



APPLICATION ACCEPTED: December 18, 2013
BOARD OF ZONING APPEALS: March 12, 2014
TIME: 9:00 a.m.

County of Fairfax, Virginia

March 5, 2014

STAFF REPORT

SPECIAL PERMIT APPLICATION NO. SP 2013-MA-106

MASON DISTRICT

APPLICANT: Nguyen, Thanh-Tam Thi

OWNERS: Thanh-Tam T. Nguyen
Son M. Pham

SUBDIVISION: Ravenwood Park, Section 4

STREET ADDRESS: 3221 Patrick Henry Drive, Falls Church, 22044

TAX MAP REFERENCE: 61-1 ((7)) 66A

LOT SIZE: 13,543 square feet

ZONING DISTRICT: R-3

ZONING ORDINANCE PROVISIONS: 8-305

SPECIAL PERMIT PROPOSAL: To permit a home child care facility.

STAFF RECOMMENDATION: Staff recommends approval of SP 2013-MA-106 for the home child care facility with adoption of 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 applicant/owner from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

N:\ISP_VC Cases\3-12) SP 2013-MA-106 Nguyen HCC\Nguyen HCC SP 2013-MA-106 SR.doc

Laura Gumkowski

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 days after the decision becomes final.

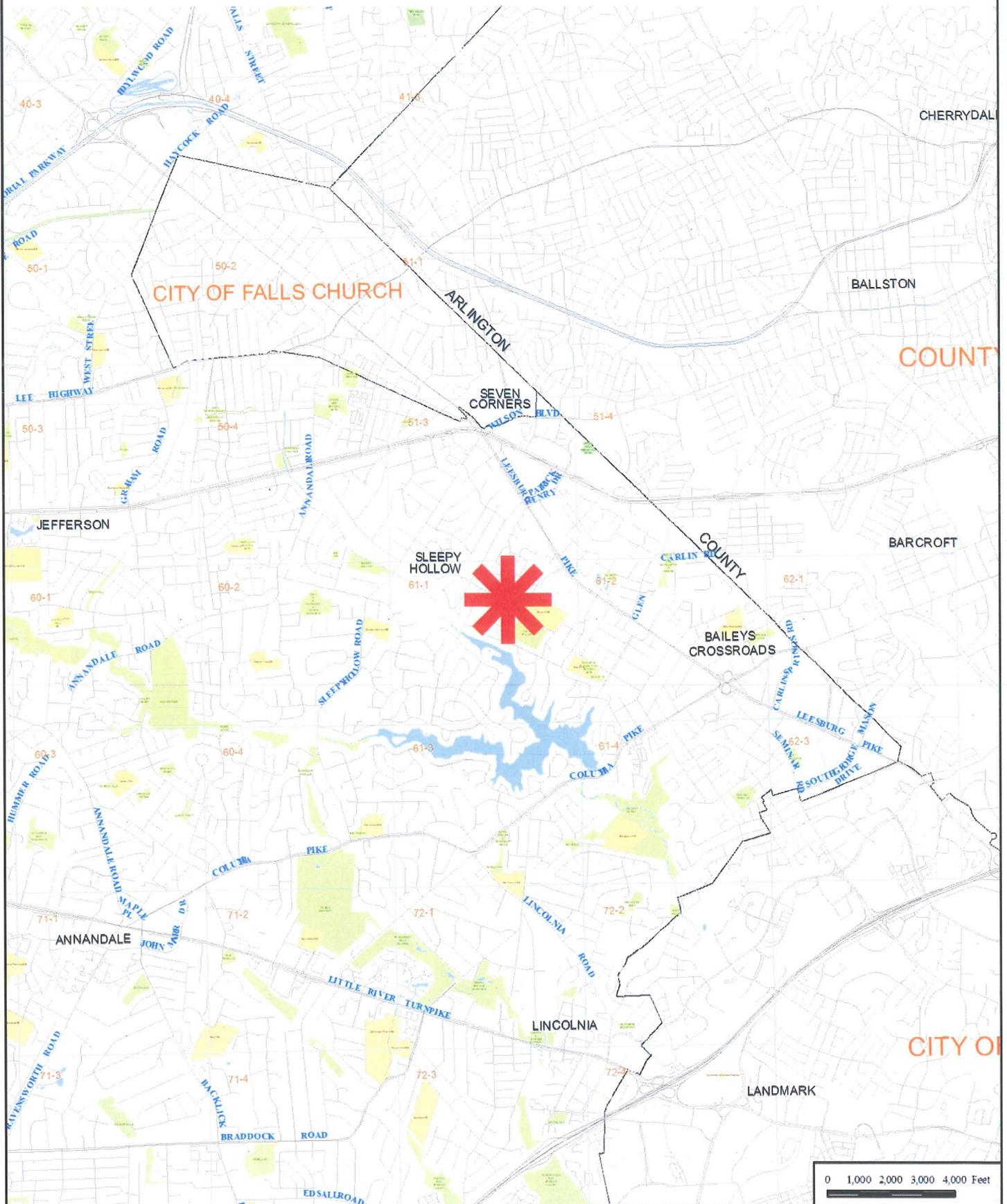
The approval of this application does not interfere with, abrogate or annul any easements, covenants, or other agreements between parties, as they may apply to the property subject to the application.

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.**

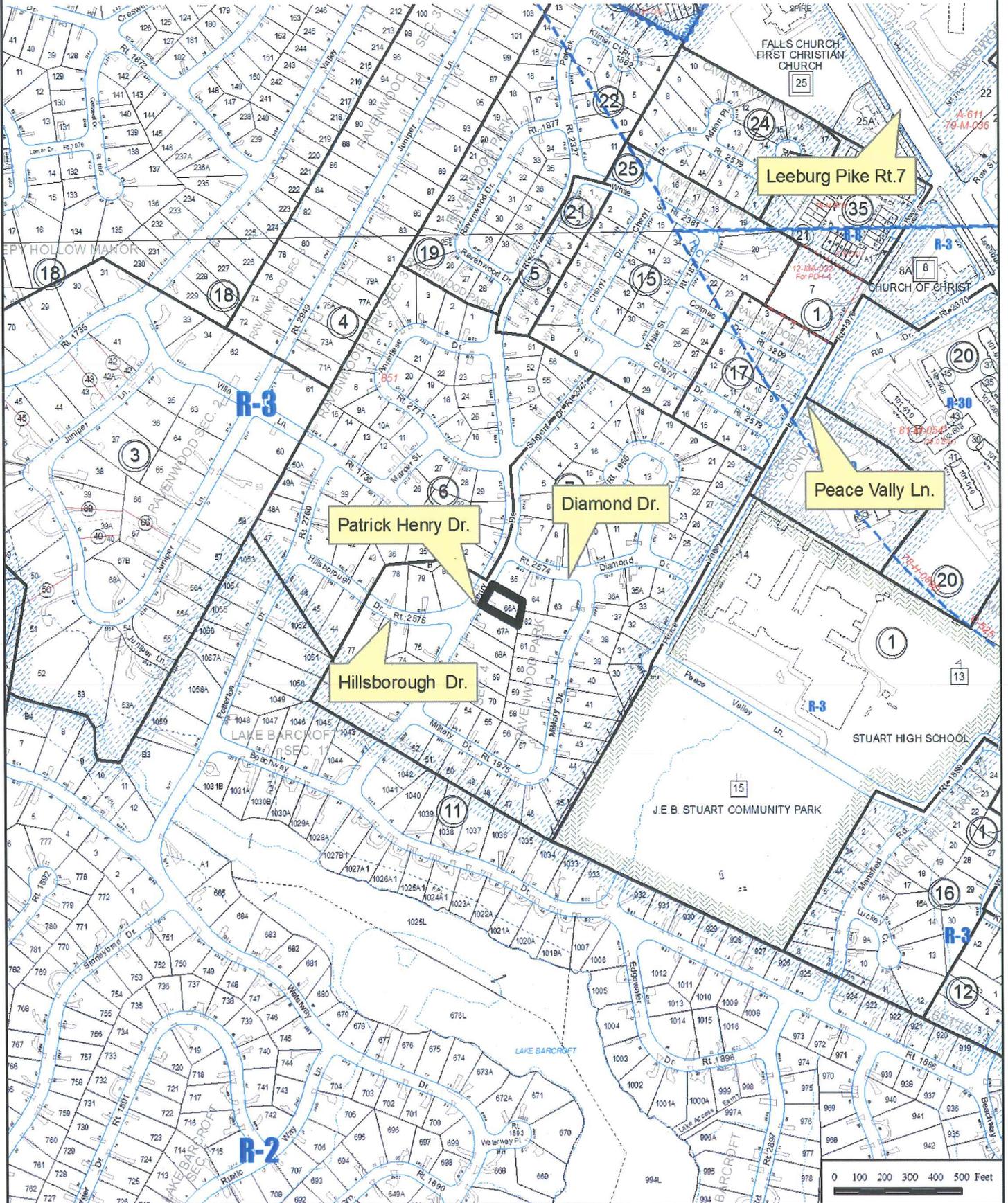


Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 48 hours advance notice. For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).

Special Permit
SP 2013-MA-106
NGUYEN, THANH-TAM THI



Special Permit
SP 2013-MA-106
NGUYEN, THANH-TAM THI



Leeburg Pike Rt. 7

Patrick Henry Dr.

Diamond Dr.

Peace Vally Ln.

Hillsborough Dr.

0 100 200 300 400 500 Feet

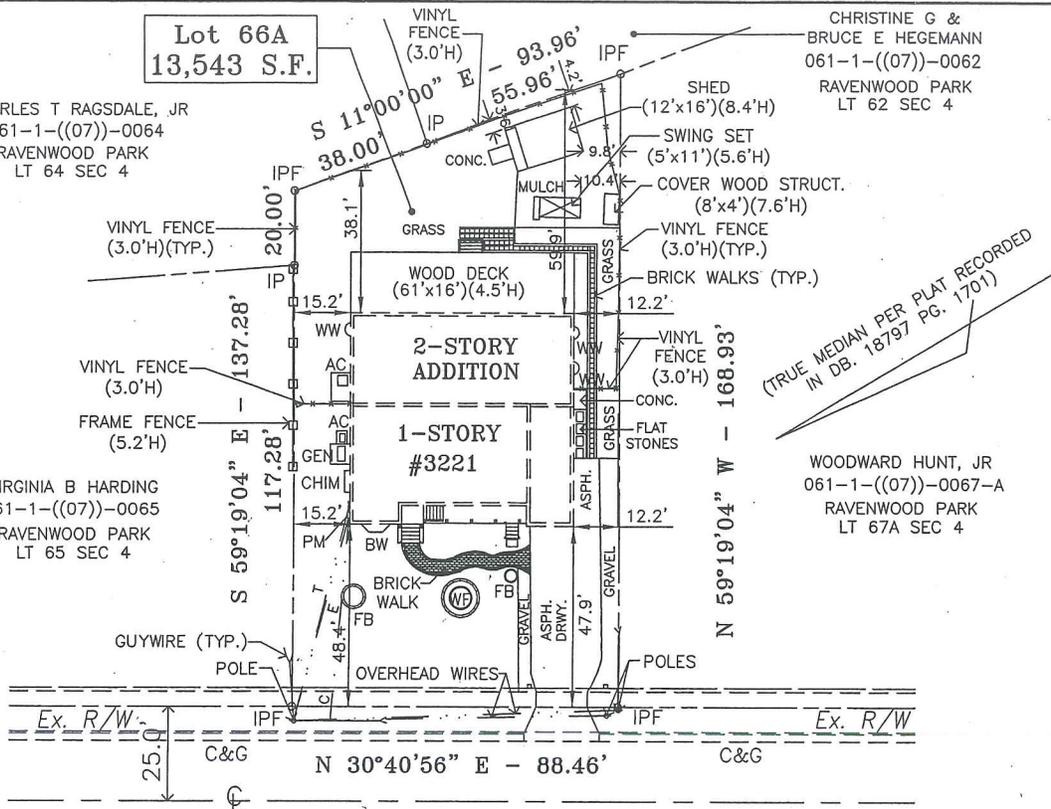
Lot 66A
13,543 S.F.

CHARLES T RAGSDALE, JR
061-1-((07))-0064
RAVENWOOD PARK
LT 64 SEC 4

CHRISTINE G &
BRUCE E HEGEMANN
061-1-((07))-0062
RAVENWOOD PARK
LT 62 SEC 4

VIRGINIA B HARDING
061-1-((07))-0065
RAVENWOOD PARK
LT 65 SEC 4

WOODWARD HUNT, JR
061-1-((07))-0067-A
RAVENWOOD PARK
LT 67A SEC 4



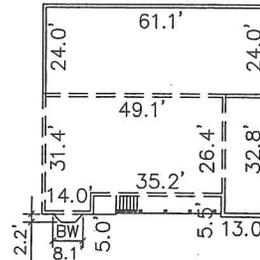
PATRICK HENRY DRIVE (ROUTE 2771)
(50' R/W)

ABBREVIATION

- AC: AIR CONDITIONING UNITS
- BW: BAY WINDOW
- C&G: CURB & GUTTER
- FB: FLOWER BED
- GEN: GENERATOR
- GM: GAS METER
- OH: OVERHANG
- PM: POWER METER
- STP: STOOP
- WF: WATER FOUNTAIN
- WD: WOOD DECK
- WW: WINDOW WELL

NOTE:

ALL STRUCTURES SHOWN ARE EXISTING UNLESS NOTED OTHERWISE.



BUILDING FOOTING DIMENSIONS

PLAT

SHOWING HOUSE LOCATION ON THE PROPERTY LOCATED AT

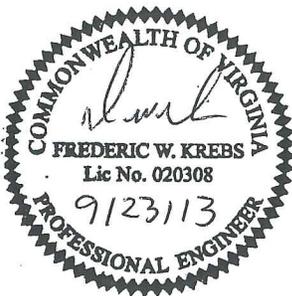
**#3221 PATRICK HENRY DRIVE
FAIRFAX COUNTY, VIRGINIA**

SCALE: 1" = 40'

SEPTEMBER 23, 2013
RECEIVED
Department of Planning & Zoning

PLAT SUBJECT TO RESTRICTIONS OF RECORD
TITLE REPORT NOT FURNISHED

I HEREBY CERTIFY THAT THE LOCATIONS OF ALL EXISTING IMPROVEMENTS HAVE BEEN CAREFULLY ESTABLISHED BY A TRANSIT TAPE SURVEY AND UNLESS OTHERWISE SHOWN, THERE ARE NO VISIBLE ENCROACHMENTS.



**LOT 66A, ZONE R-3
RAVENWOOD PARK
LT 66A SEC 4**

TAX MAP: 061-1-((07))-0066-A
DEED BOOK 18797, PAGE 1701
MASON MAGISTERIAL DISTRICT

OCT 16 2013
Zoning Evaluation Division

Neighbor's property viewing on the left front property



At 6253 Diamond Drive

Neighbor's property across the street viewing at



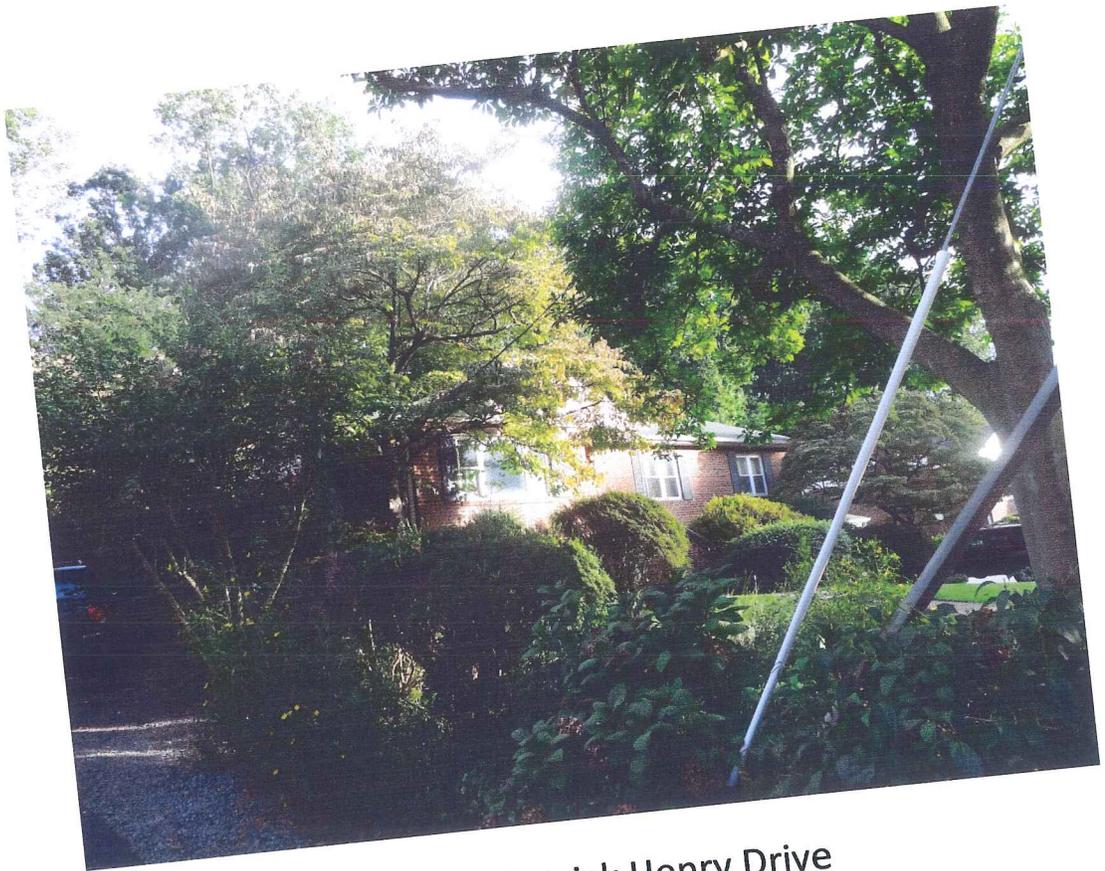
3220 Patrick Henry Drive

RECEIVED
Department of Planning & Zoning
OCT 16 2013
Zoning Evaluation Division



3222 Patrick Henry Drive

Neighbor's property viewing on the right front property



At 3223 Patrick Henry Drive

RECEIVED
Department of Planning & Zoning

OCT 16 2013

Zoning Evaluation Division

Neighbor's property viewing on the left corner back yard



At 6251 Diamond Drive

Property on the left side

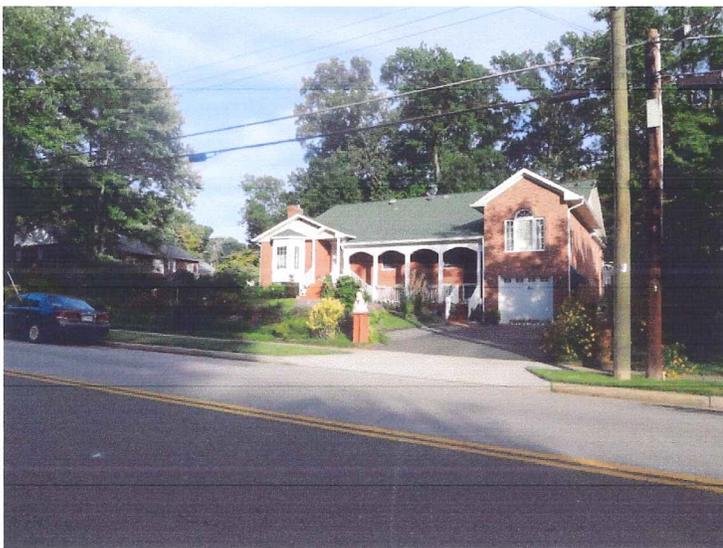


Property on the right side

Property viewing from front



①



Front property viewing from left side ②



Front property viewing from right side ③

Driveway area



①

②



Property viewing from the back side



①

Wood deck



①



②



①

Playground with swing set



②

Shed

Back yard right corner view



①

Back yard left corner view



②

Bathrooms number 02 for day care



①



②



③

Bedroom for big children



Arts and crafts area



①

Play area 2 for children



②

Play room 2 for children



③

Bathroom number #1 for day care



①



②

Play area for waiting parent's drop-off and pick-up



①

Eating, playing and napping area 1



①



②



③



④

SPECIAL PERMIT REQUEST

The applicant is seeking a special permit to allow a home child care facility for up to 12 children.

A copy of the special permit, plat titled "Plat Showing House Location on the Property Located at #3221 Patrick Henry Drive," prepared by Frederic W. Krebs, P.E., dated September 23, 2013 is included in the front of the staff report.

A more detailed description of the proposal is provided on page two.

CHARACTER OF THE SITE AND SURROUNDING AREA

The site is developed with a one story, single family detached brick and frame dwelling. A two story addition with a garage exists to the east and south of the one story dwelling. A wood deck is attached to the eastern facade of the dwelling. An accessory storage structure (a shed), a swing set, a garden area and a covered wood structure exist in the rear yard. A vinyl fence, 3.0 feet in height, encloses the rear yard. An asphalt driveway, with a gravel extension, exists to the west of the dwelling and provides vehicular access to Patrick Henry Drive (the driveway is less than the 30% maximum front yard coverage permitted by the Zoning Ordinance.) A brick walkway extends from the driveway to the front porch on the western facade of the house. The front yard is decorated with a fountain and landscaping. A separate brick walkway extends from the driveway along the southern side yard and culminates east of the wood deck.

The subject property and surrounding properties to the north, south, east and west are zoned R-3 and developed with single family detached dwellings, as depicted below.



**Zoning:
R-3**

BACKGROUND

Fairfax County Tax Records indicate that the single family dwelling was constructed in 1957, purchased by the applicant and her husband in 2006 and was remodeled in 2009.

A building permit was approved on February 22, 2008 for a new single family dwelling on an existing foundation, a two story addition with a front porch and a wet bar in the basement. A complaint against this property was filed on April 18, 2013 for a business in a residential district. After inspection of the complaint, a Notice of Violation was issued by the Department of Code Compliance on April 30, 2013 for operating a home child care facility with twelve children without approval of a special permit (Appendix 4).

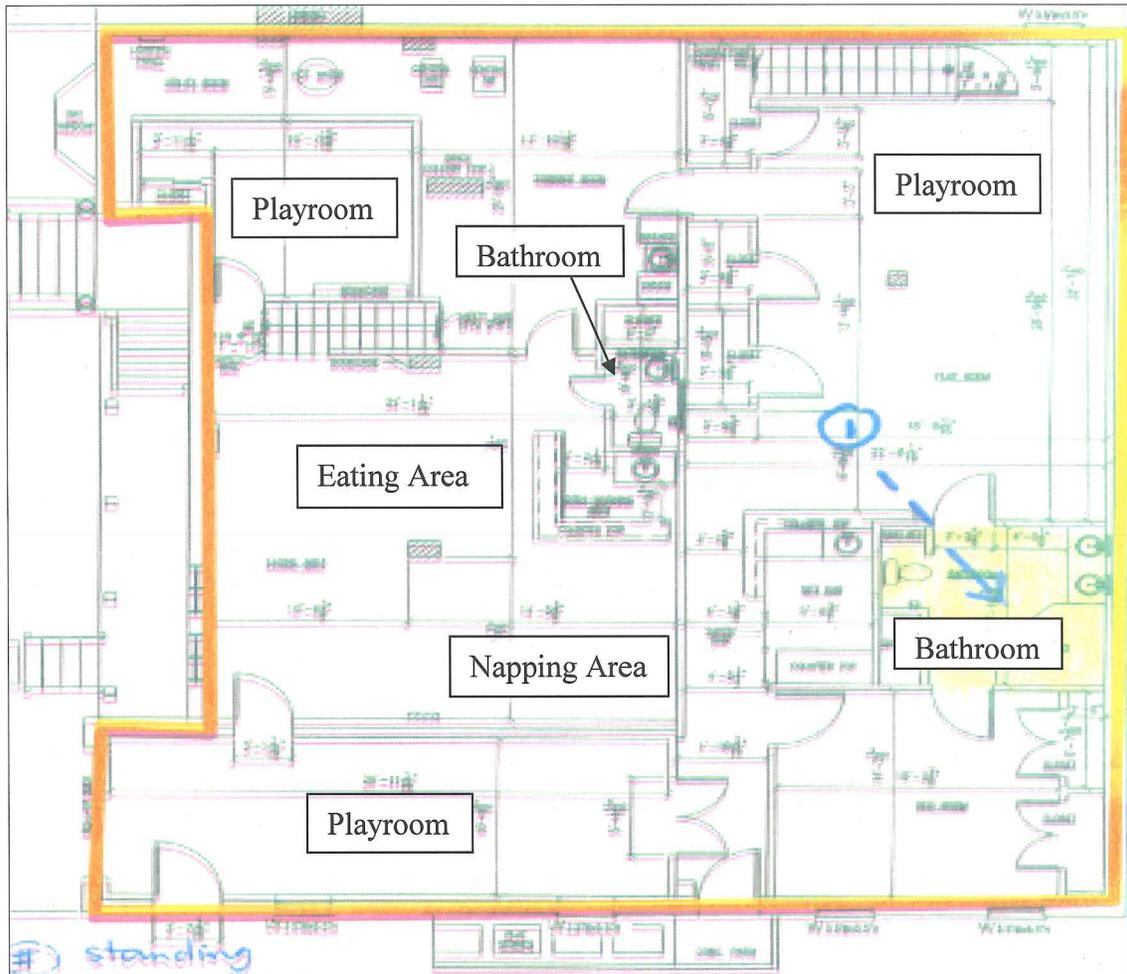
Records indicate that no other special permit or variance applications relating to a home child care have been heard by the Board of Zoning Appeals (BZA) in the surrounding area.

DESCRIPTION OF THE PROPOSED USE

The applicant is requesting approval of a special permit for a home child care facility for up to 12 children on-site at any one time between the hours of 8:00 a.m. and 6:00 p.m., Monday through Friday. The children arrive between 8:00 a.m. and 9:15 a.m. and depart between 4:00 p.m. and 6:00 p.m. There is one assistant, who lives in the residence and is the mother of the owner.

The applicant holds a current Family Day Home License, approved for one year and valid through April 25, 2014, from the Commonwealth of Virginia, Department of Social Services. The license permits a capacity of twelve children, 2 months through six years.

The home child care facility is operated in the basement of the dwelling which includes three playrooms, two bathrooms, a bedroom, a nap area and an eating area (as shown on the following page). A vinyl fence measuring approximately three feet in height encloses the rear yard within which is an outdoor play area, (a wood deck and grass area) as shown on the special permit plat. Pictures provided by the applicant show toys and playground equipment located in this area.



ANALYSIS

Comprehensive Plan Provisions

Plan Area: Area I, Baileys Planning District
Planning Sector: Barcroft Community Planning Sector (B5)
Plan Map: Residential, 2-3 du/ac

Zoning Ordinance Requirements

- Sect. 8-006 General Special Permit Standards
- Sect. 8-303 All Group 3 Uses
- Sect. 8-305 Additional Standards for Home Child Care Facilities

This special permit is subject to the sections of the Zoning Ordinance outlined above, a copy of which is included as Appendix 5. Subject to development conditions, this special permit must meet these standards.

On-site Parking and Site Circulation

Vehicular access to the site is provided from Patrick Henry Drive. The parents and children use the doorway on the south side of the building to enter the house and daycare area.

The existing driveway and garage appear to be able to accommodate five vehicles in the driveway area. The applicant parks one car in the driveway during operating hours. Any additional family cars are parked on the street during operating hours. The applicant currently has one assistant who lives in the home and does not have a car. Therefore, the driveway has approximately four spaces available to be used for drop-off and pick-up of children.

Two off street parking spaces are required for the single family dwelling and these are contained in the driveway. Staff believes sufficient parking exists in the driveway to accommodate the pick-up and drop-off of children for the home child care use.

CONCLUSION

Staff believes that the subject application is in conformance with the applicable Zoning Ordinance provisions with the adoption of the Proposed Development Conditions contained in Appendix 1 of the staff report.

RECOMMENDATION

Staff recommends approval of SP 2013-MA-106 for the home child care facility with the adoption of the Proposed Development Conditions contained in Appendix 1 of the staff report.

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.

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.

APPENDICES

1. Proposed Development Conditions
2. Applicant's Affidavit
3. Applicant's Statement of Justification
4. Notice of Violation dated April 30, 2013
5. Applicable Zoning Ordinance Provisions

PROPOSED DEVELOPMENT CONDITIONS**SP 2013-MA-106****March 5, 2014**

If it is the intent of the Board of Zoning Appeals to approve SP 2013-MA-106 located at Tax Map 61-1 ((7)) 66A to permit a home child care facility pursuant to Section 8-305 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, Thanh-Tam Thi Nguyen, and is not transferable without further action of the Board, and is for the location indicated on the application, 3221 Patrick Henry Drive, and is not transferable to other land.
2. This special permit is granted only for the purpose(s), structure(s) and/or use(s) indicated on the plat titled "Plat Showing House Location on the Property Located at #3221 Patrick Henry Drive," prepared by Frederic W. Krebs, P.E., dated September 23, 2013 and 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 maximum hours of operation of the home child care facility shall be limited to 8:00 a.m. to 6:00 p.m., Monday through Friday.
5. The dwelling that contains the child care facility shall be the primary residence of the applicant.
6. The maximum number of children on site at any one time shall be twelve, excluding the applicant's own children.
7. Pick-up and drop-off of children shall take place in the driveway.
8. A minimum of five parking spaces shall be provided on the subject parcel, within areas of existing paving and gravel.
9. There shall be no signage associated with the home child care facility.

This approval, contingent upon 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 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): _____
 (county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 9/14/2013
 (enter date affidavit is notarized)

122993

I, THANH-TAM T. NGUYEN, do hereby state that I am an
 (enter name of applicant or authorized agent)

(check one) applicant
 applicant's authorized agent listed in Par. 1(a) below

and that, to the best of my knowledge and belief, the following is true:

1(a). The following constitutes a listing of the names and addresses of all **APPLICANTS, TITLE OWNERS, CONTRACT PURCHASERS, and LESSEES** of the land described in the application,* and, if any of the foregoing is a **TRUSTEE**,** each **BENEFICIARY** of such trust, and all **ATTORNEYS** and **REAL ESTATE BROKERS**, and all **AGENTS** who have acted on behalf of any of the foregoing with respect to the application:

(NOTE: All relationships to the application listed above in **BOLD** print must be disclosed. Multiple relationships may be listed together, e.g., **Attorney/Agent, Contract Purchaser/Lessee, Applicant/Title Owner**, etc. For a multiparcel application, list the Tax Map Number(s) of the parcel(s) for each owner(s) in the Relationship column.)

NAME (enter first name, middle initial, and last name)	ADDRESS (enter number, street, city, state, and zip code)	RELATIONSHIP(S) (enter applicable relationships listed in BOLD above)
THANH-TAM T. NGUYEN	3221 PATRICK HENRY DRIVE FALLS CHURCH, VA 22044	APPLICANT/OWNERS
SON M. PHAM	3221 PATRICK HENRY DRIVE FALLS CHURCH, VA 22044	SPOUSE/OWNERS

(check if applicable) There are more relationships to be listed and Par. 1(a) is continued on a "Special Permit/Variance Attachment to Par. 1(a)" form.

* In the case of a condominium, the title owner, contract purchaser, or lessee of 10% or more of the units in the condominium.
 ** List as follows: Name of trustee, Trustee for (name of trust, if applicable), for the benefit of: (state name of each beneficiary).

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

Page Two

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 9/14/2013
(enter date affidavit is notarized)

122993

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.)

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.

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

Page Three

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 9/14/2013
(enter date affidavit is notarized)

122993

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

PARTNERSHIP INFORMATION

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

(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.

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

Page Four

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 9/14/2013
(enter date affidavit is notarized)

122993

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

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: September 14, 2013
(enter date affidavit is notarized)

122993

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)

[Signature]
 Applicant [] Applicant's Authorized Agent

Thanh-Tam Nguyen
(type or print first name, middle initial, last name, and title of signee)

Subscribed and sworn to before me this 14th day of September 2013, in the State/Comm. of Virginia, County/City of Fairfax.

[Signature]
Notary Public

My commission expires: June 30, 2015



STATEMENT OF JUSTIFICATION FOR HOME CHILD CARE FACILITY

Name: Nguyen Thanh-Tam Thi
 Address: 3221 Patrick Henry Drive, Falls Church, VA 22044
 Phone#: 703-639-0460
 Email: thanhtam_6145@yahoo.com

October 13, 2013

Department of Planning and Zoning
 Zoning Evaluation Division
 12055 Government Center Parkway, Suite 801
 Fairfax, VA 22035

RECEIVED
 Department of Planning & Zoning

OCT 16 2013

Re: Special Permit Application
 Applicant: Nguyen, Thanh-Tam Thi
 Zoning Ordinance Section 8-305 for Home Child Care Facility

Zoning Evaluation Division

Tax map: 0611 07 0066A
 Zoning district: R-3
 Lot size: 13,543

To whom it may concern:

Please accept the following as my statement of justification for a special permit for a home child care facility in my home. I own and live in a detached dwelling at: 3221 PATRICK HENRY DRIVE, FALLS CHURHC, VA 22044

The property is zone R-3 and I understand I need to seek for approval of a special permit in order to operate a child care facility within my home. I am currently licensed by the State of Virginia to have 12 children in my child care facility in my home. Below is information about my child care facility's operation:

Hours: The child care is open from 8:00 am-6:00 pm

Number of children: I care up to 12 children at any one time. This number does not include my own 2 children

Employees: I have my parent stayed in the home to assist me

Arrival Schedule: Children arrive between 8:00 am-9:15 am, may be two cars in driveway at once, usually 5-10 minutes apart, who live nearby will walked in.

2 children arrive at 8:00-8:05 am
 2-3 children arrive at 8:10 -8:15 am
 2 children arrive at 8:20-8:25 am
 2 children arrive at 8:30-8:40 am
 2 children arrive at 8:50 -9:00 am
 1-2 children arrive at 9: 00-9:15 am

Depart Schedule: Children are picked up at 4:00 pm-6:00 pm

1 child is picked up at 4:00-4:15 pm

2 children picked up at 4:45-5:00 pm

2-3 children are picked up at 5:10-5:20 pm

2-3 children are picked up at 5:30-5:40 pm

2 children are picked up at 5:45-5:50 pm

1-2 children are picked up at 6:00 pm

Area Served: These parents drive their children to my home.

Operations: My house is a single-family detached dwelling. It has two levels. There are two separate doors for basement.

The house total 13,543 square feet. Basement with 4 rooms, 2 bathrooms, garage, where I conduct the day care consist of approximate 2740 square feet total.

Hazardous or Toxic Substances: The house and yard are free from hazardous or toxic substances. No hazardous materials will be generated, utilized, stored, treated, and/or disposed of onsite.

Zoning Ordinance Compliance: The proposed development conforms to the provisions of all applicable ordinances, regulations and adopted standards or, if any waiver, exception or variance is sought, such request has been specifically noted with justification for such modification.

Outdoor play area: I use my back yard for outdoor play for the children and fenced around this area. There is swing set with a slide and a wood deck for children to play. I have indicated its location on the plat.

Parking: I use my driveway to park my family cars. My dad park on driveway, too. My driveway provides enough parking for 4 cars at once a time because the driveway is 44 feet long and 28 feet wide and holds two cars side by side. In addition, ample parking is available along the street in front of my house will be adequate for parents dropping off and picking up their children.

In conclusion, I am proposing no any physical changes to my property to the outside appearance of my brick and vinyl rear home. I propose no addition and no sign regarding the day care adequate parking is for all of us. For these reason I believe that my proposed home day care facility will not impact my neighbors in any negative way.

Sincerely,



Nguyen, Thanh-Tam
Owner of Tammy Day Care



County of Fairfax, Virginia

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

NOTICE OF VIOLATION Fairfax County Zoning Ordinance

DATE OF ISSUANCE: April 30, 2013

METHOD OF SERVICE: OFFICE OF THE SHERIFF

LEGAL NOTICE ISSUED TO: Son Minh Pham
ADDRESS: Thanhtram Thi Nguyen
3221 Patrick Henry Drive
Falls Church, Virginia 22044

LOCATION OF VIOLATION: 3221 Patrick Henry Drive
Falls Church, Virginia 22044-1628

TAX MAP REF: 61-1 ((7)) 66A
ZONING DISTRICT: R- 3

CASE #: 201302217 **SR #:** 93103

POTENTIAL CIVIL PENALTIES UNDER ZONING ORDINANCE

§ 18-903(1):	Zoning Violation	First Offense	Each Subsequent Offense
	§2-302 (6)	\$ 200.00	\$ 500.00
	TOTAL:	\$ 200.00	\$ 500.00

Dear Responsible Party:

An inspection of the above referenced property on April 25, 2013 revealed the following violation(s) 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) children are being cared for at Tammy Preschool and Day Care. 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

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

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.**

(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

Son Minh Pham
Thanhtram Thi Nguyen
April 30, 2013
SR 93103
Page 3

under Par. D above may be permitted in accordance with the provisions of Part 3 of Article 8.

Therefore, you are in violation of Par. 6 A (1) of Sect. 10-103 for watching more than seven (7) children at the home based day care center at the house. 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:

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 fifteen (15) 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 or civil penalties. Civil penalties may be ordered in the amount of \$200.00 for each violation of the Zoning Ordinance cited herein for the first violation and \$500.00 for each violation of the Zoning ordinance cited herein for any subsequent violation, in accordance with Zoning Ordinance §18-903(1).

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, 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. For information regarding an appeal contact:

Son Minh Pham
Thanhtam Thi Nguyen
April 30, 2013
SR 93103
Page 4

Zoning Administration Division
12055 Government Center Parkway, Suite 807
Fairfax, Virginia 22035
Office: (703)324-1314
Information and forms can also be obtained at <http://www.fairfaxcounty.gov/dpz/bza/appeals/>.

If you have questions, would like to schedule an appointment to meet with an investigator, or schedule a follow up inspection, please contact me directly at (703)324-1348. For any other questions, contact our main office at (703)324-1300.

LEGAL NOTICE ISSUED BY:

Signature

Charles D. Forshee
Code Compliance Investigator III
(703)324-1348

PERSONAL SERVICE _____
 Being unable to make personal service a copy was delivered in the following manner:
 Delivered to a person found in charge of usual place of business or employment during business hours and giving information of its purport.
 Delivered to family member (not temporary sojourner or guest) age 16 or older at usual place of abode or party named above after giving information its purport. List name, age of recipient, and relation of recipient to party named above.

 Posted on front door or such other door as appears to be the main entrance of usual place of abode. address listed above (Other authorized recipient not found).
 Served on a Secretary of the Commonwealth.
 Not found.

SERVING OFFICER
_____ for _____
DATE

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 Delivered to a person found in charge of usual place of business or employment during business hours and giving information of its purport.
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 Served on a Secretary of the Commonwealth.
 Not found.

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DATE

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 twelve (12), excluding the provider's own children. The BZA may also allow more than one nonresident person to be involved with the use. Except as described above, home child care facilities shall also be subject to the use limitations of Par. 6 of Sect. 10-103.
2. The BZA shall review access to the site and all existing and/or proposed parking, including but not limited to the availability of on-street parking and/or alternative drop off and pick up areas located in proximity to the use, 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.