





Clarksburg Childcare Center, Special Exception, S-2850

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Description

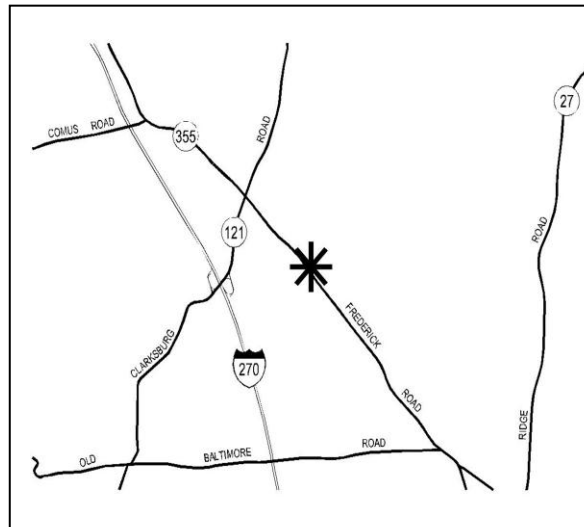
Special Exception S-2850: Clarksburg Child Care Center

Request for a special exception to operate a Child Day Care Facility for 52 children and 6 staff members, 22929 Frederick Road, 2,300 feet south of Stringtown Road, R-200 Zone, Clarksburg Master Plan and Hyattstown Special Study Area

Application Filed: June 21, 2012
 Public Hearing: December 14, 2012

Applicants: Creating Memories Children’s Learning Center, Shirley Vesper and Michael Vesper

Staff Recommendation: Approval with conditions



Summary

With the recommended conditions, the proposed use conforms to all applicable requirements and regulations for approval of a child day care facility special exception as specified in the Montgomery County Zoning Ordinance. The applicants have met the burden of proof by showing that the proposed child day care facility will be operated without detriment to the neighborhood and would not adversely affect the public interest. The proposed use is consistent with the recommendations of the Clarksburg Master Plan & Hyattstown Special Study Area.

Landscaping consisting of a significant number of plant materials, retaining wall, fencing, and existing topographical features will provide adequate screening and buffering of the proposed use and activities from adjoining properties and the road, and at the same time providing an attractive and safe environment. The lighting concept, as depicted on the lighting plan, is appropriate for the proposed use at the subject location.

The proposed project will provide safe and adequate parking with appropriate lighting to serve the proposed use. As part of the special exception application, the applicants have requested a waiver from the side yard setback requirement for the parking facility. The granting of the waiver is not likely to adversely impact adjacent and nearby residential uses or the area's transportation system. With additional planting of trees, landscaping, a retaining wall, and fences, the intent of the setback requirement is adequately satisfied. Based on the transportation and traffic analysis, there is a reasonable probability that the application will satisfy LATR and PAMR requirements at the time of subdivision. The applicants' sight distance analysis meets the required sight distance in both directions based on the Montgomery County Department of Transportation guidelines (MCDOT).

The property is entirely within the Clarksburg Special Protection Area. Staff has recommended approval of that part of the Preliminary Water Quality Plan that is under the purview of the Planning Board. The Department of Permitting Services has conceptually approved the portion of the Preliminary Water Quality Plan under its purview. The property is exempt from Forest Conservation requirements.

The property is subject to a Preliminary Plan review of Adequate Public Facility and compliance with the subdivision regulations.

Staff Recommendation

Staff recommends approval of the proposed special exception for a child day care center with the following conditions:

1. The Child Care Center is limited to a maximum of 52 children and 6 employees on site at one time.
2. Hours of operation shall be limited to 6:30 a.m. to 6:30 p.m. Monday through Friday, 12 months a year.
3. All children drop-off and pick-ups shall occur on site.
4. The number of children playing outside in the play area at one time must not exceed 25.
5. The petitioners must obtain approval of a Preliminary Plan per Chapter 50 of Montgomery County Code. If changes to the site plan or other related plans are required at subdivision, the petitioners must file a copy of the revised site and related plans with the Board of Appeals.
6. The petitioners must obtain a sign permit for the proposed freestanding sign from the Department of Permitting Services (DPS). If DPS requires the requested variance, the petitioners must obtain a sign variance or adjust the design of the proposed sign to conform to all applicable regulations. A copy of the approved sign permit along with any revised drawing related to the sign must be submitted to the Board of Appeals before the sign is posted.

Staff also recommends a waiver of the side yard setback for parking areas from 24 feet to 6 feet.

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I. STATEMENT OF THE CASE

The special exception applicants, Creating Memories Children’s Learning Center, Inc., Shirley Vesper and Michael Vesper propose to establish a child care center for 52 children on the subject 1.05-acre-property. The Property is currently improved with a one-story, 2,780 square-foot, detached, single-family dwelling. The applicants are proposing to renovate and modify the existing dwelling and convert it to a day care facility. The proposed modification consists of a 1,150-foot addition and external and internal modifications of the existing house, creation of a parking lot, and an outdoor play area. The modification also includes installation of a six-foot sight-tight fence around the play area, and a combination of retaining wall and fences to screen the parking area.

The proposed facility will have a play area consisting of 1,975 square feet of area and 15 parking spaces. The applicants’ statement of justification indicates that the maximum number of children on site at any time would not exceed 52. The child facility would provide care for infants through preschool children (4-5-year-old) as well as older children for after-school-care. The statement also indicates that the facility would have a total of 6 full-time employees. Hours of operation for the facility will be Monday to Friday from 6:30 a.m. to 6:30 p.m. Employees would arrive before 6:30 a.m. and depart shortly after 6:30 p.m.

II. PROPERTY DESCRIPTION



The subject property is located on the east side of MD 355 about 2,300 feet south of Stringtown Road in Clarksburg. The property is an unrecorded parcel and it is identified as P696. It consist of 1.05 acres (45,738) of land and is zoned R-200. The property is improved with a one-story detached dwelling and an associated asphalt driveway access on Frederick Road. The dwelling is currently vacant. The Property is rectangular shaped and slopes down gently from east to west gradually falling steep as it gets closer to the road.

III. SURROUNDING AREA

The area surrounding the subject property is described as follows:

- North:** Stringtown Road.
- East:** Senneca Creek
- South:** Shawnee Lane and Forman Blouvard
- West:** Observation Drive, the Gankirk Farm Property, and MD355

The surrounding area is generally characterized by single family residential dwellings and undeveloped parcels in the R-200 (with the exception of a small area of RMX Zoned properties along Stringtown



Road). The neighborhood as defined by staff, generally includes residential developments (with few special exception uses) within the Gateway Commons, Garnkirk Farms and Clarksbrook Estates neighborhoods. The portion of the neighborhood west of MD 355 is currently, sparsely developed. Future development plans for the area include roadways recommended by master plan and pending residential developments.

The property is surrounded by three single-family dwellings to the north a single-family dwelling to the south, and a 10-acre property that is improved with a single-family dwelling to the east, all located in the R-200 Zone. To the west, across

Frederick Road, are located a couple of vacant but heavily wooded properties with a combined area of approximately 24 acres. All of the confronting properties are also zoned R-200.

IV. PLANNING AND ZONING HISTORY

The property was placed in the R-R Zone during the 1958 Countywide Comprehensive Zoning. In October of 1973, Text Amendment 73013 renamed the R-R Zone as R-200 Zone. The 1994 Clarksburg Master Plan and Hyattstown Special Study Area (G-710) retained the property’s R-200 Zoning. The land use element of the Master Plan also placed the subject property in the Transit Corridor District with recommended residential development density of 2d.u./ac and an R-200 Zone Classification.

V. MASTER PLAN

The 1994 Clarksburg Master Plan and Hyattstown Special Study Area recommended the site for R-200 Zoning. The Master Plan does not provide explicit recommendations for the property, and it does not identify specific areas that are deemed suitable for the proposed use. The plan states that “child care should be dispersed throughout the study area with concentrations near transit, employment areas, and concentration of housing.” (p. 167). The Master Plan identifies the property as part of the Transit Corridor. The Plan anticipates increasing “demand on social services, including child day care as the plan area grows” (p. 166). Furthermore, the plan states that “[h]uman services such as elderly day care, teen programs, child day care, and recreation, should be provided throughout the Clarksburg Master Plan Area and Hyattstown Special Study Area”(p.166).

The proposed use will be consistent with the Clarksburg Master Plan and Hyattstown Special Study Area.

VI. TRANSPORTATION

The proposed day care facility will not adversely affect area pedestrian accessibility, and it will have no adverse effect on the transportation network in the immediate area. The proposed day care facility would generate 20 trips during the weekday morning peak hours (6:30 a.m. to 9:30 a.m.) and 24 trips

during the weekday evening peak hours (4:00 p.m. to 7:00 p.m.). Since the proposed facility will not generate 30 or more peak-hour trips during the weekday morning and evening peak periods, a traffic study is not required, and the subject petition passes the Local Area Transportation Review (LATR) requirements of the APF test.

The site is located in the Clarksburg Policy Area where there is a 10 percent Policy Area Mobility Review (PAMR) trip mitigation requirement according to the County's Growth Policy. The application is subject to preliminary plan review. Adequacy of Public Facilities for Transportation will be determined at the time of preliminary plan.

Access to the site will be provided from Frederick Road (MD 355) which will be built as a standard of a commercial driveway. Staff has analyzed the sight distance analysis (attached) provided by the applicants' traffic consultant for the proposed child care; staff has found that the sight distance on MD 355 is met when looking both ways from the site. The proposed access point and on-site vehicular and pedestrian circulation system shown on the site plan are adequate. The existing road system in the vicinity of the site would not be affected by the proposal

The granting of Special Exception for the proposed day care facility satisfies the LATR/PAMR requirements of the APF review with the following conditions:

1. Total development under this special exception is limited to 52 children and 6 staff.
2. The applicant must address either the Policy Area Mobility Review (PAMR) or the Transportation Policy Area Review (TPAR) requirements at the time of preliminary plan.

VII. ENVIRONMENT

The site is located within the Clarksburg Special Protection Area (SPA) and the Little Seneca Creek watershed, a Use Class IV-P watershed. The Countywide Stream Protection Strategy (CSPS) rates streams in this watershed as good. There are no streams, floodplains, wetlands, or environmental buffers on or affecting the site.

A forest conservation plan exemption (42011129E) was confirmed for this site by staff on March 17, 2011 under 22A-5(s)(1) of the County Forest Conservation Law. The application is for an activity occurring on a tract of land less than 1.5 acres with no existing forest, or existing specimen or champion trees, and the afforestation requirements would not exceed 10,000 square feet.

The site is entirely within the Clarksburg Special Protection Area (SPA), and it is subject to approval of a Preliminary Water Quality Plan (WQP) and a Sediment Control Concept Plan. Under the SPA law, Montgomery County Department of Permitting Services (DPS) and the Planning Board has different responsibilities in the review of the water quality plan. DPS reviews elements of the WQP under its purview (e.g. stormwater management, sediment and erosion control, etc.), while the Planning Board determines whether the site imperviousness, environmental guidelines for special protection areas, and forest conservation requirements, have been satisfied.

The Preliminary Water Quality Plan (PWQP) recommendations are reviewed by the Planning Board as a regulatory item, separate from the review of Special Exception application. Staff is recommending approval of the PWQP, with conditions.

DPS conceptually approved, with conditions, that portion of the applicants' Preliminary Water Quality Plan that is under its purview on June 4, 2012. The DPS conceptual approval is comprised of performance goals that included minimizing storm water flow, minimizing sediment loading, and maximizing infiltration and recharge. The conceptual approval letter indicates that Monitoring in accordance with BMP monitoring protocols is not required.

VIII. SUBDIVISION

This property is not recorded by record plat. It will be required to go through the subdivision process for a review of Adequate Public Facilities and compliance with subdivision regulations. The property must be recorded by plat before a building permit is issued.

IX. LANDSCAPING



Additional evergreen plantings were added to the entrance along the eastern property line and in close proximity of the surface parking lot. The revised plan also shows additional evergreen planting along the northern property line directly adjacent to the retaining wall and, the deciduous trees are relocated in closer proximity of the surface parking lot as recommended by staff.

The surface parking lot is adequately buffered from the neighboring properties with a combination of sight-tight fences, a retaining wall and various ornamental, shade and evergreen trees. This proposal exceeds the 30 percent shade requirement by 5 square feet. The revised plan proposes a 6-foot fence

on top of the retaining wall, to provide additional screening from the neighboring properties. Staff recommends an attractive, sight-tight fence instead of the chain link fence on top of the retaining wall.

The last revised site and landscape plans show that the 10 foot landscape strip is in conflict with the future 10' feet utility easement (PUE) since both would be occupying the same area. There is a possibility of employing measures (such as installation of underground conduit) that would allow the overlapping of the two setbacks. The applicants must work out a practical solution with the PUE authorities. The issue will be further addressed at Preliminary Plan review. In a supplemental statement submitted with the revised plan, the applicants have offered the following justification:

“The 10 foot landscape strip and the PUE can coexist with agency approval because dry utilities will be located within the PUE. The Subject Property is in the S-6 sewer category and not planned for the extension of sewer. That utility will be excluded from the PUE. The electric

utilities are currently overhead lines. If the electric lines were relocated underground into the PUE, the applicants will pre-install conduit for the utility lines, protecting them from overlapping plantings”.

The Photometric Lighting Plan indicates that there will be no light pollution spilling onto the adjacent properties and within the public right-of-way.

X. GENERAL DEVELOPMENT STANDARDS (§ 59-G-1.23)



- a. **Development Standards-59-G-1.23 (a):** Special exceptions are subject to the development standards of the applicable zone where the special exception is located, except when the standard is specified in Section G-1.23 or in Section G-2.

The following table summarizes the relevant development standards for the R-200 Zone that are applicable to the proposed special exception request:

Current Development Standard: R-200	Standard	Proposed
Minimum Lot Area	20,000 sf	41,006 sf
Minimum Lot width:		
• @ Front building line	100 ft	150.4 ft
• @ Street line	25 ft	150.0 ft
Minimum Building Setback:		
Front	40 ft (EBL)	53 ft
Side		
▪ One side	12 ft	42 ft
▪ Sum of both sides	25 ft	92 ft
▪ Rear	30 ft	161 ft
Maximum Building Height	50 ft	17.85
Maximum Building Coverage	25% (10,251 sf)	5.5% (2248 sf)
Maximum Front yard surface cover	30% (2752 sf)	24% (2,199 sf)

- b. **Parking Requirements—59-G-1.23 (b):** Special exceptions are subject to all relevant requirements of Article 59-E.

Section 59-E-3.7—Parking requirements

Child care: One parking space for every six students and one parking space for each employee.

A total of 15 parking spaces are required for the proposed uses on the subject property. The site plan provides a total of 15 parking spaces, including one van accessible handicap space.

Section 59-E-2.83 Parking and Loading Facilities for Special exception uses in a residential zones

- (a) ***Location: Parking facilities must be located to maintain a residential character and a pedestrian-friendly street orientation.***
- (b) ***Setback: Each parking and loading facility, including each entrance and exit driveway, must be set back a distance not less than the applicable building front and rear yard and twice the building side yard required in the zone.***
- (c) ***Screening: Each parking and loading facility, including driveway and dumpster areas, must be effectively screened from all abutting lots. Screening must be provided in a manner that is compatible with the area’s residential character. Screening must be at least 6 feet high, and must consist of evergreen landscaping, a solid wood fence, a masonry wall, a berm, or a combination of them. Along all street right-of-ways screening of any parking and loading facility must be at least 3 feet high and consist of evergreen landscaping, a solid wood fence, or masonry wall.***
- (d) ***Shading of Paved areas: Trees must be planted and maintained throughout the parking facility to assure that at least 30 percent of the paved area including***

driveways is shaded. Shading must be calculated by using the area of the tree crown at 15 years after the parking facility is built

A portion of the proposed parking facility is located within the northern side yard, with a setback of 6 to 7.7 feet set back from the property line. The applicant seeks a waiver of 18 feet from the required 24 feet (12X2) side yard setback requirement (see *Section XI: Standard for Evaluation (59-G-1.2.1) and Section XV: 59-E-4.5. Waiver-parking standards* of this staff report).

The remaining portion of the parking facility is located within the front yard where a minimum of 10 feet of setback (landscape strip) is required for parking facility within the yard.

Pursuant to Section 59-E-2.81.Setback, residential setbacks for parking surfaces, spaces and driveways do not apply for a facility within a residential zone that is in a public right-of-way of 120 feet or more width

Section 59-E-2.81(b)(1) If a parking facility adjoins an existing or planned public right-of-way that is 120 feet or more in width, the provision for a landscaped strip, as stated in section 59-E-2.71, applies to the property line abutting that right-of-way in lieu of the residential setback.

In response to staff's comments, the applicants have revised the site and landscape plans. The revised plans generally are adequate in terms of layout, landscaping and lighting. Review of the applicants' revised landscape plan reveals that most of the issues and concerns raised have been addressed and deemed acceptable by staff.



- c. **Forest Conservation-59-G-23(d):** If a special exception is subject to Chapter 22A, the Board must consider the preliminary forest conservation plan required by that Chapter when approving the special exception application and must not approve a special exception that conflicts with the preliminary forest conservation plan.

A forest conservation plan exemption (42011129E) was confirmed for this site by planning staff on March 17, 2011 under 22A-5(s)(1) of the County Forest Conservation Law.

- d. **Signs—59-G-23(f):** The display of a sign must comply with Article 59-F.

All signs placed on the property must meet the requirements of Section 59-F-4.2 (a) in terms of number, location and size and Section 59-F-4.1 (e) regarding illumination. The proposed sign measures 5 feet in height and 15 square feet in area exceeding the 2 square-foot sign area

allowed in residential zones. The applicants intend to request a variance from the sign area requirement Section 59-F-4.2 (a)(3).

The sign is set back 11.5 feet from the property line adjoining the ultimate right-of-way of Frederick Road. The sign meets the location and the height requirement and complies with the illumination requirements of Section 59-F-4.1 (e).

Staff finds the proposed sign to be appropriate and compatible with the neighborhood. The increased area is needed to give adequate identification to the proposed use so that it would be visible to drivers looking for the facility from the road. Any potential aesthetical adverse impact from the increased sign area will be minimized with the fact that the sign would be set back from the property line by more than double the required minimum 5-foot distance

The applicants must obtain a sign variance and a sign permit for the proposed free standing sign. A copy of the sign permit obtained from DPS must be submitted to the Board of Appeals before the sign is posted on the property.

- e. **Building compatibility in residential zones-59-G-1.23(g): Any structure that is constructed, reconstructed or altered under a special exception in a residential zone must be well related to the surrounding area in its sitting, landscaping, scale, bulk, height, materials, and textures, and must have a residential appearance where appropriate. Large building elevations must be divided into distinct planes by wall offsets or architectural articulation to achieve compatible scale and massing.**



The proposed child care center will be housed in an existing one-story plus basement detached residential dwelling. The dwelling will be enlarged with an external modification that includes a modest addition to the upper and lower levels of the rear portion of the existing structure. The interior of the dwelling will be modified to accommodate the proposed conversion of the dwelling into a child care facility. The proposed design of the building will be appropriate and relates well with the residential characteristics of buildings in the area.

f. Lighting in residential zones —59-G-1.23(h): All outdoor lighting must be located, shielded, landscaped, or otherwise buffered so that no direct light intrudes into an adjacent residential property. The following lighting standards must be met unless the Board requires different standards for a recreational facility or to improve public safety:

(1) Luminaires must incorporate a glare and spill light control device to minimize glare and light trespass.

(2) Lighting levels along the side and rear lot lines must not exceed 0.1 foot candles.

The lighting plan adequately and efficiently covers the main vehicular access to the site as well as the parking areas to create a safe vehicular and pedestrian environment. The proposed lighting will not cause glare on adjoining properties, nor will it exceed the 0.1 foot-candle standard at the side and rear property lines. A photometric study was submitted with the application to show that the proposed modification satisfies this requirement. The Photometric Lighting Plan indicates that there will be no light pollution spilling onto the adjacent properties and within the public right-of-way.

XI. STANDARD FOR EVALUATION (59-G-1.2.1)

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. What must be determined is whether these effects are acceptable or would create adverse impacts sufficient to result in denial. The inherent, generic physical and operational characteristics associated with a child care center are (1) buildings and related outdoor child care equipment (2) parking areas, (3) lighting, (4) noise generated by children (5) drop-off and pick-up areas, (6) outdoor play areas (7) long hours of operation (8) employees of the child care facility (9) and vehicular trips to and from the site.

The placement of a portion of the parking space and driveway within a side-yard requiring a waiver from the side-yard setback requirement for parking facility is a non-inherent impact. Staff finds that any adverse effect that might have been created has been mitigated by distance, additional screening and buffering provided by the proposal and the abutting unbuildable pipe-stem lots that are improved with common driveways with egress and egress easements. In recommending approval of the requested waiver from the parking facility standards (see Section XV of this report), staff finds that the intent of the setback requirement is met by the proposal.

The facility would be housed in an existing residential building which will be modified to include a modest addition and general cosmetic improvement to the building façade without compromising the existing residential nature of the property both in terms of building scale and appearance.

There are no significant transportation impacts that would result from the proposed special exception. The proposed use satisfies the Local Area Transportation Review test and will have no adverse effect on nearby roadway conditions or pedestrian facilities. Evaluation of sight distance analysis submitted by the applicants' transportation engineer reveals that the proposed access point is adequate to accommodate the site generated traffic.

Adequate parking is provided to accommodate the parking needs of the facility. Although there is a deficiency with respect to meeting the parking facility setback requirement for which a waiver is requested, there would be no potential negative impact on the adjoining or nearby residences. The facility will be substantially distanced from the nearest residences. In addition, screening and buffering is provided in the form of landscaping and fences. There are no discernible noise-related impacts associated with the proposed use.

The proposed scale of the building, the access point, the internal vehicular circulation system, and the onsite parking areas shown on the site plan are operational characteristics typically associated with a child care center. Based on the traffic analysis, the vehicular and pedestrian movement surrounding the site and on Frederick Road would be safe, adequate, and efficient. The lighting concept, as depicted on the lighting plan, is appropriate for the proposed use at the subject location.

The proposed child care center is consistent with all applicable standards of the R-200 Zone with a waiver for parking setback, and satisfies all applicable requirements for granting of a child care center special exception.

XII. GENERAL CONDITIONS (59-G-1.21)

(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 proposed use is permitted by special exception in the R-200 zone.

(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.

The proposed special exception satisfies the standards and requirements for approval of a child care center special exception.

- (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.**

The proposed use will be consistent with the Clarksburg Master Plan and Hyattstown Special Study area. On page 166, the Master Plan recognizes that as the Clarksburg Master Plan Area and Hyattstown Special Study Area grow, the demand on the social services, including child care will increase. The plan states that human services including child care should be provided throughout the plan area. The Plan further states that “child care should be dispersed throughout the study area with concentrations near transit, employment areas and concentration of housing” (p. 166).

The proposed special exception would allow a child care facility in an area experiencing growth of residential developments, near and along major transit routes.

- (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 Board or Hearing Examiner must consider whether the public facilities and services will be adequate to serve the proposed development under the Growth Policy standards in effect when the special exception application was submitted.**



With the proposed conditions, the proposed use 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. Analysis of future transportation and traffic conditions show that the new trips generated by the proposed use are not likely to have a significant impact on the

residential neighborhood or the roads. Adequate off street parking spaces are provided to satisfy the child care center parking needs.

- (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.**

The proposed child care facility will not cause detrimental impacts to the surrounding properties or the general neighborhood provided that the applicant complies with the recommended conditions of approval of this application.

The trip generation and intersection capacity associated with the proposed development are judged to be within acceptable limits.

Landscaping, consisting of a significant number of plant materials, required setbacks, well organized site layout, building orientation, and efficient on and near site circulation patterns will provide adequate screening and buffering of the proposed use and activities from adjoining properties and roads while at the same time providing an environment that is sensitive to the existing semi-rural, low density residential nature of the surrounding area.

- (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 will 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, and have minimal lighting and glare. There will be no significant traffic impact from the proposed use.

The proposed outdoor play area is located at a substantial distance from the nearest residential properties, and it is screened with a combination of, a sight-tight fence, Landscaping and a retaining wall. The children's outdoor play schedule will be staggered by age, and it will not commence before 9:30 a.m. The applicants have indicated that the children will play outside in groups of approximately 25 children during the period of 9:30 a.m. to 11:30 a.m. and 2:30 p.m. to 6:30 p.m. or earlier, depending on the season.

Trash and recycles will be gathered in the interior of the building, and they will be collected by residential services. Food is not prepared on the premises; rather, parents pack lunches for their children with the facility providing snacks in the morning and the afternoon. Therefore, there will not be food delivery to the property.

- (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.

Staff has identified at least two Special Exception uses within the surrounding area (as defined by staff):

- BAS-521: a Horticultural nursery and Commercial Greenhouse use at 23023 Frederick Road Georgia Avenue, granted in 1976. The use is still actively operating on the site.
- S-2685: a Private Educational Institution approved in 2007 but has not yet been constructed.

The proposed Special Exception will not increase the number, intensity, and scope of approved Special Exceptions in the area enough to affect the area adversely or alter its residential nature. Although currently of a semi-rural nature, the surrounding area is in the process of transformation with swift expansion of residential subdivisions with a large number of families who need the services of child day care facilities. The proposed use would provide a valuable service to the community.

- (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.**

With the recommended conditions, the proposed special exception 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.**

- (A) If the special exception use requires approval of a Preliminary Plan of subdivision, the Planning Board must determine the adequacy of public facilities in its subdivision review. In that case, approval of a Preliminary Plan of subdivision must be a condition of granting the special exception.**

The subject Special Exception is subject to approval of a Preliminary Plan of Subdivision, and it is a condition of its approval. The adequacy of public facilities, including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage and other public facilities will be determined by the Planning Board at that time.

- (B) If the Special Exception:**

- (i) does not require approval of a new Preliminary Plan of subdivision;
and**

- (ii) **the determination of adequate public facilities for the site is not currently valid for an impact that is the same as or greater than the Special Exception's impact;**

Then the Board of Appeals or the Hearing Examiner must determine the adequacy of public facilities when it considers the Special Exception application. The Board of Appeals or the Hearing Examiner must consider whether the available public facilities and services will be adequate to serve the proposed development under the Growth Policy standards in effect when the application was submitted.

The Special Exception is subject to approval of a Preliminary Plan of Subdivision, and the adequacy of public facilities will be determined by the Planning Board at that time.

- (C) **With regard to public roads, the Board or the Hearing Examiner must further find that the proposed development will not reduce the safety of vehicular or pedestrian traffic**

The proposed use will be adequately served by existing public facilities. The Local Area Transportation Review (LATR) Guidelines require that a traffic study be performed if the use generates 30 or more peak hour trips. Based on the information contained in the Traffic Statement submitted by the applicant, the site would generate 20 AM and 24 PM peak-hour trips during the weekdays peak periods. The site is not subject to the Local Area Transportation Review (LATR) requirements.

The site is located in the Clarksburg Policy Area where there is a 10 percent Policy Area Mobility Review (PAMR) trip mitigation requirement according to the County's Growth Policy. The current PAMR requirement and the new proposed Transportation Policy Area Review (TPAR) is to be discussed and approved by the County Council in the next several months. The applicants must address either the current PAMR requirement or the new TPAR requirement.

Access to the site will be provided by a driveway from Frederick Road (MD 355) which will be built as a standard of commercial driveway. The proposed access point and on-site vehicular and pedestrian circulation system shown on the site plan are adequate. The proposed access driveway from Frederick Road was analyzed for adequacy of the sight distance using the MCDOT's sight distance evaluation criteria. Staff finds that the access point is adequate to accommodate the site-generated traffic.

The existing road system in the vicinity of the site would not be affected by the proposal. The proposed use is not likely to negatively impact 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.

No finding is required.

- (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 Applicants have met the burden of proof under **Sections Section 59-G-2.13.1: Child day care facility** (specific requirements) and **59-G-21(a): General Conditions**.

XIII. STANDARDS AND REQUIREMENTS (59-G-2):

Section 59-G-2.13.1 sets forth the specific standards and requirements for approval of a child care center. A child care child care facility for 31 or more children may be approved by the Board of Appeals subject to the regulations in subsections (a) and (b) of the following provisions:

- (a) The Hearing Examiner may approve a child 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;**

A special exception site plan is submitted showing the building and other facilities, as required. This review is based on a revised special exception site plan with a revision date of November 07, 2012 and submitted to staff on November 08, 2012.

- (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;

The application meets the requirements in terms of required number of on-site parking spaces. The site plan provides a total of 15 parking spaces, including one van-accessible handicap space.

The driveway and the parking area will be within 6 feet of the northern property line and within 13 feet of the front property line thereby, encroaching into both the front and the side yards and failing to meet the 24-foot side yard setback required for the proposed improvement (Parking facility/driveway). The applicants have requested a waiver from one the requirements of Section 59-E-2.83 (b): Parking and loading facilities

for Special Exception uses in Residential Zones to allow the location of the proposed parking facility within the required side yard setback. Staff's review and analysis of the applicants' waiver request is found in **Section XV** (page 22) of this report.

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

The plan provides for 15 parking spaces, and it satisfies the requirement for provision of adequate area for the discharge and pick-up of children. The school requires that all parents park their vehicles in the parking area and walk their children to or from the building.

The arrival and pick-up times for children will be staggered over the course of several hours during the morning drop-off (generally between 6:30 a.m. and 10:00 a.m.) and evening pick-up time (generally between 3:30 p.m. to 6:30 p.m.). The staff arrival and departure time is also staggered with the highest number of staff (6) present at the facility between 9:30 and 1:00 p.m., after most of the children are dropped-off and before children pick-up time. In the evening, approximately 60 percent of the children will leave the center between the hours of 5:00 p.m. and 6:00 p.m. Of the remaining 40 percent, some will depart the center before 5:00 p.m., and the others will be picked-up between 6:00 and 6:30 p.m.

Responding to staff's remarks regarding circulation pattern near and on the subject property, in a supplemental statement dated October 10, 2012, the applicants have offered the following additional measures to prevent traffic backing up onto the road

“The Subject Property is projected to generate minimal traffic during the morning and afternoon peak periods. As a result, queuing along MD 355 will be virtually non-existent.

A turning movement count at the intersection of MD 355 and Stringtown Road conducted by the State Highway Administration on October 4, 2011 revealed relatively low volumes along the roadway. When reviewing the thru volume along MD 355 and the projected turning movements into the Subject Property, even considering 75% left turns into the site, Highway Capacity Manual (HCM) Methodology reveals a projected queue length of less than one vehicle. This is a result of the minimal left turn traffic combined with the available gaps for traffic to access the Subject Property.

Within the Subject Property, a “throat area” has been designed to accommodate approximately two vehicles before entering the parking area. Because of the low traffic volumes projected to access the Subject Property during the peak periods, queuing will be virtually non-existent on MD 355.

The Director of the child care center or a designee will direct the flow of traffic within the parking facility and assure that cars entering the facility proceed to the first available parking space to avoid queuing along Maryland Route 355. The Applicant will also install signage within the parking facility that state “please proceed to the first available parking space.”

In addition, the proposed access driveway from Frederick Road was analyzed for adequacy of the sight distance using the MCDOT's sight distance evaluation criteria. Staff finds that the proposed access point is adequate to accommodate the site-generated traffic. Staff has also reviewed the proposed internal traffic/pedestrian circulation system including on-site queuing and stacking area shown on the site plan along with the added measures to prevent traffic backup, and finds them to be adequate.

- (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; and**
 - (C) Be bound by the affidavit as a condition of approval for this special exception;**
- and**

The petitioners have each submitted an affidavit, dated June 9, 2012, 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 proposed day care center will be compatible with surrounding uses, and it will not result in a nuisance because of traffic, parking, noise or any type of physical activity. The use will provide child care services to the nearby community, and will operate within the regulations of the Zoning Ordinance.

The proposed landscape plan has been revised to address comments and recommendations from staff regarding types, and additional planting so as to project an attractive and appealing environment and to provide adequate screening. The children's play area is substantially set back from the streets and adjoining properties, and it is enclosed with a combination of trees and a 6-foot sight-tight fence to ensure the safety and security of the children.

- (b) A child care facility for 31 or more children may be approved by the Board of Appeals subject to the regulations in subsection (a), and the following additional requirements:**

- (1) a landscaping plan must be submitted showing the location, height or caliper, and species of all plant materials; and**

As noted above, the revised landscape plan satisfies this requirement.

- (2) in the one-family residential zones, facilities providing care for more than 30 children must be located on a lot containing at least 500 square feet per child. The Board may**

reduce the area requirement to less than 500 square feet, but not less than 250 square feet, per child if it finds that:

- (A) the facility will predominantly serve children of an age range that require limited outdoor activity space;
- (B) the additional density will not adversely affect adjacent properties;
- (C) additional traffic generated by the additional density will not adversely affect the surrounding streets; and
- (D) adequate provisions for drop-off and pick-up of students will be provided.

The Board may limit the number of students outside at any one time.

The subject property comprises 41,006 square feet of land area, approximately 788.58 square feet of area per child. The applicants propose that the children will play outside in groups of approximately 25 children during the period of 9:30 a.m. to 11:30 a.m. and 2:30 p.m. to 6:30 p.m. or earlier, depending on the season.

XIV. COMMUNITY CONCERNS

In response to staff's inquiry about community outreach, the applicant indicated that a presentation was made on the proposed special exception application to members of the community in the evening of April 11, 2012. The session included discussions, questions and answers on issues and concerns of the community. The meeting was held at the Clarksburg Cottage in the Clarksburg Town Center. The meeting was attended by a member of the Clarksburg Civic Association (CSA), adjoining neighbors, a member of the Clarksburg Town Center Advisory Committee as well as the applicants and a parent from affiliated child day care center who gave a presentation regarding his positive experiences with the Applicants.

Concerns raised at the meeting include:

Transportation:

1. Accidents at nearby bus stop
2. Increase in traffic
3. Turning and queuing into the property from MD 355

Master Plan

1. Maintaining residential Character
2. Historic district bypass versus Master Plan by pass of MD 355 near the property
3. Road dedication for Widening of MD 355

Design

1. Parking in the front yard
2. Alternative location for the driveway
3. Adequacy of proposed septic fields
4. Sidewalk at the northeast side of the proposed addition.

The applicants were also advised of Clarksburg Civic Association's (CCA) position against new special exceptions along MD 355.

By an e-mail dated October 18, 2012 the Clarksburg Civic Association's Executive Board, has voiced its opposition to the proposed use and identified the following concerns:

- “1) The proposed driveway for the center would be too close to the residential driveway of the neighbor's
- 2) Concern about losing front and back yard green space
- 3) Concerns from neighbors about the impact of being able to access 355 or having people park on the shared drive
- 4) Concern about noise
- 5) Use along MD 355 is supposed to be residential.
- 6) Concern about expansion of house as it's on septic
- 7) Concern about MD 355 becoming school/day care "corridor" -- Avalon, church day care centers (2-3 existing), senior care, middle school, high school, Clarksburg Elementary, Goddard School, and now possibly this one. This doesn't make for good town planning or for traffic concerns.”
- 8) Parents would most likely be making a left-in and left- out turn to get to this center during rush hour. This is dangerous, adds to congestion. Parents will add to traffic problems already experienced by local residents trying to access the road during peak hours.
- 9) Because this is located on a hill; there will be issues with sight and this could impact rush hour traffic.”

The above listed issues and concerns raised by the community are addressed under the various sections of this report.

XV. SECTION 59-E-4.5 WAIVER-PARKING STANDARDS

Section 59-E-4.5 the Zoning Ordinance provides that **[t]he Director, Planning Board, or Board of Appeals may waive any requirement in this article not necessary to accomplish the objectives in Section 59-E-4.2 and in conjunction with reductions may adopt reasonable requirements above the minimum standards. Any request for a waiver under this Section must be referred to all adjoining property owners and affected citizen associations for comment before a decision on the requested waiver.**

The applicants are requesting a waiver from the side yard setback requirement of **Section 59-E-2.83: Parking and Loading Facilities for Special exception uses in residential zones. Section 59-E-2.83 (b) specifies that:**

Each parking and loading facility, including each entrance and exit driveway, must be set back a distance not less than the applicable building front and rear yard and twice the building side yard required in the zone.

A portion of the proposed parking facility is located within the northern side yard, with only 6 to 7.7 feet setback from the property line. The applicant seeks a waiver of 18 feet from the required 24 feet (12'X2') side yard setback requirement.

The remaining portion of the parking facility is located within the front yard where a minimum 40 feet of setback is required. Staff determined that because the property is fronting a Master Plan right-of-way of 120 feet; there is no need for a waiver from the front yard setback requirement for parking facility.

Pursuant to Section 59-E-2.81(b)(1), *residential setbacks for parking surfaces, spaces and driveways do not apply for a facility within a residential zone that is in a public right-of-way of 120 feet or more width.*

Section 59-E-4.2: Objectives of Parking Facility Plan

- (a) The protection of the health, safety and welfare of those who use any adjoining land or public road that abuts a parking facility. Such protection shall include, but not be limited to, the reasonable control of noise, glare or reflection from automobiles, automobile lights, parking lot lighting and automobile fumes by use of perimeter landscaping, planting, walls, fences or other natural features or improvements.
- (b) The safety of pedestrians and motorists within a parking facility.
- (c) The optimum safe circulation of traffic within the parking facility and the proper location of entrances and exits to public roads so as to reduce or prevent traffic congestion.
- (d) The provision of appropriate lighting, if the parking is to be used after dark.”

Section 59-E-4.3: Requirements of Parking Facility Plan

In Order to accomplish the above objectives, the parking facility plan shall satisfy the following requirements:

- (a) Effective landscaping of parking lots contiguous to or adjacent to any public road shall be provided in accordance with the landscaping requirements of section 59-E-2.7.
- (b) Safe sight distances free of any obstruction shall be provided at all entrances and exits to public roads. Ample safe sight distances clear of any building or other artificial or natural obstructions shall be provided at the corner of intersecting public roads.
- (c) Effective channelization and division of parking areas within the interior of a parking facility shall be provided for both pedestrian and vehicular traffic. This may be accomplished by use of landscaped areas with trees, walls, fences, other natural growths or artificial features, raised curbs, marked directional lanes and controls, change of grade or other devices to mark points of turn, to separate parking areas and to control traffic movement.
- (d) Parking facilities containing 500 or more parking spaces shall be divided into several smaller parking areas and shall be separated from each other by landscaping, change of grades, buildings or other natural or artificial means.
- (e) Each parking facility shall be designed individually with reference to the size, street pattern, adjacent properties, buildings and other improvements in the general neighborhood, number of cars to be accommodated, hours of operation and kinds of use.

The northern side yard of the subject property abuts the unbuildable pipe stems that are collectively improved as shared driveways to serve five single-family detached residential properties, of which three are abutting the subject site. A distance ranging between 45 to 75 feet in width including the stem-pipe lots and driveway easement separate the subject property from the three residential properties. The closest of the three dwellings is set back approximately 100 feet from the northern property line. In

addition, the edge of the property line closest to Frederick Road sits two to four feet higher than the driveway access to the residential dwellings creating a natural buffer. A combination of a retaining wall, sight-tight fences and evergreen trees provide substantial screening and buffering of the parking facility from the residential dwellings. The proposed buffering and screening of the parking area achieves the intent of the setback requirement in a manner that is equal or better than it would have been achieved if the requirement could have been met without requiring the waiver.

The landscape plan and lighting plans provide for substantial evergreen plantings to the northern property line on either side to the retaining wall. A 6-foot-tall fence is proposed on top of the retaining wall. Staff is recommending that the fence be an attractive sight-tight fence. The landscape plan depicts a combination of evergreen, shade, and ornamental plantings near the entrance closer to Fredrick Road and in close proximity of the surface parking lot. Several deciduous trees will be planted along the southern edges of the parking lot in both the front and side yards providing shade to the parking area.



attractive sight-tight fence. The landscape plan depicts a combination of evergreen, shade, and ornamental plantings near the entrance closer to Fredrick Road and in close proximity of the surface parking lot. Several deciduous trees will be planted along the southern edges of the parking lot in both the front and side yards providing shade to the parking area.

The proposed parking lot will provide safe and adequate parking with appropriate lighting to serve the proposed use. The Photometric Lighting Plan indicates that there will be no light pollution spilling onto the adjacent properties and within the public right-of-way.

Staff has analyzed the sight distance analysis (attached) provided by the applicants' traffic consultant for the proposed child care, and has found that the sight distance on MD 355 is met when looking both ways from the site. Staff has also reviewed the proposed internal traffic/pedestrian circulation system including on-site queuing and stacking area shown on the site plan along with the added measures to prevent traffic backup and finds them to be adequate.

The proposed parking lot will provide safe and adequate parking accommodation to serve the proposed child care center. Staff recommends approval of the requested waiver.

XVI. CONCLUSION

The proposed Special Exception satisfies all applicable requirements for approval of a Special Exception as specified in the Montgomery County Zoning Ordinance with the waiver of the parking setback. The proposed development is consistent with the recommendations of the Clarksburg Master Plan and

Hyattstown Special Study Area. There are no unacceptable traffic, circulation, noise or environmental impacts associated with the application provided that the recommended conditions are satisfied.

Based on the analysis, staff recommends Approval of Special Exception S-2850, subject to the conditions found in Page 2 of this report.

Attachments:

- A Plans and drawings
- B. Referral comments
- C. Supplemental information

S-2850 Staff Report/ET/11/02/2012

PLANS AND DRAWINGS

Attachment-A



RMX2

R200

STRINGTOWN RD

GATE RAIL RD

R200

R200

R200

R200

R200

R200TD

R200

355

R200

PD11

R200

R200

R200

RD11

FREDERIGG RD

WIMBERG

13

13

13

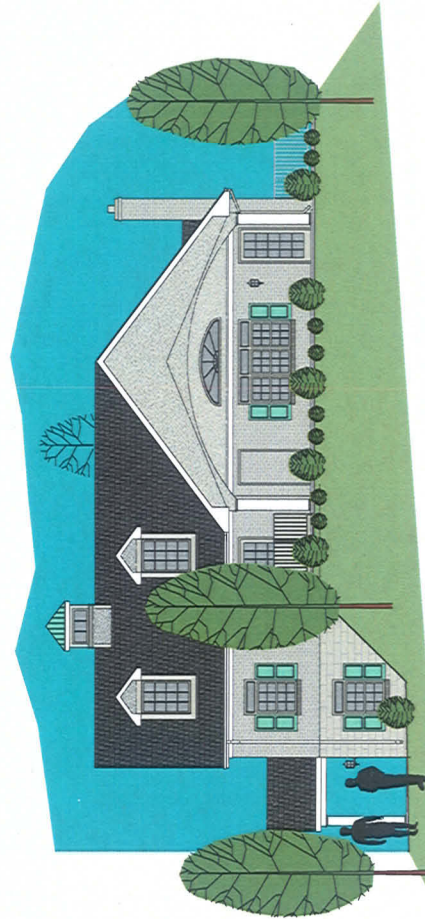
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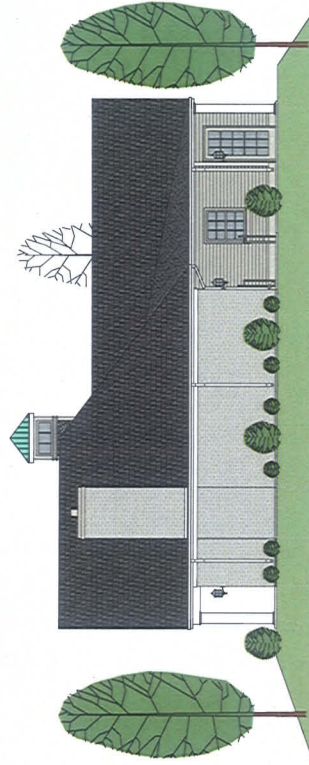
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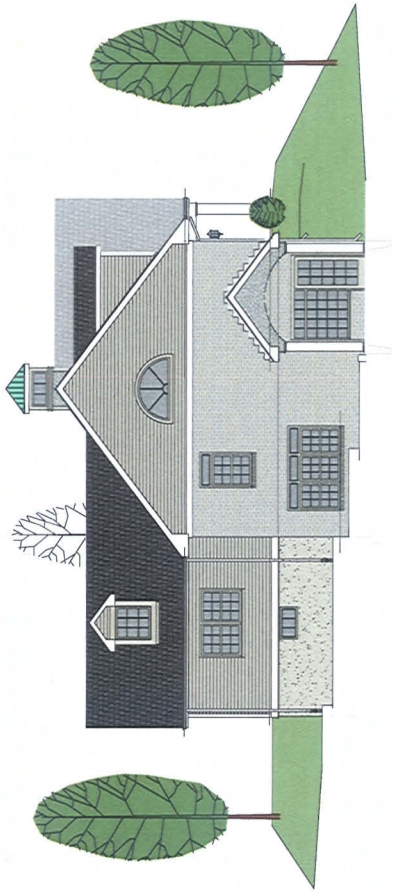
EXTERIOR ELEVATIONS



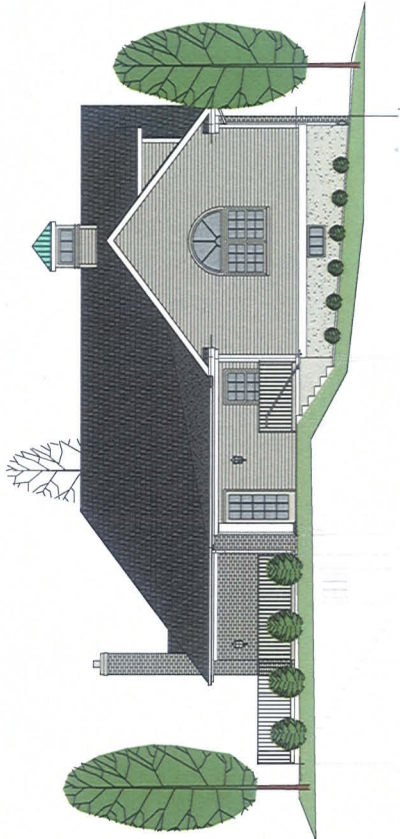
FRONT ELEVATION



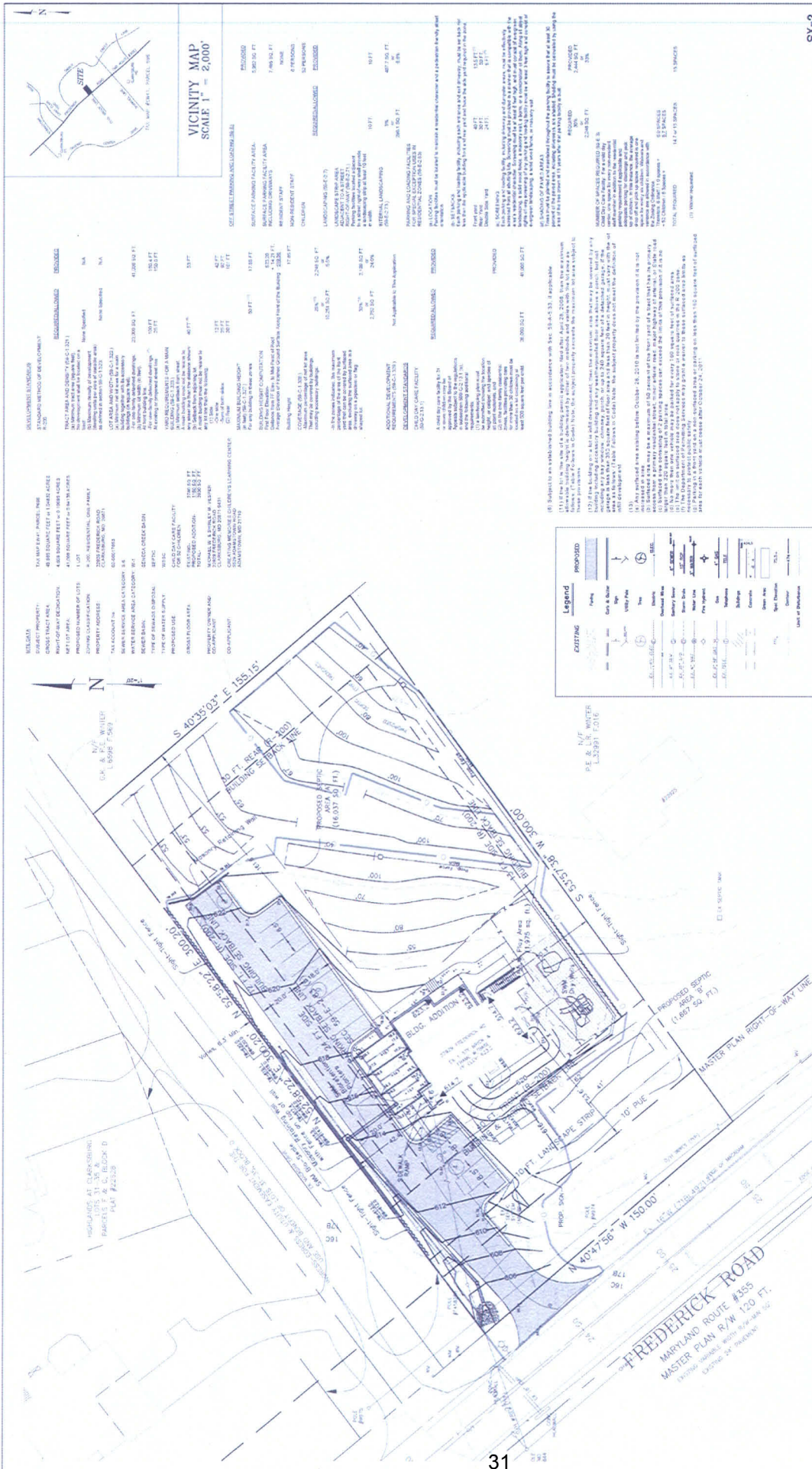
RIGHT SIDE ELEVATION



LEFT SIDE ELEVATION



REAR ELEVATION



DEVELOPER INFORMATION

PROJECT: CLARKSBURG CHILD CARE CENTER
 PROJECT NO: 2008-1079
 PROJECT DATE: 11-06-12

PREPARED BY: MHG Macris, Hindricks & Glascock, P.A.
 8520 Weymouth Lane, Suite 200
 Pikesville, MD 21113
 Phone: 410-666-0883
 Fax: 410-666-0880
 Website: www.mhgpa.com

DATE: 11-06-12

PROJECT NO: 2008-1079

SCALE: 1" = 20'

DATE: 11-06-12

VICINITY MAP
SCALE: 1" = 2,000'

DEVELOPER INFORMATION	PROPOSED	EXISTING	REMARKS
EXISTING LOT AREA: 38,000 SQ. FT.	PROPOSED LOT AREA: 38,000 SQ. FT.	EXISTING LOT AREA: 38,000 SQ. FT.	
EXISTING IMPROVEMENTS:	PROPOSED IMPROVEMENTS:	EXISTING IMPROVEMENTS:	
EXISTING UTILITY LINES:	PROPOSED UTILITY LINES:	EXISTING UTILITY LINES:	
EXISTING WALLS:	PROPOSED WALLS:	EXISTING WALLS:	

NOTES:

1. This site plan is for the proposed Clarksburg Child Care Center located on the site shown on the plat attached hereto.

2. The proposed building is shown on the site plan in a blue shaded area.

3. The proposed parking area is shown on the site plan in a green shaded area.

4. The proposed landscaping is shown on the site plan in a yellow shaded area.

5. The proposed utility lines are shown on the site plan in red and blue.

6. The proposed walls are shown on the site plan in black.

7. The proposed site is located on the site shown on the plat attached hereto.

Call "Miss Utility" at 1-800-257-7777, 48 hours prior to the start of work. To receive an "X" mark on your plan, the area of proposed excavation and those those located inside the safety zone shall be marked with an "X". This marking shall be done in accordance with the requirements of Chapter 28A of the Montgomery County Code.

REFERRAL COMMENTS

Attachment-B

September 21, 2012

MEMORANDUM

TO: Elsabett Tesfaye
Area 3

FROM: Ki H. Kim, Transportation Planner
Area 3

SUBJECT: Clarksburg Daycare - Clarksburg
Special Exception Case No. S-2850

This memorandum represents Transportation Planning staff's Adequate Public Facilities (APF) review and recommendations on the subject special exception application for a proposed Clarksburg Daycare to be located along the east side of Fredrick Road (MD 355), north of Shawnee Lane in the Clarksburg area.

RECOMMENDATION

Based on our review of the site plan and the traffic statement submitted by the applicant, staff recommends the following conditions as part of the APF test related to approval of the subject special exception application:

1. Total development under this special exception is limited to 52 children and 6 staff.
2. The applicant must address either the Policy Area Mobility Review (PAMR) or the Transportation Policy Area Review (TPAR) requirements at the time of preliminary plan.

DISCUSSION

Local Area Transportation Review (LATR)

Based on the information contained in the Traffic Statement submitted by the applicant, the site would generate 20 AM and 24 PM peak-hour trips during the weekdays peak periods. Therefore, the site is not subject to the Local Area Transportation Review (LATR) requirements because the site is generating less than 30 peak-hour trips with granting the subject special exception application.

Policy Area Transportation Review

The site is located in the Clarksburg Policy Area where there is a 10% Policy Area Mobility Review (PAMR) trip mitigation requirement according to the current County's Growth Policy. The current PAMR requirement and the new proposed Transportation Policy Area Review (TPAR) is to be discussed and approved by the County Council in the next several months. Staff recommends that the applicant must address either the current PAMR requirement or the new TPAR requirement if the County Council approves and applicable at the time of preliminary plan.

Site Access and Vehicular/Pedestrian Circulation

The vehicular access point will be provided from Frederick Road (MD 355) which will be built as a standard of commercial driveway. Staff finds that the proposed access point and on-site vehicular and pedestrian circulation system shown on the site plan are adequate. The existing road system in the vicinity of the site would not be affected by the proposal.

Summary

Transportation Planning staff concludes that the granting of the Special Exception for proposed Clarksburg Daycare satisfies the LATR/PAMR requirements of the APF review with conditions as described in this memo.

Tesfaye, Elsabet

From: Kim, Ki
Sent: Thursday, October 25, 2012 10:03 AM
To: Tesfaye, Elsabet
Subject: FW: Clarksburg Daycare Sight Distance
Attachments: administrator@trafficgroup.com_20121024_150135.pdf

Elsabet,

I have reviewed the sight distance analysis (attached) provided by the applicant's traffic consultant for the Clarksburg Daycare special exception application, and found that the sight distance on MD 355 is met when looking both sides from the site. Let me know if you have any questions.

Thanks,
Ki

From: Carl Wilson [<mailto:cwilson@trafficgroup.com>]
Sent: Wednesday, October 24, 2012 3:58 PM
To: Kim, Ki
Cc: Cirner, Casey L.
Subject: Clarksburg Daycare Sight Distance

Sight distance sheet attached for your use. Please review and let me know if you have any questions or need anything else at this time.

Thanks
Carl



Carl Wilson, Jr., P.E., PTOE
Senior Project Manager
The Traffic Group, Inc.
9900 Franklin Square Dr. - Suite H
Baltimore, MD 21236
T 410.931.6600
M 410.292.5545
F 410.931.6601
cwilson@trafficgroup.com
www.trafficgroup.com

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MONTGOMERY COUNTY, MARYLAND
 DEPARTMENT OF PUBLIC WORKS AND TRANSPORTATION
 DEPARTMENT OF PERMITTING SERVICES

SIGHT DISTANCE EVALUATION

Facility/Subdivision Name: CLEARING MEMORIES LLC Preliminary Plan Number: 1-S-2850

Street Name: FREDERICK RD Master Plan Road Classification: ARTERIAL

Posted Speed Limit: 40 mph

Street/Driveway #1 (SITE ACCESS) Street/Driveway #2 (NA)

Sight Distance (feet)	OK?	Sight Distance (feet)	OK?
Right <u>650</u>	<u>✓</u>	Right _____	_____
Left <u>325</u>	<u>✓</u>	Left _____	_____

Comments: EXISTING SIGHT DISTANCE
LOOKING LEFT IS 315'. THIS
WILL BE IMPROVED TO 325' BY RAISING
THE DRIVEWAY 2" DURING CONSTRUCTION

GUIDELINES

Classification or Posted Speed (use higher value)	Required Sight Distance in Each Direction*
Tertiary - 25 mph	150'
Secondary - 30	200'
Business - 30	200'
Primary - 35	250'
Arterial - 40	325'
(45)	400'
Major - 50	475'
(55)	550'

Sight distance is measured from an eye height of 3.5' at a point on the centerline of the driveway (or side street) 6' back from the face of curb or edge of traveled way of the intersecting roadway where a point 2.75' above the road surface is visible. (See attached drawing)

*Source: AASHTO

ENGINEER/ SURVEYOR CERTIFICATE

I hereby certify that this information is accurate and was collected in accordance with these guidelines.

Carl R. Wolf
 Signature

10/24/12
 Date

29931
 PLS/P.E MD Reg. No.

Montgomery County Review:	
<input type="checkbox"/>	Approved
<input type="checkbox"/>	Disapproved:
By:	_____
Date:	_____

Form Reformatted:
 March, 2000

Tesfaye, Elsabett

From: Penn, Joshua
Sent: Thursday, October 11, 2012 11:25 AM
To: Tesfaye, Elsabett
Subject: Emailing: S-2850 Clarksburg Childcare SR-EP-Section
Attachments: S-2850 Clarksburg Childcare SR-EP-Section.doc

Let me know if you need additional information for the main staff report. I will be submitting my water quality staff report to Callum for review.

Joshua Penn
Senior Planner
Montgomery Planning Department
Maryland-National Capital Park & Planning Commission
(301) 495-4546
8787 Georgia Avenue
Silver Spring, MD 20910-3760
Joshua.Penn@montgomeryplanning.org

Environmental Guidelines

A Natural Resources Inventory/Forest Stand Delineation (NRI/FSD#42011129E) was approved by Environmental Planning staff on March 17, 2011. The site is located within the Clarksburg Special Protection Area (SPA) and the Little Seneca Creek watershed, a Use Class IV-P watershed. The Countywide Stream Protection Strategy (CSPS) rates streams in this watershed as good. There are no streams, floodplains, wetlands, or environmental buffers on or affecting the site.

Forest Conservation

A forest conservation plan exemption (42011141E) was confirmed for this site by planning staff on March 17, 2011 under 22A-5(s)(1) of the County Forest Conservation Law. The application was for an activity occurring on a tract of land less than 1.5 acres with no existing forest, or existing specimen or champion tree, and the afforestation requirements would not exceed 10,000 square feet.

Special Exception Required Finding

The standards for evaluating a special exception is found in Section 59-G-1.21 of the Montgomery County Zoning Ordinance. One of the required standards that must be met is Section 59-G-1.21(a) (6), which reads as follows:

“(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.”

Staff finds that the uses on the site, as explained in the documentation, the special exception summary statement, and special exception application, would not likely cause objectionable noise, vibrations, fumes, orders, dust, illumination, glare, or physical activity.

Tesfaye, Elsabet

From: Smith, Molline
Sent: Monday, October 15, 2012 5:45 PM
To: Tesfaye, Elsabet
Subject: Clarksburg Child Day Care Facility (S-2850)

Just to follow up on Staff's review of the revised Landscape and Lighting plans. Staff recommends approval of both plans; however the Applicant has been contacted with regards to 1) the types of SWM plantings proposed within the bio-retention facility, 2) the Type 2 – Pole Base Detail, and 3) the total height of the light fixture (including the pole and the fixture).

The following changes are acceptable with regard to the revised plans:

- Additional evergreen plantings were added to the entrance along the eastern property line and in close proximity of the surface parking lot.
- Additional evergreen plantings were added to the northern property line directly adjacent to the retaining wall. The deciduous trees were relocated in closer proximity of the surface parking lot.
- A 6-foot chain-link fence is also proposed on top of the retaining wall, in order to provide additional screen from the neighboring properties.
- The surface parking lot is adequately buffered from the neighboring properties.
- Staff would typically recommend the installation of a 5-foot sidewalk directly adjacent to the surface parking lot; however due to the encroachment into the septic reserve field setback and the increase of the impervious surface percentage this installation appears to be unfeasible. Should something change with regard to the location of the septic reserve field, a 5-foot sidewalk shall be reconsidered.
- The Applicant has incorporated drop-off procedures; which will include active participation from employees in order to safely direct traffic toward their designated areas. The implementation of these procedures will slow traffic and provide safe circulation throughout the site.
- This proposal exceeds the 30 percent shade requirement by 5 sf.
- The photometric Lighting Plan indicates that there will be not light pollution spilling onto the adjacent properties and within the public right-of-way.

Please let know if you need anything else.

Regards,



Molline C. Smith, ASLA

Area 3 Senior Planner & Art Review Panel Coordinator
8787 Georgia Avenue / Silver Spring, MD 20910
(301) 495-4573 Office / (301) 495-1306 Fax
molline.smith@montgomeryplanning.org
www.montgomeryplanning.org

Tesfaye, Elsabett

From: Smith, Molline
Sent: Wednesday, October 31, 2012 10:16 AM
To: Cirner, Casey L.
Cc: Stephen E. Crum (scrum@mhgpa.com); Orens, Stephen J.; Tesfaye, Elsabett
Subject: RE: S-2850 - CMCLC/Vesper Clarksburg Child Care Center

Good Morning,

Regarding the plantings for the bio-retention facility, The landscape plan should show in concept the type of plantings (i.e. just the plant symbols) to be approved by the Department of Permitting Services. By labeling the landscape plans as such (add a specific note: "These planting are subject to change based on the final review and approval of the Department of Permitting Services"), these plantings will be considered non-binding. The labeling of the actual plant species is not necessary; however, showing the type of plants (i.e. shrubs, canopy trees, groundcovers, etc.) is preferred over the hatch pattern currently shown on the plans.

Regards,

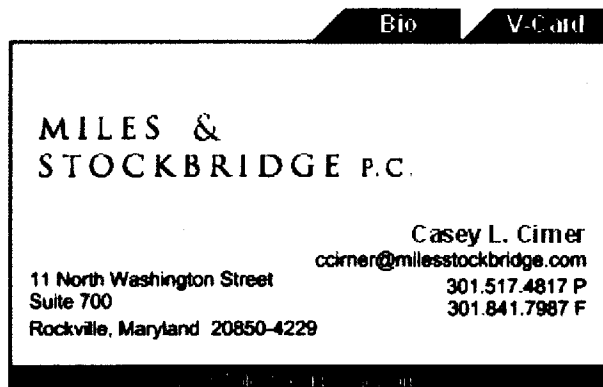
Molline C. Smith
(301) 495-4573 (office)
301-495-1304 (fax)
molline.smith@montgomeryplanning.org

From: Cirner, Casey L. [mailto:ccirner@milesstockbridge.com]
Sent: Thursday, October 25, 2012 1:53 PM
To: Smith, Molline
Cc: Stephen E. Crum (scrum@mhgpa.com); Orens, Stephen J.; Tesfaye, Elsabett
Subject: RE: S-2850 - CMCLC/Vesper Clarksburg Child Care Center

Molline,

Just following up on the below to see if you have any additional questions.

Thanks,
Casey



From: Cirner, Casey L.
Sent: Thursday, October 18, 2012 1:33 PM
To: Smith, Molline (molline.smith@montgomeryplanning.org)
Cc: Stephen E. Crum (scrum@mhgpa.com); Orens, Stephen J.; 'Tesfaye, Elsabett'
Subject: S-2850 - CMCLC/Vesper Clarksburg Child Care Center

Hi Molline,

I am writing to follow up our conversation regarding some questions you had about the revised landscape and lighting plans we filed on October 10. I spoke with Steve Crum of MHG about your questions and offer the following answers:

1. Plan E-2 (Lighting Plan)– Pole Base Detail: You asked whether the pole base is also serving as a retaining wall because the cut sheet shows the change in grade on either side of the pole base. The answer to your question is as follows:
 - a. The pole base is not acting as a retaining wall. The detail indicates two different installation conditions: (i) where the pole base is located within a paved vehicular area, the base is to be exposed 24” to protect the light pole; and (ii) where the pole base is located in a non-paved area, the pole base is to be installed 2” above the finished grade. The pole bases for the Clarksburg Childcare Center will be installed in accordance with condition (ii), 2 feet behind the new curb line. Therefore, I do think a plan revision is necessary.
2. Plan E-2 (Lighting Plan) – You asked whether the 12 ft. height includes the lighting fixture. The answer to your question is as follows:
 - a. The 12’ height does include the lighting fixture. The lighting fixture cut sheets are on plan L-2 (Lighting Cutsheets) submitted as part of the initial special exception application filing. Please advise if you need a copy of this plan. However, clearer copies of the cut-sheets for the pole and Type A fixture that are on L-2 are attached.
3. LX-1 (Landscape Plan for Special Exception)- You asked what are the plantings/species in the bio-retention facility? The answer to your question is as follows:
 - a. The plant materials for the bio-retention facilities have not yet been selected. Typically, these plant materials are not subject to special exception landscape review since they are part of a stormwater management facility, reviewed and approved by the Department of Permitting Services at the time of engineering plans. We would prefer not to identify the materials/species at this time unless they are illustrative/non-binding because if the specific plant materials are approved by the Board of Appeals and later changed by the Department of Permitting Services during its review and approval, we will be required to go to the Board of Appeals for a modification of the special exception to change the plant materials. Please advise if you want an illustrative/non-binding list of these plant materials.

Please do not hesitate to contact me with any additional questions/concerns.

Thanks,
Casey Cirner

SUPPLEMENTAL INFORMATION

Attachment-C

Tesfaye, Elsabet

From: BARRY FANTLE <bfantle@aol.com>
Sent: Thursday, October 18, 2012 2:55 PM
To: Tesfaye, Elsabet
Subject: Daycare Center on 355 in Clarksburg

Hi Elsabet,

Members of the Clarksburg Civic Association attended the meeting hosted by the proposed daycare center on 355 in Clarksburg. The folks that attended, along with other community members that attended are against this proposed use. Below are some of the reasons:

- 1) The proposed driveway for the center would be too close to the residential driveway of the neighbor's
- 2) Concern about losing front and back yard green space
- 3) Concerns from neighbors about the impact of being able to access 355 or having people park on the shared drive
- 4) Concern about noise
- 5) Use along 355 is supposed to be residential.
- 6) Concern about expansion of house as its on septic
- 7) Concern about 355 becoming school/daycare "corridor" -- Avalon, church daycare centers (2-3 existing), senior care, middle school, high school, Clarksburg Elementary, Goddard, and now possibly this one. << this doesn't make for good town planning nor for traffic concerns.
- 8) Parents would most likely be making a left-in and left- out turn to get to this center during rush hour. This is dangerous, adds to congestion. Parents will add to traffic problems already experienced by local residents trying to access the road during peak hours.
- 9) Because this is located on a hill; there will be issues with sight and this could impact rush hour. traffic

Thanks

Barry Fantle
301-515-7471

MILES & STOCKBRIDGE P.C.

Casey L. Cirner
301.517.4817
ccirner@milesstockbridge.com

November 8, 2012

VIA ELECTRONIC MAIL AND HAND DELIVERY

Elsabett Tesfaye
Area 3 Senior Planner
Maryland-National Capital Park and Planning Commission
8787 Georgia Avenue
Silver Spring, MD 20910

Re: S-2850 - Special Exception Child Day Care Facility
Creating Memories Children's Learning Center, Michael Vesper and Shirley Vesper
(collectively the "Applicants")
22929 Frederick Road, Clarksburg, MD (the "Subject Property")

Dear Elsabett:

In response to your e-mail dated October 31, 2012 and Molline Smith's e-mail of that same date regarding the above-referenced Special Exception, please find enclosed four (4) copies of the following revised plans submitted on behalf of the Applicants:

1. Site Development Plan for Special Exception (SX-2 dated 11/8/12)
2. Landscape Exhibit (sealed on 11/8/12)

In response to your October 31, 2012 e-mail, we have reviewed your concerns regarding the possibility that a public utility easement ("PUE") may be required to be located on the Subject Property along the MD 355 right of way to accommodate the future relocation of utilities. To address your concerns, the Applicants submit the following:

- **Septic Reserve:** The Site Development Plan for Special Exception has been revised to reconfigure the "Proposed Septic Area B" to remove it from the future PUE location along the master planned MD 355 right of way of the Subject Property. However, there is an argument for allowing the septic reserve to remain and encroach into the right of way because of the timing associated with the master planned widening of MD 355.

- **Sign:** The proposed sign on the Site Development Plan for Special Exception has been relocated outside of the PUE, which is labeled on the plan.
- **Landscape Strip:** The 10-foot landscape strip and the PUE can coexist with agency approval because dry utilities will be located within the PUE. The Subject Property is in the S-6 sewer category and not planned for the extension of sewer. That utility will be excluded from the PUE. The electric utilities are currently overhead lines. If the electric lines were relocated unground into the PUE, the Applicants will pre-install conduit for the utility lines, protecting them from the overlapping plantings.

In response to Ms. Smith's October 31, 2012 e-mail, the Applicants have prepared an illustrative Landscape Exhibit that identifies under the chart containing the Landscape Plant List the species of proposed ground cover and herbaceous plants to be used in the bio-retention facility. Since the Department of Permitting Services is the approving agency for these planting, they have been depicted on the enclosed non-binding exhibit.

We trust that we have provided you the additional information you were seeking to facilitate the preparation of your Staff Report. Should you have any further questions or concerns, please do not hesitate to contact Steve Orens or me.

Sincerely,



Casey L. Cirner

Encl.

cc: Molline Smith, M-NCPPC, Area 3
Shirley Vesper and Michael Vesper
Stephen E. Crum, P.E.
Carl Wilson, Traffic Group
Stephen J. Orens, Esquire