested Rights Determination dated October 22, 2012
6. Fairfax County Department of Transportation Analysis
7. Applicable Zoning Ordinance Provisions Checklist

PROPOSED DEVELOPMENT CONDITIONS**SP 2012-SP-059****November 21, 2012**

If it is the intent of the Board of Zoning Appeals to approve SP 2012-SP-059 located at Tax Map 78-4 ((13)) 331 to permit a home child care facility under Section 8-305 and to permit reduction to minimum yard requirements based on error in building location under Section 8-914 of the Fairfax County Zoning Ordinance, staff recommends that the Board condition the approval by requiring conformance with the following development conditions.

1. This approval is granted to the applicant only, Monika Jedrol, and is not transferable without further action of this Board, and is for the location indicated on the application, 6117 Lundy Place, Burke, 22015, and is not transferable to other land.
2. This special permit is granted only for the purposes, structures and/or uses indicated on the special permit plat prepared by B.W. Smith and Associates, Inc., dated and sealed June 12, 2012, as revised through October 16, 2012, approved with this application, as qualified by these development conditions.
3. A copy of this special permit **SHALL BE POSTED in a conspicuous place on the property** of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. The total maximum daily enrollment at the home child care facility shall not exceed nine (9) children.
5. The maximum hours of operation of the home child care facility shall be limited to 7:00 a.m. to 6:00 p.m., Monday through Friday.
6. The maximum number of employees shall be limited to two (2) on site at any one time in addition to the provider.
7. The dwelling that contains the home child care facility shall be the primary residence of the provider.
8. There shall be no signage associated with the home child care facility.
9. Within 180 days of approval of this special permit the applicant shall remove a

portion of the brick driveway parking surface so that in no instance shall the driveway or parking area exceed 30% coverage of the front yard.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

Pursuant to Sect.8-015 of the Zoning Ordinance, this special permit shall automatically expire, without notice, six (6) months after the date of approval unless the use has been established as outlined above. The Board of Zoning Appeals may grant additional time to establish the use if a written request for additional time is filed with the Zoning Administrator prior to the date of expiration of the special permit. The request must specify the amount of additional time requested, the basis for the amount of time requested and an explanation of why additional time is required.

Application No.(s): SP 2012-SP-059
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 10/24/12
(enter date affidavit is notarized)

115803a

1(b). The following constitutes a listing*** of the **SHAREHOLDERS** of all corporations disclosed in this affidavit who own 10% or more of any class of stock issued by said corporation, and where such corporation has 10 or less shareholders, a listing of all of the shareholders:

(NOTE: Include SOLE PROPRIETORSHIPS, LIMITED LIABILITY COMPANIES, and REAL ESTATE INVESTMENT TRUSTS herein.)

N/A

CORPORATION INFORMATION

NAME & ADDRESS OF CORPORATION: (enter complete name, number, street, city, state, and zip code)

N/A

DESCRIPTION OF CORPORATION: (check one statement)

- There are 10 or less shareholders, and all of the shareholders are listed below.
- There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
- There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

NAMES OF SHAREHOLDERS: (enter first name, middle initial, and last name)

N/A

(check if applicable) There is more corporation information and Par. 1(b) is continued on a "Special Permit/Variance Attachment 1(b)" form. N/A

*** All listings which include partnerships, corporations, or trusts, to include the names of beneficiaries, must be broken down successively until (a) only individual persons are listed or (b) the listing for a corporation having more than 10 shareholders has no shareholder owning 10% or more of any class of stock. *In the case of an APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land that is a partnership, corporation, or trust, such successive breakdown must include a listing and further breakdown of all of its partners, of its shareholders as required above, and of beneficiaries of any trusts. Such successive breakdown must also include breakdowns of any partnership, corporation, or trust owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER or LESSEE* of the land. Limited liability companies and real estate investment trusts and their equivalents are treated as corporations, with members being deemed the equivalent of shareholders; managing members shall also be listed.* Use footnote numbers to designate partnerships or corporations, which have further listings on an attachment page, and reference the same footnote numbers on the attachment page.

Application No.(s):

SP 2012-SP-059

(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 10/24/12
(enter date affidavit is notarized)

115803a

1(c). The following constitutes a listing*** of all of the PARTNERS, both GENERAL and LIMITED, in any partnership disclosed in this affidavit:

N/A

PARTNERSHIP INFORMATION

PARTNERSHIP NAME & ADDRESS: (enter complete name, number, street, city, state, and zip code)

N/A

(check if applicable) [] The above-listed partnership has no limited partners.

NAMES AND TITLE OF THE PARTNERS (enter first name, middle initial, last name, and title, e.g. General Partner, Limited Partner, or General and Limited Partner)

N/A

(check if applicable) [] There is more partnership information and Par. 1(c) is continued on a "Special Permit/Variance Attachment to Par. 1(c)" form.

N/A

*** All listings which include partnerships, corporations, or trusts, to include the names of beneficiaries, must be broken down successively until: (a) only individual persons are listed or (b) the listing for a corporation having more than 10 shareholders has no shareholder owning 10% or more of any class of stock. In the case of an APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land that is a partnership, corporation, or trust, such successive breakdown must include a listing and further breakdown of all of its partners, of its shareholders as required above, and of beneficiaries of any trusts. Such successive breakdown must also include breakdowns of any partnership, corporation, or trust owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land. Limited liability companies and real estate investment trusts and their equivalents are treated as corporations, with members being deemed the equivalent of shareholders; managing members shall also be listed. Use footnote numbers to designate partnerships or corporations, which have further listings on an attachment page, and reference the same footnote numbers on the attachment page.

Application No.(s):

SP 2012-SF-059

(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE:

10/24/12

(enter date affidavit is notarized)

115803a

1(d). One of the following boxes **must** be checked:

In addition to the names listed in Paragraphs 1(a), 1(b), and 1(c) above, the following is a listing of any and all other individuals who own in the aggregate (directly and as a shareholder, partner, and beneficiary of a trust) 10% or more of the **APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE*** of the land:

Other than the names listed in Paragraphs 1(a), 1(b), and 1(c) above, no individual owns in the aggregate (directly and as a shareholder, partner, and beneficiary of a trust) 10% or more of the **APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE*** of the land.

2. That no member of the Fairfax County Board of Zoning Appeals, Planning Commission, or any member of his or her immediate household owns or has any financial interest in the subject land either individually, by ownership of stock in a corporation owning such land, or through an interest in a partnership owning such land.

EXCEPT AS FOLLOWS: (NOTE: If answer is none, enter "NONE" on the line below.)

NONE

(check if applicable) There are more interests to be listed and Par. 2 is continued on a "Special Permit/Variance Attachment to Par. 2" form.

Application No.(s):

SP 2012-SP-059

(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 10/22/12 (enter date affidavit is notarized)

115863a

3. That within the twelve-month period prior to the public hearing of this application, no member of the Fairfax County Board of Zoning Appeals, Planning Commission, or any member of his or her immediate household, either directly or by way of partnership in which any of them is a partner, employee, agent, or attorney, or through a partner of any of them, or through a corporation in which any of them is an officer, director, employee, agent, or attorney or holds 10% or more of the outstanding bonds or shares of stock of a particular class, has, or has had any business or financial relationship, other than any ordinary depositor or customer relationship with or by a retail establishment, public utility, or bank, including any gift or donation having a value of more than \$100, singularly or in the aggregate, with any of those listed in Par. 1 above.

EXCEPT AS FOLLOWS: (NOTE: If answer is none, enter "NONE" on line below.)

NONE

(NOTE: Business or financial relationships of the type described in this paragraph that arise after the filing of this application and before each public hearing must be disclosed prior to the public hearings. See Par. 4 below.)

(check if applicable) [] There are more disclosures to be listed and Par. 3 is continued on a "Special Permit/Variance Attachment to Par. 3" form.

4. That the information contained in this affidavit is complete, that all partnerships, corporations, and trusts owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land have been listed and broken down, and that prior to each and every public hearing on this matter, I will reexamine this affidavit and provide any changed or supplemental information, including business or financial relationships of the type described in Paragraph 3 above, that arise on or after the date of this application.

WITNESS the following signature:

(check one)

[] Applicant

[X] Applicant's Authorized Agent

William Florence

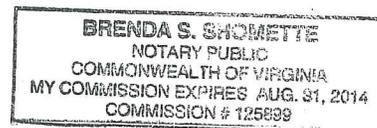
Gina M. Florence

(type or print first name, middle initial, last name, and title of signee)

Subscribed and sworn to before me this 24th day of Oct 2012, in the State/Comm. of Virginia, County/City of Fairfax.

Brenda S. Shomette Notary Public

My commission expires: 08/31/14



Hedrick, Debbie

From: Monika Jedrol <monikajedrol@yahoo.com>
Sent: Monday, October 15, 2012 6:45 PM
To: Hedrick, Debbie
Subject: Re: Standards for Error for the Shed

The shed is built close to the Fairfax County property because my husband and I measured our property from the plat which we got when we bought our house. We did not know that the distance away from the border had to be the same as the height of the shed. The reason our shed looks the way it looks is because my husband wanted to try the products in America, he was not sure if it was the same as in our country, thats the reason why we built that shed instead of buying a built one from Home Depot or other stores. I am sure that this shed wont creat any problems or any unsafe conditions with respect to both other property and streets nor the owner.

Thank You,
 Monika

From: "Hedrick, Debbie" <Debbie.Hedrick@fairfaxcounty.gov>
To: "monikajedrol@yahoo.com" <monikajedrol@yahoo.com>
Sent: Friday, October 12, 2012 3:53 PM
Subject: Standards for Error for the Shed

Mrs. Jedrol

Can you please address these standards in writing for the shed against the back property line.

You can do this through an email

Thank you

Debbie

2. The BZA determines that:

A. The error exceeds ten (10) percent of the measurement involved, and

- B. The noncompliance was done in good faith, or through no fault of the property owner, or was the result of an error in the relocation of the building subsequent to the issuance of a Building Permit, if such was required, and

- C. Such reduction will not impair the purpose and intent of this Ordinance, and

- D. It will not be detrimental to the use and enjoyment of other property in the immediate vicinity, and

- E. It will not create an unsafe condition with respect to both other property and public streets, and

- F. To force compliance with the minimum yard requirements would cause unreasonable hardship upon the owner.

- G. The reduction will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.

Hedrick, Debbie

From: Monika Jedrol <monikajedrol@yahoo.com>
Sent: Thursday, October 11, 2012 7:27 PM
To: Hedrick, Debbie
Subject: Re: Information

Mrs. Debbie,

I care for 9 children right now. I did apply to renew my State License and in April Mr. Charles P. Fitzhugh from Fairfax County came and told me that I need a special permit for more than 7 children. I did hear from my engineer they sent me the plat, I will send it to you tomorrow using Express Mail so you will receive it the next day.

Thank You,
Monika Jedrol

From: "Hedrick, Debbie" <Debbie.Hedrick@fairfaxcounty.gov>
To: "monikajedrol@yahoo.com" <monikajedrol@yahoo.com>
Sent: Thursday, October 11, 2012 2:49 PM
Subject: Information

Mrs. Jedrol

Can you tell me how many children you actually care for right now at your home?

And, were you applying to renew your State license and found out that you needed special permit approval?

Also, have you heard from your engineer about the revised plat?

Your response to my questions would be greatly appreciated as I am prestaffing the case on Monday the 15th

Thank you

Debbie Hedrick

703-324-1407

SP 2012-0093
CHECKLIST REPORT

<u>Status</u>	<u>Item</u>	<u>Submission Requirement</u>	<u>Comment</u>
DEFICIENT	5.05	ESTIMATE OF TRAFFIC IMPACT OF THE PROPOSED USE, INCLUDING THE MAXIMUM EXPECTED TRIP GENERATION AND THE DISTRIBUTION OF SUCH TRIPS BY MODE AND TIME OF DAY. <u>SEE ATTACHMENT.</u>	
DEFICIENT	5.06	VICINITY OR GENERAL AREA TO BE SERVED BY THE USE <u>I am provided home daycare for children, my clients are from Burke and Springfield, VA.</u>	
DEFICIENT	5.07	DESCRIPTION OF BUILDING FACADE AND ARCHITECTURE OF PROPOSED NEW BUILDING OR ADDITIONS. <u>For children I have finished basement, family room, kitchen and living room area, small playground and cover deck.</u>	
DEFICIENT	5.08	A LISTING, IF KNOWN, OF ALL HAZARDOUS OR TOXIC SUBSTANCES AS SET FORTH IN TITLE 40, CODE OF FEDERAL REGULATIONS PARTS 116.4, 302.4, AND 355; ALL HAZARDOUS WASTE AS SET FORTH IN COMMONWEALTH OF VIRGINIA/ DEPARTMENT OF WASTE MANAGEMENT REGULATIONS VR 672-10-1-VIRGINIA HAZARDOUS WASTE MANAGEMENT REGULATIONS; AND/OR PETROLEUM PRODUCTS AS DEFINED IN TITLE 40, CODE OF FEDERAL REGULATIONS PART 280; TO BE GENERATED, UTILIZED, STORED, TREATED, AND/OR DISPOSED OF ON SITE AND THE SIZE AND CONTENTS OF ANY EXISTING OR PROPOSED STORAGE TANKS OR CONTAINERS. <u>Do not know about any hazardous or toxic substances to be storage.</u>	
DEFICIENT	5.09	A STATEMENT THAT THE PROPOSED DEVELOPMENT CONFORMS TO THE PROVISIONS OF ALL APPLICABLE ORDINANCES, REGULATIONS AND ADOPTED STANDARDS OR, IF ANY WAIVER, EXCEPTION OR VARIANCE IS SOUGHT BY THE APPLICANT, SUCH SHALL BE SPECIFICALLY NOTED WITH THE JUSTIFICATION FOR SUCH MODIFICATION. <u>I conform and I do have all required statements.</u>	
COMPLETE	6.00	A STATEMENT WHICH CONFIRMS THE OWNERSHIP OF THE SUBJECT PROPERTY, AND THE NATURE OF THE APPLICANT'S INTENT IN SAME. IF THE APPLICANT IS NOT THE OWNER OF THE PROPERTY INVOLVED IN THE APPLICATION, EVIDENCE MUST BE SUBMITTED SHOWING THAT THE APPLICANT WILL HAVE THE RIGHT TO USE THE PROPERTY AS PROPOSED.	

SP 2012-0093
SPP CHECKLIST REPORT

<u>Status</u>	<u>Item</u>	<u>Submission Requirement</u>	<u>Comment</u>
N/A	1.33	APPROXIMATE DELINEATION OF ANY FLOODPLAIN DESIGNATED BY THE FEDERAL INSURANCE ADMINISTRATION, US GEOLOGICAL SURVEY, OR FAIRFAX CO, THE APPROXIMATE DELINEATION OF ANY RESOURCE PROTECTION AREA AND RESOURCE MANAGEMENT AREA, AND THE APPROXIMATE DELINEATION OF ANY ENVIRONMENTAL QUALITY CORRIDOR AS DEFINED IN THE ADOPTED COMPREHENSIVE PLAN, AND, IF APPLICABLE, THE DISTANCE OF ANY EXISTING AND PROPOSED STRUCTURES FROM THE FLOODPLAIN, RESOURCE PROTECTION AREA AND RESOURCE MANAGEMENT AREA, OR ENVIRONMENTAL QUALITY CORRIDOR.	
N/A	1.34	WHERE APPLICABLE, SEATING CAPACITY, USABLE OUTDOOR RECREATION AREA, EMERGENCY ACCESS, BICYCLE PARKING, FENCING, OUTSIDE LIGHTING AND LOUDSPEAKERS	
N/A	1.35	LOCATION OF ALL EXISTING UTILITY EASEMENTS HAVING A WIDTH OF TWENTY-FIVE (25) FEET OR MORE, AND ALL MAJOR UNDERGROUND UTILITY EASEMENTS REGARDLESS OF WIDTH	
N/A	1.36	LOCATION OF ALL TRAILS REQUIRED BY THE ADOPTED COMPREHENSIVE PLAN	
N/A	1.37	APPROXIMATE DELINEATION OF ANY GRAVE, OBJECT OR STRUCTURE MARKING A PLACE OF BURIAL IF KNOWN, AND A STATEMENT -INDICATING HOW THE PROPOSED DEVELOPMENT WILL IMPACT THE BURIAL SITE	
DEFICIENT	1-38	SEAL AND SIGNATURE OF PROFESSIONAL PERSON CERTIFYING THE PLAT	PLEASE UPDATE.

Traffic Estimate:

From 7am till 9:30am

7am – two cars

7:15am- two cars

7:30am- one car

7:40am- one car

7:50am- one car

8:10am- one car

9am- one car

From 3:30 pm till 6pm

3:35pm- one car

4pm- two car

4:20pm-one car

5pm – two cars

5:30pm- two cars

5:45pm-one car

5:55pm- one car

RECEIVED
Department of Planning & Zoning
JUL 03 2012
Zoning Evaluation Division

Written Statement of Justification

- A. Home Daycare.
- B. Hours of operation Monday – Friday, 7am – 6pm.
- C. 10 Children
- D. One or Two employees depending on the age of children.

RECEIVED
Department of Planning & Zoning
APR 16 2012
Zoning Evaluation Division



County of Fairfax, Virginia

Return Copy

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County.

NOTICE OF VIOLATION

DATE OF ISSUANCE: May 18, 2012

SHERIFF'S LETTER

CASE #: 201201794 **SR#:** 81418

SERVE: Jozef Jedrol
Monika E. Jedrol
6117 Lundy Pl.
Burke, VA 22015-3432

LOCATION OF VIOLATION 6117 Lundy Pl.
Burke, VA 22015-3432
Tax Map Ref. #: 78-4 ((13)) 331
Zoning District: R-3

Dear Property Owners:

An inspection of the above referenced property between April 4, 2012 and May 15, 2012 revealed the following violations of the Fairfax County Zoning Ordinance.

§ 10-103 (6) Home Child Care Facilities

§ 2-302 (6) Accessory Use must comply with Article 10:

The presence of a home child care facility wherein twelve (12) or more children are being cared for. The home child care facility is located in a single family detached dwelling. This use is permitted in the R-3 District, subject to the use limitations outlined in Par. 6 of Sect. 10-103 of the Fairfax County Zoning Ordinance which states:

6. The following use limitations shall apply to home child care facilities:
 - A. The maximum number of children permitted at any one time shall be as follows:
 - (1) Seven (7) when such facility is located in a single family detached dwelling.

Department of Code Compliance
12055 Government Center Parkway, Suite 1016
Fairfax, Virginia 22035-5508
Phone 703-324-1300 FAX 703-324-9346
www.fairfaxcounty.gov/code

- (2) Five (5) when such facility is located in a single family attached, multiple family or mobile home dwelling.

The maximum number of children specified above shall not include the provider's own children.

- B. A home child care facility shall be operated by the licensed or permitted home child care provider within the dwelling that is the primary residence of such provider, and except for emergency situations, such provider shall be on the premises while the home child care facility is in operation.
- C. There shall be no exterior evidence, including signs, that the property is used in any way other than as a dwelling, except that play equipment and other accessory uses and structures permitted by this Part shall be allowed.
- D. In addition to the persons who use the dwelling as their primary residence, one (1) nonresident person, whether paid or not for their services, may be involved in the home child care use on the property, provided that there is only one (1) such person on the property at any one time and the hours of such attendance shall be limited to 7:00 AM to 6:00 PM, Monday through Friday.
- E. Notwithstanding the provisions of Par. B above, a child care provider may care for the maximum number of children permitted in Par. A above in a dwelling other than the provider's own, as long as the dwelling is the primary residence of at least one of the children being cared for by the provider. Such child care provider shall comprise the one nonresident person allowed under Par. D above.
- F. All such uses shall be subject to the regulations of Chapter 30 of The Code or Sect. 63.1-196 of the Code of Virginia.
- G. An increase in the number of children permitted under Par. A above or the involvement of more than one nonresident person as permitted under Par. D above may be permitted in accordance with the provisions of Part 3 of Article 8.

Therefore, since you are conducting a day care facility with more than 7 children at this location, you are not operating the home child care facility in conformance with the use limitations outlined above, and therefore in violation of Par. 6 of Sect. 10-103 and Par. 6 of Sect. 2-302 of the Zoning Ordinance which states:

Jozef Jedrol
Monika E. Jedrol
May 18, 2012
Page 3

No accessory structure or use, as defined in Article 20, shall hereafter be built, moved, remodeled, established, altered or enlarged unless such accessory structure or use complies with the provisions of Par. 1 of Article 10.

You are hereby directed to clear this violation within thirty (30) days of the date of this Notice. Compliance can be accomplished by:

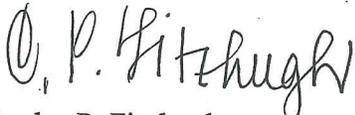
- Fully complying with the use limitations for a home child care facility as outlined above; or
- Applying for and ultimately obtaining approval of a Special Exception from the Fairfax County Board of Supervisors to operate a home child care facility in excess of the use limitations outlined herein.

A follow-up inspection will be made at the expiration of the time period outlined in this Notice. Failure to comply with the Notice will result in the initiation of appropriate legal action to gain compliance with the Zoning Ordinance which can result in court ordered sanctions.

You may have the right to appeal this Notice of Zoning Violation within thirty (30) days of the date of this letter in accordance with Sec. 15.2-2311 of the Code of Virginia. This decision shall be final and unappealable if it is not appealed within such thirty (30) days. Should you choose to appeal, the appeal must be filed with the Zoning Administrator and the Board of Zoning Appeals (BZA) in accordance with Part 3 of Article 18 of the Fairfax County Zoning Ordinance. Those provisions require the submission of an application form, a written statement setting forth the decision being appealed, the date of decision, the grounds for the appeal, how the appellant is an aggrieved party and any other information that you may wish to submit and a \$600.00 filing fee. Once an appeal application is accepted, it will be scheduled for public hearing and decision before the BZA.

Should you have any questions or need additional information, please do not hesitate to contact me at (703)324-1395.

Sincerely,



Charles P. Fitzhugh
Code Compliance Investigator II



County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County

Vested Rights Determination under §15.2-2307 of the Code of Virginia

Property Tax Map Number:	78-4 ((13)) 331
Property Address:	6117 Lundy Place
Requestor's Name:	Debbie Hedrick for Monika Jedrol
Requestors Address: (if different than above)	6117 Lundy Place Burke, Virginia 22015
Requestor's Phone Number:	703-324-1290
Current Zoning:	R-3
Magisterial District:	Springfield
Subdivision Name/Section/Block/Lot No.:	Bent Tree, Lot 331

Written Description of Structure that may be vested under §15.2-2307 of the Code of Virginia (See Attached Instruction Sheet)

The property is developed under the cluster provisions of the R-3 District, and is developed with a single family detached dwelling with a screened porch. According to the real estate assessment records, the dwelling was constructed in 1973. The minimum yard requirements for cluster subdivisions in the R-3 District are 8 feet with a total minimum of 20 feet (combined) for the side yard(s), and 25 feet for the rear yard. A plat was submitted entitled "Special Permit Plat, Lot 331, Bent Tree" which was prepared by B.W. Smith and Associates, Inc., and is dated June 12, 2012 as revised through October 3, 2012. The screened porch is located on the southern side of the dwelling, which because of the configuration of the pipestem lot and the dwelling is considered the rear yard. The screened porch is located 13.6 feet from the rear lot line, which does not meet the Zoning Ordinance requirement of 25 feet. A building permit was approved for the screened porch on May 6, 1987. At the time of issuance of the building permit, the yard in question was considered a side yard, and at the time the screened porch met the minimum side yard requirement.

Background Summary (check all that are applicable):

- A Building Permit was issued for the screened porch.
- A Building Permit was not located for the structure(s).
- A Non-Residential Use Permit/Residential Use Permit has been issued or, when a Non-RUP/RUP is not required, evidence that the structure(s) has passed final inspection.
- Department of Tax Administration records indicate that the screened porch has been taxed for at least 15 years.
- Department of Tax Administration records do not indicate that the structure(s) have been taxed for at least 15 years.

Department of Planning and Zoning
Zoning Administration Division
Ordinance Administration Branch
12055 Government Center Parkway, Suite 807
Fairfax, Virginia 22035-5505
Phone 703-324-1314 FAX 703-803-6372
www.fairfaxcounty.gov/dpz/



Staff Determination:



§15.2-2307 of the Code of Virginia is applicable for the screened porch and the screened porch may remain. The screened porch may not be replaced or enlarged unless the replacement or expansion complies with all regulations of the district in which located.

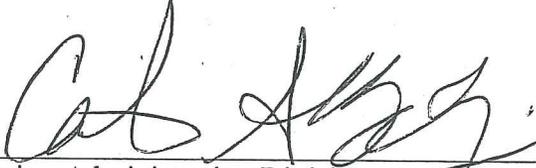


§15.2-2307 of the Code of Virginia is applicable for the structure(s) and the structure(s) may remain; however, §15.2-2307 is not applicable for the use of the structure(s). A separate letter explaining the status and use of the structure(s) will be issued.



§15.2-2307 of the Code of Virginia is not applicable for the structure(s). A separate letter explaining the status of all structures in question will be issued.

Reviewer's Signature:



Zoning Administration Division
Department of Planning and Zoning

Date:

10/22/12

cc: Janet E. Coldsmith, Director, Real Estate Division, DTA
Eileen M. McLane, Zoning Administrator
Lorrie Kirst, Deputy Zoning Administrator for Ordinance Administration Branch
Diane Johnson-Quinn, Deputy Zoning Administrator, for Zoning Permit Review Branch
Debbie Hedrick, Zoning Evaluation Division ✓
Jozef and Monika E. Jedrol, 6117 Lundy Place, Burke, Virginia 22015
(property owners)

DATE: October 16, 2012
TO: ZONING ADMINISTRATION STAFF
INTERPRETATION REQUESTED
FROM: Debbie Hedrick
Board of Zoning Appeals, ZED, DPZ



2012-1379

Staff's Request

Please review the attached information and provide interpretation for staff's use in preparing legal ads and notices and/or staff report:

Lorrie: As we discussed on Monday, October 15th – on behalf of the applicant for a special permit, SP 2012-SP-059, Monika Jedrol, I am requesting a Vested Rights determination on property located at 6117 Lundy Place, Burke, for a screened porch addition.

Building permit history (1987) is attached for your review which shows a 31 x 12 screened porch to be located at the "right side" of the dwelling. The structure on a plat prepared by BW Smith and Associates dated June 12, 2012 as revised through October 3, 2012, depicts the structure 13.6 feet from the rear lot line.

Thank you

Items attached for review include:

- Plat
- Building Permit



County of Fairfax, Virginia

MEMORANDUM

DATE: October 15, 2012

TO: Barbara Berlin, Director
Zoning Evaluation Division
Department of Planning and Zoning

FROM: Angela Kadar Rodeheaver, Chief
Site Analysis Section
Department of Transportation 

FILE: 3-6 (SP 2012-SP-059)

SUBJECT: Transportation Impact

REFERENCE: SP 2012-SP-059; Monika E. Jedrol
Traffic Zone: 1587
Land Identification: 78-4 ((13)) 331

Transmitted herewith are the comments from the Department of Transportation with respect to the referenced application. These comments are based on the plat made available to this office dated June 12, 2012. The applicant has been operating a day care center for 8-9 children and wishes to provide family child care for up to ten children (or possibly 12) in her home. There would be one or two employees depending upon the age of the children. The applicant shares a pipestem driveway with one other dwelling. This dwelling has a two-car garage with two more parking places in the driveway in front of the garage.

The applicant must be able to park all vehicles connected with the proposed use on her site and not on the street or pipestem. It would appear that 9 children could be accommodated on this site.

AKR/LAH/lah

8-006 General Standards

In addition to the specific standards set forth hereinafter with regard to particular special permit uses, all special permit uses shall satisfy the following general standards:

1. The proposed use at the specified location shall be in harmony with the adopted comprehensive plan.
2. The proposed use shall be in harmony with the general purpose and intent of the applicable zoning district regulations.
3. The proposed use shall be such that it will be harmonious with and will not adversely affect the use or development of neighboring properties in accordance with the applicable zoning district regulations and the adopted comprehensive plan. The location, size and height of buildings, structures, walls and fences, and the nature and extent of screening, buffering and landscaping shall be such that the use will not hinder or discourage the appropriate development and use of adjacent or nearby land and/or buildings or impair the value thereof.
4. The proposed use shall be such that pedestrian and vehicular traffic associated with such use will not be hazardous or conflict with the existing and anticipated traffic in the neighborhood.
5. In addition to the standards which may be set forth in this Article for a particular group or use, the BZA shall require landscaping and screening in accordance with the provisions of Article 13.
6. Open space shall be provided in an amount equivalent to that specified for the zoning district in which the proposed use is located.
7. Adequate utility, drainage, parking, loading and other necessary facilities to serve the proposed use shall be provided. Parking and loading requirements shall be in accordance with the provisions of Article 11.
8. Signs shall be regulated by the provisions of Article 12; however, the BZA, under the authority presented in Sect. 007 below, may impose more strict requirements for a given use than those set forth in this Ordinance.

8-303 Standards for all Group 3 Uses

In addition to the general standards set forth in Sect. 006 above, all Group 3 special permit uses shall satisfy the following standards:

1. Except as may be qualified in the following Sections, all uses shall comply with the lot size and bulk regulations of the zoning district in which located; however, subject to the provisions of Sect. 9-607, the maximum building height for a Group 3 use may be increased.
2. All uses shall comply with the performance standards specified for the zoning district in which located.
3. Before establishment, all uses, including modifications or alterations to existing uses, except home child care facilities, shall be subject to the provisions of Article 17, Site Plans.

8-305**Additional Standards for Home Child Care Facilities**

1. The number of children that may be cared for in a home child care facility may exceed the number of children permitted under Par. 6A of Sect. 10-103, but in no event shall the maximum number of children permitted at any one time exceed ten (10), excluding the provider's own children. The BZA may also allow more than one nonresident person to be involved with the use.
2. The BZA shall review all existing and/or proposed parking to determine if such parking is sufficient. The BZA may require the provision of additional off-street parking spaces based on the maximum number of vehicles expected to be on site at any one time and such parking shall be in addition to the requirement for the dwelling unit.
3. The provisions of Article 13 shall not apply to home child care facilities, however, the BZA may require the provision of landscaping and screening based on the specifics of each application.
4. Notwithstanding Par. 2 of Sect. 011 above, all applications shall be accompanied by ten (10) copies of a plan drawn to scale. The plan, which may be prepared by the applicant, shall contain the following information:
 - A. The dimensions, boundary lines and area of the lot or parcel.
 - B. The location, dimensions and height of any building, structure or addition, whether existing or proposed.
 - C. The distance from all property lines to the existing or proposed building, structure or addition, shown to the nearest foot.
 - D. The dimensions and size of all outdoor recreation space and the location of such space in relation to all lot lines.
5. All such uses shall be subject to the regulations of Chapter 30 of The Code or Title 63.2, Chapter 17 of the Code of Virginia.

8-914

Provisions for Approval of Reduction to the Minimum Yard Requirements Based on Error in Building Location

The BZA may approve a special permit to allow a reduction to the minimum yard requirements for any building existing or partially constructed which does not comply with such requirements applicable at the time such building was erected, but only in accordance with the following provisions:

1. Notwithstanding Par. 2 of Sect. 011 above, all applications shall be accompanied by ten (10) copies of a plat and such plat shall be presented on a sheet having a maximum size of 24" x 36", and one 8 ½" x 11" reduction of the plat. Such plat shall be drawn to a designated scale of not less than one inch equals fifty feet (1" = 50'), unless a smaller scale is required to accommodate the development. Such plat shall be certified by a professional engineer, land surveyor, architect, or landscape architect licensed by the State of Virginia and such plat shall contain the following information:
 - A. Boundaries of entire property, with bearings and distances of the perimeter property lines and of each zoning district.
 - B. Total area of the property and of each zoning district in square feet or acres.
 - C. Scale and north arrow, with north, to the extent feasible, oriented to the top of the plat and on all supporting graphics.
 - D. Location of all existing structures, with dimensions, including height of any structure and penthouse, and if known, the construction date(s) of all existing structures.
 - E. All required minimum yards to include front, side and rear, and a graphic depiction of the angle of bulk plane, if applicable, and the distances from all existing structures to lot lines.
 - F. Means of ingress and egress to the property from a public street(s).
 - G. For nonresidential uses, the location of parking spaces, indicating minimum distance from the nearest property line(s).
 - H. If applicable, the location of well and/or septic field.
 - I. For nonresidential uses, a statement setting forth the maximum gross floor area and FAR for all uses.
 - J. Location of all existing utility easements having a width of twenty-five (25) feet or more, and all major underground utility easements regardless of width.

K. Seal and signature of professional person certifying the plat.

In addition, the application shall contain a statement of justification explaining how the error in building location occurred and any supportive material such as aerial photographs, Building Permit applications, County assessments records, a copy of the contract to build the structure which is in error, or a statement from a previous owner indicating how the error in building location occurred.

2. The BZA determines that:
 - A. The error exceeds ten (10) percent of the measurement involved, and
 - B. The noncompliance was done in good faith, or through no fault of the property owner, or was the result of an error in the relocation of the building subsequent to the issuance of a Building Permit, if such was required, and
 - C. Such reduction will not impair the purpose and intent of this Ordinance, and
 - D. It will not be detrimental to the use and enjoyment of other property in the immediate vicinity, and
 - E. It will not create an unsafe condition with respect to both other property and public streets, and
 - F. To force compliance with the minimum yard requirements would cause unreasonable hardship upon the owner.
 - G. The reduction will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.
3. In granting such a reduction under the provisions of this Section, the BZA shall allow only a reduction necessary to provide reasonable relief and may, as deemed advisable, prescribe such conditions, to include landscaping and screening measures, to assure compliance with the intent of this Ordinance.
4. Upon the granting of a reduction for a particular building in accordance with the provisions of this Section, the same shall be deemed to be a lawful building.
5. The BZA shall have no power to waive or modify the standards necessary for approval as specified in this Section.