STAFF REPORT

Agenda Item: Special Exception – SE #26-03, 310 Missouri Avenue – Application to Permit a Home-Based Child Daycare Use

Meeting Date: July 28, 2026

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Site Description & Background:



310 Missouri Avenue is located between the east end of Mississippi Drive and Stuart Court. The property's designation as Neighborhood Conservation in the Town of Herndon 2030 Comprehensive Plan reflects the Town's intent to preserve and enhance the established character and quality of existing residential neighborhoods while allowing limited, compatible residential uses. The regulations of the R-10 district are "meant to encourage uses that would substantially complement the development of single-family detached dwellings and that would contribute to the quiet residential nature of the district." Sec. 78-30.2(a).

The applicant applied for and received approvals for Zoning Inspection Permit (ZIP) #26-008 and Zoning Inspection Permit (ZIP) #26-013 to operate a child daycare use as a home-based business. ZIP #26-008 was issued on September 22, 2025, and permitted a maximum enrollment of four children. ZIP #26-013 was issued on March 13, 2026, and permitted a maximum enrollment of seven children. No complaints have been submitted to the town regarding the daycare.

Case Details & Proposed Operations:

The applicant seeks a special exception to increase the maximum number of children permitted in their home-based childcare business from seven to twelve. The proposed use will operate between 6:00 a.m. and 10:00 p.m., with staggered pick-up and drop-off schedules to accommodate families with varying needs. Most children attend during a day session (approximately 7:00 a.m. to 5:00 p.m.). The applicant is requesting extended hours for the option of providing after-school and evening care.

The home-based childcare operation currently takes place primarily on the first level of the dwelling, within a dedicated area of approximately 265 square feet. Access to the childcare area is through the main entrance. The first level includes one bathroom and a kitchen. The fenced rear yard of the property is approximately 5,500 square feet. At this time, Ms. Lopez-Otero is the sole employee of the childcare operation, with her son providing occasional assistance.

The proposed use will continue to operate under its existing conditions with respect to facilities provided. As enrollment increases to the maximum permitted, the applicant will need to hire additional staff and the space dedicated to the home-based business will need to increase to comply with state regulations. The exterior appearance of the building will remain unchanged. No additional impervious area or land disturbance is proposed.

Staff Analysis:

State Regulations

Under the regulations of the Virginia Office of Child Care Health and Safety, a licensed Family Day Home may care for up to 12 children, exclusive of the provider's own children and any children residing in the home, within a single-family dwelling. Virginia regulations require 35 square feet of indoor wall-to-wall space per child. 8VAC20-780-310.

Zoning Ordinance Compliance

The zoning ordinance establishes general standards for home-based businesses and standards specific to childcare or daycare uses as a home-based business. Sec. 78-80.5(a)&(b). The standards are intended to balance the provision of childcare services with considerations related to traffic management, neighborhood compatibility, and adherence with applicable zoning and planning regulations.

Floor Area - Sec. 78-80.5(a)(3) of the zoning ordinance requires that "a home-based business shall occupy no more than 33 percent of the floor area of the principal dwelling, up to a maximum of 1,000 square feet…." As enrollment increases to the maximum enrollment, the applicant would need to increase the wall-to-wall space available to a minimum of 420 square feet to comply with state regulations while staying

under the 803 square-feet maximum permitted by the zoning ordinance, based on the current footprint of the principal dwelling.

Enrollment and Employees - The Town of Herndon zoning ordinance allows a maximum of seven children, exclusive of the provider's own children and resident children, with approval of a ZIP. Care for up to twelve children is permitted with approval of a special exception. Home-based childcare operations are permitted one nonresident employee by right. The application complies with the requirements concerning the number of children and non-resident employees. Sec. 78-80.5(b)(1)&(2).

Outdoor Play Area - The proposed application satisfies the minimum requirement of 75 square feet of outdoor play area per child enrolled in the childcare business. Sec. 78-80.5(b)(3). The applicant was not able to provide a plat demonstrating outdoor play area, as required by the Zoning Ordinance. Sec. 78-80.5(b)(3)(c). In lieu of a plat, a site visit was performed on May 20, 2026. The property is less than 1000 feet from Haley M. Smith Park which further supports the requirement for available play area. Sec. 78-80.5(b)(3)(d).

Sec. 78-155.3(e) Criteria - Staff evaluated the criteria for review of special exceptions found in Zoning Ordinance Sec. 78-155.3(e). Criteria (a)–(e), and (g)–(i) were found to be applicable to the analysis. Criteria (f) and (j) – (m) were found to be not applicable to the analysis because there are no physical alterations to the structure proposed and the building is not located within the floodplain overlay. The proposed application meets six of the eight relevant criteria. Staff believes that the remaining criteria can be met with appropriate conditions. A complete review of the criteria is available in the Sec. 78-155.3(e) Criteria Matrix.

Parking - The zoning ordinance does not require additional parking for a home-based daycare or any other home-based business.

Comprehensive Plan - The proposal is consistent with the Herndon 2030 Comprehensive Plan Neighborhood Conservation Land Use Policies and encourages uses that provide a variety of goods and services as well as promote economic development that help increase employment and add to the community tax base.

Analysis of Conditions

Staff recommends seven conditions for this special exception, as listed in the proposed resolution. The conditions are consistent with previously approved special exceptions. Staff believes these conditions provide reasonable ways in which the existing childcare use can be expanded while properly mitigating potential impacts, as well as achieving the purpose and intent of the applicable zoning district.

Any violation of the conditions or other sections of the Herndon Town Code shall be grounds for revoking the special exception pursuant to the manner described in Section 78-155.3(h).

Fiscal Impact:

BPOL (business, professional, occupational, and license) fees can be collected on home-based businesses.

Town Council Alternatives:

The following alternatives are available to the Town Council for its decision on SE #26-03:

1. Approve the application without conditions.
2. Approve the application with the seven conditions.
3. Deny the application. The daycare continues its operations with seven children as a by-right use.
4. Continue the application to the August 25, 2026, regular meeting.

Staff Recommendation:

Staff recommends the Town Council approve the application with the seven conditions listed in the proposed resolution.