



MONTGOMERY COUNTY PLANNING DEPARTMENT
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB
Item #
Date: 12/21/06

MEMORANDUM:

DATE: December 8, 2006

TO: Montgomery County Board of Appeals

VIA: Rose Krasnow, Chief, Development Review Division *RK*

FROM: Elsabett Tesfaye, Development Review Division (301) 495-1301 *ET*

SUBJECT: **Special Exception SE-07-01 Angelouch Hadjiev:** Request for approval of a special exception for a Child Day Care Center for 15 children located on lot 17, Block B, Marymount Subdivision, Bethesda.

9, 223 Square Feet (.21 ac)

Zone: R-60
Address 10020 Sinnott Drive, MD
Applicants: Angelouch Hadjiev

MASTER PLAN 1992 North Bethesda-Garett Park Master Plan
FILING DATE: August 21, 2006
PLANNING BOARD HEARING December 21, 2006
PUBLIC HEARING: January 5, 2006

RECOMMENDATION: APPROVAL with the following conditions:

1. The child day care use shall be limited to 15 children up to six years of age and four employees.
2. Hours of operation for the day care center shall be between 8:00 a.m. through 6:00 p.m. Monday through Friday.

3. No more than 9 children shall be permitted to play outdoors at any one time.
4. The existing chain-link fence along the north, west, and south property lines, including the gate, shall be replaced or reinforced with a six-foot-high sight-tight fence.

FINDINGS:

A. PROJECT SUMMARY

PROJECT SUMMARY

The applicant proposes to expand an existing child day care facility by increasing the number of children from 8 to 15. The proposed facility will be housed in an existing, 1½-story single-family dwelling with a basement. The existing house was recently rebuilt with a more space than the previous one to accommodate the proposed expansion of the facility. The child day care facility is located in the basement of the dwelling. The day care will have one part time and three full time employees. The property is located in the R-60 Zone which permits the proposed special exception. No new external alteration or modification to the existing 2,222-square-foot house is proposed.

B. Site Description



The property is located on the west side of Sinnott Drive between Clue Drive and Lone Oak Drive in Bethesda. Montauk Avenue/Bells Mill Road is located east of the subject property and runs parallel to Sinnott Drive. The Bells Mill Road alignment makes a 90-degree turn behind the house and connects to Democracy Boulevard 500 feet to the northwest. The property, which is identified as lot 17 Block B in the subdivision known as Marymount, is generally

trapezoidal in shape with a steeply sloping rear yard. It comprises approximately 9,223 square feet of land and is improved with a 1 ½-story plus basement, brick and frame structure. The 2,222 square-foot building was constructed in 2005, replacing a previous structure that was demolished to make room for the new building. The rear yard of the property is fenced and landscaped with perennials, vegetable gardens and fruit trees. The property has approximately 60 feet of frontage on Sinnott Drive from which it is accessed via a concrete driveway.

The front yard is lightly landscaped with grass and a few ornamental and shade trees and contains a 25-foot-long driveway, which provides access to the two-car garage attached to the house.



The driveway, which widens from 16 feet to approximately 24 feet, provides parking spaces for up to two vehicles. The rear yard contains a play area and a concrete patio that is located beneath a 10-foot-high deck. The patio also serves as a play area. Access to the child day care center is through a separate entrance reached by a walkway along the side of the house by the garage, down a flight of steps that

leads to the rear yard and the concrete patio. The rear yard (west) and the northwestern portion of the side yard are fenced with a chain link fence. The northwestern portion of the side yard also includes a gate, which provides access to the rear yard and the day care center from an east-west public path that is located adjacent to the northern property line. The path, which is maintained by the County, connects Sinnott Drive (east) and Bells Mills Road (west).



Site inspection by staff reveals that the property is properly posted with a sign notifying people of the pending special exception application.

C. Neighborhood Description

The neighborhood in which the subject property is located is defined by Bells Mill Road to the north, Ashburton Lane to the east, Lone Oak Drive to the south, and Montauk Avenue to the west. The immediate area is residential, mainly in the R-60 Zone. The subject property abuts single-family dwellings to the east, south and north in the R-60 Zone and Sinnott Drive to the west. The area across Sinnott Drive is also developed with single-family dwellings, in the R-60 Zone.



D. Land Use and Zoning History:

The property was placed in the R-60 Zone with the enactment of the 1954 comprehensive zoning. The 1993 Approved Sectional Map Amendment retained the property in the R-60 Zone.

E. Elements of Proposal

The applicant proposes to expand an existing day care center by increasing the number of children from 8 to 15. The existing day care is housed in the basement of the dwelling. The applicant and his family are currently residing in the remaining portion of the dwelling. The applicant's spouse, Mrs. Zoia Hadjiev, along with their children Anton Hadjiev and Illia Hadjiev have been operating a child day care on the property since 2002 and will be operating the proposed day care facility. Educational credentials (related to child care) for all three family members are submitted to the record as documentary evidence.

As noted, the dwelling was reconstructed in 2005 with a larger gross floor area than that of the dwelling previously standing on the site. The applicant's statement describes the subject building as follows:

The New Home has three levels. The first, 1,600 square feet walkout basement level, is dedicated exclusively to the new family child care. It is built as a totally separate unit, which includes ample (1,200 SF) play and nap area, separate kitchen, large bathroom, separate high efficiency heating and air conditioning unit, 2-zone floor radiant heating system, ample lighting and more than enough means of egress (sliding door to backyard, stairs to upper level and 5 egress windows).

The applicant has submitted floor plans for the proposed facility and the remaining other floors. The applicant has also submitted elevations of the house as well as photographs of the various interior and exterior portions of the house. The proposed use is subject to licensing and certification by the State of Maryland Department of Human Resources Child Care Administration.

The applicant statement indicated that the child day care facility would have up to 15 children at full enrollment with ages ranging from infants to six-year-olds. The children will be separated in two age groups:

1. Three infants Ages birth to two years
2. Twelve children Ages two to six years

The children will be divided into two groups for outdoor activities in the following manner:

Group	No. of Children	Number .of teachers	Morning play time	Afternoon play time
1	3 infants and 6 two to six-year-olds	2	10:00 a.m-11:00 a.m.	4:00 p.m.- 5:00 p.m.-
2	6 two to six-year-olds	1	11:00 a.m-12:00 p.m.	5:00 p.m.- 6:00 p.m.

The arrival and pick-up times for children will be staggered between 8:00 a.m. and 9:30 a.m. during the morning drop-off and between 4:30 p.m. to 6:00 p.m. for the evening pick-up time. The staff arrival and departure time is also staggered with the highest number of staff (3) present at the facility between 9:00 and 4:30 p.m.,

The day care will have three full-time and one part-time staff. Two of the full time staff and the one part-time staff are residents of the dwelling. The applicant set forth arrival and departure times for children and staff and the teacher/child ratio at the facility in the following manner:

7:30	8:00	8:30	9:00	9:30	10:00	10:30	11:00	11:30	12:00	12:30	1:00	1:30	2:00	2:30	3:00	3:30	4:00	4:30	5:00	5:30	6:00
Group 1	A	A																D	D		
Group 2			A	A																D	D
Full Group (1+2)					F	F	F	F	F	F	F	F	F	F	F	F	F				
Zoia Hadjiev (res.)																					
Anton Hadjiev (res.)																					
Non Res. Staff																					
Ilia Hadjiev (res.)																					
Angelouch Hadjiev	Available as Substitute 1 as needed; (Petitioner, resident);																				
Substitute 2	Available as Substitute as needed																				
Substitute 2	Available as Substitute as needed																				

*Attendance Schedule (Monday – Friday, 7:30 AM to 6:00 PM)
Legend: A – Arrival; D – Departure; F – Full Group Attendance.*

The proposed day care will have a maximum enrollment of 15 children and a full and part time staff of four with not more than three staff being on the site at any given time during working hours. A total of six parking spaces (2 for the residential use and four for the day care use) are required. Two garage spaces and two driveway spaces are provided. There is available on street parking for up to three vehicles along the property's frontage on Sinnott Drive. The day care can also be accessed from the rear of the property via the County path. Parents using this access for drop-off and pick up of children can park along Montauk Avenue/Bells Mill Road. There is no parking restriction on either side of Sinnott Drive or on the east side of Montauk Avenue/Bells Mill Road.

The applicant has provided the following information regarding lighting of the site:

1. Driveway: Two Dusk-to-Dawn 60 Watt lights
2. Sidewalk: Two double Motion Activated and Dusk-to-Dawn 60 Watt lights
3. Backyard: Two double Motion Activated and Dusk-to-Dawn 60 Watt lights
4. South side of the house: One Motion Activated and Dusk-to-Down 60 Watt lights

No sign is shown on the site plan and none is proposed. All signs placed on the property shall meet the requirements of Section 59-F-4.2 (a) in terms of number, location and area and Section 59-F-4.1 (e) regarding illumination.

F. ANALYSIS

Elements of Proposal

Master Plan:

The proposed use is consistent with *the 1992 North Bethesda-Garett Park Master Plan*. The Master Plan, in The Land Use and Zoning Plan section (chapter 3), endorses special exception uses that contribute to the service objectives of the plan (page 38). The plan further states, "*In general, the Plan endorses provisions of child day care, groups homes, elderly day care, and nursing homes*" (p 38).

Upon reviewing the proposal for Master Plan consistency, the Community Based Planning Division has offered the following comments.

...The Plan provides guidelines to protect residential areas while also attempting to meet important social needs (p 37-38). The location of special exception land uses in the Plan's residential areas must meet compatibility standards and general conditions set forth in the Montgomery County Zoning Ordinance. The Ordinance states that special exceptions may be denied where an excessive concentration exists in a particular residential area.

...Staff finds that the use is consistent with the *North Bethesda-Garrett Park Master Plan (1992)*, which supports special exception uses that contribute to the "service objectives", specifically providing child day care in the Master Plan area.

Transportation

There are no transportation issues associated with the proposed use. The proposal meets the transportation related requirements of the APF test. Transportation Planning staff has offered the following comments:

Vehicular Access

The vehicular access is from Sinnott Drive, but the house can be accessed from Montauk Avenue/Bells Mill Road via a public pedestrian

path along the north side of the house connecting Sinnott Drive to Montauk Avenue/Bells Mill Road.

Pedestrian Facilities

A sidewalk exists along both sides of Sinnott Drive. In addition, a public pedestrian path exists along the north side of the property connecting to the sidewalk along Montauk Avenue/Bells Mill Road behind the house.

Parking to Drop off and Pick up Children

This child daycare facility can be accessed from either Sinnott Drive or Montauk Avenue/Bells Mill Road. The house has a two-car garage for the residents' vehicles and space on the driveway from Sinnott Drive to park two vehicles for parent drop-off and pick-up of their children. One of the parking spaces would be needed for the non-resident employee. On-street parking is also permitted along Sinnott Drive and Montauk Avenue/Bells Mill Road behind the house for parents to drop off and pick up their children.

Master-Planned Highway and Bikeway

Sinnott Drive functions as a secondary residential street with a 60-foot-wide right-of-way and sidewalks on both sides, which is similar to other nearby local roads. According to the *North Bethesda/Garrett Park Master Plan*, the nearest master-planned roadway is Democracy Boulevard. Democracy Boulevard is designated as a six-lane divided major highway, M-5, with a minimum right-of-way of 120 feet west of Bells Mill Road and 150 feet east of Bells Mill Road and a Class I bikeway. The *Countywide Bikeways Functional Master Plan* designates this Class I bikeway as a shared use path, SP-2.

Available Transit Service

Transit service is not available along Sinnott Drive or the other nearby residential streets. Transit service is available along nearby Democracy Boulevard via Metrobus bus routes J-2 and J-3 operating along the Rockledge Drive/Old Georgetown Road (MD 187) segment.

Adequate Public Facilities Review

The *Local Area Transportation Review Guidelines* states that a child day care center with six or fewer staff does not need a traffic study to satisfy LATR. The petition recommends a total of four staff. The trip generation rates in the guidelines suggest that a center with four staff would generate 24 peak-hour trips within the weekday morning peak period (6:30 and 9:30 a.m.) and 24 peak-hour trips within the evening peak period (4:00 to 7:00

p.m.). A traffic study is not required to satisfy Local Area Transportation Review because the proposed special exception use generates fewer than 30 peak-hour vehicular trips within the weekday morning and evening peak hours.

Policy Area Transportation Review is not considered in the APF review under the current *Annual Growth Policy*.

The Transportation Planning staff finds that the proposed special exception use satisfies the Local Area Transportation Review test and will have no adverse effect on nearby roadway conditions or pedestrian facilities provided that the petition is limited to a child daycare facility for up to 15 children and four employees.

Environment

There are no environmental issues or concerns associated with the subject proposal. No environmentally sensitive areas are located on the property. Moreover, the proposal does not involve any new construction.

G. Development Standards

The subject property is located in the R-60 Zone which permits the proposed special exception. There are no other approved special exception uses in the immediate neighborhood.

As noted, the subject single-family dwelling, which is housing the proposed day care center, was reconstructed in 2005 and is subject to all current development standards. The proposal conforms to all applicable current development standards of the R-60 Zone. The following table summarizes the relevant development standards for the R-60 Zone that are applicable to the proposed special exception request.

Development Standard	Required (current)	Proposed/Existing
Minimum Lot Area	6,000 sf	9,223 sf
Minimum Lot width:		
▪ at front building line	60 ft	73± ft
▪ at street line	25 ft	60±
Minimum Building Setback:		
Front Yards (through lot)	25 ft	27.9 ft
Side Yards		
▪ One side	8 ft	9.6 ft. (min)

▪ Sum of both sides	18 ft	24.5 ft (min)
Rear Yard	20 ft	27ft (min)
Maximum Building Height	2 ½ stories or 35 ft	1 ½ stories 24 ft
Maximum Building Coverage	35%	20%

H. Community Concerns

To date, staff has not received any comments from the community. There is no evidence of concern or objection from adjoining neighbors regarding the use and operation of the subject facility.

I. Inherent and Non-Inherent Adverse Effects

Standard for Evaluation: Section 59-G-1.2.1 of the Zoning Ordinance specifies that **a special exception must not be granted without the findings required by this Article. In making these findings, the Board of Appeals, Hearing Examiner, or District Council, as the case may be, must consider the inherent and non-inherent adverse effects of the use on nearby properties and the general neighborhood at the proposed location, irrespective of adverse effects the use might have if established elsewhere in the zone. Inherent adverse effects are the physical and operational characteristics necessarily associated with the particular use, regardless of its physical size or scale of operations. Inherent adverse effects alone are not a sufficient basis for denial of a special exception. Non-inherent adverse effects are physical and operational characteristics not necessarily associated with the particular use, or adverse effects created by unusual characteristics of the site. Non-inherent adverse effects, alone or in conjunction with inherent adverse effects, are a sufficient basis to deny a special exception.**

As established in previous special exception cases, seven criteria are used to identify the physical and operational characteristics of a use. Those criteria are size, scale, scope, lighting, noise, traffic, and the environment. Any special exception case may have some or all of these characteristics in varying degrees.

The inherent, generic physical and operational characteristics associated with a child day care use include outdoor play areas, parking facilities, lighting, noise generated by children and vehicular trips to and from the site. There are no significant transportation impacts that would result from the proposed Special Exception. The Transportation Planning staff finds that the proposed special

exception use satisfies the Local Area Transportation Review test and will have no adverse effect on nearby roadway conditions or pedestrian facilities.



Adequate parking is provided to serve both the proposed child day care center and the residence. The house has a two-car garage for the residents' vehicles and the driveway accommodates up to two additional parking spaces for drop-off and pick-up of children. Moreover, up to three vehicles can be parked curbside, along the property's frontage on Sinnott Drive. The day care can also be accessed from the rear of the property

via the county path. Unrestricted on street parking is available on the east side of Montauk Avenue/ Bells Mill Road for parents using access via the path for drop off and pick up of children.

Existing lighting on the property is adequate and consistent with the residential character of the neighborhood. All of the lighting fixtures, which are a combination of dusk-to-down and motion-activated 60 watts lights are mounted on the side front and rear sides of the building. The lights are angled to minimize the glare onto adjoining properties. No new lighting will be added.

The front and side yards are landscaped with grass. Several large mature trees located on the property and adjoining properties are providing shades and screening during the summer season. Flowers and small decorative plants are located in the front and side of the house. Existing landscaping and grassy areas are generally well maintained, are in keeping with the residential character of the property, and promote compatibility with the residential neighborhood.

Provided that the recommended conditions are complied with, there will be no inherent impacts associated with the subject proposal that warrant denial.

J. **Specific Special Exception Requirements:** A special exception may be granted for a child day care facility in the R-60 Zone. **Section 59-G-2.13.1** sets forth the specific requirements:

- (a) **The Hearing Examiner may approve a child day care facility for a maximum of 30 children if:**
 - (1) **A plan is submitted showing the location of all buildings and structures, parking spaces, driveways, loading and unloading areas, play areas and other uses on the site.**

The applicant has submitted site and landscape plans that generally satisfy these requirements.

(2) Parking is provided in accordance with the Parking Regulations of Article 59-E. The number of parking spaces may be reduced by the Hearing Examiner if the applicant demonstrates that the full number of spaces required in Section 59-E-3.7 is not necessary because:

- (A) Existing parking spaces are available on adjacent property or on the street abutting the site that will satisfy the number of spaces required; or**
- (B) A reduced number of spaces would be sufficient to accommodate the proposed use without adversely affecting the surrounding area or creating safety problems;**

Six parking spaces (one for staff, three for the pick up and drop off of children, and two for the residential use) are required for the proposed use and the existing residential use). A total of four parking spaces, including two garage spaces and driveway parking spaces are provided. Moreover, ample on-street parking is available on both sides of Sinnott Drive on which the property has 60 feet of frontage. It is estimated that up to three vehicles can be parked curbside along the frontage of the property. Parents using the rear access to the day care (via the public path) for



drop-off and pick up of children, can park along Montauk Avenue/Bells Mill Road. There is no parking restriction on the east side of Montauk Avenue/Bells Mill Road. All of the houses located along Sinnott Drive and the east side of Montauk Avenue/Bells Mill Road have parking garages and/or driveway parking areas, and therefore, the demand for

street parking at this location is low. Given the availability of ample on street parking in front of and near the property, and the fact that the arrival and departure times for children will be staggered over the course of one and one half hours during the morning drop off and evening pick up time, It is unlikely that the proposed use would generate a level of traffic or noise that would cause concern about congestion in the neighborhood.

(3) An adequate area for the discharge and pick up of children is provided;

With the two driveway parking spaces and available on-street parking, adequate discharge and pick up area is provided.

- (4) The petitioner submits an affidavit that the petitioner will:**
 - (A) Comply with all applicable State and County requirements.**
 - (B) Correct any deficiencies found in any government inspection.**
 - (C) Be bound by the affidavit as a condition of approval for this special exception.**

The applicant has submitted such an affidavit, dated June 9, 2006, stating compliance with the above-cited conditions.

- (5) The use is compatible with surrounding uses and will not result in a nuisance because of traffic, parking, noise or type of physical activity. The hearing examiner may require landscaping and screening and the submission of a plan showing the location, height, caliper, species, and other characteristics, in order to provide a physical and aesthetic barrier to protect surrounding properties from any adverse impacts resulting from the use.**

With the recommended conditions, the use will be compatible with surrounding uses and will not result in nuisance because of traffic, parking, noise or any type of physical activity. The use will provide childcare services to the nearby community and will operate within the regulations of the Zoning Ordinance. It will function in an unobtrusive fashion and, with the recommended conditions, it will not be detrimental to surrounding properties or the general neighborhood. However, to further insure the adequacy of screening from the adjoining residential properties and in the interest of safety, security and well being of the children, staff recommends that the existing chain-link fence along the north, west and south property lines, including the gate, be replaced or reinforced with a six-foot-high sight-tight fence.

K. 59-G-1.21. General conditions

- (a) A special exception may be granted when the Board, the Hearing Examiner, or the District Council, as the case may be, finds from a preponderance of the evidence of record that the proposed use:**
 - (1) Is a permissible special exception in the Zone.**

The subject property is located in the R-60 Zone, which permits the proposed special exception.

- (2) **Complies with the standards and requirements set forth for the use in Division 59-G-2. The fact that a proposed use complies with all specific standards and requirements to grant a special exception does not create a presumption that the use is compatible with nearby properties and, in itself, is not sufficient to require a special exception to be granted.**

With the proposed conditions the proposal is in compliance with the specific special exception requirements of Section **59.G-2.13.1** *for a child day care facility*.

- (3) **Will be consistent with the general plan for the physical development of the District, including any master plan adopted by the Commission. Any decision to grant or deny a special exception must be consistent with any recommendation in a master plan regarding the appropriateness of a special exception at a particular location. If the Planning Board or the Board's technical staff in its report on a special exception concludes that granting a particular special exception at a particular location would be inconsistent with the land use objectives of the applicable master plan, a decision to grant the special exception must include specific findings as to master plan consistency**

There are no major Master Plan concerns that are associated with this application. The proposed Special Exception application is not inconsistent with the goal of the *1992 North Bethesda-Garett Park Master Plan*. As indicated in the Community Based Planning's comments, The Plan provides guidelines to protect residential areas while also attempting to meet important social needs (p 37-38). The location of special exception land uses in the Plan's residential areas must meet compatibility standards and general conditions set forth in the Montgomery County Zoning Ordinance

The proposed project is compatible with the existing development pattern of the adjoining uses as well as the immediate neighborhood, in terms of height, size, scale, traffic and visual impacts of the structures and parking.

- (4) **Will be in harmony with the general character of the neighborhood considering population density, design, scale and bulk of any proposed new structures, intensity and character of activity, traffic and parking conditions and number of similar uses.**

The proposed use will be operated in such a manner that it will not interfere with the orderly use, development and improvement of surrounding properties. The day care facility is located in the basement of the recently reconstructed single-family dwelling and will not require the construction of an addition or expansion to create additional floor space in the dwelling. As noted, a child day care center for eight children already exists on the premises. The current application represents an increase by seven children in the size of enrollment at the day care center. Given the availability of ample on-street parking and the fact that pick-up and drop off times of children are staggered, the increased enrollment would not result in any notable negative impact on the residential neighborhood, in terms of increased traffic and noise activities. The proposed use will be in harmony with the general character of the residential neighborhood.

- (5) Will not be detrimental to the use, peaceful enjoyment, economic value or development of surrounding properties or the general neighborhood at the subject site, irrespective of any adverse effects the use might have if established elsewhere in the zone.**

There is no indication that the proposed development would be detrimental to the use, peaceful enjoyment, economic value or development of adjacent properties or the general neighborhood, provided that the applicant complies with the recommended conditions of approval of this application. To insure adequate screening, and to provide additional safety and security measures to the children, staff has recommended that the existing chain-link-fence along the site's side and rear property lines be reinforced or replaced with a sight-tight fence.

- (6) Will cause no objectionable noise, vibrations, fumes, odors, dust, illumination, glare, or physical activity at the subject site, irrespective of any adverse effects the use might have if established elsewhere in the zone.**



The proposed use would not cause objectionable noise, vibrations, fumes, odors, dust, illumination, glare, or physical activity at the subject site. The use will be adequately screened from the views of neighboring properties, will generate minimal noise, will have minimal lighting and glare, and no significant traffic impact. Sufficient screening

exists on the property in the form of sloping topography matured trees, retaining walls, and fences. A combination of on site and available on street parking provide adequate parking accommodation and orderly circulation on and around the subject property in a manner that will not result in a traffic spill over onto the adjacent road. Interior lay out of the facility is designed in accordance with the licensing agency's requirements and is subject to approval by the licensing agency. The applicant has submitted a floor plan for the day care facility, along with photographs of the interior of the facility, into the record of this application.

- (7) Will not, when evaluated in conjunction with existing and approved special exceptions in any neighboring one-family residential area, increase the number, intensity, or scope of special exception uses sufficiently to affect the area adversely or alter the predominantly residential nature of the area. Special exception uses that are consistent with the recommendations of a master or sector plan do not alter the nature of an area.**

The proposed use will not exacerbate the concentration of child day care centers or other special exception uses in the area. Currently, there are no special exception uses in the immediate neighborhood. The proposed use will not increase the number, intensity or scope of special exception uses sufficiently to affect the area adversely or alter the residential nature of the block.

- (8) Will not adversely affect the health, safety, security, morals or general welfare of residents, visitors or workers in the area at the subject site, irrespective of any adverse effects the use might have if established elsewhere in the zone.**

No inherent or non-inherent adverse effects are associated with the subject proposal. As such, with the recommended conditions, the proposed use will not adversely affect the health, safety, security, morals or welfare of residents, visitors or workers in the area.

- (9) Will be served by adequate public services and facilities including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage and other public facilities.**

- (i) If the special exception use requires approval of a preliminary plan of subdivision the adequacy of public facilities must be determined by the Planning Board at the time of subdivision review. In that case, subdivision approval must be included as a condition of the special**

exception. If the special exception does not require approval of a preliminary plan of subdivision, the adequacy of public facilities must be determined by the Board of Appeals when the special exception is considered. The adequacy of public facilities review must include the Local Area Transportation Review and the Policy Area Transportation Review, as required in the applicable Annual Growth Policy.

- (ii) With regard to findings relating to public roads, the Board, the Hearing Examiner, or the District Council, as the case may be, must further determine that the proposal will not reduce the safety of vehicular or pedestrian traffic.**

The proposed use will be adequately served by existing public facilities. The use as proposed is not likely to reduce the safety of vehicular or pedestrian traffic.

- (b) Nothing in this Article relieves an applicant from complying with all requirements to obtain a building permit or any other approval required by law. The Board's finding of any facts regarding public facilities does not bind any other agency or department, which approves or licenses the project.**

The applicant shall so note.

- (c) The applicant for a special exception has the burden of proof to show that the proposed use satisfies all applicable general and specific standards under this Article. This burden includes the burden of going forward with the evidence, and the burden of persuasion on all questions of fact.**

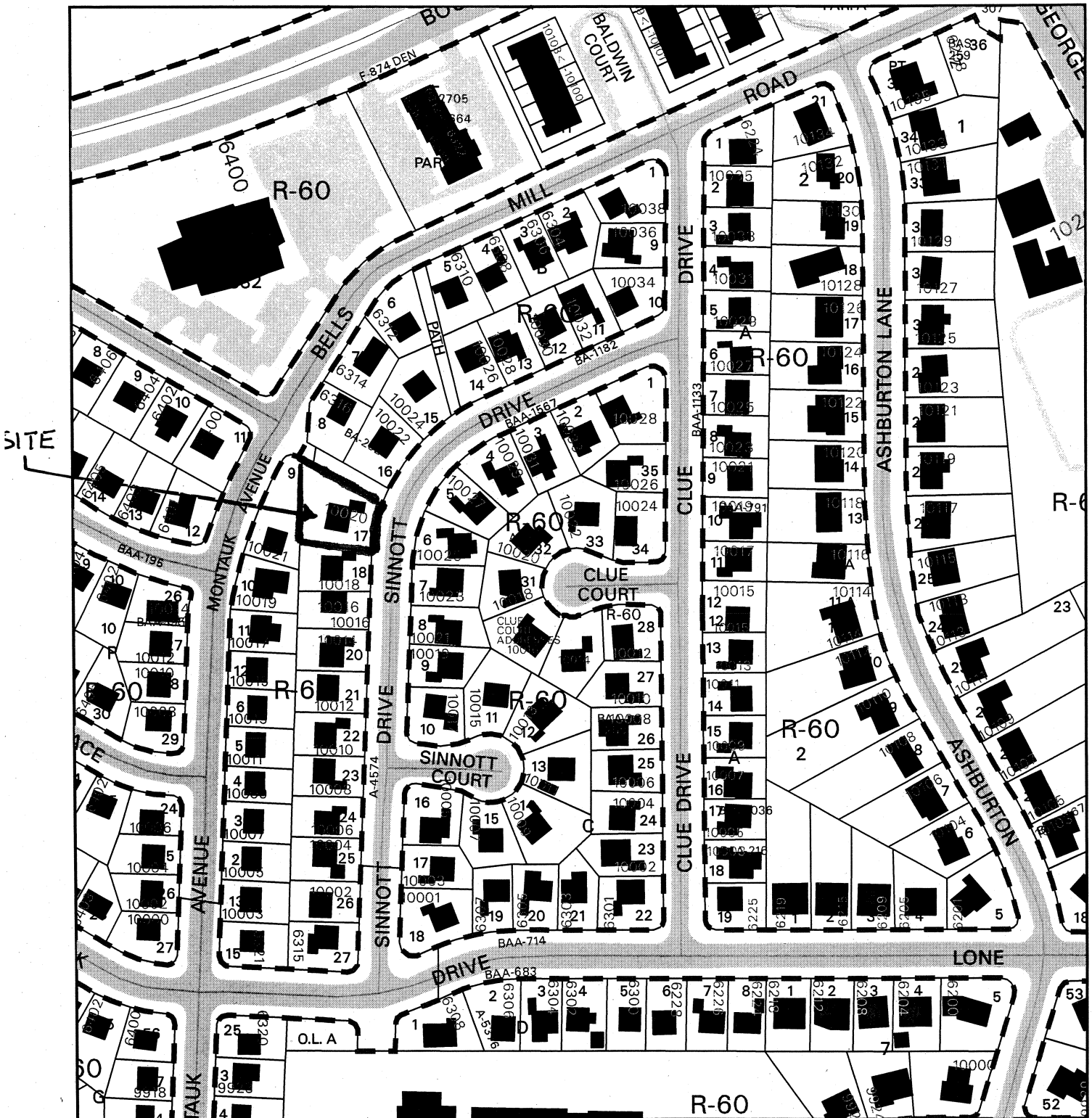
The applicant shall so note.

Conclusion

With the recommended conditions, the proposed use conforms to all applicable requirements and regulations of the special exception provisions as specified in the Montgomery County Zoning Ordinance. Staff is of the opinion that the applicant in this case has met the burden of proof by showing that the proposed day care would be operated without any real detriment to the neighborhood and would not actually adversely affect the public interest. Moreover, the proposed use is consistent with the recommendations of the *1992 North Bethesda-Garrett Park Master Plan*. Based on the foregoing analysis, staff recommends approval of the subject application subject to the conditions found at the beginning of the technical staff report.

ATTACHMENTS

SE-07-1 ANGELOUCH HADJIEV



Map compiled on November 30, 2006 at 3:23 PM | Site located on base sheet no - 213NW06

NOTICE

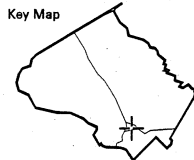
The planimetric, property, and topographic information shown on this map is based on copyrighted Map Products from the Montgomery County Department of Park and Planning of the Maryland-National Capital Park and Planning Commission, and may not be copied or reproduced without written permission from M-NCPPC.

Property lines are compiled by adjusting the property lines to topography created from aerial photography and should not be interpreted as actual field surveys. Planimetric features were compiled from 1:14400 scale aerial photography using stereo photogrammetric methods.

This map is created from a variety of data sources, and may not reflect the most current conditions in any one location and may not be completely accurate or up to date. All map features are approximately within five feet of their true location. This map may not be the same as a map of the same area plotted at an earlier time as the data is continuously updated. Use of this map, other than for general planning purposes is not recommended. - Copyright 1998

MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
8787 Georgia Avenue - Silver Spring, Maryland 20910-3760

Key Map



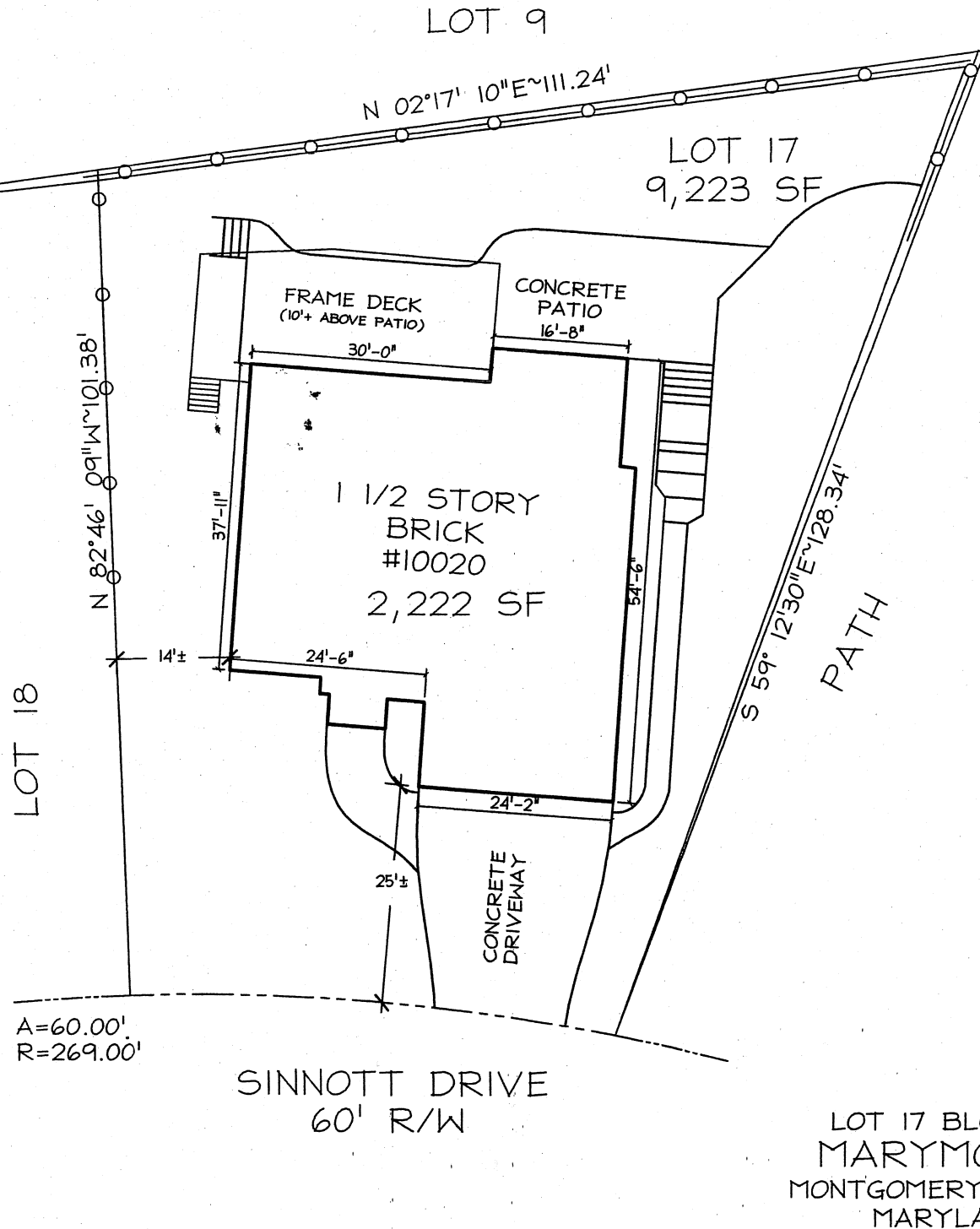
N



Research & Technology Center
0 200
1 inch = 200 feet
1 : 2400

Setback distances as shown to the principal structure from property lines are approximate. The level of accuracy for this drawing should be no greater than plus or minus 2 feet.

Flood Zone "C" per HUD. Flood Panel No 0175C.



PLAT BK: 49
PLAT No: 3824

DRAWN BY: AH CHECKED BY: CPK

SCALE: 1" = 20'

DATE: 02-01-06

JOB NUMBER

SHEET

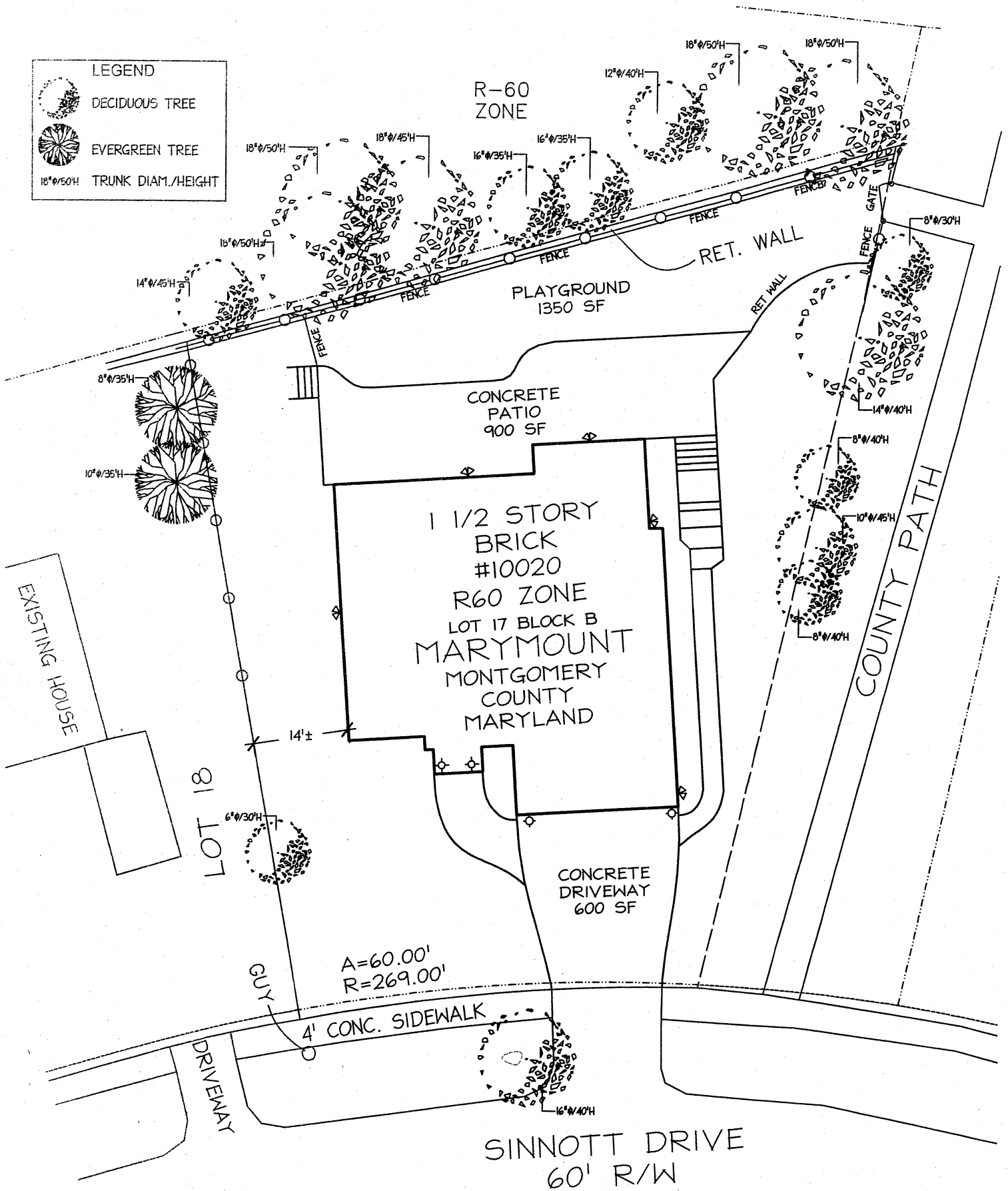
DESCRIPTION:

LEGEND

 DECIDUOUS TREE

 EVERGREEN TREE

18" Ø/50'H TRUNK DIAM./HEIGHT



GRAPHIC SCALE

1"=20'

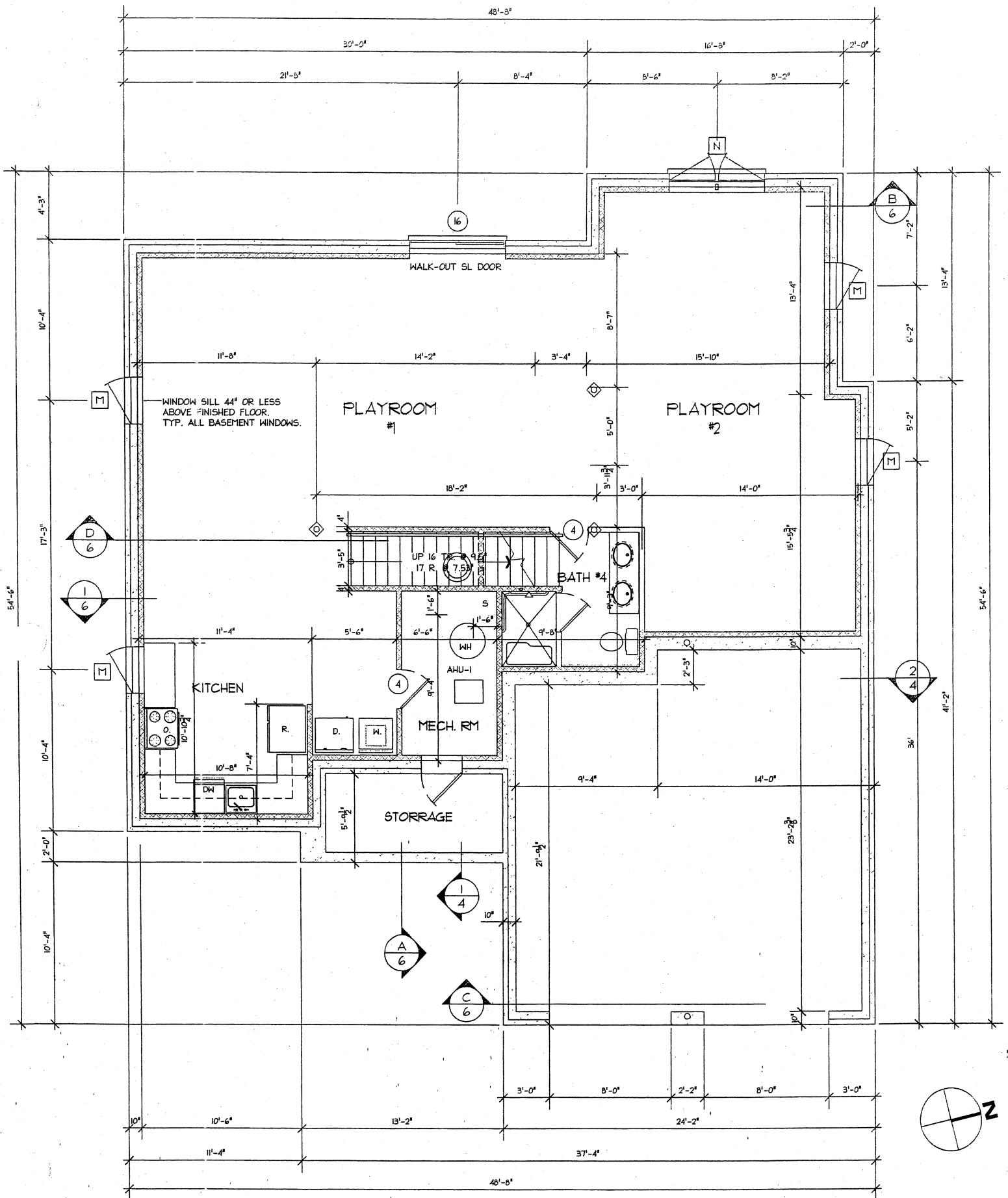


0

20

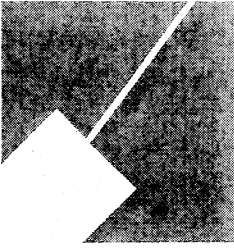
40

60



BASEMENT FLOOR PLAN

1/4" = 1'-0"



December 5, 2006

MEMORANDUM

TO: Elsabett Tesfaye, Planner
Development Review Division

VIA: Daniel K. Hardy, Supervisor *DKH*
Transportation Planning

FROM: Ed Axler, Planner/Coordinator *LA*
Transportation Planning

SUBJECT: Board of Appeals Petition No. S.E. 07-1
Child Day Care Center
10020 Sinnott Drive, Bethesda
North Bethesda Policy Area

This memorandum is Transportation Planning staff's Adequate Public Facilities review of the subject special exception use in the R-60 zone.

RECOMMENDATION

Transportation Planning staff recommends the following condition as part of the transportation-related requirements for granting of this Board of Appeals petition:

The petition shall be limited to a child daycare facility for up to 15 children and 4 employees.

With the recommended condition above, the Transportation Planning staff finds that the proposed special exception use satisfies the Local Area Transportation Review test and will have no adverse effect on nearby roadway conditions or pedestrian facilities.

DISCUSSION

Special Exception Site and its Location

The special exception site is located within an existing single-family detached unit on Lot 17, Block B, Marymount. This existing lot is located on the western side of Sinnott Drive with Montauk Avenue/Bells Mill Road west of the house and running parallel to Sinnott Drive. The Bells Mill Road alignment makes a 90-degree turn behind the house and connects to Democracy Boulevard 500 feet to the northwest.

Vehicular Access

The vehicular access is from Sinnott Drive, but the house can be accessed from Montauk Avenue/Bells Mill Road via a public pedestrian path along the north side of the house connecting Sinnott Drive to Montauk Avenue/Bells Mill Road.

Pedestrian Facilities

A sidewalk exists along both sides of Sinnott Drive. In addition, a public pedestrian path exists along the north side of the property connecting to the sidewalk along Montauk Avenue/Bells Mill Road behind the house.

Parking to Drop off and Pick up Children

This child daycare facility can be accessed from either Sinnott Drive or Montauk Avenue/Bells Mill Road. The house has a two-car garage for the residents' vehicles and space on the driveway from Sinnott Drive to park two vehicles for parent drop-off and pick-up of their children. One of the parking spaces would be used by the one proposed non-resident employee. On-street parking is also permitted along Sinnott Drive and Montauk Avenue/Bells Mill Road behind the house for parents to drop off and pick up their children.

Master-Planned Highway and Bikeway

Sinnott Drive functions as a secondary residential street with a 60-foot-wide right-of-way and sidewalks on both sides, which is similar to other nearby local roads. According to the *North Bethesda/Garrett Park Master Plan*, the nearest master-planned roadway is Democracy Boulevard. Democracy Boulevard is designated as a six-lane divided major highway, M-5, with a minimum right-of-way of 120 feet west of Bells Mill Road and 150 feet east of Bells Mill Road and a Class I bikeway. The *Countywide Bikeways Functional Master Plan* designates this Class I bikeway as a shared use path, SP-2.

Available Transit Service

Transit service is not available along Sinnott Drive or the other nearby residential streets. Transit service is available along nearby Democracy Boulevard via Metrobus bus routes J-2 and J-3

operating along the Rockledge Drive/Old Georgetown Road (MD 187) segment.

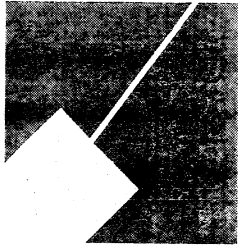
Adequate Public Facilities Review

The *Local Area Transportation Review Guidelines* states that a child day care center with six or fewer staff does not need a traffic study to satisfy LATR. The petition recommends a total of four staff. The trip generation rates in the guidelines suggest that a center with four staff would generate 24 peak-hour trips within the weekday morning peak period (6:30 to 9:30 a.m.) and 24 peak-hour trips within the evening peak period (4:00 to 7:00 p.m.). A traffic study is not required to satisfy Local Area Transportation Review because the proposed special exception use generates fewer than 30 peak-hour vehicular trips within the weekday morning and evening peak hours.

Policy Area Transportation Review is not considered in the APF review under the current *Annual Growth Policy*.

EA:ba

mno to Tesfaye re SE 07-1.doc

**MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING**THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION8787 Georgia Avenue
Silver Spring, Maryland 20910-3760
301-495-4500, www.mncppc.org**MEMORANDUM**

DATE: October 18, 2006
TO: Elsabett Tesfaye, Development Review Division
VIA: Judy Daniel, Team Leader, B-CC/North Bethesda Team
FROM: Kristin O'Connor, Community-Based Planning Division
REVIEW TYPE: Special Exception Child Care Center
CASE NUMBER: Board of Appeals Petition No. S.E. 07-1
ZONE: R-60
LOCATION: 10020 Sinnott Drive, Bethesda
MASTER PLAN: 1992 North Bethesda-Garrett Park Master Plan

Master Plan Conformance

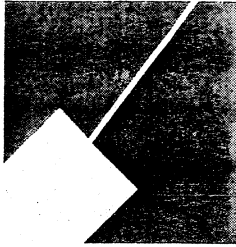
The subject property is located at 10020 Sinnott Drive in Bethesda and is zoned R-60. The property is located on 17, Block B, of the Marymount Subdivision and is located directly west of Old Georgetown Road and north of Lone Oak Drive.

A Child Care Center is a supported land use in the *North Bethesda-Garrett Park Master Plan* (1992). The Plan supports special exception uses "that contribute to the service objectives of the Plan" (page 38). "In general, the Plan endorses provisions of child day care, groups homes, elderly day care, and nursing homes" (p 38).

The Plan provides guidelines to protect residential areas while also attempting to meet important social needs (p 37-38). The location of special exception land uses in the Plan's residential areas must meet compatibility standards and general conditions set forth in the Montgomery County Zoning Ordinance. The Ordinance states that special exceptions may be denied where an excessive concentration exists in a particular residential area. There is no definition of the neighborhood either graphically or otherwise in this application nor is there a listing of other special exceptions in the vicinity of the property. Therefore, it is not possible for Community-Based Planning staff to determine if excessive concentration of child care centers exist in the area. Staff defers to Development Review to define the neighborhood and establish the concentration of existing special exceptions.

Staff finds that the use is consistent with the *North Bethesda-Garrett Park Master Plan* (1992) which supports special exception uses that contribute to the "service objectives", specifically providing child day care in the Master Plan area.

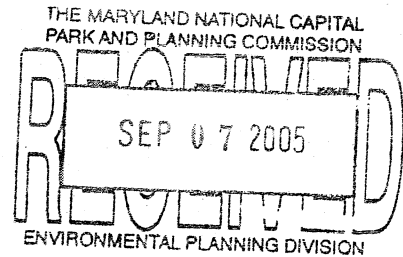
M-NCPPC



MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

8787 Georgia Avenue
Silver Spring, Maryland 20910-3760
301-495-4500, www.mncppc.org



MEMORANDUM

DATE: September 7, 2006

TO: John Carter, Community Based Planning Division
Melissa Banach, Strategic Planning Division
Tom Vanderpoel, Community Based Planning Division
Mary Dolan, Environmental Planning Division
Daniel Hardy, Transportation Planning Division
Tanya Schmieler, Park Planning and Development Division
Gwen Wright, Historic Preservation Unit
Taslima Alam, Development Review Division
Judy Daniel, Community Based Planning Team 2

FROM: Carlton Gilbert
Community Based Planning Division

PLEASE REPLY TO: Elsabetts Tesfaye

SUBJECT: Board of Appeals Petition No. S.E. 07-1

Special Exception Request: For a child day care center for up to 30 children.

Location: 10020 Sinnott Drive, Bethesda

Zone: R-60

Please assign a person on your staff to review the case cited above. Written comments and recommendations are requested by **Monday, October 23, 2006** for the staff report on this case. Staff may sign case files out of the Development Review Division, briefly, for review.

In addition to any other observations, it would be helpful to have your input on the following:

Community Based Planning: 1) consistency with master plan, 2) whether the special exception will adversely affect the surrounding area, 3) any information or recommendation concerning relevant master planning studies or other government action now under way.

Environmental Planning: 1) environmental impact due to topographic or other factors which may cause problems, 2) conformance with tree preservation legislation of Chapter 22-A of the County Code.

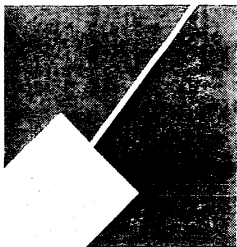
Transportation Planning: traffic impact and adequacy of road network affected by request.

Park Planning & Development: impact on existing or proposed park areas.

Development Review: applicable subdivision requirements.

*no comments from
environmental
planning. CWP Division
Marion Black
Nov. 27, 2006*

M-NCPPC



MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

8787 Georgia Avenue
Silver Spring, Maryland 20910-3760
301-495-4500, www.mncppc.org

MEMORANDUM

DATE: September 7, 2006

TO: John Carter, Community Based Planning Division
Melissa Banach, Strategic Planning Division
Tom Vanderpoel, Community Based Planning Division
Mary Dolan, Environmental Planning Division
Daniel Hardy, Transportation Planning Division
Tanya Schmieler, Park Planning and Development Division
Gwen Wright, Historic Preservation Unit
Taslima Alam, Development Review Division
Judy Daniel, Community Based Planning Team 2

FROM: Carlton Gilbert
Community Based Planning Division

PLEASE REPLY TO: Elsabett Tesfaye

SUBJECT: Board of Appeals Petition No. S.E. 07-1

Special Exception Request: For a child day care center for up to 30 children.

Location: 10020 Sinnott Drive, Bethesda

Zone: R-60

Please assign a person on your staff to review the case cited above. Written comments and recommendations are requested by **Monday, October 23, 2006** for the staff report on this case. Staff may sign case files out of the Development Review Division, briefly, for review.

In addition to any other observations, it would be helpful to have your input on the following:

Community Based Planning: 1) consistency with master plan, 2) whether the special exception will adversely affect the surrounding area, 3) any information or recommendation concerning relevant master planning studies or other government action now under way.

Environmental Planning: 1) environmental impact due to topographic or other factors which may cause problems, 2) conformance with tree preservation legislation of Chapter 22-A of the County Code.

Transportation Planning: traffic impact and adequacy of road network affected by request.

Park Planning & Development: impact on existing or proposed park areas.

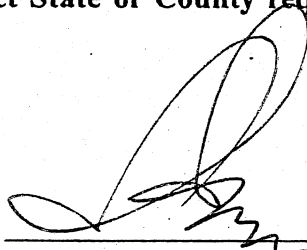
Development Review: applicable subdivision requirements.

*Does not affect
any identified
historic resources
m. Oahy
10/20/06*

AFFIDAVIT OF COMPLIANCE

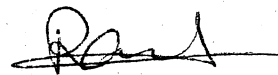
I HEREBY CERTIFY that I will comply with and satisfy all applicable State and County requirements, correct any deficiencies found in any government inspection, and be bound by this affidavit as a condition of approval for the special exception.

I understand that if I fail to meet State or County requirements, this special exception may be declared invalid.



Petitioner **ANGELOUCA HADJIEV**

Subscribed and sworn to me, a Notary Public for Montgomery County,
Maryland, this 9th day of June, 2006.



Notary Public

My Commission Expires: **RENU JAIN, NOTARY PUBLIC**
MONTGOMERY COUNTY, MD
COMMISSION EXPIRES JUNE 4, 2008