



# County of Fairfax, Virginia

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December 3, 2014

## STAFF REPORT

SPECIAL PERMIT NO. SP 2014-DR-099

### DRANESVILLE DISTRICT

**APPLICANT:** Hilda Bustamante / Hilda's Day Care, Inc.  
**OWNER:** Silvia C. Guzman  
**SUBDIVISION:** Ridgeway Woods, Section 1  
**STREET ADDRESS:** 1502 Thurber Street, Herndon, 20170  
**TAX MAP REFERENCE:** 10-2 ((16)) 43  
**LOT SIZE:** 10,664 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 2014-DR-099 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.

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.

*Megan Duca*

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 2014-DR-099

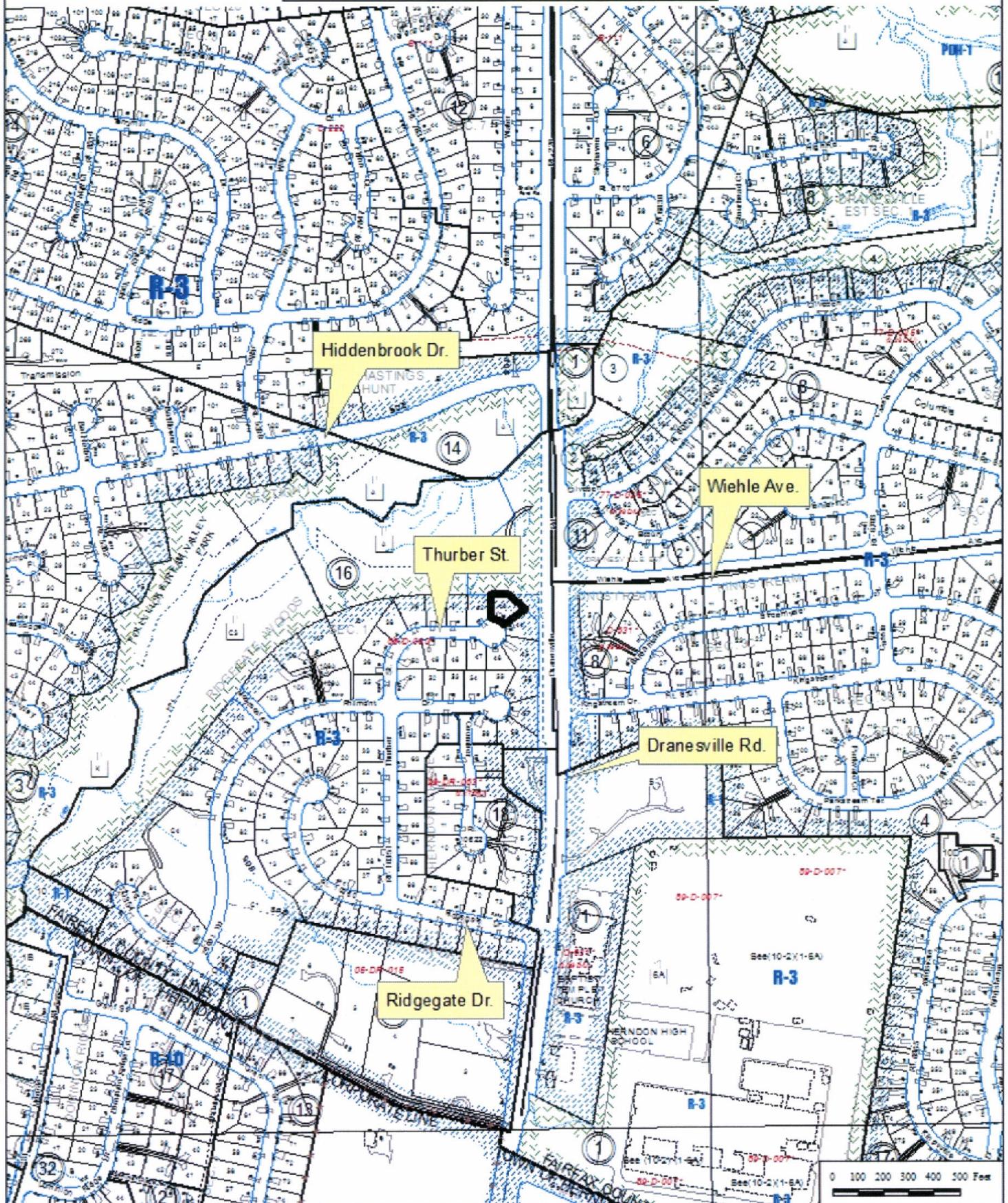
HILDA BUSTAMANTE / HILDA'S DAY CARE, INC.



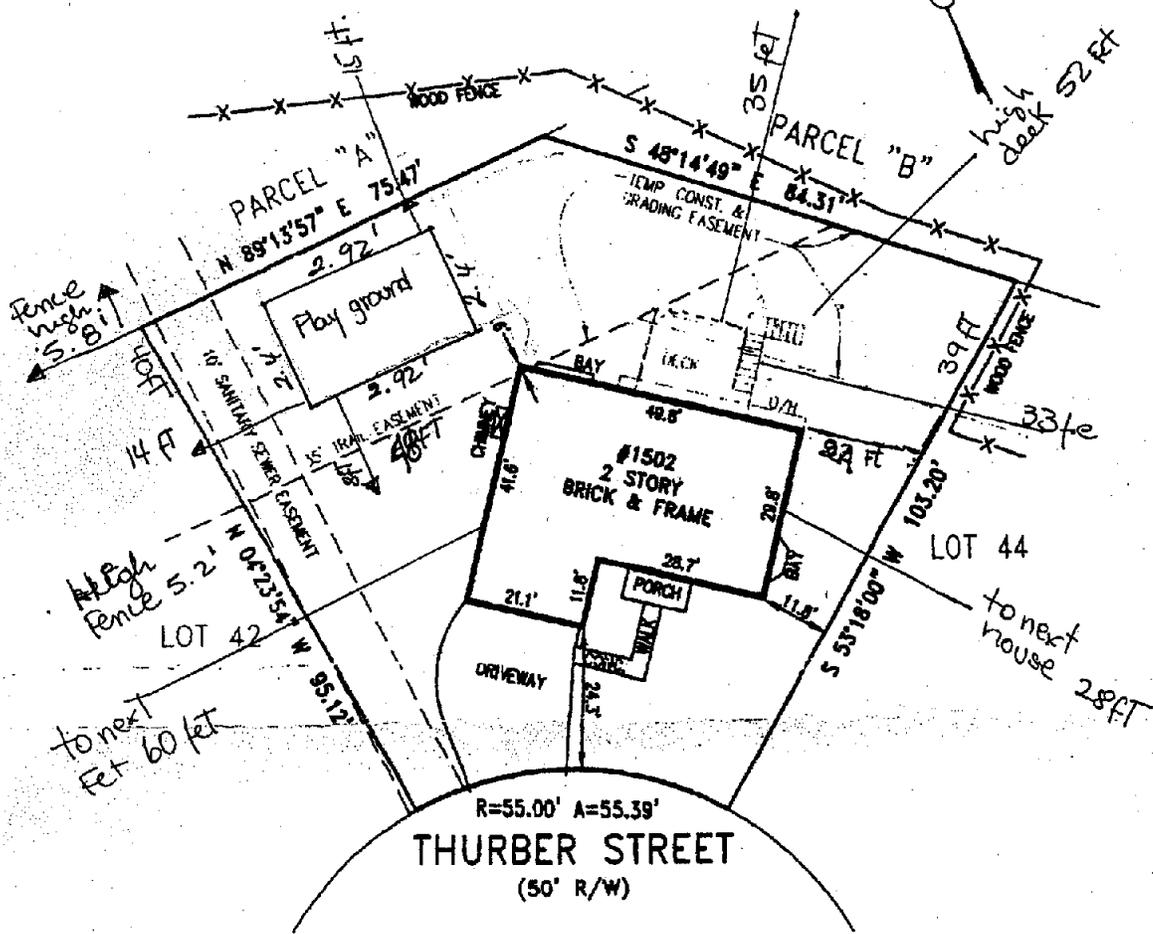
# Special Permit

SP 2014-DR-099

HILDA BUS TAMANTE / HILDA'S DAY CARE, INC.



*John F. Veatch*  
5.26.14



ition of all existing improvements have been carefully located by a transit and/or tape or electronic measuring device and, unless otherwise shown, there are no encroachments. This plat has been provided for a transaction on or about the date of this plat. This certification is limited to the parties of this transaction. This plat is furnished for informational purposes in the issuance of title insurance and is not to be used for any design or construction or to set property corners. The fence locations shown on this plat are approximate and are not certified as to relation to the property boundaries or ownership. The settlement agent has requested this survey pursuant to the terms of a contract of sale or in conjunction with a re-finance of the subject property at the owner's, prospective purchaser's, and/or lender's direction. The settlement agent has requested that only that information required for title insurance purposes be shown and does not certify to the accuracy of any of the information shown hereon. No title report has been furnished. This plat is subject to restrictions and easements of record. Boundary and other site information has been provided by others. o IPF indicates monuments used for location purposes. If no monuments were found the existing improvements were located from the occupation of existing features. Any reproduction of this document that does not bear an original signature is an unauthorized copy and may violate U.S. copyright laws. Unauthorized copies may not be in conformance with current survey requirements under Virginia State law and shall not be used for insurance and/or mortgage underwriting.

5,347.6 Sq. Ft  
back yard

RECEIVED  
Department of Planning & Zoning  
MAY 27 2014  
Zoning Evaluation Division

The seller's name and company affiliation are shown for promotional purposes only. Realtors are not responsible for any of the information shown on this plat.

**JOBIN REALTY**  
Committed to Excellence

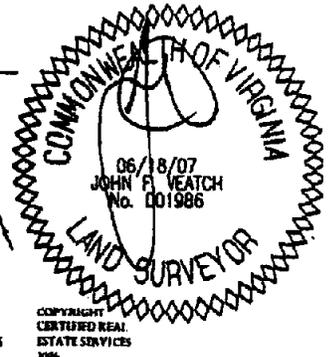
102 Elden St. Suite 14  
Herndon, VA 20170

Office: (703) 708-7140  
Fax: (703) 708-9059  
Cell: (703) 509-7997  
Email: Juan\_C\_Guzman@hotmail.com

**Juan C. Guzman**

**CRES II, Ltd.**  
CERTIFIED REAL ESTATE SERVICES  
1831 WIEHLE AVENUE, SUITE 105  
RESTON, VA 20190

OFFICE: 703.742.9105  
FAX: 703.742.9104



Land Title Survey Specialists for more than 15 years

### SPECIAL PERMIT REQUEST

The applicant is seeking a special permit to allow a home child care facility for up to 12 children. A more detailed description of the proposal is provided on page two.

A copy of the special permit plat, prepared by CRES II, Ltd., as revised by the applicant on May 26, 2014, is included in the front of the staff report. The proposed development conditions, applicant’s statement of justification with select file photographs, and affidavit are contained in Appendices 1 to 3, respectively.

### CHARACTER OF THE SITE AND SURROUNDING AREA

The site is developed with a single family detached dwelling with an attached two-car garage. An asphalt driveway provides access to the property from Thurber Street, which terminates in a cul-de-sac near the application property. A concrete walkway connects the driveway to a concrete porch at the front of the dwelling. A wooden deck and patio are located to the rear of the dwelling. A wood fence encloses the rear yard of the property. The subject property and surrounding properties to the south, east and west are zoned R-3 and developed with single-family detached dwellings as shown in the image. The property to the north of the application property is zoned R-3 and contains open space.



Source: Fairfax County GIS with added graphics

	Zoning	Use
North	R-3	Open Space
East	R-3	Single Family Detached Dwelling
South	R-3	Single Family Detached Dwelling
West	R-3	Single Family Detached Dwelling

## **BACKGROUND**

Fairfax County Tax Records indicate that the single-family dwelling was constructed in 1997 and purchased by the property owner in 2007. The applicant is currently renting the property.

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

## **DESCRIPTION OF THE PROPOSED USE**

The applicant requests 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 7:30 a.m. and 5:30 p.m., Monday through Friday. The applicant has staggered drop-off and pick-up times for the children. There are two assistants who work full-time.

The applicant holds a current Family Day Home License valid through October 5, 2015, from the Commonwealth of Virginia, Department of Social Services. The license permits a capacity of twelve children, 3 months through 12 years and 11 months of age (Appendix 4).

The home child care facility is operated in the basement of the dwelling. A copy of the floor plans submitted by the applicant is included in Appendix 2 with the Statement of Justification. The fenced outdoor play area is located in the rear yard of the dwelling. Photographs provided by the applicant show toys and play equipment located in this area. The existing deck is permitted and inspected; however, it is not used for the home child care facility.

## **ANALYSIS**

### **Comprehensive Plan Provisions**

**Plan Area:** Area III, Upper Potomac Planning District  
**Planning Sector:** Greater Herndon Community Planning Sector (UP04)  
**Plan Map:** Residential, 2-3 du/ac

### **On-Site Parking and Site Circulation**

Access to the site is provided from Thurber Street, which terminates in a cul-de-sac near the application property. A concrete walkway connects the driveway to the front of the dwelling where the children enter the home child care facility. Parking is available within the two-car garage and in the driveway. Additional on-street parking along the cul-de-sac

is also available. Two off-street parking spaces are required for the single family dwelling and these are contained within the garage. Staff believes sufficient parking exists to accommodate any employees who may drive and for the pick-up and drop-off of children for the home child care use.

### Zoning Inspection Branch Report

During a site visit on October 24, 2014, staff found that the sleeping area has adequate emergency egress. Staff observed that one light fixture required a light bulb and an additional light fixture in the storage room was hanging from the ceiling. The applicant has addressed these issues to staff's satisfaction and there are no outstanding Zoning Inspections Branch issues. Staff observed that keyed locks on the interior of the basement doors were present; however, these do not create an obstruction to either required egress door. The Zoning Inspections Branch report is included in Appendix 5.

### Zoning Ordinance Requirements (Appendix 6)

- Sect. 8-006 General Special Permit Standards
- Sect. 8-303 All Group 3 Uses
- Sect. 8-305 Additional Standards for Home Child Care Facilities
- Sect. 10-103 Par. 6 Use Limitations

### General Standards for Special Exception Uses (Sect. 8-006)

<p><b>Standards 1 and 2</b> Comprehensive Plan/ Zoning District</p>	<p>The Comprehensive Plan recommends residential uses and the property is developed with a residential use. The R-3 District permits a home child care facility for 12 children as an accessory use with special permit approval. Staff finds that the proposed use is in harmony with the Comprehensive Plan and the general purpose and intent of the R-3 District.</p>
<p><b>Standard 3</b> Adjacent Development</p>	<p>No new construction is proposed. An outdoor play area is located in the existing fenced-in rear yard, which abuts open space. In staff's opinion, the proposed use will not hinder or discourage use or development of neighboring properties.</p>
<p><b>Standard 4</b> Pedestrian/Vehicular Traffic</p>	<p>Arrival and departure times of the children are staggered. Parking is available for pick-up and drop-off in the driveway and along the public street if needed. In staff's opinion, the proposed use is not hazardous and does not conflict with existing and anticipated traffic in the neighborhood.</p>
<p><b>Standard 5</b> Landscaping/Screening</p>	<p>There is an existing board-on-board fence in the rear yard that screens the outdoor play area. There are no transitional screening or barrier requirements for this application.</p>
<p><b>Standard 6</b> Open Space</p>	<p>Open space was previously provided with the approval of the larger development. The proposed use will not encroach or impact the existing open space.</p>
<p><b>Standard 7</b> Utilities, Drainage, Parking, and Loading</p>	<p>There are no changes to the utilities and drainage serving the property or use. As previously discussed, the driveway would be used for parking for the home child care use and there is parking available along the cul-de-sac if needed.</p>

<b>Standard 8</b> Signs	Sect. 10-103 of the Zoning Ordinance prohibits signs for home child care facilities.
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### Standards for all Group 3 Uses (Sect. 8-303)

<b>Standard 1</b> Lot Size and Bulk Regulations	The lot size and bulk regulations for the subject property were previously satisfied with the development of the property. No new construction or exterior modifications are proposed.
<b>Standard 2</b> Performance Standards	The use will comply with the performance standards set forth in Article 14 of the Zoning Ordinance.
<b>Standard 3</b> Site Plan	Home child care facilities are not subject to the provisions of Article 17, Site Plans.

### Additional Standards for Home Child Care Facilities (Sect. 8-305)

<b>Standard 1</b> Maximum of 12 Children & Non-Resident Employee	The applicant's request for 12 children meets this standard. The applicant requests approval for up to two employees.
<b>Standard 2</b> Access and Parking	Staff finds that access and parking are sufficient to accommodate the use.
<b>Standard 3</b> Landscaping/Screening	There is an existing board-on-board fence in the rear yard that provides screening to the outdoor play area. Staff finds that no additional landscaping is required for this location.
<b>Standard 4</b> Submission Requirements	The submission requirements allow the use of a house location survey in lieu of the SP Plat.
<b>Standard 5</b> Code of Virginia, Title 63.2, Chapter 17	The applicant has a valid Family Day Home License from Virginia through October 5, 2015, to care for up to 12 children between the ages of 3 months to 12 years and 11 months.

### Use Limitations (Par. 6 of Sect. 10-103)

<b>Part A</b> Maximum Number of Children	The maximum number of children permitted by-right at any one time is seven in a single family detached dwelling. The applicant requests special permit approval to permit a maximum of 12 children at any one time.
<b>Part B</b> Licensed Provider/Primary Residence	The applicant is a licensed home child care provider and the subject property is the provider's primary residence. The applicant rents the dwelling as her primary residence and has submitted a letter from the property owner permitting the home child care use in the dwelling.
<b>Part C</b> No Exterior Evidence Except Play Equipment	There is no exterior evidence of the proposed use except for the play equipment.
<b>Part D</b> Non-Resident Employee	This application requests approval for up to two employees.
<b>Part E</b> Provider is a Non-Resident	The dwelling is the applicant's primary residence. As previously discussed, the applicant rents the dwelling as her primary residence and the owner of the dwelling has granted written permission to operate the home child care facility in the dwelling.

<p style="text-align: center;"><b>Part F</b> Code of Virginia, Title 63.2, Chapter 17</p>	<p>Chapter 30 of the Code of the County of Fairfax addresses home child care facilities and Title 63.2, Chapter 17 of the Code of Virginia addresses licensure and registration procedures. The applicant has a valid home child care license through October 5, 2015, to care for up to 12 children between the ages of 3 months to 12 years and 11 months.</p>
<p style="text-align: center;"><b>Part G</b> Increase in Children or Non-Resident Person</p>	<p>The maximum number of children permitted by-right at any one time is seven in a single family detached dwelling and can be increased to up to 12 children with special permit approval. The applicant requests special permit approval to permit a maximum of 12 children at any one time.</p>

## 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 2014-DR-099 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 Statement of Justification and Select Photographs
3. Applicant's Affidavit
4. State Family Day Home License
5. Zoning Inspections Branch Comments
6. Applicable Zoning Ordinance Provisions

**PROPOSED DEVELOPMENT CONDITIONS****SP 2014-DR-099****December 3, 2014**

If it is the intent of the Board of Zoning Appeals to approve SP 2014-DR-099 located at Tax Map 10-2 ((16)) 43 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, Hilda Bustamante / Hilda's Day Care, Inc., only, and is not transferable without further action of the Board, and is for the location indicated on the application, 1502 Thurber Street, and is not transferable to other land.
2. This special permit is granted only for the home child care use indicated on the plat prepared by CRES II, Ltd., as revised by the applicant on May 26, 2014, 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 7:30 a.m. to 5:30 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. The maximum number of assistants on-site at any one time shall be two.
8. The existing garage shall not be converted to a use other than for off-street parking and shall be kept clear of debris at all times in order to accommodate parking for the dwelling and home child care uses.
9. The driveway shall be made available for the pick-up and drop-off of children during the hours of operation.
10. There shall be no signage associated with the home child care facility.
11. Approval of this use is contingent upon maintenance of a state license for the home child care facility for 12 children.

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. 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.

STATEMENT OF JUSTIFICATION  
FOR A HOME CHILD CARE FACILITY

RECEIVED  
Department of Planning & Zoning

MAR 05 2014

Zoning Evaluation Division

Name: Hilda Bustamante  
Address: 1502 Thurber St  
Herndon VA 20170  
Phone #: 703 6570317  
E-mail: hldbstmnt@hotmail.com

Date 02.27.2014

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

Re: Special Permit Application

Applicant: Hilda Bustamante  
Zoning Ordinance Section 8-305 for Home Child Care Facility  
Section 8-004 of General Standards

Tax Map #: 0102160043  
Zoning District: Fairfax  
Lot Size: 10,661 SF

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 attached (~~detached~~) (circle one) dwelling at 1502 Thurber St Herndon VA 20170 (your address).

The property is zoned \_\_\_\_\_ and I understand I need to seek 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 operations:

Hours. The child care is open from 7:30 am - 5:30 pm

Number of Children. I care for up to 12 children at any one time. This number does not include my own NA child/children.

Employees. I have \_\_\_\_\_ assistant(s) who work part-time and 2 assistant(s) who work full-time.

Arrival Schedule. 12 of the children arrive between 7:30 AM and 9:30 AM.

Departure Schedule. \_\_\_\_\_ of the children are picked up at 4:30 PM 5:30

Area Served. Ashburn, Herndon, Reston  
(what neighborhood/general area do the children live in?)

Operations. As I stated, my house is a single-family attached / detached (circle one) dwelling. It has (explain the general layout of the house):

The house is spacious, has space for three car parking, is in a cul-de-sack.

The house has 10,664 square feet. The following rooms are where I conduct the day care:

basement  
These rooms are 2,000 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 the justification for such modification.

Outdoor Play Area. I use my back yard for outdoor play for the children. The area is approximately 2,000 square feet. The outdoor play area consists of: \_\_\_\_\_

Parking. I use my drive/walk to park my family car(s). My parents park in the garage

For these reasons, I believe that my proposed home day care facility will not impact my neighbors in any negative way.

In conclusion, I am proposing to use my basement in my house as a day-care because we have enough space inside and outside my house, without bothering the neighbors.

Sincerely,

[Signature]

Owner of \_\_\_\_\_

Proposed Arrival and Departure Schedule for: \_\_\_\_\_

Address: 1502 Thurber St Herndon VA 20170

Proposed Arrival Schedule

Child	7:00 – 7:45 AM	7:45 – 8:00 AM	8:00 – 8:30 AM	9:00 – 9:15 AM
1	X			
2	X			
3		X		
4		X		
5				X
6			X	
7				X
8				X
9			X	
10		X		
11				X
12			X	

Proposed Departure Schedule

Child	2:45 – 4:15 AM	4:15 – 4:30 AM	4:30 – 5:00 AM	5:00 – 5:30 AM
1		X		
2				X
3				X
4			X	
5		X		
6		X		
7			X	
8			X	
9				X
10				X
11			X	
12		X		

Appendix 1

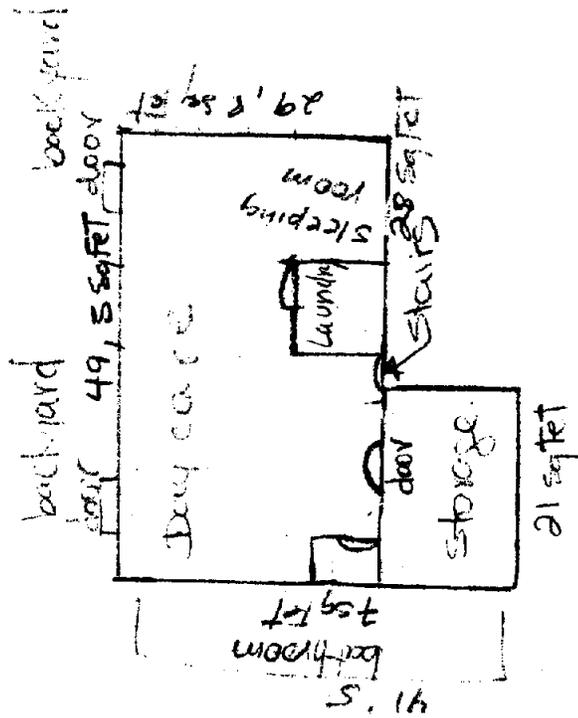
RECEIVED  
 Department of Planning & Zoning  
 MAY 27 2014  
 Zoning Evaluation Division

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Department of Planning & Zoning

MAY 27 2014

Zoning Evaluation Division

5 sq ft

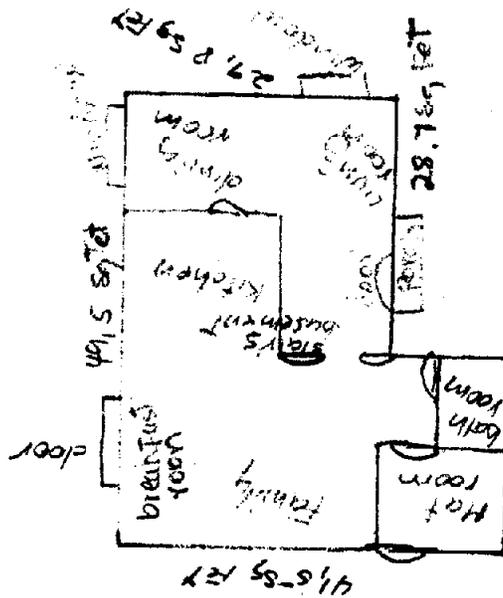


2054, 25 sq. ft

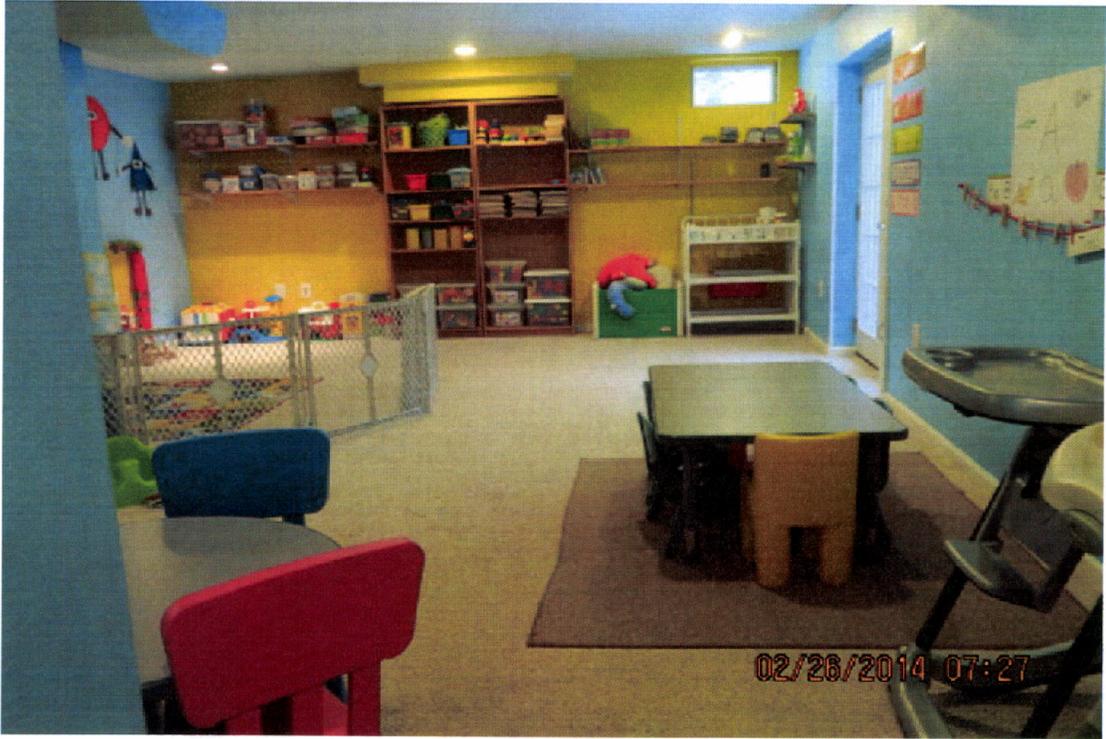
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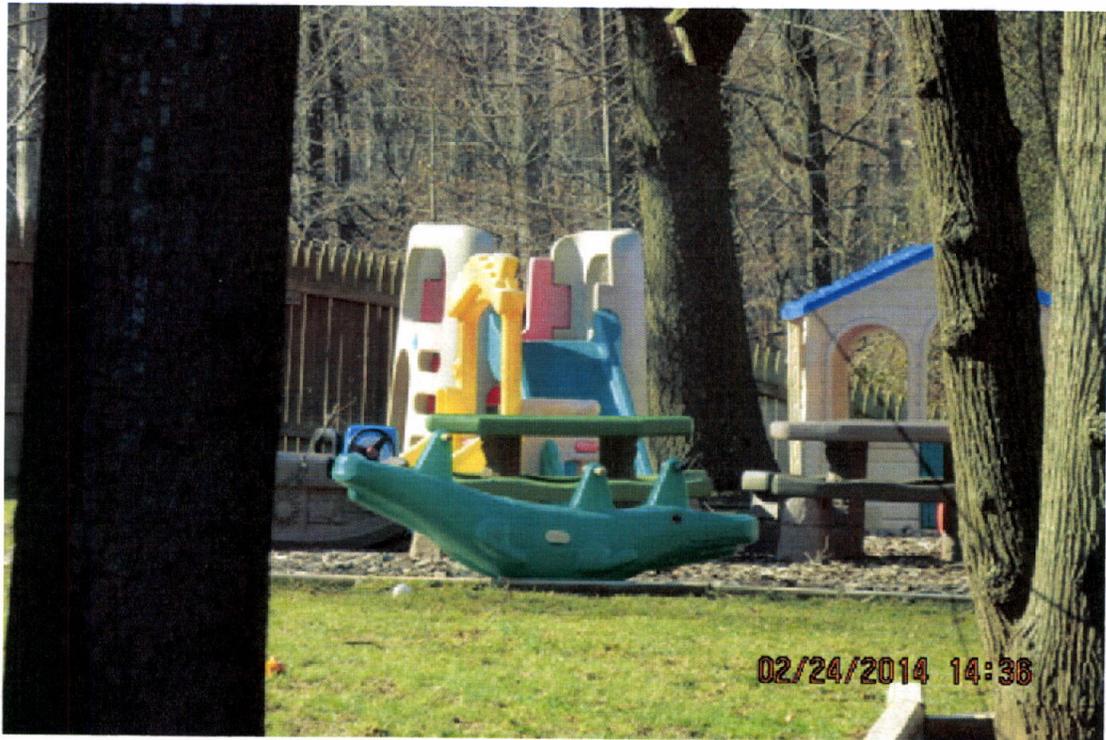
MAY 27 2014

Zoning Evaluation Division











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

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: 11.13.14  
 (enter date affidavit is notarized)

I, Hilda Bustamante, 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 <b>BOLD</b> above)
Silvia Guzman	2408 Ripplemeade CT Herndon VA. 20171	owner
Hilda Bustamante	1502 Thurber st Herndon VA 20170	Applicant
Hilda's Day care Inc.	1502 Thurber st Herndon VA 20170	

(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: 11.13.14  
(enter date affidavit is notarized)

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: 11.13.14  
(enter date affidavit is notarized)

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)

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: 11. 13. 14  
(enter date affidavit is notarized)

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.

Qu

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

Page \_\_\_\_\_ of \_\_\_\_\_

**Special Permit/Variance Attachment to Par. 1(a)**

DATE: 11.13.14  
(enter date affidavit is notarized)

**(NOTE:** All relationships to the application are to 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.)

<b>NAME</b> (enter first name, middle initial, and last name)	<b>ADDRESS</b> (enter number, street, city, state, and zip code)	<b>RELATIONSHIP(S)</b> (enter applicable relationships listed in <b>BOLD</b> above)
------------------------------------------------------------------	---------------------------------------------------------------------	----------------------------------------------------------------------------------------

(check if applicable)

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

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

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: 11-13-2014  
(enter date affidavit is notarized)

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.)

N/A

(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

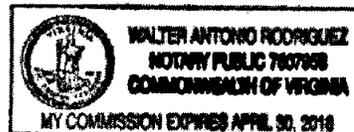
Applicant's Authorized Agent

Hilda M. Bustamante  
(type or print first name, middle initial, last name, and title of signee)

Subscribed and sworn to before me this 13<sup>th</sup> day of November 2014, in the State/Comm. of Fairfax, County/City of Herndon.

Walter A. Rodriguez  
Notary Public

My commission expires: April 30, 2018



*DM*



# VIRGINIA DEPARTMENT OF SOCIAL SERVICES



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- Adult & Child Care ↑
- Child Care ↑
- Child Day Care ↑
- Search for Child Day Care →
- Certified Preschools (CP) →
- Child Day Centers (CDC) →
- Family Day Homes (FDH) →
- Family Day System (FDS)Homes →
- Religiously Exempt Child Day Centers (RE CDC) →
- Voluntarily Registered Family Day Homes (VRFDH) →

## Search for Child Day Care

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### Hilda Bustamante

1502 Thurber Street  
 HERNDON, VA 20170  
 (703) 657-0317

**Facility Type:** [Family Day Home](#)  
**License Type:** [One Year](#)  
**Expiration Date:** Oct. 5, 2015  
**Business Hours:** 7:30 a.m. - 5:30 p.m.  
 Monday - Friday  
**Capacity:** 12  
**Ages:** 3 months - 12 years 11 months  
**Inspector:** Kelly Patterson-Savittiere  
 (703) 359-6704



## County of Fairfax, Virginia

## MEMORANDUM

Date: October 17, 2014

To: Megan Duca, Staff Coordinator  
Zoning Evaluation Division

From: Bruce Miller, Zoning/Property Maintenance Inspector *BM*  
Zoning Inspection Branch

Subject: Home Child Care Facility (HCCF), Special Exception # SP 2014-DR-099

Applicant: Hilda Bustamante / Hilda's Day Care, Inc.  
1502 Thurber Street, Herndon, VA 20170  
Ridgegate Woods, Lt 43 Sec 1  
Tax Map #: 10-2 ((16)) 43  
Zoning District: R-3  
Mail Log # 2014-DR-0431

An inspection was conducted on October 24, 2014 by Zoning/Property Maintenance Inspector Bruce Miller. The inspector was accompanied by the Staff Coordinator Megan Duca and the Applicant.

*KEY: A "✓" mark in a box indicates that the item was deficient.  
An unmarked box indicates that no violation was found.*

- Rooms used for sleeping must provide two means of exit, one which leads directly to the outside, as required by the Virginia Uniform Statewide Building Code.
- An operable smoke alarm shall be provided outside (or inside) of each sleeping area, with at least one such device on each floor.
- All exit stairs, interior or exterior, shall be in good repair and shall be provided with handrails and guard rails as required by the Virginia Uniform Statewide Building Code.
- All egress pathway and exit doors shall be unlocked in the direction of egress and free from obstructions that would prevent their use, including debris, storage, and accumulations of snow and ice.
- Electrical hazards identified shall be abated in accordance with the Virginia Uniform Statewide Building Code.

Comment: One light fixture in the basement HCCF requires a luminaire, or must be plugged.

One recessed light fixture in the storage room must be reattached to the ceiling.

- Extension cords, temporary wiring, and flexible cords shall not be substituted for permanent wiring. Extension cords and flexible cords shall not be affixed to structures, extended through walls, ceilings, or floors, or under doors or floor coverings, or be subject to environmental or physical damage.
- A working space of not less than 30 inches in width, 36 inches in depth, and 78 inches in height shall be provided in front of the electrical service equipment. Where the electrical service equipment is wider than 30 inches, the working space shall not be less than the width of the equipment. No storage of any materials shall be located within the designated working space.
- Other Maintenance Issues:
- Structures comply with the Zoning Ordinance.

Comment: The keyed locks on the interior basement doors do not create an obstruction to either required egress doors. In addition, these doors with keyed locks do not create separate dwelling units. The keyed locks appear to be installed in order to restrict the movement of the children into rooms containing storage, mechanical equipment or the bathroom.

The following photographs were taken by Inspector Bruce Miller at the time of the inspection.



The front door is a compliant entry (and required egress).

**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.

**10-103 Use Limitations****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.

Notwithstanding the above, a substitute care provider may operate a home child care facility in the absence of the provider for a maximum of 240 hours per calendar year.

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 Title 63.2, Chapter 17 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.