

**TOWN OF LEESBURG
NOTICE OF TOWN COUNCIL PUBLIC HEARING
TO CONSIDER SPECIAL EXCEPTION APPLICATION
TLSE-2013-0007
SOTO HOME DAYCARE**

Pursuant to Sections 15.2-1427, 15.2-2204, 15.2-2205 and 15.2-2285 of the Code of Virginia, 1950, as amended, the **Leesburg Town Council** will hold a public hearing on **Tuesday, June 25, 2013 at 7:30 p.m.** in the Town Council Chambers, 25 West Market Street, Leesburg, Virginia, 20176 to consider Special Exception Application TLSE-2013-0008, Soto Home Daycare a request to permit a child care center for up to 12 children at an existing residence.

The subject property is located at 195 Alpine Drive SE, Leesburg, Virginia 20175 in the Evergreen Meadows subdivision on an existing single family detached lot 0.19 acres in size that is zoned PRC, Planned Residential Community District. The property is further described as Loudoun County Parcel Identification Number (PIN) 232-17-6291 and Loudoun County Tax Map Number /48I3/2////76/. The Town Plan designates this property as “Low Density Residential” on the Land Use Policy Map.

Special Exception Application TLSE 2013-0007 is a request to allow a child care center subject to the standards of Section 9.3.4 of the Zoning Ordinance.

Additional information and copies of this application are available at the Department of Planning and Zoning located on the second floor of the Leesburg Town Hall, 25 West Market Street, Leesburg, Virginia 20176 during normal business hours (Monday-Friday, 8:30 a.m. to 5:00 p.m.), or by contacting Irish Grandfield, Senior Planner, at 703-771-2766 or igrandfield@leesburgva.gov.

At these hearings, all persons desiring to express their views concerning these matters will be heard. Persons requiring special accommodations at the Town Council meeting should contact the Clerk of Council at (703) 771-2733 three days in advance of the meeting. For TTY/TDD service, use the Virginia Relay Center by dialing 711.



Date of Council Meeting: June 25, 2013

**TOWN OF LEESBURG
TOWN COUNCIL PUBLIC HEARING MEETING**

Subject: TLSE-2013-0007, Soto Home Daycare, a special exception application to permit a child care center at an existing home.

Staff Contact: Irish Grandfield, AICP, Senior Planner, Dept. of Planning & Zoning.

Recommendation: Staff recommends **conditional approval** of the proposed special exception subject to the conditions at the end of this report.

Issue: Should a special exception be granted to allow a home based child care use in an existing home at 195 Alpine Drive in the PRC zoning district?

Fiscal Analysis: Approval of this application will generate additional business tax revenue to the Town.

Background: The Applicant Maria Soto is requesting Special Exception approval to allow a home-based “Child Care Center” for up to 12 children in the PRC zoning district at 195 Alpine Drive in the Evergreen Meadows subdivision of Leesburg. The property is designated as Loudoun County Parcel Identification Number (PIN) #232-17-6291.

The subject property is an existing single family detached residence at 195 Alpine Drive SE in the Evergreen Meadows planned development community. The lot is 0.19 acres in size. The *Town Plan* designates this property as “Low Density Residential” on the Land Use Policy Map.

Planning Commission Public Hearing and Recommendation: The Planning Commission held a public hearing on June 6, 2013 and at the conclusion of the hearing passed a motion recommending conditional approval of the application by a vote of 6-1. The applicant provided 17 letters of support for approval of the application including 8 from her neighborhood. Two members of the public spoke in support of the application and two people spoke against the application at the public hearing. The two who spoke against the application live at the same address on Alpine Drive several houses away from the applicant. They expressed concerns regarding the proposal being more of a commercial use than a residential one, potential for problems with additional traffic, and the cumulative impact of approving this application and potential others that might be submitted in the neighborhood.

The Commission discussed the case and potential neighborhood impacts. While the majority of Commissioners did not have substantial concerns with this particular application and believed the application meets zoning requirements, they did think that the Town needs to take a close look at how it regulates home-based child care facilities in the upcoming Zoning Ordinance

amendment. Staff will be working with the Planning Commission through the summer to develop recommendations for updating the zoning regulations for child care facilities.

Staff Analysis: Staff notes the following findings:

- A. Compliance with TLZO Sec. 3.4.12:** The proposed use complies with the approval criteria of TLZO Sec. 3.4.12 (see pages 5-6 of the Planning Commission Staff Report – Attachment 1). There is no adverse impact on the use of neighboring properties as this site is already developed. The traffic impact of having up to twelve children is limited and other potential impacts are largely contained within the home.
- B. Special Use Criteria:** TLZO Section 9.3.4 provides five specific use standards. Staff finds the proposed special exception use meets the child care center use standards of TLZO Section 9.3.4 as outlined on pages 6-7 of the Planning Commission staff report (Attachment 1).

Recommendation and Conditions: Staff recommends **approval** of TLSE-2013-0007 Soto Home Daycare, a special exception use for a child care center, subject to the following conditions:

- 1. Substantial Conformance:** Development of this special exception use shall be in substantial conformance with the attached “Stowers Section 3, Lot 76 Resite” property plat prepared by Bowman Consulting and dated March 4, 2003 with additional notations in ink.
- 2. No Expressed or Implied Waivers:** Approval of the special exception does not express or imply any waiver or modification of the requirements set forth in the Subdivision and Land Development Regulations, the Zoning Ordinance, or the Design and Construction Standards Manual (DCSM) except as specifically approved by Town Council or as shown as approved by Town Council on the Special Exception Plat and supporting documents.
- 3. Recreational Area Fencing:** The fence at least four (4) feet in height shall be maintained in good repair to completely enclose the outdoor recreation area in accordance with TLZO Sec. 9.3.4.B.
- 4. Maximums:** The maximum number of children that may be cared for in a 24-hour period, excluding the children of the provider, is twelve (12). Children may range in age from less than one year to 12 years old. Applicant shall employ no more than two (2) persons to help care for the children.
- 5. Driveway Limitation:** The applicant will assure that clients use the existing driveway for drop off and pick up. Drop off and pick up times shall be sufficiently staggered so that patrons shall be able to use the driveway for this purpose.

- 6. Hours of Operation:** The facility shall operate only between the hours of 6:30 AM and 6:30 PM, Monday through Friday.
- 7. Termination of Use:** This Special Exception shall be exclusive to the applicant and shall not run with the land. The use shall terminate in the event the applicant no longer resides at the property at 195 Alpine Place in Leesburg.

Attachments

1. Planning Commission Staff Report dated June 6, 2013
2. Resolution



Date of Planning Commission Meeting: June 6, 2013

TOWN OF LEESBURG
PLANNING COMMISSION PUBLIC HEARING

Subject: TLSE-2013-0007, Soto Home Day Care, a special exception application to permit a child care center for up to 12 children at 195 Alpine Drive.

Staff Contact: Irish Grandfield, AICP, Senior Planner, Dept. of Planning & Zoning.

Recommendation: Staff recommends conditional **approval** of the proposed special exception subject to the conditions contained in this report.

I. APPLICATION SUMMARY

The Applicant Maria Soto is requesting Special Exception approval to allow a home-based “Child Care Center” for up to 12 children in the PRC zoning district at 195 Alpine Drive in the Evergreen Meadows subdivision of Leesburg (see Figure 1). A plat (Attachment 1) and Statement of Justification (Attachment 2) have been submitted in support of the application. Staff recommends conditional approval finding the proposal consistent with the Zoning Ordinance and Town Plan.

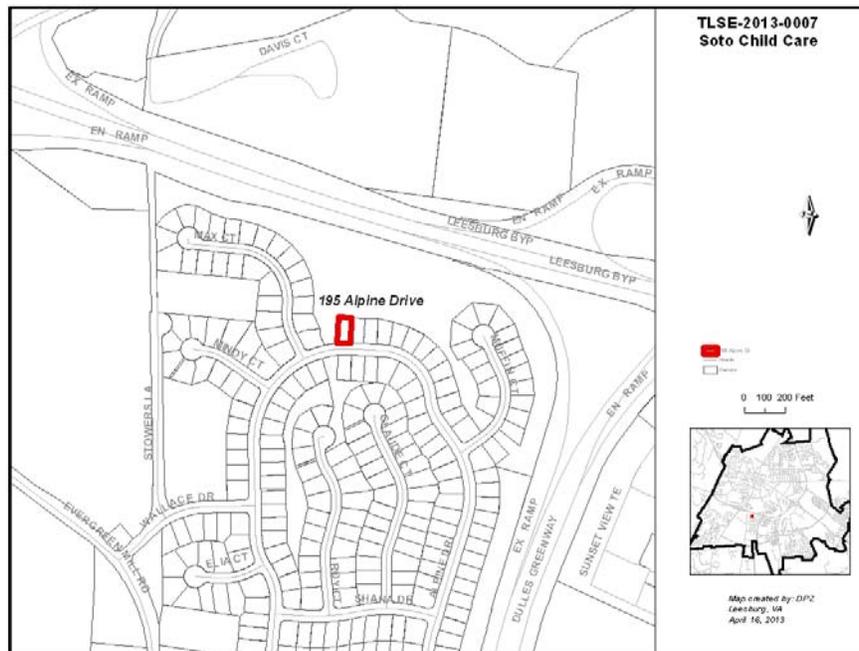


Figure 1. Application Property

been informed of the provider's plan to seek a child care license. Applicant is pursuing this special exception to comply with both Town zoning laws and VDSS requirements.

VI. STAFF ANALYSIS

A. **Scope of Consideration:** The Town has no jurisdiction over the operation of the childcare facility inside the home. VDSS regulates and regularly inspects the facility for compliance with an extensive list of requirements to protect child safety. The question for the Town is simply does the operation meet two sets of criteria:

- a. The 5 specific use criteria for a child care facility as listed in TLZO 9.3.4.
- b. The 4 general approval criteria for special exceptions per TLZO 3.4.12.

Review and discussion of this special exception request should adhere to these standards and any conditions of approval must be directly related to these regulations. Note further that even if this special exception were to be approved the Applicant must comply with the conditions and restrictions of the Evergreen Mills Homeowners Association regarding the use.

B. **Town Plan Compliance:** The Town of Leesburg Zoning Ordinance (TLZO) Section 3.4.12 requires an assessment of how the proposed special exception use will comply with applicable provisions of the *Town Plan*. The following elements of the *Town Plan* are applicable given the Applicant's proposal.

The property is located in the *Town Plan's* Southwest Policy area and is identified on the *Town Plan* Land Use Policy Map as "Low Density Residential" (see *Figure 4*). There is no specific guidance given related to the proposed use. No new development is proposed and staff finds that the Applicant's proposal is not inconsistent with the goals and objectives of the *Town Plan*.

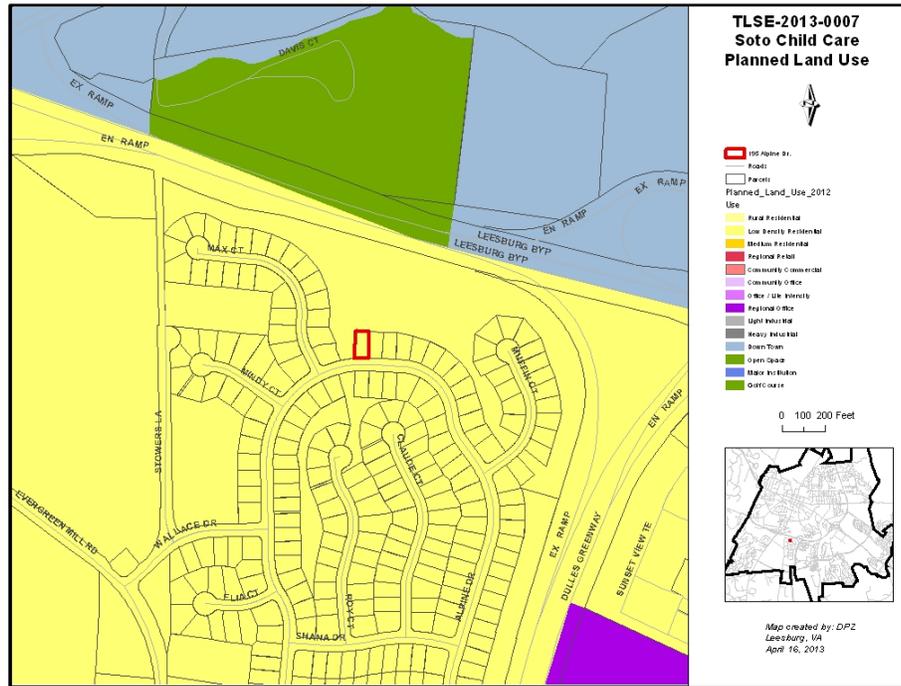


Figure 4. Town Plan Designated Land Use

- C. Transportation Analysis:** The applicant was granted a traffic impact analysis waiver based on the fact that the proposed use generates little traffic.
- D. Utilities:** The site is served adequately by sewer and water.
- E. Specific Use Standards for a Child Care Center:** TLZO Section 9.3.4 provides the specific use standards discussed below:
- A. *Recreation Area* - A minimum area of 100 square feet of usable outdoor recreation area shall be provided for each child that may use the space at any one time.

The Applicant proposes to use the existing fenced backyard which is 1,778 square feet in size. Pursuant to TLZO 9.3.4 no more than 80% of the required yard may be counted for purposes of calculating recreational area. In this case, the allowable recreation area consists of a total of 1,622 square feet. This is more than sufficient for the maximum number of children that could occupy the yard especially considering that the Soto Home Day Care service specializes in taking care of infants and toddlers. As such, the use of the outdoor recreation area in the backyard is limited in comparison to daycare facilities that provide services to older children.

- B. *Fencing* - A fence at least four (4) feet in height shall completely enclose the outdoor recreation area and that all persons entering the recreation area are within direct line of sight from the child care center classroom areas or from inside the building.

The rear yard is completely enclosed by an existing 6-foot tall wooden fence. The entrance to the play area is from sliding glass doors at the ground level. Two windows and the sliding glass door provide a direct line of sight. In addition, an attendant will always be with the children when they are in the outside play area to meet the intent of the criteria.

- C. *Play Equipment* - No play equipment shall be located within the required yard setbacks.

The applicant does not have any permanent play structure in the yards.

- D. *Recreation Location* - Outdoor recreation areas shall be safely separated from parking, loading and service areas such as dumpster pads.

Staff finds that the recreation areas are safely separated from hazardous areas.

- E. *Parking* – Parking areas shall be designated to enhance the safety of children as they arrive and depart the center. A designated arrival and departure zone shall be located adjacent to the child care center in such a manner that children do not have to cross vehicle travel aisles to enter or exit the center.

Those dropping off children pull into the driveway directly adjacent to the sidewalk that leads to the front door of the home. The sidewalk and front entrance to the home are safely separated from the parking area. Staff finds that the arrival and departure paths meet the criteria.

F. General Approval Criteria

Zoning Ordinance Section 3.4.12 establishes the following criteria for the Planning Commission and Town Council to use, in addition to other reasonable considerations, in making their decision regarding approval or disapproval of a special exception application. Listed below are the specific criteria with staff response.

- A. “*The proposed use will not adversely affect the use of neighboring properties.*” - The child care use is largely indoors. Occasional outdoor recreation for a limited number of children is consistent with what occurs in residential communities. Because the use will mainly be indoors and the number of child drop-off and pick-up trips will be staggered, the use does not adversely impact neighboring properties.
- B. “*The use shall comply with applicable zoning district regulations and applicable provisions of the adopted Town Plan, including but not limited to the Plan’s Land Use Compatibility policies.*” – Subject to the proposed conditions of approval, the

facility conforms to the PRC Zoning District regulations and is compatible with the planned “Low Density Residential” land use.

- C. *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.* – The existing home will not be enlarged and is compatible with the neighboring homes. The front of the house is landscaped and the rear of the home is enclosed by a six-foot tall fence. The proposed use does not hinder or discourage development and use of adjacent or nearby properties.
- D. *“The proposed use will be such that pedestrian and vehicular traffic generated will not be hazardous or conflict with the existing and anticipated traffic in the neighborhood and on the streets serving the site.”* – The day care use generates little traffic. Alpine Drive is sufficient to handle the estimated 24 trips per day spread out over several hours in the morning and afternoon. Ample on-street parking is available on both sides of the street.

Staff finds that the proposal will not inhibit safe and convenient pedestrian and vehicular travel.

G. Conditions and Safeguards

Zoning Ordinance Section 3.4.14 grants Town Council the authority to impose conditions and safeguards deemed necessary for the protection of general welfare and individual property rights. Such conditions may relate to topics including hours of operation, landscaping & screening, access to the site, lighting, and noise. Staff is recommending a set of conditions of approval that are included in Section VII of this report.

VII. Recommendation and Conditions of Approval:

Staff recommends **conditional approval** of TLSE-2013-0007, Soto Home Day Care Center subject to the following conditions:

- 8. Substantial Conformance:** Development of this special exception use shall be in substantial conformance with the attached “Stowers Section 3, Lot 76 Resite” property plat prepared by Bowman Consulting and dated March 4, 2003 with additional notations in ink.
- 9. No Expressed or Implied Waivers:** Approval of the special exception does not express or imply any waiver or modification of the requirements set forth in the Subdivision and Land Development Regulations, the Zoning Ordinance, or the Design and Construction Standards Manual (DCSM) except as specifically approved by Town Council or as shown as approved by Town Council on the Special Exception Plat and supporting documents.

- 10. Recreational Area Fencing:** The fence at least four (4) feet in height shall be maintained in good repair to completely enclose the outdoor recreation area in accordance with TLZO Sec. 9.3.4.B.
- 11. Maximums:** The maximum number of children that may be cared for in a 24-hour period, excluding the children of the provider, is twelve (12). Children may range in age from less than one year to 12 years old. Applicant shall employ no more than two (2) persons to help care for the children.
- 12. Driveway Limitation:** The applicant will assure that clients use the existing driveway for drop off and pick up. Drop off and pick up times shall be sufficiently staggered so that patrons shall be able to use the driveway for this purpose.
- 13. Hours of Operation:** The facility shall operate only between the hours of 6:30 AM and 6:30 PM, Monday through Friday.
- 14. Termination of Use:** This Special Exception shall be exclusive to the applicant and shall not run with the land. The use shall terminate in the event the applicant no longer resides at the property at 195 Alpine Place in Leesburg.

VIII. Sample Planning Commission Draft Motion

Approval:

I move that special exception application TLSE 2013-0007, Soto Home Day Care be forwarded to Town Council with a recommendation of conditional approval, subject to the conditions of approval contained in the staff report dated June 6, 2013 on the basis that the approval criteria of Zoning Ordinance Sections 3.4.12 and 9.3.4 have been satisfied and that the proposal would serve the public necessity, convenience, general welfare and good zoning practice.

Denial:

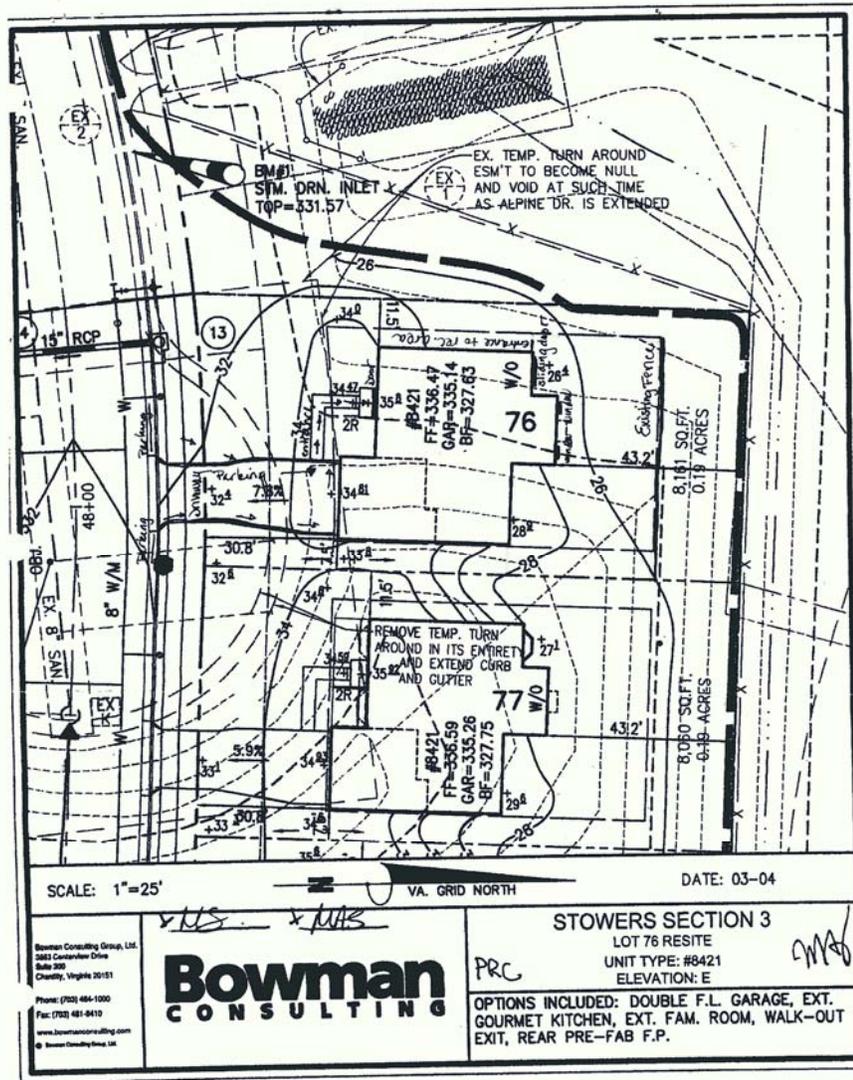
I move that special exception application TLSE-2013-0007, Soto Home Day Care, be forwarded to the Town Council with a recommendation of denial on the basis that the Approval Criteria of Zoning Ordinance Sections 3.4.12 and 9.3.4 have not been satisfied as follows:

(list findings)

Attachments

1. Property plat
2. Statement of Justification

Attachment 1: Special Exception plat



H:\1479-01-001\03C3\457.dwg, 4/16/2004 3:23:14 PM, 1495202 (2nd Floor).pc3

Maria Soto
Request for Special Exception Approval for a Child Care Center
Statement of Compliance
4/8/2012

- I. Introduction:** My name is Maria R Soto. As approved through a Home occupation permit. I currently operate a home based child care service at my home 195 Alpine Drive SE Leesburg, VA 20175 in the Stowers Section 3 neighborhood of Leesburg. The parcel is 8,161 SQ. FT. / 0.19 ACRES in size and is identified in the County tax records as PIN: 232176291000. My property is zoned PRC. I have discussed the proposal with my neighbors and they are fully aware that I operate a home daycare. There is a Home Owners Association (HOA) Evergreen Meadows HOA; please find attached the document stating that a home daycare is allowable.

At my home daycare I provide care to 10 children, the youngest one is 11 months old and the oldest one is 31 months old. I open Monday through Friday from 7:30am to 5:30pm. The parents start dropping off at 7:30am and the last child is dropped off at around 8:30am. The first child gets picked up at 4:15pm and the last child leaves at 5:30pm. My daycare is located in my home at 195 Alpine Drive SE Leesburg, VA 20175. The children access the building through the front door. We provide a nurturing and safe environment where children learn through play. We are working on fencing our backyard which will provide 1,623 square footage of fenced outdoor play area. I have 2 assistants working full time hours from 8am to 5:30pm. They both drive to work in the same car and park across from the common area on my side of the street. I have 2 children of my own; they both attend Loudoun Public Schools full time. My daughter Hailey is 9 attends fourth grade and my daughter Alexa is 6 attends first grade.

- II. Traffic Study Waiver Request:** My home located at 195 Alpine Drive is adequately served and it is connected to Wallace, which connects with Ever Green Mills Road. Alpine Drive is wide enough that it allows traffic to operate both ways even if there are cars parked on the street, it has plenty of parking spaces available and I also have a driveway that allows for 3 to 4 cars to park at the same time. Alpine also has sidewalks on both sides of the street. I am the corner house; I don't have any neighbors to the right of my house. Parents drop off between 7:30am and 8:30am and pick up between 4:15pm and 5:30pm, drop off should not take more than 10 minutes per parent. Three of the children attending my daycare live in my neighborhood, when the weather allows they are able to walk to pick up their children. Not all parents pick up at the same time, usually is one or two at the same time. Based on the limited traffic impact of the proposed use, I request a waiver of the traffic study requirement pursuant to section 3.4.6F of the Zoning Ordinance.

- III. Specific Use Standards for a Child Care Center:** My proposal meets the use standards of the Town of Leesburg Zoning Ordinance (TLZO) Section 9.3.4 ("Child Care Center") listed below:

- A. Recreation Area - A minimum area of 100 square feet of usable outdoor recreation area shall be provided for each child that may use the space at any one time. I operate in a single home with more than 100 square feet of usable outdoor recreation are for each child.

The size of the play area is 1623 s.f. and it is located on the back of the house. Due to the fact that most of the children are infants, some do not go outside. Those that do play outside are out at different times (in separate age groups). Even if all children play at the same time they have more than enough space.

- B. Fencing - A fence at least four (4) feet in height shall completely enclose the outdoor recreation area and that all persons entering the recreation area are within direct line of sight from the child care center classroom areas or from inside the building.

I am in the process of contracting with a company to build a fence meeting this standard. The fence will be complete prior to this special exception request going forward to Planning Commission public hearing.

- C. Play Equipment - No play equipment shall be located within the required yard setbacks.

I don't have any built structures within the yard setbacks.

- D. Recreation Location - Outdoor recreation areas shall be safely separated from parking, loading and service areas such as dumpster pads.

Outdoor recreation areas are safely separated from parking as they are on the back of the house and the entrance is through the front. See driveway and entrance on the plat.

- E. Parking - Parking areas shall be designated to enhance the safety of children as they arrive and depart the center. A Designated arrival and departure zone shall be located adjacent to the child care center in such a manner that children do not have to cross vehicle travel aisles to enter or exit the center.

Children come in through the front of the house. Normally parents park either on my driveway or on the street adjacent to my house, next to my mailbox. During pick up the same procedure is used.

IV. General Approval Criteria

Zoning Ordinance Section 3.4.12 establishes the following criteria for the Planning Commission and Town Council to use, in addition to other reasonable considerations, in making their decision regarding approval or disapproval of a special exception application. Listed below are the specific criteria with staff response.

- A. *“The proposed use will not adversely affect the use of neighboring properties.”* – I run an indoor business, we use my backyard when the weather allows (when the temperature is between 50 degrees and 85 degrees) between 10:30am and 11am and/or between 4:00pm and 4:30pm) If we do go out, we only take 5 to 6 children at a time. My children are under 3 years of age, there has never been a complaint regarding noise.
- E. *“The use shall comply with applicable zoning district regulations and applicable provisions of the adopted Town Plan, including but not limited to the Plan’s Land Use Compatibility policies.”* – I am applying for a special exception in order to demonstrate compliance with Zoning District regulations.
- F. *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.* – The structures have not changed and will always be consistent with residential regulations.
- G. *“The proposed use will be such that pedestrian and vehicular traffic generated will not be hazardous or conflict with the existing and anticipated traffic in the neighborhood and on the streets serving the site.”* – There will be drop offs occur during the hours of 7:30am and 8:30 am and in the afternoon the parents pick up between 4:30pm and 5:30pm, the drop offs and pick ups do not occur simultaneously, they happen at different times during that time frame.

Attachment 2

PRESENTED: June 25, 2013

RESOLUTION NO. _____

ADOPTED: _____

A RESOLUTION: APPROVING TLSE-2013-0007, SOTO HOME DAYCARE, A CHILD CARE CENTER LOCATED ON PROPERTY IDENTIFIED AS PIN NUMBER 232-17-6291 AND LOCATED AT 195 ALPINE DRIVE

WHEREAS, Ms. Maria Soto is requesting Special Exception approval to permit a child care center use for up to twelve children in an existing home at 195 Alpine Drive in the PRC zoning district on the property identified as Loudoun County Parcel Identification (PIN) number 232-17-6291; and

WHEREAS, the property is zoned PRC, Planned Residential Community District; and

WHEREAS, the Planning Commission held a duly advertised Public Hearing on June 6, 2013 and recommended conditional approval; and

WHEREAS, staff recommends conditional approval subject to the conditions in the staff report dated June 25, 2013; and

WHEREAS, the Town Council held a duly advertised Public Hearing on June 25, 2013; and

WHEREAS, Town Council has determined the proposed use meets the special exception standards for a child care center set forth in the Zoning Ordinance; and

WHEREAS, Town Council has determined that the Approval Criteria of Zoning Ordinance Section 3.4.12 have been satisfied; and

WHEREAS, Town Council has determined that the proposal would serve the public necessity, convenience, general welfare and good zoning practice.

THEREFORE, RESOLVED by the Council of the Town of Leesburg in Virginia that Special Exception application TLSE-2013-0007, Soto Home Daycare, is hereby approved to permit a child care center use for up to 12 children in an existing home at 195 Alpine Drive on the property identified as Loudoun County Parcel Identification (PIN) number 232-17-6291, subject to the following conditions:

1. **Substantial Conformance:** Development of this special exception use shall be in substantial conformance with the attached "Stowers Section 3, Lot 76 Resite" property plat prepared by Bowman Consulting and dated March 4, 2003 with additional notations in ink.
2. **No Expressed or Implied Waivers:** Approval of the special exception does not express or imply any waiver or modification of the requirements set forth in the Subdivision and Land Development Regulations, the Zoning Ordinance, or the Design and Construction Standards Manual (DCSM) except as specifically approved by Town Council or as shown as approved by Town Council on the Special Exception Plat and supporting documents.
3. **Recreational Area Fencing:** The fence at least four (4) feet in height shall be maintained in good repair to completely enclose the outdoor recreation area in accordance with TLZO Sec. 9.3.4.B.
4. **Maximums:** The maximum number of children that may be cared for in a 24-hour period, excluding the children of the provider, is twelve (12). Children may range in age from less than one year to 12 years old. Applicant shall employ no more than two (2) persons to help care for the children.
5. **Driveway Limitation:** The applicant will assure that clients use the existing driveway for drop off and pick up. Drop off and pick up times shall be sufficiently staggered so that patrons shall be able to use the driveway for this purpose.
6. **Hours of Operation:** The facility shall operate only between the hours of 6:30 AM and 6:30 PM, Monday through Friday.

- 7. Termination of Use:** This Special Exception shall be exclusive to the applicant and shall not run with the land. The use shall terminate in the event the applicant no longer resides at the property at 195 Alpine Place in Leesburg.

PASSED this 25th day of June, 2013

Kristen C. Umstattd, Mayor
Town of Leesburg

ATTEST:

Clerk of Council



Date of Planning Commission Meeting: June 6, 2013

**TOWN OF LEESBURG
PLANNING COMMISSION PUBLIC HEARING**

Subject: TLSE-2013-0007, Soto Home Day Care, a special exception application to permit a child care center for up to 12 children at 195 Alpine Drive.

Staff Contact: Irish Grandfield, AICP, Senior Planner, Dept. of Planning & Zoning.

Recommendation: Staff recommends conditional **approval** of the proposed special exception subject to the conditions contained in this report.

I. APPLICATION SUMMARY

The Applicant Maria Soto is requesting Special Exception approval to allow a home-based “Child Care Center” for up to 12 children in the PRC zoning district at 195 Alpine Drive in the Evergreen Meadows subdivision of Leesburg (see Figure 1). A plat (Attachment 1) and Statement of Justification (Attachment 2) have been submitted in support of the application. Staff recommends conditional approval finding the proposal consistent with the Zoning Ordinance and Town Plan.

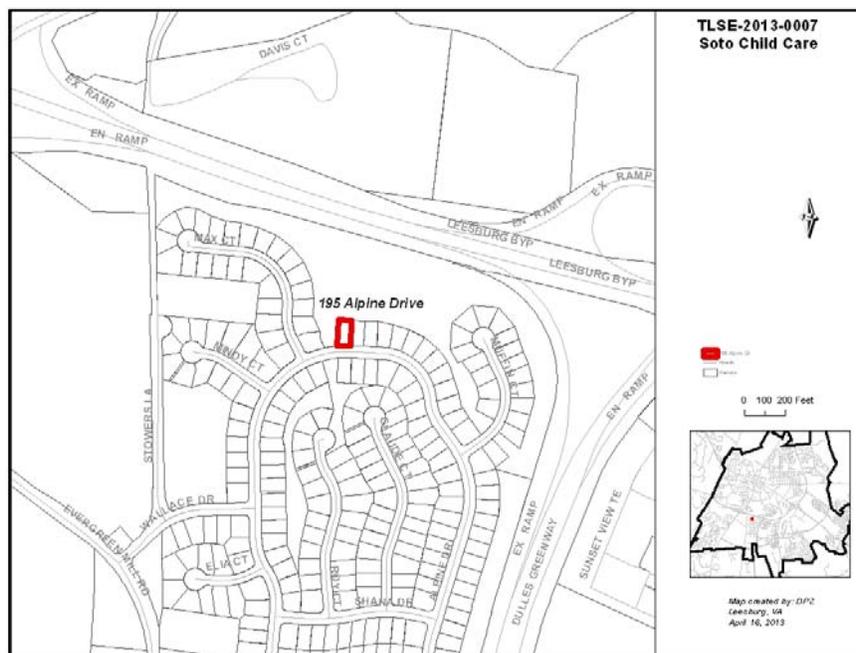


Figure 1. Application Property



Figure 2. Aerial

II. CURRENT SITE CONDITIONS: The subject property is an existing single family detached residence at 195 Alpine Drive SE (see Figure 2, Aerial View). The property is 0.19 acres in size located in a planned development community of similarly sized lots. The property is identified as Loudoun County Parcel Identification Number (PIN) #232-17-6291. The *Town Plan* designates this property as “Low Density Residential” on the Land Use Policy Map.

III. ZONING HISTORY: The property is zoned PRC, Planned Residential Community District (see Figure 3). Setback requirements are 30 feet for the front yard, 7 feet minimum for side yards, and 20 feet for the rear yard. The property meets setback requirements. The Applicant is seeking this special exception to meet local zoning laws to permit up to 12 children to be cared for in the home.

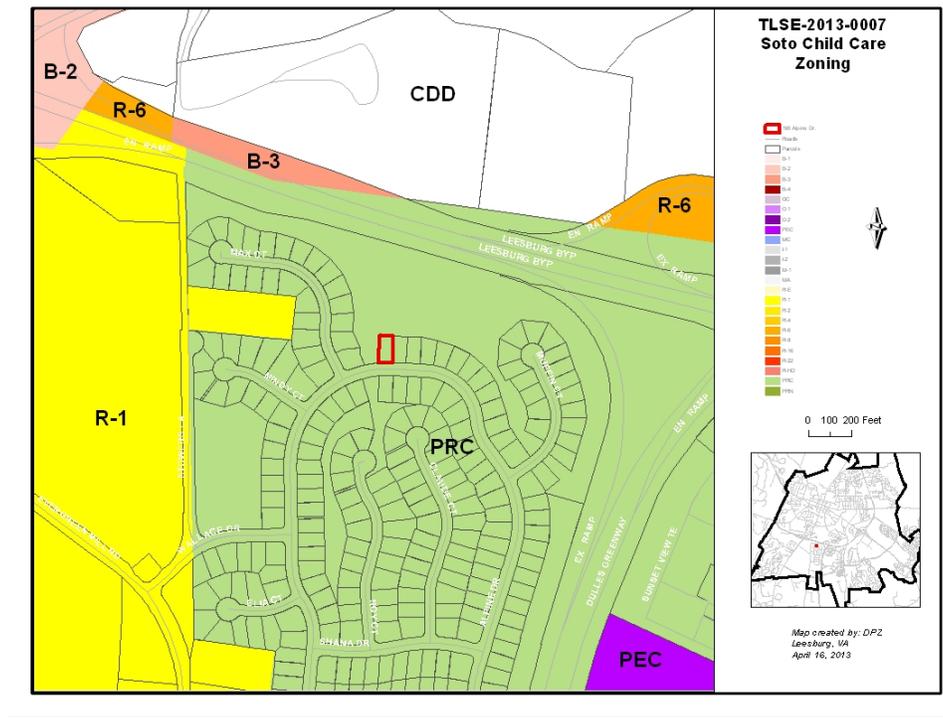


Figure 3. Zoning

IV. USES ON ADJACENT PROPERTY: The surrounding property is zoned PRC, Planned Residential Community District and consists of homes similar in size and design to the subject property.

V. GENERAL BACKGROUND INFORMATION: TLZO Sec. 9.4.3.C permits a home-based child care service of up to five (5) children, not counting those of the operator, in every residential district as a by-right home occupation. The Virginia Department of Social Services (VDSS), which regulates child care providers in Virginia, does not require a license for this use unless there are at least four children under the age of two receiving care. However, if a home-based provider wishes to have 6 -12 children in the home-based facility the state requires a VDSS “Family Day Home” license. In addition to the state requirement, the Town requires special exception approval for a child care service in accordance with the Zoning Ordinance for more than 5 children. That is what the Applicant is requesting in this case.

Recently, the Virginia Department of Social Services (VDSS) changed its enforcement policy and is now requiring local day care providers to prove that they comply with local zoning laws *before* they will grant a day care license. The state rules always said providers had to comply with local zoning but before July 1, 2012 they did not always check for compliance. The VDSS ruling states that providers seeking new licenses are now *required* to have the local Zoning Administrator sign off on a form saying they have been informed of the

provider's plan to seek a child care license. Applicant is pursuing this special exception to comply with both Town zoning laws and VDSS requirements.

VI. STAFF ANALYSIS

- A. **Scope of Consideration:** The Town has no jurisdiction over the operation of the childcare facility inside the home. VDSS regulates and regularly inspects the facility for compliance with an extensive list of requirements to protect child safety. The question for the Town is simply does the operation meet two sets of criteria:
- a. The 5 specific use criteria for a child care facility as listed in TLZO 9.3.4.
 - b. The 4 general approval criteria for special exceptions per TLZO 3.4.12.

Review and discussion of this special exception request should adhere to these standards and any conditions of approval must be directly related to these regulations. Note further that even if this special exception were to be approved the Applicant must comply with the conditions and restrictions of the Evergreen Mills Homeowners Association regarding the use.

- B. **Town Plan Compliance:** The Town of Leesburg Zoning Ordinance (TLZO) Section 3.4.12 requires an assessment of how the proposed special exception use will comply with applicable provisions of the *Town Plan*. The following elements of the *Town Plan* are applicable given the Applicant's proposal.

The property is located in the *Town Plan's* Southwest Policy area and is identified on the *Town Plan* Land Use Policy Map as "Low Density Residential" (see *Figure 4*). There is no specific guidance given related to the proposed use. No new development is proposed and staff finds that the Applicant's proposal is not inconsistent with the goals and objectives of the *Town Plan*.

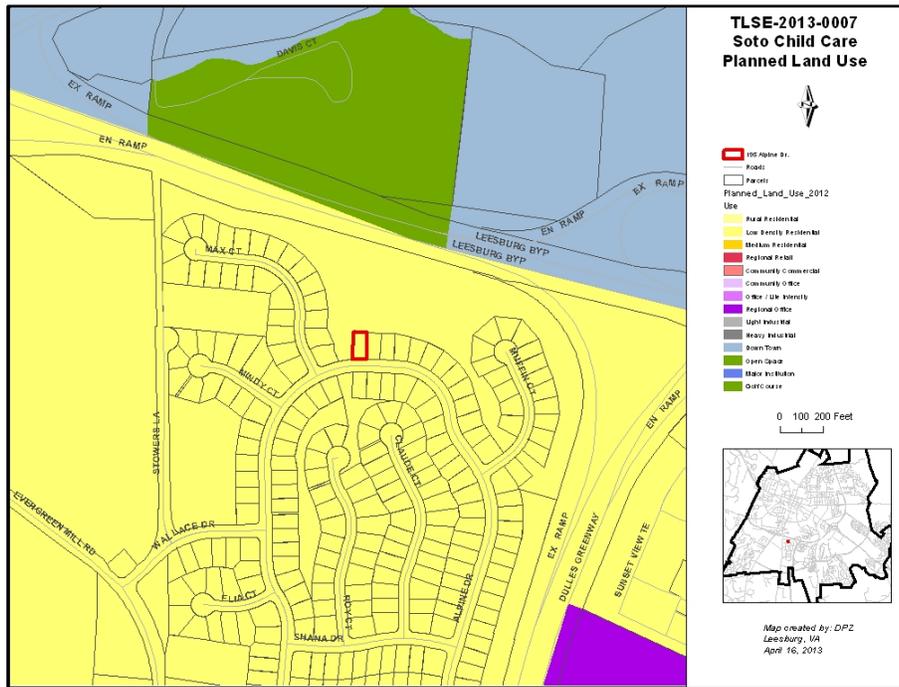


Figure 4. Town Plan Designated Land Use

- B. **Transportation Analysis:** The applicant was granted a traffic impact analysis waiver based on the fact that the proposed use generates little traffic.
- C. **Utilities:** The site is served adequately by sewer and water.
- D. **Specific Use Standards for a Child Care Center:** TLZO Section 9.3.4 provides the specific use standards discussed below:
 - A. *Recreation Area* - A minimum area of 100 square feet of usable outdoor recreation area shall be provided for each child that may use the space at any one time.

The Applicant proposes to use the existing fenced backyard which is 1,778 square feet in size. Pursuant to TLZO 9.3.4 no more than 80% of the required yard may be counted for purposes of calculating recreational area. In this case, the allowable recreation area consists of a total of 1,622 square feet. This is more than sufficient for the maximum number of children that could occupy the yard especially considering that the Soto Home Day Care service specializes in taking care of infants and toddlers. As such, the use of the outdoor recreation area in the backyard is limited in comparison to daycare facilities that provide services to older children.

- B. Fencing - A fence at least four (4) feet in height shall completely enclose the outdoor recreation area and that all persons entering the recreation area are within direct line of sight from the child care center classroom areas or from inside the building.

The rear yard is completely enclosed by an existing 6-foot tall wooden fence. The entrance to the play area is from sliding glass doors at the ground level. Two windows and the sliding glass door provide a direct line of sight. In addition, an attendant will always be with the children when they are in the outside play area to meet the intent of the criteria.

- C. Play Equipment - No play equipment shall be located within the required yard setbacks.

The applicant does not have any permanent play structure in the yards.

- D. Recreation Location - Outdoor recreation areas shall be safely separated from parking, loading and service areas such as dumpster pads.

Staff finds that the recreation areas are safely separated from hazardous areas.

- E. Parking – Parking areas shall be designated to enhance the safety of children as they arrive and depart the center. A designated arrival and departure zone shall be located adjacent to the child care center in such a manner that children do not have to cross vehicle travel aisles to enter or exit the center.

Those dropping off children pull into the driveway directly adjacent to the sidewalk that leads to the front door of the home. The sidewalk and front entrance to the home are safely separated from the parking area. Staff finds that the arrival and departure paths meet the criteria.

E. General Approval Criteria

Zoning Ordinance Section 3.4.12 establishes the following criteria for the Planning Commission and Town Council to use, in addition to other reasonable considerations, in making their decision regarding approval or disapproval of a special exception application. Listed below are the specific criteria with staff response.

- A. “The proposed use will not adversely affect the use of neighboring properties.” - The child care use is largely indoors. Occasional outdoor recreation for a limited number of children is consistent with what occurs in residential communities. Because the use will mainly be indoors and the number of child drop-off and pick-up trips will be staggered, the use does not adversely impact neighboring properties.
- B. “The use shall comply with applicable zoning district regulations and applicable provisions of the adopted Town Plan, including but not limited to

the Plan's Land Use Compatibility policies." – Subject to the proposed conditions of approval, the facility conforms to the PRC Zoning District regulations and is compatible with the planned "Low Density Residential" land use.

- C. *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.* – The existing home will not be enlarged and is compatible with the neighboring homes. The front of the house is landscaped and the rear of the home is enclosed by a six-foot tall fence. The proposed use does not hinder or discourage development and use of adjacent or nearby properties.
- D. *"The proposed use will be such that pedestrian and vehicular traffic generated will not be hazardous or conflict with the existing and anticipated traffic in the neighborhood and on the streets serving the site."* – The day care use generates little traffic. Alpine Drive is sufficient to handle the estimated 24 trips per day spread out over several hours in the morning and afternoon. Ample on-street parking is available on both sides of the street.

Staff finds that the proposal will not inhibit safe and convenient pedestrian and vehicular travel.

F. Conditions and Safeguards

Zoning Ordinance Section 3.4.14 grants Town Council the authority to impose conditions and safeguards deemed necessary for the protection of general welfare and individual property rights. Such conditions may relate to topics including hours of operation, landscaping & screening, access to the site, lighting, and noise. Staff is recommending a set of conditions of approval that are included in Section VII of this report.

VII. Recommendation and Conditions of Approval:

Staff recommends **conditional approval** of TLSE-2013-0007, Soto Home Day Care Center subject to the following conditions:

- 1. Substantial Conformance:** Development of this special exception use shall be in substantial conformance with the attached "Stowers Section 3, Lot 76 Resite" property plat prepared by Bowman Consulting and dated March 4, 2003 with additional notations in ink.
- 2. No Expressed or Implied Waivers:** Approval of the special exception does not express or imply any waiver or modification of the requirements set forth in the Subdivision and Land Development Regulations, the Zoning Ordinance, or the Design and Construction Standards Manual (DCSM) except as specifically approved by Town Council or as shown as approved by Town Council on the Special Exception Plat and supporting documents.

3. **Recreational Area Fencing:** The fence at least four (4) feet in height shall be maintained in good repair to completely enclose the outdoor recreation area in accordance with TLZO Sec. 9.3.4.B.
4. **Maximums:** The maximum number of children that may be cared for in a 24-hour period, excluding the children of the provider, is twelve (12). Children may range in age from less than one year to 12 years old. Applicant shall employ no more than two (2) persons to help care for the children.
5. **Driveway Limitation:** The applicant will assure that clients use the existing driveway for drop off and pick up. Drop off and pick up times shall be sufficiently staggered so that patrons shall be able to use the driveway for this purpose.
6. **Hours of Operation:** The facility shall operate only between the hours of 6:30 AM and 6:30 PM, Monday through Friday.
7. **Termination of Use:** This Special Exception shall be exclusive to the applicant and shall not run with the land. The use shall terminate in the event the applicant no longer resides at the property at 195 Alpine Place in Leesburg.

VIII. Sample Planning Commission Draft Motion

Approval:

I move that special exception application TLSE 2013-0007, Soto Home Day Care be forwarded to Town Council with a recommendation of conditional approval, subject to the conditions of approval contained in the staff report dated June 6, 2013 on the basis that the approval criteria of Zoning Ordinance Sections 3.4.12 and 9.3.4 have been satisfied and that the proposal would serve the public necessity, convenience, general welfare and good zoning practice.

Denial:

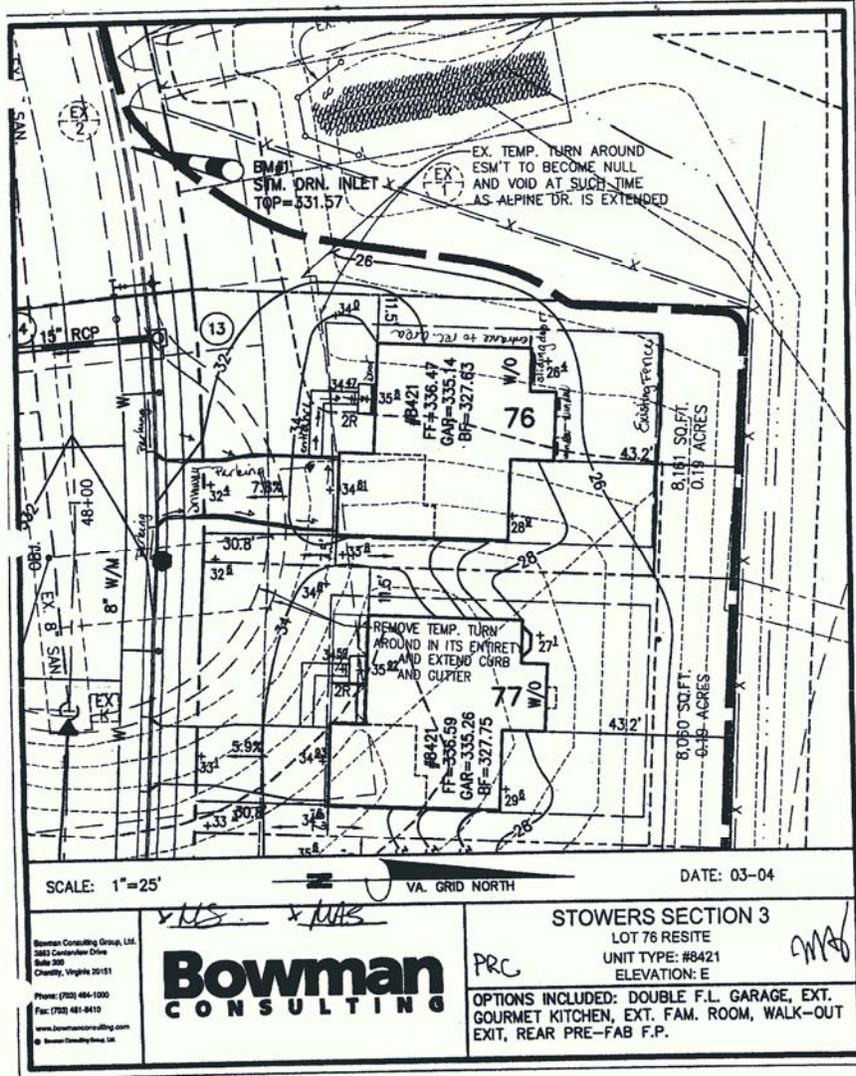
I move that special exception application TLSE-2013-0007, Soto Home Day Care, be forwarded to the Town Council with a recommendation of denial on the basis that the Approval Criteria of Zoning Ordinance Sections 3.4.12 and 9.3.4 have not been satisfied as follows:

(list findings)

Attachments

1. Property plat
2. Statement of Justification

Attachment 1: Special Exception plat



Maria Soto
Request for Special Exception Approval for a Child Care Center
Statement of Compliance
4/8/2012

- I. **Introduction:** My name is Maria R Soto. As approved through a Home occupation permit. I currently operate a home based child care service at my home 195 Alpine Drive SE Leesburg, VA 20175 in the Stowers Section 3 neighborhood of Leesburg. The parcel is 8,161 SQ. FT. / 0.19 ACRES in size and is identified in the County tax records as PIN: 232176291000. My property is zoned PRC. I have discussed the proposal with my neighbors and they are fully aware that I operate a home daycare. There is a Home Owners Association (HOA) Evergreen Meadows HOA; please find attached the document stating that a home daycare is allowable.

At my home daycare I provide care to 10 children, the youngest one is 11 months old and the oldest one is 31 months old. I open Monday through Friday from 7:30am to 5:30pm. The parents start dropping off at 7:30am and the last child is dropped off at around 8:30am. The first child gets picked up at 4:15pm and the last child leaves at 5:30pm. My daycare is located in my home at 195 Alpine Drive SE Leesburg, VA 20175. The children access the building through the front door. We provide a nurturing and safe environment where children learn through play. We are working on fencing our backyard which will provide 1,623 square footage of fenced outdoor play area. I have 2 assistants working full time hours from 8am to 5:30pm. They both drive to work in the same car and park across from the common area on my side of the street. I have 2 children of my own; they both attend Loudoun Public Schools full time. My daughter Hailey is 9 attends fourth grade and my daughter Alexa is 6 attends first grade.

- II. **Traffic Study Waiver Request:** My home located at 195 Alpine Drive is adequately served and it is connected to Wallace, which connects with Ever Green Mills Road. Alpine Drive is wide enough that it allows traffic to operate both ways even if there are cars parked on the street, it has plenty of parking spaces available and I also have a driveway that allows for 3 to 4 cars to park at the same time. Alpine also has sidewalks on both sides of the street. I am the corner house; I don't have any neighbors to the right of my house. Parents drop off between 7:30am and 8:30am and pick up between 4:15pm and 5:30pm, drop off should not take more than 10 minutes per parent. Three of the children attending my daycare live in my neighborhood, when the weather allows they are able to walk to pick up their children. Not all parents pick up at the same time, usually is one or two at the same time. Based on the limited traffic impact of the proposed use, I request a waiver of the traffic study requirement pursuant to section 3.4.6F of the Zoning Ordinance.

- III. **Specific Use Standards for a Child Care Center:** My proposal meets the use standards of the Town of Leesburg Zoning Ordinance (TLZO) Section 9.3.4 ("Child Care Center") listed below:

- A. Recreation Area - *A minimum area of 100 square feet of usable outdoor recreation area shall be provided for each child that may use the space at any one time. I operate in a single home with more than 100 square feet of usable outdoor recreation are for each child.*

The size of the play area is 1623 s.f. and it is located on the back of the house. Due to the fact that most of the children are infants, some do not go outside. Those that do play outside are out at different times (in separate age groups). Even if all children play at the same time they have more than enough space.

- B. Fencing - *A fence at least four (4) feet in height shall completely enclose the outdoor recreation area and that all persons entering the recreation area are within direct line of sight from the child care center classroom areas or from inside the building.*

I am in the process of contracting with a company to build a fence meeting this standard. The fence will be complete prior to this special exception request going forward to Planning Commission public hearing.

- C. Play Equipment - *No play equipment shall be located within the required yard setbacks.*

I don't have any built structures within the yard setbacks.

- D. Recreation Location - *Outdoor recreation areas shall be safely separated from parking, loading and service areas such as dumpster pads.*

Outdoor recreation areas are safely separated from parking as they are on the back of the house and the entrance is through the front. See driveway and entrance on the plat.

- E. Parking - *Parking areas shall be designated to enhance the safety of children as they arrive and depart the center. A Designated arrival and departure zone shall be located adjacent to the child care center in such a manner that children do not have to cross vehicle travel aisles to enter or exit the center.*

Children come in through the front of the house. Normally parents park either on my driveway or on the street adjacent to my house, next to my mailbox. During pick up the same procedure is used.

IV. General Approval Criteria

Zoning Ordinance Section 3.4.12 establishes the following criteria for the Planning Commission and Town Council to use, in addition to other reasonable considerations, in making their decision regarding approval or disapproval of a special exception application. Listed below are the specific criteria with staff response.

- A. *“The proposed use will not adversely affect the use of neighboring properties.”* – I run an indoor business, we use my backyard when the weather allows (when the temperature is between 50 degrees and 85 degrees) between 10:30am and 11am and/or between 4:00pm and 4:30pm) If we do go out, we only take 5 to 6 children at a time. My children are under 3 years of age, there has never been a complaint regarding noise.
- E. *“The use shall comply with applicable zoning district regulations and applicable provisions of the adopted Town Plan, including but not limited to the Plan’s Land Use Compatibility policies.”* – I am applying for a special exception in order to demonstrate compliance with Zoning District regulations.
- F. *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.* – The structures have not changed and will always be consistent with residential regulations.
- G. *“The proposed use will be such that pedestrian and vehicular traffic generated will not be hazardous or conflict with the existing and anticipated traffic in the neighborhood and on the streets serving the site.”* – There will be drop offs occur during the hours of 7:30am and 8:30 am and in the afternoon the parents pick up between 4:30pm and 5:30pm, the drop offs and pick ups do not occur simultaneously, they happen at different times during that time frame.