

COUNTY OF YORK

MEMORANDUM

DATE: August 27, 2010 (PC Mtg. 9/8/10)

TO: York County Planning Commission

FROM: Timothy C. Cross, AICP, Principal Planner

SUBJECT: Application No. UP-783-10, Grace Lamb d/b/a El Roi Childcare Center

ISSUE

This application requests a Special Use Permit, pursuant to Sections 24.1-283(b)(1) and 24.1-281(b) of the York County Zoning Ordinance, to authorize day care for more than six (6) children (ages 2 through 5) as a home occupation in a single-family detached home to be built on a 0.5-acre parcel located at 121 Russell Lane (Route 1847) and further identified as Assessor's Parcel No. 37-57-1.

DESCRIPTION

- Property Owner: Isadore Major, Jr. et ux (Applicant is contract purchaser)
- Location: 121 Russell Lane (Route 1847)
- Area: 0.5 acre
- Frontage: 165.3 feet on Russell Lane
- Utilities: Public water and sewer
- Topography: Flat
- 2025 Land Use Map Designation: High Density Residential
- Zoning Classification: R13 – High-density single-family residential
- Existing Development: None
- Surrounding Development:
 - North: Single-family detached home (across Russell Lane)
 - East: Single-family detached home
 - South: None
 - West: None

- Proposed Development: Day care for more than six (6) children as a home occupation in a single-family detached home (to be constructed)

CONSIDERATIONS/CONCLUSIONS

1. The applicant currently lives in Newport News, where she operates a child care center for five (5) children out of her home. She and her husband plan to build a new, larger home on a vacant lot in York County, and she would like to relocate the child care operation to her new home and expand it to provide care for up to twelve (12) children. Home-based day care is permitted as a matter of right for up to six (6) children but requires a Special Use Permit for more than six (6) children.
2. Section 24.1-282(b)(2) of the Zoning Ordinance allows day care for up to six (6) children, other than those of the proprietor, by right as a home occupation in the R13, R20, RR, and RC zoning districts. Pursuant to Section 24.1-283(b)(1), a Special Use Permit is required for more than six (6) children. Also applicable is Section 24.1-281(b) of the Zoning Ordinance, which states that home occupations cannot exceed four hundred (400) square feet in area or 25 percent of the floor area, whichever is less, unless a greater area is authorized by the Board of Supervisors through the approval of a Special Use Permit application. According to the applicant's floor plan, the area of the proposed child care center would be 770 square feet, which represents 19 percent of the gross floor area of the home. Consequently, there are two components to this application: the number of children and the number of square feet.
3. Home-based day care and child care centers are classified as "family day homes" by the Virginia Department of Social Services, which is responsible for licensing such facilities when care is provided for six to twelve children (exclusive of the provider's own children or any children who reside in the home). The applicant provides care for five (5) children at her home in Newport News and therefore is not currently subject to state licensing requirements. She has indicated in her narrative description (attached) that she is enrolled in state certification courses and plans to be certified by the spring of 2011. Staff has proposed a condition of approval requiring compliance with all applicable state licensing requirements.
4. The subject property is an undeveloped half-acre parcel located at the end of Russell Lane, which is a cul-de-sac street. It was created as part of a four-lot family subdivision recorded in April 2010. The owners of the parent tract continue to own the subject parcel and the adjacent parcel at 115 Russell Lane, where they reside. The other two parcels, which do not have public road frontage (since the adjacent Latta Lane is a private road) and will ultimately be accessed via a private driveway to be built off of Russell Lane, are owned by family members as required by the family subdivision provisions of the Subdivision Ordinance. The subject parcel is not subject to these family ownership requirements because it has the required public road frontage.
5. The subject parcel is designated High Density Residential in the Comprehensive Plan and is zoned R13 (High-density single family residential). Like all the parcels on

Russell Lane, this half-acre parcel is greater than the 13,500-square foot minimum lot size allowed in the R13 district, but it is not large enough to be further subdivided.

6. According to the Institute of Transportation Engineers' (ITE) *Trip Generation* manual (8th edition), day care centers generate an average of 4.48 daily vehicle trips per student. However, this is based on studies involving large commercial day care centers with an average of 11 employees and 85 students. For a small home-based center such as this one, with no non-resident employees, staff believes a trip generation rate of 4.0 daily trips per student – two trips in the morning as the child is dropped off and two in the evening as the child is picked up – is more realistic. (Dropping off or picking up a child at the center counts as two trips – one entering and one exiting.) Although the proposed hours of operation are 6:00 AM to 6:00 PM, drop-off and pick-up times will likely be staggered based on the parents' varying schedules. The ITE estimates an average of only 0.80 trip per student in the AM peak hour and 0.82 in the PM peak hour (i.e., ten trips in each peak hour). Based on this information, the proposed day care operation can be expected to add a total of 48 trips per day on Russell Lane, approximately ten (10) of them in both the AM and PM peak hours. The addition of 48 trips on a road like Russell Lane, which carries only an estimated ninety (90) vehicles per day, is a significant increase (53.3 percent) in traffic. However, it should be noted that Russell Lane, which was paved as part of the County's Dirt Street Program, was designed to accommodate up to 400 vehicle trips per day, and, based on the zoning and the amount of undeveloped land along this road, it will not likely reach traffic volumes that high even at full build-out and even with the child care operation.
7. The most noticeable aspect of the proposed day care center for nearby residents would be the outdoor play area, which, according to the applicant's sketch plan, would face the adjacent parcels to the south and west, both of which are undeveloped. The play area would be shielded from the adjacent homes to the north and west – the closer of which is over 100 feet away – by the home itself. To help screen views of the play area from adjoining properties, staff has proposed a condition of approval requiring a privacy fence at least four feet (4') in height to be built around the outdoor play area. This condition also would require the fence to be at least ten feet (10') from any property boundary, which would ensure some distance buffer between the outdoor play area and the adjacent parcel to the south and provide space for landscaping (existing vegetation and/or new plantings) on the perimeter of the fence. The proposed fence height is consistent with both the Zoning Ordinance performance standards for commercial day care centers and the standards of the Department of Social Services. The state licensing standards do not specify a required amount of outdoor play space for each child, nor do they require the family day home to even have outdoor play space on the premises; however, they do require that the home provide outdoor play space that is "large enough to permit all children receiving care to run and play freely." If there is no outdoor play space on the premises, the provider is required to have a feasible plan – such as transporting the children to a public park or playground – for providing outdoor play time.

8. Parking requirements for home occupations are addressed in Section 24.1-281(g) of the Zoning Ordinance, which states that “any demand for parking generated by the conduct of such home occupation which is in addition to the [two] spaces required for the residential use shall be accommodated off the street in a suitably located and surfaced space.” For a typical commercial day care center, the Zoning Ordinance would require 1.5 parking spaces per classroom plus one stacking space for every five (5) children enrolled, which in this case would be a total of 4 to 5 spaces. Since the proposed child care center would have no non-resident employees, the only parking need generated by the center would be for short-term (i.e., approximately ten minutes or less) stacking spaces for parents dropping off and picking up their children. According to the applicant’s floor plan and sketch plan, the house will have a two-car garage, a 20’ by 28’ driveway that can accommodate two parked cars, and a second driveway that can accommodate approximately four additional vehicles. Staff believes the site will be able to accommodate the parking needs associated with the child care operation. (For purposes of comparison, it should be noted that according to national parking survey data published in the ITE *Parking Generation* manual [3rd edition], the average peak-period parking demand for day care centers is 0.24 space per student, which would be three spaces in this case.)
9. With regard to the second component of this application – the request to exceed the customary square footage requirements for home occupations (400 square feet or 25 percent of the floor area of the home, whichever is less) – it should be noted that the only other home-based day care center in the County that has received use permit approval for more than six (6) children was granted an exception to the floor area requirements. In that case, the Board approved an application to authorize an in-home day care center for up to eight (8) children and a maximum floor area of 1,008 square feet. It should also be noted that although the Department of Social Services’ licensing standards do not set a minimum requirement for the amount of indoor space per child, they do make reference to the American Academy of Pediatrics and the American Public Health Association, which recommend 35 square feet of indoor space per child which is free of furniture and equipment, or 50 square feet of space if furniture and equipment are included (in this case, 420 to 600 square feet). The 770 square feet of child care space proposed as part of the current application includes 550 square feet of indoor school/play area plus an office and entry area and therefore is consistent with these national guidelines.

RECOMMENDATION

There have been only two previous use permit applications for home-based day care for more than six (6) children, one of which was withdrawn by the applicant before it could be considered by the Planning Commission. The other application (UP-456-93), approved by the Board of Supervisors in November 1993, involved a 0.52-acre parcel in a more densely developed residential neighborhood on Lambs Creek Road in the Calthrop Neck area of the County. That request was to allow day care for a maximum of eight (8) children as a home occupation, with the day care center occupying 1,008 square feet on the second story of a detached garage. The parcel in question was nonconforming

with regard to size since the property was zoned RR (Rural Residential), which requires a minimum lot size of one acre.

By comparison, the current application involves a similarly sized parcel (0.50 acre) in a neighborhood that has been developed at a *lower* density than the zoning prescribes. Although zoned for high-density residential development, the surrounding area is fairly sparsely developed; the average lot size of parcels along Russell Lane is more than twice the minimum lot size required under the existing zoning. Three of the five parcels adjacent to the subject parcel are undeveloped, and two of them are owned by family members of the owners of the subject parcel. Of the two adjacent homes, one is located on the opposite side of Russell Lane approximately 80 feet from the front property line and approximately 200 feet from the outdoor play area, which would be fenced and located on the far side of the new house and therefore not visible. The other adjacent home, located immediately to the east at 115 Russell Lane, would be over 100 feet from the outdoor play area and also shielded by the house. Furthermore, this home is owned and occupied by the owners of the subject parcel, who presumably would not have authorized the application to be submitted if they had any objection to the proposed day care center, either on their property or on the two adjacent undeveloped parcels owned by family members. It should also be noted that the children would only be playing outside for a portion of the day and not in the evenings or on weekends, and that as many as six (6) children would be permitted as a matter of right. If necessary, the Commission has a variety of options for amending the proposed conditions of approval to mitigate the impact of the outdoor play area. These options range from relatively modest measures such as recommending a taller fence or a greater distance buffer, to more extreme measures such as limiting the number of children to some number between six (6) and twelve (12) or prohibiting the outdoor play area altogether. The public hearing will provide an opportunity to gauge the attitudes of surrounding property owners toward this aspect of the application.

Staff believes the request for an exception to the square footage limitations for home occupations is also reasonable on several grounds. First, the purpose of the space limitations is to ensure that the home occupation will be “clearly incidental and subordinate to the residential use of the property.” Since the house will have more than 4,000 square feet of floor area, staff is confident that the day care operation will not jeopardize the residential character of the home, especially inasmuch as intensity of the use is governed not by the amount of space but by the number of children. Furthermore, as noted above, four hundred (400) square feet is not enough indoor space to properly care for twelve (12) children, according to national guidelines.

Based on the considerations and conclusions as noted, staff recommends that the Commission forward this application to the Board of Supervisors with a recommendation of approval subject to the conditions set forth in proposed Resolution No. PC10-16.

TCC

Attachments:

- Zoning Map
- Sketch Plan

York County Planning Commission

August 27, 2010

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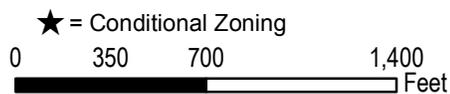
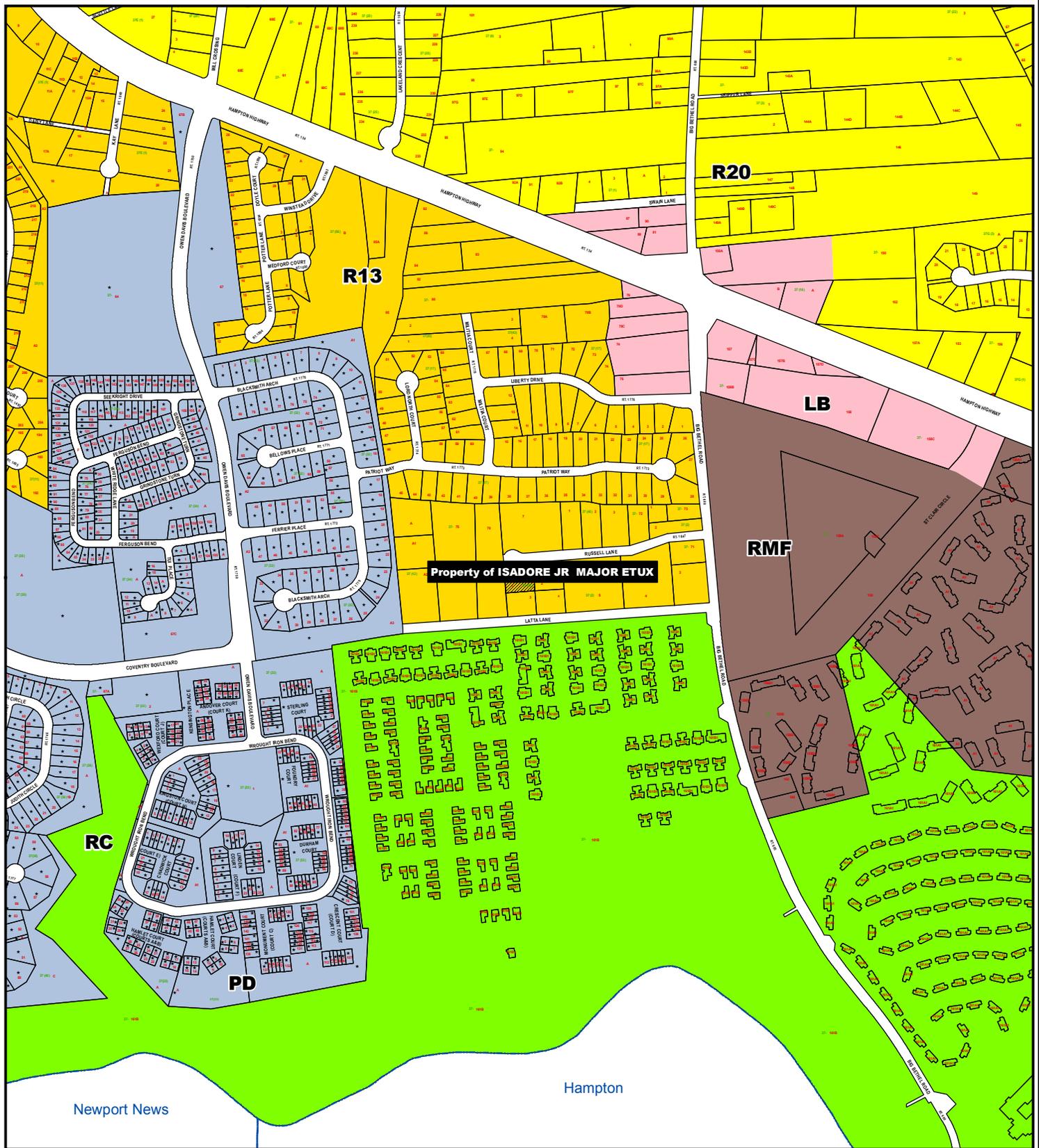
- Floor Plan
- Applicant's Project Narrative
- Proposed Resolution No. PC10-16

APPLICANT EI Roi Childcare

Child care for more than 6 children as a home occupation
121 RUSSELL LN

ZONING MAP

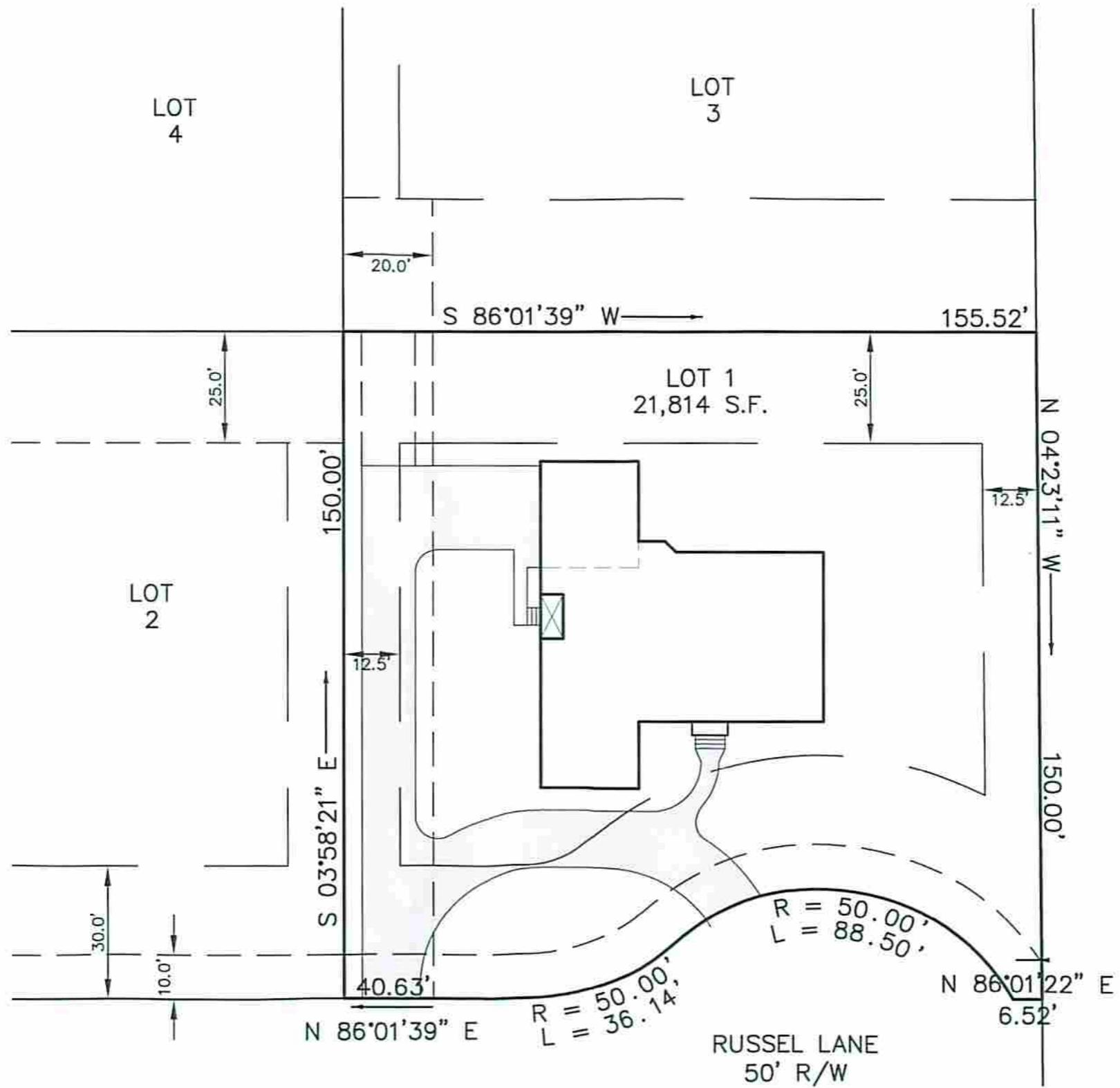
APPLICATION NUMBER: UP-783-10



SOURCE: YORK COUNTY
GIS PARCEL DATA and
ZONING COVERAGE

THIS IS NOT A LEGAL PLAT.
This map should be used for
information purposes only. It is
not suitable for detailed site planning.

Printed on August 09, 2010



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York County

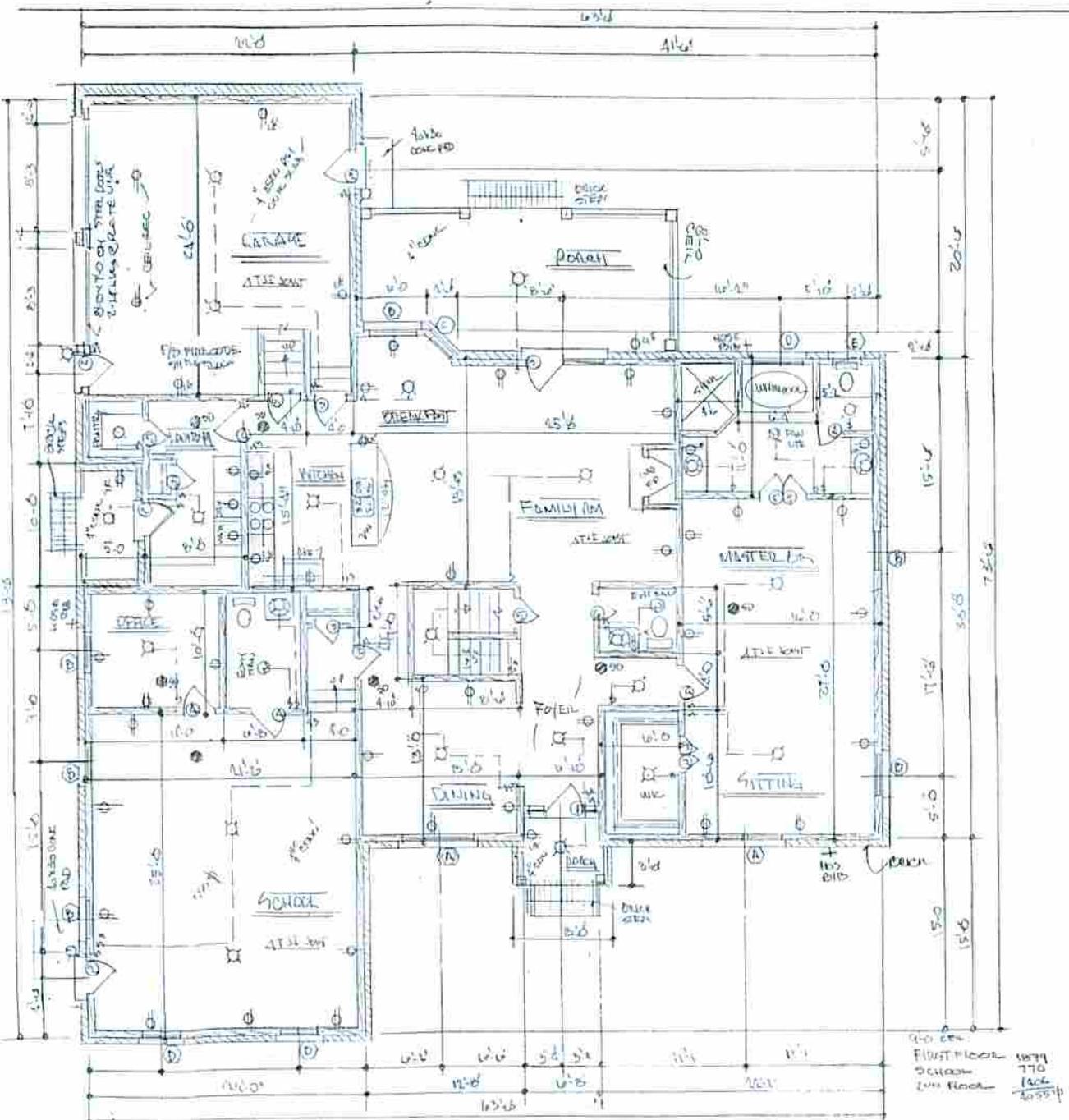
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Planning Division

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FIRST FLOOR PLAN 1/4"=1'-0"

WINDOW SCHEDULE		
NO.	SIZE	REMARKS
1	2'-8" x 6'-0" TRIM	ON WALL
2	2'-8" x 8'-0" SINGLE	DO
3	2'-0" x 5'-0" SINGLE	DO
4	4'-0" x 8'-0"	FIXED/TAMPED
5	2'-0" x 2'-0" SINGLE	ON WALL
6	2'-8" x 2'-0" SINGLE	DO
7	6'-0" x 5'-0" TRIM	DO
8		
9		
10		
11		
12		
13		
14		

DOOR SCHEDULE		
NO.	SIZE	REMARKS
1	5'-0" x 6'-6" 1 3/4"	6 PANEL/SWELL
2	5'-0" x 6'-6" 1 3/4"	4 LITE
3	5'-0" x 6'-0" 1 3/4"	20 MINUTE FIRE RD
4	5'-0" x 6'-0" 1 3/4"	4 PANEL
5	2'-0" x 6'-0" 1 3/4"	DO
6	2'-4" x 6'-0" 1 3/4"	DO
7	1'-6" x 6'-0" 1 3/4"	3 PANEL
8	2'-0" x 6'-0" 1 3/4"	6 PANEL
9	6'-0" x 6'-0" 1 3/4"	STAIRWAY
10		
11		
12		
13		
14		

ALL HEADERS 2" x 10", UNLESS OTHERWISE NOTED!
ALL DIMENSIONS TO FINISH

9'-0" CEN.
FIRST FLOOR 1077
SECOND 770
THIRD FLOOR 605 1/2"

RESIDENCE FOR GRACE LAMP
DRAWN BY JOHN WAINWRIGHT
505 BELWOOD DRIVE NEWPORT NEWS VA



EL ROI CHILDCARE CENTER
Newport news, VA
757.594.9218

July 30, 2010

County of York, Virginia
Planning Division
224 Ballard Street
P. O. Box 532
Yorktown, VA 23690-0532

Dear Planning Commission and Board of Supervisors:

SUBJECT: Special Use Permit for In-home Childcare

I am requesting a special use permit to be granted to me_ Grace Lamb, for use at El Roi Childcare Center, proposed location of 121 Russell Lane, Lot #1, Yorktown VA. 23693. Section 24.1-282 states; as a matter of right, I am allowed six (6) children. As Director of El Roi Childcare Center, I am requesting consideration from the Planning Commission and Board of Supervisors for an additional six (6) children which will bring my total of students to 12.

My primary motive for desiring to expand is to provide more children an opportunity to excel academically, socially, spiritually, and emotionally. Since 2006, I have successfully operated El Roi Childcare Center at my residence in Newport News, VA. Over the past 10 years I have assisted over 100 children in learning and improving their academic skills by teaching Phonics, Reading, Writing, Spanish, History, Science, and Bible. Students that have graduated from El Roi Childcare Center are testing at least one year in advance of children coming out of other programs. My desire has always been to help young families, military families, and single parents give their children a solid foundation at an early stage.

For the past several years, we have been working toward building our home in Yorktown,



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Planning Division

Planning Commission and Board of Supervisors
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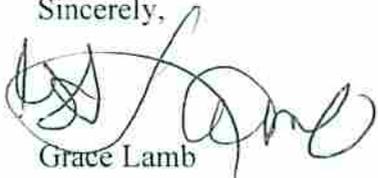
VA. It is our desire to expand our current operation. I have looked at renting and/or purchasing property to build a school, however the cost of real estate has soared and the availability of suitable property is above what I can afford at this time. Also, having the center in my home will enable me to keep my rates reasonable low.

The center will be open from 6AM to 6PM. Since the proposed location of our home is at the end of a dead end road, parents will be able to drop- off and pick-up their child quickly without any unnecessary traffic congestion. I will follow all guidelines and codes set forth by the State and County. I am currently enrolled in State certification classes. It is my goal to be completely certified by spring 2011.

I am attaching ten copies of the propose house plans which includes 770 square feet of space to be used exclusively for the childcare center. Please consider approving the proposed plans. I am very eager and ready to expand my operation.

If you have any questions, comments or concerns, I can be reached by e-mail at elroichildcare@verizon.net or by phone (757)594-9218.

Sincerely,



Grace Lamb
Director

Enclosures



PLANNING COMMISSION
COUNTY OF YORK
YORKTOWN, VIRGINIA

Resolution

At a regular meeting of the York County Planning Commission held in the Board Room, York Hall, Yorktown, Virginia, on the ____ day of _____, 2010:

Present

Vote

Christopher A. Abel, Chair
M. Sean Fisher, Vice Chair
Alexander T. Hamilton
Mario C. Buffa
Richard M. Myer, Jr.
Anne C. H. Conner
John R. Davis

On motion of _____, which carried ____, the following resolution was adopted:

A RESOLUTION TO RECOMMEND APPROVAL OF A SPECIAL
USE PERMIT APPLICATION TO AUTHORIZE CHILD CARE FOR
UP TO TWELVE (12) CHILDREN AS A HOME OCCUPATION AT
121 RUSSELL LANE

WHEREAS, Grace Lamb d/b/a El Roi Childcare Center has submitted Application No. UP-783-10 to request a Special Use Permit to authorize child care for up to twelve (12) children as a home occupation in a single-family detached home to be built on a 0.5-acre parcel located at 121 Russell Lane (Route 1847) and further identified as Assessor's Parcel No. 37-57-1 (GPIN U02c-0729-2223); and

WHEREAS, said application has been forwarded to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application; and

WHEREAS, the Commission has carefully considered the public comments with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the ___ day of _____, 2010 that Application No. UP-783-10 be, and it is hereby, transmitted to the York County Board of Supervisors with a recommendation of approval for a Special Use Permit to authorize child care for up to twelve (12) children as a home occupation in a single-family detached home to be built on a 0.5-acre parcel located at 121 Russell Lane (Route 1847) and further identified as Assessor's Parcel No. 37-57-1 (GPIN U02c-0729-2223) subject to the following conditions:

1. This Special Use Permit shall authorize child care for up to twelve (12) children as a home occupation in a single-family detached home to be built on a 0.5-acre parcel located at 121 Russell Lane (Route 1847) and further identified as Assessor's Parcel No. 37-57-1 (GPIN U02c-0729-2223).
2. The general layout of the portion of the house dedicated to child care shall be as depicted on the floor plan titled "Residence for Grace Lamb" drawn by John Wainwright and submitted to the York County Planning Division August 2, 2010, a copy of which shall remain on file in the office of the Planning Division.
3. All licenses, permits, and approvals from the Virginia Department of Social Services or other applicable regulatory agencies shall have been received prior to the establishment of the child care center in the home. Evidence of such licensure shall be provided prior to the issuance of zoning certification for the home occupation.
4. The home occupation shall be established and operated in accordance with the provisions of Sections 24.1-281 and 24.1-283 of the York County Zoning Ordinance, except as modified herein.
5. The hours of operation shall be limited to 6:00 AM to 6:00 PM, Mondays through Fridays.
6. The maximum floor area of the portion of the house dedicated to the child care center shall be approximately 770 square feet as depicted on the referenced floor plan.
7. The outdoor play area shall be enclosed by a privacy fence not less than four feet (4') in height and not less than ten feet (10') from any property boundary and shall be in the general location depicted on the applicant's sketch plan, submitted to the Planning Division August 12, 2010, a copy of which shall remain on file in the office of the Planning Division. The Zoning Administrator may require that views of fencing be partially or wholly obstructed by use of landscaping.
8. A minimum of three (3) off-street stacking spaces for dropping off and picking up children, where the duration of parking is ten (10) minutes or less on average, shall be provided as generally depicted on the sketch plan referenced above.

9. In accordance with Section 24.1-115(b)(7) of the York County Zoning Ordinance, a certified copy of the Resolution authorizing this Special Use Permit shall be recorded at the expense of the applicant in the name of the property owner as grantor in the office of the Clerk of the Circuit Court prior to application for a building permit.

BE IT FURTHER RESOLVED that this Special Use Permit is severable and invalidation of any word, phrase, clause, sentence, or paragraph shall not invalidate the remainder.