



**Special Exception Request SE-13-01, ABC Loving Child Care Center**



Stephanie Dickel, Senior Planner, Area 2 Division, [stephanie.dickel@montgomeryplanning.org](mailto:stephanie.dickel@montgomeryplanning.org), 301.495.4527



Khalid Afzal, Planner Supervisor, Area 2 Division, [khalid.afzal@montgomeryplanning.org](mailto:khalid.afzal@montgomeryplanning.org), 301.495.4650



Glenn Kreger, Chief, Area 2 Division, [glenn.kreger@montgomeryplanning.org](mailto:glenn.kreger@montgomeryplanning.org), 301.495.4653

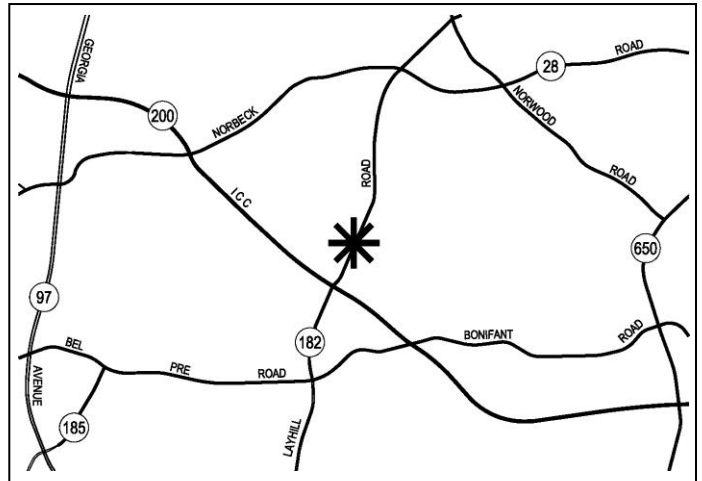
Completed 4/4/13

**Notice Dates**—not applicable

**Description**

- 15010 Layhill Road, Silver Spring;
- R-200 Zone, 1994 *Aspen Hill Master Plan*;
- Approximately 29,981-square foot lot;
- Request for a special exception to expand an existing child day care facility from 12 to 30 children, under §59-G-2.13.1;
- No exterior building modifications are proposed.

The public hearing is scheduled for May 6, 2013.



**Summary**

- Staff recommends approval with conditions.
- Staff recommends increasing the number of children from 12 to 24, instead of the 30 requested in the application, eliminating both the proposed parking area and the widening of the loop driveway, and limiting the arrivals and departures to three per half hour period. In addition, the Applicants, at the time of planting should install additional three-foot tall evergreen shrubs along the front property line; additional deciduous shade trees in the front yard and six-foot tall evergreen trees inside the perimeter of the proposed six-foot high solid rear yard fence. Staff believes that with the modifications the proposal will be compatible with the surrounding neighborhood. The modified operations address the community concerns and the application complies with the general conditions and standards for granting of a child daycare center for more than 12 children.

## Conditions of Approval

Staff recommends the following conditions of approval:

1. The child daycare use is limited to 24 children, ranging in age from six weeks to six years and two non-resident employees.
2. School-age children must be escorted to and supervised at school bus stops. No child may be enrolled at the day care that requires any other form of transportation to or from school.
3. The hours of operation are limited to Monday through Friday, 7:00 a.m. until 6:00 p.m.
4. Morning drop-offs must be limited to no more than three vehicles per half hour period from 7:00 a.m. to 10:00 a.m. Afternoon and evening pick-ups must be limited to three vehicles per half hour period from 3:00 p.m. until 6:00 p.m. Drop-off and pick-up times must be established in the contract between the Applicants and their clients.
5. Outdoor playtime must be staggered, and may not start prior to 9:00 A.M. No more than eight children are permitted to play outdoors at any one time.
6. Prior to the public hearing at the Office of Zoning and Administrative Hearings, the Applicants must provide an updated site and landscape plan, depicting the following (see Staff's Site Plan Recommendations, Attachment 1):
  - a. No parking pad on the south side of the driveway.
  - b. No additional widening of the loop driveway.
  - c. In addition to the proposed landscaping shown on the provided site plans, the Applicants should:
    - Provide additional six-foot tall evergreen trees (height at the time of installation) such as American Holly, Nellie R. Stevens Holly, Eastern Hemlock, or White Pine inside the perimeter of the six-foot high solid fence. A minimum of 10 trees, but no more than 12 should be planted, at a minimum of 10-feet on-center to ensure the growth and maturity of the trees.
    - Provide additional six-foot tall evergreen trees (height at the time of installation) such as American Holly or Arborvitae along the west side of the fence, behind the rear fence line. A minimum of three trees, but no more than five should be planted, at a minimum of 10-feet on-center to ensure the growth and maturity of the trees.
    - Provide additional three-foot tall evergreen shrubs (height at the time of installation) along the front property line.
    - Provide additional deciduous shade trees to meet the 30% shade requirement §55-E-2.83(d).
7. The Applicants must install a six-foot high solid fence along the perimeter of the rear yard.
8. The driveway shall be treated as a one-way loop drive, with the entrance being the northeast access point and the exit occurring at the southeast access point.

## **i. Project Description**

Chandrasekaran Mani and Dharmalatha Rajapaksha (“Applicants”) are requesting a special exception to expand an existing by-right child daycare from 12 to 30 children. The Applicants have been operating a child daycare out of their house since 2006. The proposed child daycare will operate in the existing two-story, single-family dwelling owned by the Applicants. The square footage of the house is 2,288 square feet. The Applicants are proposing to use the first floor, which is 733 square feet and the lower level (basement), consisting of 843 square feet, and totaling 1,576 square feet of their house for the daycare. The remaining portions of the home will be used as their residence. The main floor includes a kitchen, breakfast room, two bathrooms, and three additional rooms; one room for the infants, a room for the toddlers and a room for the three year olds (see Attachment 2). The basement of the house contains the 4-6 year olds’ area, a library and a bathroom. The main entrance to the proposed childcare is through the lower level (basement) of the residence; however, on inclement weather days, the Applicants use the front door as well. Both entrances are illuminated with standard residential-type lighting (see Attachment 3). Pick-up and drop-offs will occur on the driveway aisle in the front of the house. The proposed hours of operation are Monday through Friday, 7:00 A.M. – 6:00 P.M. Child daycare will not be provided on weekends or overnight.

The proposed application is for 30 children attending full time. The vehicles arriving to drop-off and pick-up children are proposed to be staggered into three groups, identified as Group I, II, and III. When dropping off children in the morning, Group I parents will arrive from 7:00 a.m. to 8:00 a.m., Group II from 8:00 a.m. to 9:00 a.m., and Group III from 9:00 a.m. to 10:00 a.m. In the afternoon, Group I parents will arrive to pick-up children from 3:00 p.m. to 4:30 p.m., Group II from 4:30 to 5:30 p.m., and Group III from 5:30-6:00 p.m. The Applicants anticipate that at least three sets of children will be siblings.

The Applicants plan to hire three employees: two full-time and one part-time. The non-resident, full-time employees are proposed to have staggered arrivals and departures: 8:30 a.m. and 9:00 a.m. arrival, and 5:30 p.m. and 6:00 p.m. departure. The part-time employee will arrive at 10:30 a.m. and depart at 3:30 p.m. As proposed, the Applicants would need ten parking spaces: two for the residents, three for the non-resident employees and five for drop-off and pick-ups. The employees will be instructed to park on the site in designated parking spaces.

There are no proposed changes to the exterior of the existing dwelling; however, the Applicants propose to replace the existing 4-foot tall fence with a 6-foot tall solid wood fence. All of the activities will be conducted within the home and the outdoor play activities will occur in the Applicant’s fenced in rear yard. The outdoor play area consists of a 12,555-square foot grass covered lawn with an assortment of playground equipment (see Attachment 3). The proposed child daycare facility will have staggered outdoor playtime. A maximum of 10 children are proposed to be on the playground at any one time.

## **ii. Site and Neighborhood Description**

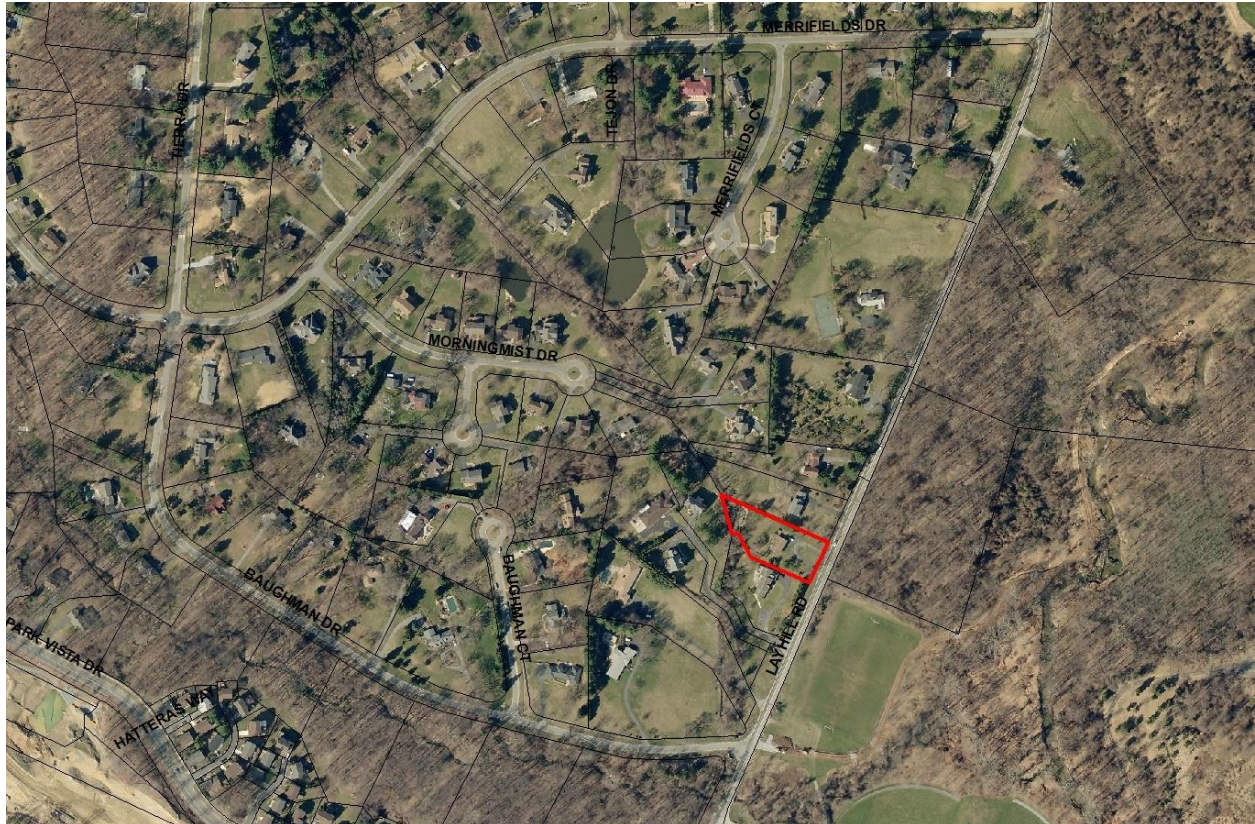
### Site Description

The 29,981-square foot property zoned R-200 is located on the west side of Layhill Road between Baughman Drive and Merrifields Drive (see Vicinity Map on the next page). The Property's legal description is part of Lot 13, Block H of Gayfields. It has approximately 125 feet of street frontage along Layhill Road and is improved with a two-story frame house with a basement, constructed in 1986. The house is setback approximately 78 feet from Layhill Road with a left side yard of approximately 28 feet, a right side yard of approximately 31 feet and a rear yard of approximately 50 feet.

The Property is accessed via an approximately 10-foot wide circular asphalt driveway from Layhill Road. There are no sidewalks along this portion of Layhill Road. The Applicant intends to use the two-car garage for parking two cars associated with the residence. The existing parking area in front of the garage provides parking for two additional vehicles for two non-resident employees. Access to the daycare is through the lower level (basement) entrance; however, on inclement weather days, the front entrance is used as well.

The Property is relatively flat in the front and slopes down towards the rear yard. Both the front and rear yards are landscaped with mature trees and shrubs. There is a row of evergreen shrubs along Layhill Road and a row of evergreen trees along the left side property line. The rear yard of the Property has a 4-foot high fence and includes a 391-square foot outdoor patio, a grass covered play area, and a playground (see Attachment 3).

A site inspection by staff revealed that the Property was properly posted at the time of inspection.



*Vicinity Map*

### Neighborhood Description

The neighborhood is generally bounded by Merrifields Drive to the north and west, Baughman Drive to the south and west, and Northwest Branch Park on the east side of Layhill Road. It consists primarily of residential dwellings zoned R-200 (see Attachment 4). There are no special exception uses within the staff-defined neighborhood. However, several applications for “horse boarding” special exception uses were approved by the Board of Appeals in the early 1970s. These have not existed since the subdivision of the parcel in the early 1980s.

### **iii. Master Plan Conformance**

This Property is located within the boundaries of the 1994 *Aspen Hill Master Plan* (Master Plan). The Master Plan does not contain any specific recommendations for this property or for the neighborhood; however, the neighborhood was identified as No. 25 under “Significant Parcels and Areas.” The Master Plan identified two types of “Significant Parcels or Areas”—ones that were recommended for a change in zoning, and others that were not recommended for changes, but the Master Plan endorsed the existing uses and pointed to issues that should be further investigated at a later time. Page 77 of the Master Plan states that the Significant Parcels and Areas No. 25: Allanwood/Gayfields/Willson Hills/Gaywood Area “is dominated by single-family detached houses on lots that are larger than the rest of the Aspen Hill community... that character should be emphasized and encouraged in the development of the

unimproved areas in this portion of the planning area.” Further, the major land use objectives of the Master Plan are to “encourage the protection, enhancement and continuation of current land use patterns; protect and reinforce the integrity of existing residential neighborhoods and to preserve and increase the housing resources...”(page 29). Recommendations to implement these objectives included the confirmation of existing zoning in the areas not identified as “Significant Parcels and Areas.”

This Property is adjacent to Layhill Road, which is identified as a “Green Corridor.” Green corridors were identified along major transportation routes throughout the *Aspen Hill Master Plan* area, and are an extension of the principles outlined in the 1989 *Kensington-Wheaton Master Plan*. “Green corridors are to be landscaped, scenic roadways that provide for pedestrians and bicyclists as well as vehicles” (page 112). According to the Master Plan, “the amount of vegetation along these corridors should be maintained and increased to improve visual and environmental quality and buffer adjacent uses and pedestrians from the high speed and noise of the vehicles.” To implement this goal, the Master Plan further states that “any plan submitted for renovation, rezoning or special exception in the commercial or residential zones adjacent to Connecticut Avenue, Georgia Avenue, Layhill, Norbeck or Veirs Mill Roads should be reviewed for adequacy of the proposed landscaping and screening and shading of parking lots...” The Master Plan additionally suggests that sidewalks should be provided and extended to transit points and that street trees should be provided (page 112).

The Master Plan contains specific guidelines for special exception uses to address the issues of scale and use compatibility. Specifically, the Master Plan recommends avoiding excessive concentrations of special exceptions and other non-residential uses along major transportation corridors and protecting major transportation corridors and residential communities from incompatible design of special exception uses. The Master Plan provides the following guidelines on page 81 that should be followed in the design review of special exceptions in addition to those stated in the Zoning Ordinance:

- a. *Any modification or addition to an existing building to accommodate a special exception use should be compatible with the architecture of the adjoining neighborhood and should not be significantly larger than nearby structures.*
- b. *Front yard parking should be avoided because of its commercial appearance; however, in situations where side or rear yard parking is not available, front yard parking should be allowed only if it can be adequately landscaped and screened.*
- c. *Close scrutiny should be given to replacing or enhancing the screening and buffering as viewed from the abutting residential areas and along the major roadways.*

Lastly, the Master Plan identifies child day care facilities (page 195) as a valued community facility. Specifically, on page 196, the Master Plan encourages child care facilities to meet the needs of the residents of Aspen Hill and recommends that these facilities provide the following (to the fullest extent possible): sufficient open space to provide adequate access to sunlight and suitable play areas; location and design to protect children from excessive exposure to noise, air pollutants and other environmental factors; location and design to ensure safe and convenient access that includes appropriate parking areas and safe and effective on-site circulation of automobiles and pedestrians; location and design to avoid creating undesirable

traffic, noise and other impacts to the surrounding community; and consideration given to locations in employment centers to provide locations convenient to work places.

Staff believes that the proposed application is not consistent with the Master Plan objectives because of the proposed parking area in the front yard and lack of screening from abutting residential properties. However, staff believes that the need for a parking area can be eliminated by reducing the number of proposed children from 30 to 24, which reduces the number of non-resident employees from three to two, and the number of drop-off and pick-up parking spaces from five to four, thereby making the proposed front parking lot unnecessary. Therefore, staff recommends the removal of the proposed parking area and the proposed widening of the driveway and increasing the landscaping along the front and rear of the property with additional evergreen trees along the fenced rear yard, in addition to the proposed six-foot high solid wood fence (see Attachment 1), to bring the application into compliance with the Master Plan.

#### **iv. Transportation Planning**

##### Vehicular Access Points

Access to the child care center is via an existing circular driveway, which has two curb cuts onto Layhill Road (MD 182). Vehicles enter the site via the northern curb cut and exit via the southern curb cut.

##### Available Transit Service

There is no transit service available to this property.

##### Pedestrian Facilities

There are no lead-in or internal sidewalks or other pedestrian facilities available to this property. There is no sidewalk along Layhill Road.

##### Master-Planned Roadways and Bikeways

The 1994 *Aspen Hill Master Plan* and the 2005 *Countywide Bikeways Functional Master Plan* designate Layhill Road as a major highway, M-16, with a 150-foot wide right-of-way including bike-lanes (BL-18) on both sides of the road north from Norbeck Road (MD 28). There are bike lanes constructed on both sides of Layhill Road south of Park Vista Drive which is south of the subject property.

##### Local Area Transportation Review (LATR)

According to the 2012 LATR Guidelines, a traffic study is not needed to satisfy LATR for day care facilities with fewer than six employees and in such cases the applicant “may proffer a specific schedule of the arrival and departure of staff arriving during weekday peak periods specified in the special exception statement of operation.”

A traffic study is not required for child daycare centers with six or fewer employees for the following reasons:

First, the trip generation rates used for daycare centers are Montgomery County-specific, based on actual driveway counts of large daycare facilities. It was found that the most reliable way to forecast trip generation rates for child daycare centers was to use the number of employees, and not the number of children. Second, based on the driveway counts, it was discovered that child daycare centers with over six employees corresponded to 30 or more peak-hour trips. (Child daycare centers with six or fewer employees typically generate fewer than 30 peak-hour trips and therefor are exempt from submitting a traffic study to satisfy LATR.)

The applicant has submitted a traffic statement which explains the schedule of drop-offs and pick-ups for both children and employees, parking and vehicular circulation. The proposed hours of operation, from 7:00 a.m. to 6:00 p.m., overlap the weekday morning peak period (6:30 a.m. to 9:30 a.m.) and the evening peak period (4:00 p.m. to 7:00 p.m.).

Based on the 2012 LATR Guidelines and the 2012-2016 Subdivision Staging Policy, the daycare center satisfies the LATR test because it will have only two non-resident employees and generate fewer than 30 peak-hour trips.

#### Transportation Policy Area Review (TPAR)

The proposed daycare center is located in the Aspen Hill Policy Area. According to the 2012-2016 Subdivision Staging Policy, the Aspen Hill Policy Area is adequate under both the roadway and transit tests. Therefore, the daycare facility is exempt from making a TPAR payment and satisfies the TPAR test.

### **v. Environmental Planning**

The property is within the Northwest Branch watershed - a Use IV watershed. The proposed application does not have any additional activities proposed within any streams, wetlands, or environmental buffers and is in compliance with the Environmental Guidelines.

This property is not subject to the Montgomery County Forest Conservation Law (Chapter 22A of the County Code) because the tract area is less than 40,000 square feet (see Attachment 5).

### **vi. Landscaping and Parking**

The proposed parking area does not meet the required front yard and the required side yard setback for a parking facility established in §59-E-2.83(b) for special exceptions in a residential zone. In order to have a parking pad for a special exception parking facility, in the R-200 Zone the parking area must be set back a distance of no less than 40 feet (front yard) and 24 feet (twice the building side yard, of 12 feet). Although the Board of Appeals can approve a waiver for setbacks of the parking lot, the Applicant has not submitted a waiver request under §59-E-4.5 and staff would not support a waiver because the proposed parking area is not consistent with the Master Plan, as discussed in Section iii, Master Plan Conformance. The proposed



parking area could also potentially affect the critical root zone of several large, existing trees. Additionally, the proposed seven feet of extended driveway along the interior is not compatible with the residential neighborhood and would have a commercial appearance.

The Applicants must provide additional landscaping to those portions of the property in the rear yard that abut the residential areas. The proposed special exception use does not allow for proper screening and the rear yard is particularly exposed due to topography and inadequate landscaping. It is recommended that the Applicants plant additional evergreen trees along the fenced rear yard, in addition to the proposed six-foot high solid wood fence (see Attachment 1). Staff recommends that the evergreens be six-feet tall at the time of planting, and be able to attain heights in excess of 15-feet. Planting of such trees is recommended along the exterior of the fenced rear yard (closest to the stream) and interior to the fence along the side yards and that the tree species includes evergreens such as American Holly, Nellie R. Stevens Holly, Eastern Hemlock, White Pine, or Arborvitae.

#### **vii. Community Comment**

Staff met with the Applicants' neighbor who is generally concerned that expanding the existing child care facility from 12 to 30 children will increase the traffic on Layhill Road, increase the noise levels from the additional children playing outdoors, have inadequate landscaping/buffer, inadequate driveway for drop-off and pick-up and parking for staff, and have a negative impact on property values. In addition, staff received numerous letters in opposition from other residents in the area with similar concerns (see Attachment 5).

Staff received a letter stating that a home dental office is already located at 15008 Layhill Road and that this additional use would increase the commercialization of the neighborhood. Staff researched this issue and has found that the home dental office has a Home Occupation Certificate issued in February 1997 by the Department of Permitting Services. Even with this existing non-residential use and the proposed use, staff does not believe that the proposed use will "commercialize" this stretch of Layhill Road since the property will maintain its residential character with staff's recommended modifications.

#### **viii. Standards for Evaluation**

The Zoning Ordinance specifies standards for evaluating compliance with general and specific conditions that require an analysis of inherent and non-inherent adverse effects. The first step in analyzing the inherent and non-inherent adverse effects of a special exception is to define the boundaries of the surrounding neighborhood, outlined in Section III above for this application.

An analysis of inherent and non-inherent adverse effects considers size, scale, scope, light, noise, traffic and environment. Every special exception has some or all of these effects in varying degrees. What must be determined during the course of review is whether these

effects are acceptable or would create adverse impacts sufficient to result in denial. To that end, inherent effects associated with the use must be determined. In addition, non-inherent effects must be determined as these effects may, by themselves, or in conjunction with inherent effects, form a sufficient basis to deny a special exception.

The physical and operational characteristics necessarily associated with a child day care include: (1) vehicular trips to and from the site; (2) outdoor play areas; (3) noise generated by children; (4) drop-off and pick-up areas; (5) employee parking; and (6) lighting.

In review of the inherent characteristics, staff finds that the existing configuration of the loop driveway is not able to adequately address the parking requirements of a daycare use of up to 30 children. The Applicants revised their site plan to include a 7-foot wide strip of new pavement along the inner loop of the drive as well as a 22-foot by 35-foot parking area along the south side of the driveway. This is not adequate for several reasons:

- 1) Additional parking in front will be inconsistent with the Master Plan, which specifically states to avoid parking areas in the front yard for special exception uses;
- 2) The parking lot does not meet the setback requirements of §59-G-2.83(b), which states that all parking facilities must “be setback a distance not less than the applicable building front and rear yard and twice the building side yard setback;” and
- 3) The new parking area will not meet the shading of paved area requirements under §59-G-2.83(d), which requires that 30% of paved areas, including driveways are shaded.

However, staff believes that reducing the number of children to 24 and the number of employees, and thereby reduces the number of employee parking spaces and drop-off and pick-up spaces needed will retain the residential appearance and eliminate the need for the proposed parking pad. Staff therefore recommends eliminating the new parking area and widening of the driveway and limiting the arrivals and departures to three per half hour period. This will allow for the proper circulation of vehicles dropping off and picking up children, and lessen the conflict between the employees’ parked vehicles and parents arriving and departing the Property. Staff also recommends that the driveway shall be treated as a one-way loop and additional deciduous shade trees be planted to meet the 30% shade requirement §55-E-2.83(d) (see Attachment 1).

Staff has identified one non-inherent characteristic of the site: the topography, which slopes down from the front of the Property to the rear. The neighboring single-family dwelling unit to the north and west of the site sit higher above the rear yard of the proposed use which may expose the adjoining houses to potential visual impacts and noise from children playing in the rear yard play area. However, staff believes that these potential impacts can be mitigated by additional screening. Staff is recommending that the Applicants plant additional six-foot (at the time of planting) tall evergreen trees, along the side and rear yards in addition to the proposed six-foot tall solid wood fence to adequately screen this use from the neighboring residential uses. Staff finds that the non-inherent characteristic of this application, the topography, would

be adverse to the neighborhood, but can be adequately addressed with the proposed conditions regarding landscaping, as described above and in Section iii, Master Plan Conformance.

## **ix. Conditions for Granting a Special Exception**

### **a. §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.*

**Staff Analysis:** A child daycare use is a permissible special exception in the R-200 Zone.

*(2) Complies with the standards and requirements set forth for the use in §59-G-2.*

**Staff Analysis:** The requested use with staff's recommended modifications satisfies the standards and requirements prescribed in Section 59-G-2.13.1 of the Zoning Ordinance, see Conditions for Granting a Child Day Care Facility section (ix).

*(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.*

**Staff Analysis:** As proposed, the application is not consistent with the *Aspen Hill Master Plan*; however, it could be consistent if specific modifications are made, such as additional landscaping. Please see Master Plan Conformance section (iii) and Landscaping and Parking section (iv).

*(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.*

**Staff Analysis:** The one-family detached house in which the daycare will operate will not undergo external alterations. Staff does not support the proposed expansion of the driveway and parking lot, as it is inconsistent with the Master Plan and would not be in harmony with the general character of the neighborhood with

respect to the character of activity and parking conditions. Staff believes with the proposed modifications to the operations of the proposed use, reducing the number of students to 24, which reduces the number of required loading and unloading areas, in addition to the modifications to the existing driveway as discussed earlier in the staff report (Attachment 1), the Applicants would have adequate drop-off and pick-up areas, and circulation. The reduction in the number of children would also reduce the need for a third employee and the associated parking space. Therefore, the intensity of activity, traffic, and parking conditions will not alter the general character of the neighborhood, it will maintain the residential character of the property, and will continue to be in harmony with the surrounding neighborhood, if approved with the staff recommended conditions of approval.

- (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.*

**Staff Analysis:** As proposed, staff believes the application does not meet this condition, but by making the adjustments which staff discussed throughout this report, the proposed daycare will not be detrimental to the use, peaceful enjoyment, economic value or development of surrounding properties.

- (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 Analysis:** The proposed use will not cause any objectionable adverse effects. There are no exterior renovations proposed. The children will take turns playing outdoors and will be broken down into three groups based on age, with a maximum of eight children in each group.

- (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 Analysis:** There are no special exception uses in the defined neighborhood. The addition of the proposed special exception will not result in an excessive concentration of special exception uses in general, or daycare uses in particular, and will not adversely affect the area or alter its residential character.

*(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.*

**Staff Analysis:** The proposed daycare use will cause only a marginal increase in activity in the neighborhood, and therefore will not have any adverse effects on 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 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.*
- B. If the special exception does not require approval of a preliminary plan of subdivision, the Board of Appeals must determine the adequacy of public facilities when it considers the special exception application. The Board must consider whether the available public facilities and services will be adequate to serve the proposed development under the Growth Management Policy standards in effect when the application was submitted.*
- 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.*

**Staff Analysis:** This site is not subject to Preliminary Plan of subdivision and therefore, this special exception is reviewed under B, above. The available public facilities are adequate to serve the proposed use. Public sewer and well water serve the site. Montgomery County Department of Permitting Services confirmed that their records indicate the existing well is more than adequate for the proposed use. With staff's proposed modifications, the proposed use will not reduce the safety of vehicular or pedestrian traffic.

**b. §59-G-1.23 General Development Standards**

*(a) **Development Standards.** 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-1.21 or in Section G-2.*

**Staff Analysis:** This site is located in the R-200 Zone. Table 1 compares the R-200 Zone standards with the applicant's proposal. Staff finds that the proposed special exception meets the required development standards of the zone, except for the parking requirement discussed in (b) Parking Requirements below.

**Table 1: Applicable Development Standards – R-200 Zone**

Development Standards	Required	Provided
Maximum Building Height:	50 ft. (2 stories)	25 ft. (2 stories)
Minimum Lot Area	20,000 sq. ft.	29,981 sq. ft.
Minimum Width at Proposed Street Line:	25 ft.	± 125 ft.
Minimum Front Yard Setback:	40 ft.	± 78 ft.
Minimum Side Yard Setback:		
<ul style="list-style-type: none"> <li>• One side</li> </ul>	12 ft.	28 ft. (left side)
<ul style="list-style-type: none"> <li>• Sum of Both</li> </ul>	24 ft.	31 ft. (right side)
Minimum Rear Yard Setback:	30 ft.	± 50 ft.
Parking Requirement (§59-E-3.7) <sup>1</sup>	10	10

*(b) **Parking Requirements.** Special Exceptions are subject to all relevant requirements of Article 59-E.*

**Staff Analysis:** For a child daycare center Section §59-E-3.7 requires one space for every non-resident staff member, in addition to the residential parking requirement and adequate parking for discharge and pick-up of children. The average drop-off and pick-up space required is one space for every six children. In order to accommodate 30 children and five (5) staff members, two of which are residents, the subject daycare center would need to provide a total of ten parking spaces: two for the residents, three for employees and five for drop-offs and pick-ups.

The Applicants propose to modify the existing driveway and add a parking area in the front to accommodate the required parking for the proposed use. Two cars can be accommodated in the garage, and two more can be accommodated in front of the garage. The site plan provided by the applicants depicts: 1) a driveway widening from 10 feet to 17 feet; and 2) a new parking area to accommodate five parking spaces for a total of 10 parking spaces (see Attachment 3).

Although the 10 parking spaces meet the required number of spaces, the proposed parking area does not meet the parking facility setback requirements of Article 59E as discussed in more detail in the Landscape and Parking section (vi). Staff recommends eliminating the proposed parking pad and the proposed widening of

<sup>1</sup> Staff recommends reducing the number of children permitted at the child day care facility to 24, therefore the required parking is reduced to eight spaces.

the driveway (see Attachment 1), reducing the enrollment to 24 children, and restricting the arrivals and departures to three per half hour period. This will eliminate the need for additional pavement for parking spaces. All parking needs will be met on the existing driveway.

(c) **Minimum Frontage.** *For the following special exceptions the Board may waive the requirement for a minimum frontage at the street line if the Board finds that the facilities for ingress and egress of vehicular traffic are adequate to meet the requirements of Section 59-G-1.21:*

- (1) Rifle, pistol and skeet-shooting range, outdoor;
- (2) Sand, gravel, or clay pits, rock or stone quarries;
- (3) Sawmill;
- (4) Cemetery, animal;
- (5) Public utility buildings and public utility structures, including radio and TV broadcasting stations and telecommunication facilities;
- (6) Equestrian facility;
- (7) Heliport and helistop.

**Staff Analysis:** Not applicable, since the proposed use is for a child daycare. The application satisfies the minimum frontage requirements of the R-200 Zone.

(d) **Forest conservation.** *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.*

**Staff Analysis:** This site is not subject to Chapter 22A, Montgomery County Forest Conservation Law, as the subject site is less than 40,000 square feet in size.

(e) **Water quality plan.** *If a special exception, approved by the Board, is inconsistent with an approved preliminary water quality plan, the applicant, before engaging in any land disturbance activities, must submit and secure approval of a revised water quality plan that the Planning Board and department find is consistent with the approved special exception. Any revised water quality plan must be filed as part of an application for the next development authorization review to be considered by the Planning Board, unless the Planning Department and the department find that the required revisions can be evaluated as part of the final water quality plan review.*

**Staff Analysis:** Not applicable; the site is not in a Special Protection Area.

(f) **Signs.** *The display of a sign must comply with Article 59-F.*

**Staff Analysis:** There will be no change to the existing sign.

(g) **Building compatibility in residential zones.** 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 siting, 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.

**Staff Analysis:** Not applicable. The proposed daycare is located in an existing structure and does not require any exterior building modifications.

(h) **Lighting in residential zones.** 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) Luminaries 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.

**Staff Analysis:** Based on the information provided by the applicant and a site visit, no direct light would intrude into any adjacent residential property.

**x. Conditions for Granting Child Day Care Facility (§59-G-2.13.1)**

(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.

**Staff Analysis:** The applicant has submitted a site plan that satisfies these requirements (see Attachment 2). Staff recommends the site plan be modified per Attachment 1.

- (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;*

**Staff Analysis:** The Applicant is not proposing a reduction in the number of parking spaces required under §59-E-3.7. Staff is not supportive of a waiver of parking facility setbacks, under §59-E-4.5. For further discussion, please see (b) Parking Requirements, under Conditions for Granting a Special Exception section (viii), Landscaping and Parking section (vi) and Master Plan Conformance section (iii).

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

**Staff Analysis:** Based on the number of parking spaces necessary for the expanded child daycare facility, pick-ups and drop-offs should be limited to three per half hour period. Please see discussion on pages 13-14 and staff's recommended modifications to the site plan on Attachment 1.

- (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*

**Staff Analysis:** The applicant has supplied an affidavit with the application materials (see Attachment 7).

- (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.*

**Staff Analysis:** As previously stated in the General Conditions section, staff believes that with the proposed modifications to the site plan and reduction in the number of children and employees, the proposal will be compatible with the surrounding neighborhood.

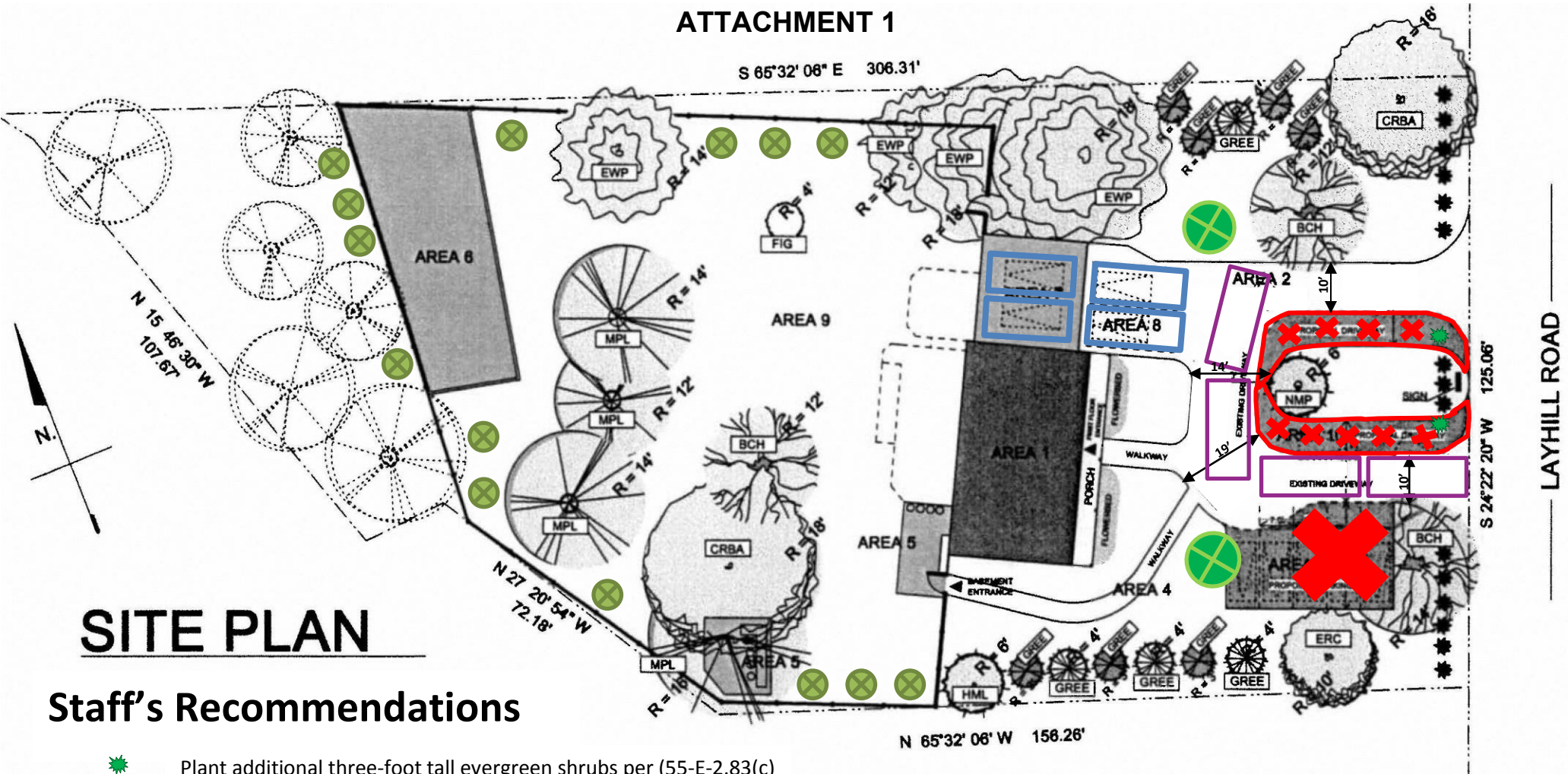
## **xi. Conclusion**

Staff recommends approval of the proposed child daycare use for up to 24 children, subject to the conditions of approval at the beginning of this report. The proposed daycare will not have any significant traffic impacts since there will only be a small increase in the number of trips to and from the site. Outdoor play areas are adequate, the site is landscaped, and the Applicants propose to replace the existing four-foot tall fence with a six-foot high solid fence along the perimeter of the rear yard. Staff is recommending additional evergreen trees along the perimeter of the rear yard fence. In addition to providing visual screening, the mature evergreens will mitigate the additional noise that will be generated by the additional children. Further, not all of the children would be outside at once; the playtimes will be staggered throughout the day in three groups with a maximum of eight children in each group. The lighting on the property is adequate and consistent with the residential character of the neighborhood, and no new lighting is proposed.

### **Attachments:**








- Attachment 1-** Staff Recommendations and Modifications to Site Plan
- Attachment 2-** Floor Plan Sketch, per applicant submittal
- Attachment 3-** Site Plan, per applicant submittal
- Attachment 4-** Neighborhood Map
- Attachment 5-** Forest Conservation Applicability for Special Exceptions
- Attachment 6-** Community Opposition Letters
- Attachment 7-** Affidavit of Compliance
- Attachment 8-** Memorandum from Marc Lewis-DeGrace, Area 2 Planning Division dated March 18, 2013
- Attachment 9-** General Site Photographs

# ATTACHMENT 1

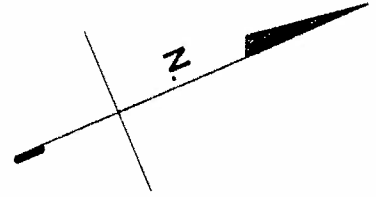


## SITE PLAN

### Staff's Recommendations

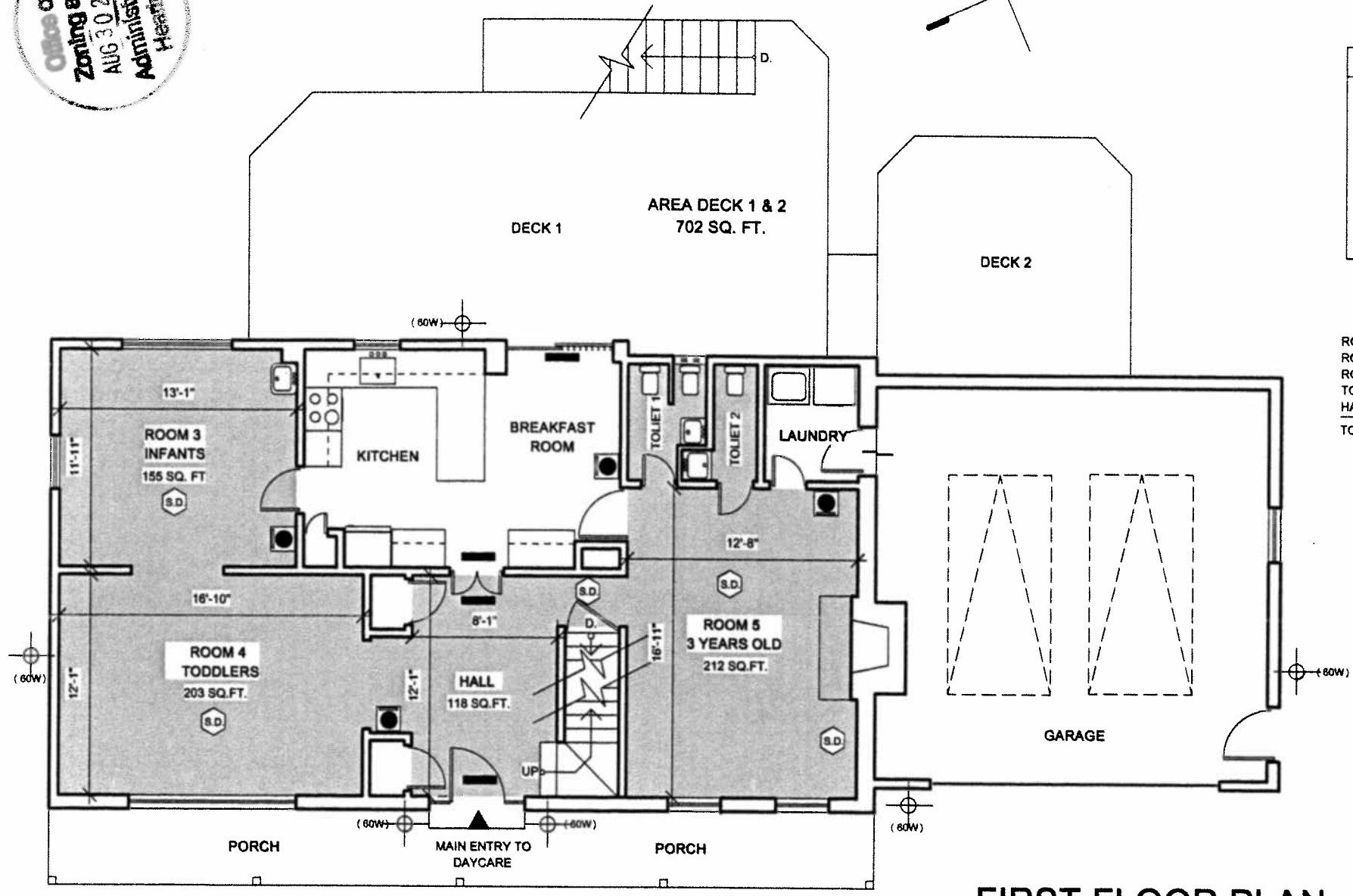
-  Plant additional three-foot tall evergreen shrubs per (55-E-2.83(c))
-  Plant six-foot tall evergreen trees, such as American Holly, Nellie R. Stevens Holly, Eastern Hemlock, or White Pine
-  Plant additional deciduous shade trees to meet 30% requirement (55-E-2.83(d))
-  Remove proposed five-car parking lot area
-  Remove proposed widening of driveway
-  Proposed drop-off/pick-up area (parking space 7' x 21')
-  Proposed staff parking (parking space 8.5' x 18')

ATTACHMENT 2



LEGEND	
	DAYCARE AREA
	FIRE EXTINGUISHER
	SMOKE DETECTOR
	EXIT
	LIGHT FIXTURE (WATTAGE)

ROOM 3 =	155 SQ.FT.
ROOM 4 =	203 SQ.FT.
ROOM 5 =	212 SQ.FT.
TOILETS =	45 SQ.FT.
HALL =	118 SQ.FT.
TOTAL AREA =	733 SQ.FT.



FIRST FLOOR PLAN

DATE	REVISION	BY

Name: **Dharmalatha RAJAPAKSHA**  
**Chandrasekaran MANI**

"ABC LOVING CHILD CARE CENTER"

Address: 15010 LAYHILL Rd.  
 SILVER SPRING, MD 20906

EXHIBIT NO. 18 (A)  
 REFERRAL NO. J.E. 13-01

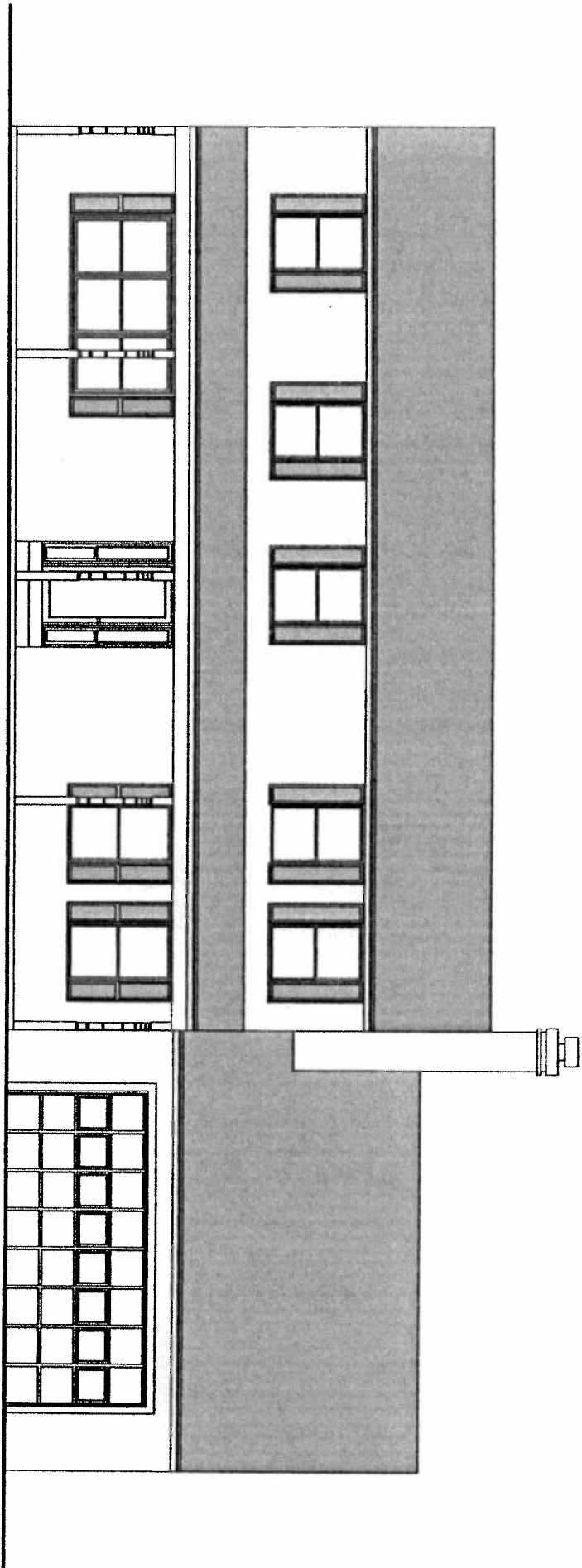
**FIRST FLOOR PLAN**

DATE:

SCALE: 1/8" = 1'

**A-2**





FRONT ELEVATION



Name: Dharmalatha RAJAPAKSHA  
Chandrasekaran MANI

"ABC LOVING CHILD CARE CENTER"

Address: 15010 LAYHILL Rd.  
SILVER SPRING, MD 20906

EXHIBIT NO.  
REFERRAL NO.

19  
J.E. 13-01

FRONT ELEVATION

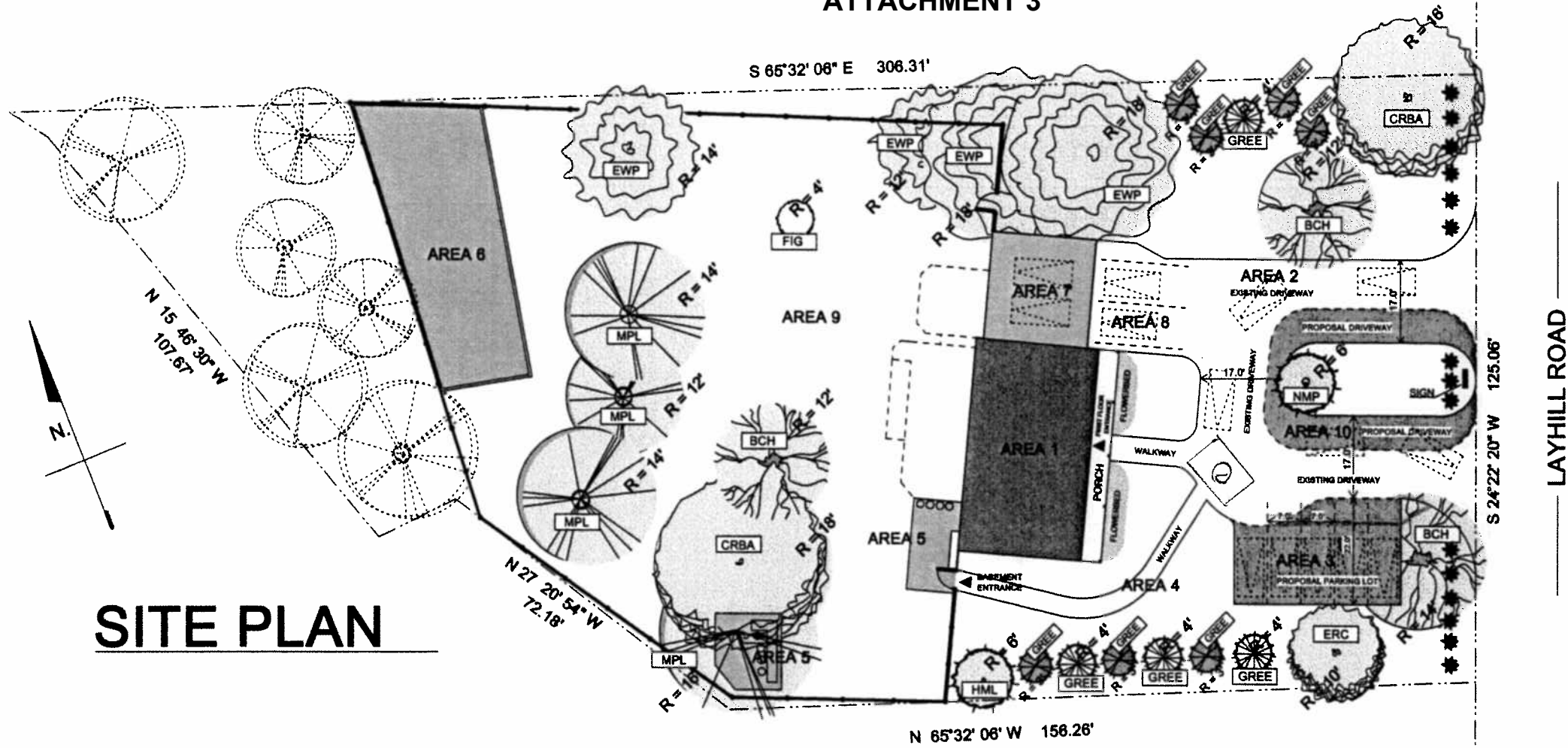
DATE  
REVISION  
BY

DATE:  
SCALE: 1/8" = 1'

A-4

4 OF 4

ATTACHMENT 3



SITE PLAN

LEGEND	
AREA 1	DAYCARE ————— 733 SQ.FT.
AREA 2	EXISTING DRIVEWAY ————— 2482 SQ. FT.
AREA 4	WALKWAY
AREA 5	OUTDOOR PATIO ————— 391 SQ.FT.
AREA 6	PLAY GROUND ————— 1280 SQ.FT.
AREA 7	GARAGE - OWNERS PARKING – 478 SQ.FT.
AREA 8	EMPLOYEES PARKING ————— 425 SQ.FT.
AREA 9	BACKYARD ————— 10573 SQ.FT.
←——→	WOOD FENCE h = 4 ft ————— 388 LN.FT.

CODE	PLANT NAME	QTY.
CRBA	CRABAPPLE / Malus	2
BCH	BLACK CHERRY / Prunus Serotina	3
EWP	EASTERN WHITE PINE / Pinus Strobus	4
NMP	NORWAY MAPLE / Acer Platanoides	1
ERC	EASTERN RED CEDAR / Juniperus Virginiana	1
HML	CANADIAN HEMLOCK / Thuja Canadian	1
MPL	MAPLE / Acer	4
GREE	GREEN GIANT PINE / Arborvitae	4
FIG	FIG TREE	1

LEGEND											
AREA 3	PROPOSAL PARKING LOT ————— 693 SQ.FT.	<table border="1"> <thead> <tr> <th>CODE</th> <th>PLANT NAME</th> <th>QTY.</th> </tr> </thead> <tbody> <tr> <td>⊗ GREE</td> <td>PROPOSAL 6' TALL GREEN GIANT PINE</td> <td>7</td> </tr> <tr> <td>✱</td> <td>PROPOSAL 3' TALL BOXWOOD EVERGREEN</td> <td>15</td> </tr> </tbody> </table>	CODE	PLANT NAME	QTY.	⊗ GREE	PROPOSAL 6' TALL GREEN GIANT PINE	7	✱	PROPOSAL 3' TALL BOXWOOD EVERGREEN	15
CODE	PLANT NAME	QTY.									
⊗ GREE	PROPOSAL 6' TALL GREEN GIANT PINE	7									
✱	PROPOSAL 3' TALL BOXWOOD EVERGREEN	15									
AREA 10	PROPOSAL DRIVEWAY ————— 471 SQ. FT.										
←——→	PROPOSAL 6' TALL SOLID WOOD FENCE ————— 388 LN.FT.										

DATE	REVISION	BY
03/11/13	UPDATE	R.R.

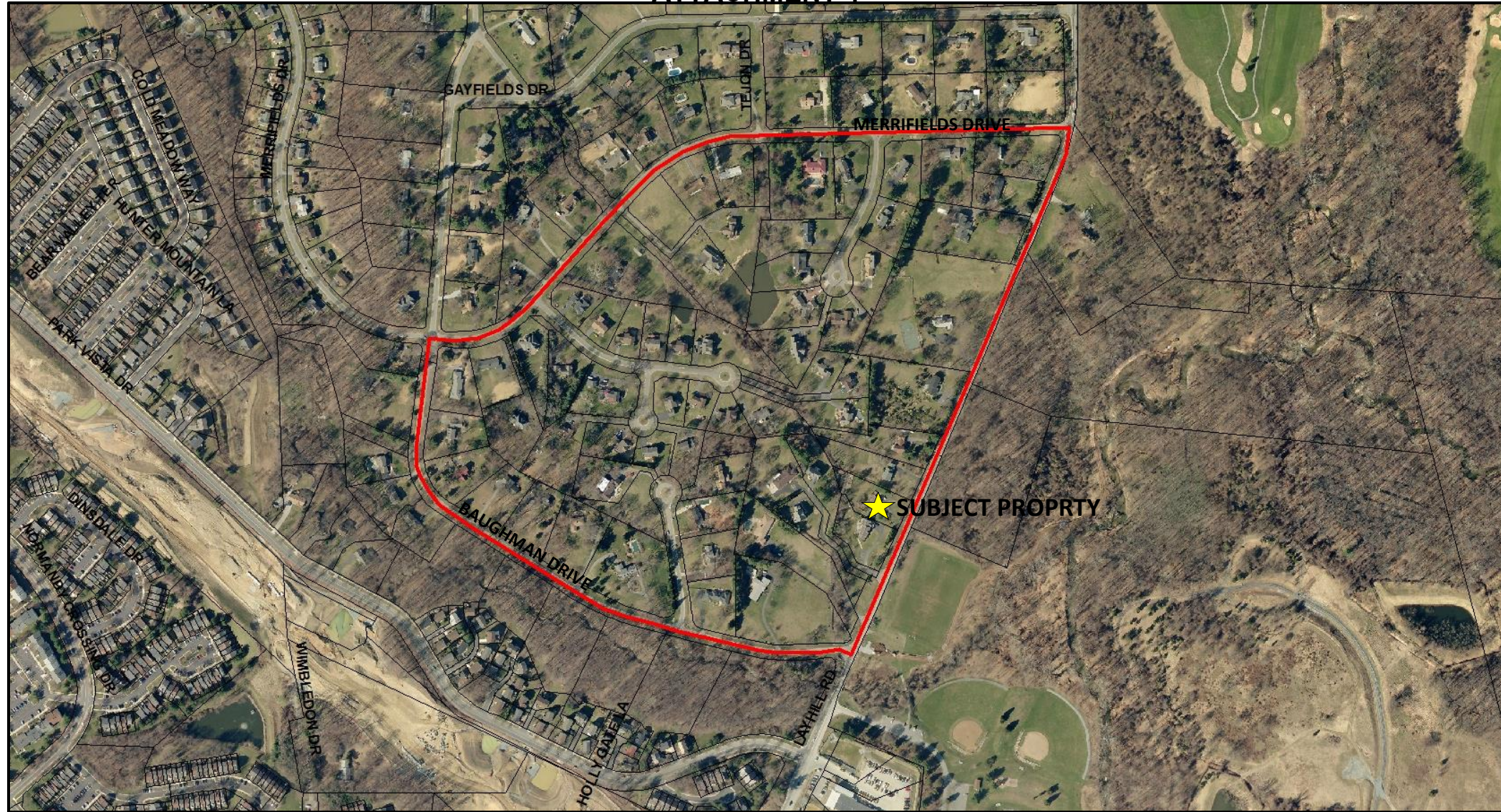
Name:	Dharmalatha RAJAPAKSHA
	Chandrasekaran MANI
Address:	"ABC LOVING CHILD CARE CENTER"
	15010 LAYHILL Rd. SILVER SPRING, MD 20906
<b>SITE PLAN</b>	

DATE:
SCALE: 1"=30'

A-1

1 OF 4

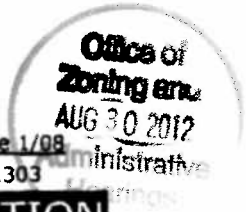
# ATTACHMENT 4



Neighborhood Map



ATTACHMENT 5



Environmental Planning Division

Montgomery County Park & Planning Dept. ♦ 8787 Georgia Ave., Silver Spring, MD 20910 ♦ 301-495-4540, fax: 301-495-1303

Effective 1/08

APPLICATION

Forest Conservation Applicability\* for Special Exceptions

PROPERTY LOCATION

Street Address: 15010 LAYHILL RD, SILVERSPRING, MD 20906
Subdivision: 136 Parcel(s) # Lot #(s): P13 Block(s): H
Property Tax Identification Number: DISTRICT-13, ACCOUNT# 02633018

Applicant (Owner or Contract Purchaser):

Name: CHANDRASEKARAN MANI
Street Address: 15010 LAYHILL RD, SILVERSPRING, MD 20906
City: SILVERSPRING, MD 20906
Phone No. (301) 438-0744 Fax No.

TOTAL AREA OF PROPERTY: 0.68 acres 29,981 square feet

APPLICANT ATTESTS THAT THE FOLLOWING STATEMENTS APPLY TO THE SUBJECT SPECIAL EXCEPTION APPLICATION:

- The application applies to a special exception on a property of less than 40,000 square feet.
No forest or individual trees will be disturbed.
The property is not subject to a previously approved Forest Conservation Plan.
The special exception proposal will not impact any champion tree as defined by the Montgomery County Forestry Advisory Board.

Signature of applicant (Owner or Contract Purchaser):

Signature: [Handwritten Signature] Date: 08.07.12

M-NCPPC acknowledges that the special exception for the above property is not subject to the Forest Conservation Law as defined in Chapter 22A of the Montgomery County Code.

Signature of M-NCPPC Environmental Planning staff reviewer:

Signature: [Handwritten Signature] Date: 8/7/12

\*This form may be used only if the property is less than 40,000 square feet in total area.

EXHIBIT NO. 7
REFERRAL NO. S.E.13-01

# ATTACHMENT 6

LAW OFFICES OF

## KNOPF & BROWN

401 EAST JEFFERSON STREET  
SUITE 206  
ROCKVILLE, MARYLAND 20850  
(301) 545-6100

FAX: (301) 545-6103

E-MAIL [KNOPF@KNOPF-BROWN.COM](mailto:KNOPF@KNOPF-BROWN.COM)

WRITER'S DIRECT DIAL

(301) 545-6104

NORMAN G. KNOPF

March 20, 2013

By Email and Regular Mail  
[stephanie.dickel@montgomeryplanning.org](mailto:stephanie.dickel@montgomeryplanning.org)

Stephanie Dickel, Senior Planner  
Montgomery County Planning Board  
8787 Georgia Avenue  
Silver Spring, MD 20910

Re: ABC Loving Child Care Special Exception 13-01

Dear Ms. Dickel,

Thank you and the other Staff members once again for taking the time to meet with our firm and clients, Mr. & Mrs. Schilling, to discuss the many objections to the special exception application at 15010 Layhill Rd for the ABC Loving Child Care Center (SE 13-01). For your convenience, we set forth in writing an outline of some of the principal objections we had discussed.

### Safety

§59-E-2.21      §59-G-1.21(a)(8), 2.13.1(a)(2),(3)      §59-G-1.21(a)(9)(C)

- Heavy traffic on Layhill Rd (busy commuter road + ICC exit)
- Speeding traffic on Layhill Rd (40 mph +)
- Impaired line of sight on Layhill Rd to see turning cars due to topography
- No shoulder for cars to pull off while turning into the driveway or waiting to do so
- Limited driveway space and time dropping-off / picking-up will inevitably back up onto Layhill Rd
- Any backup onto Layhill Rd will block travel lanes
- Any backup onto Layhill Rd will block the adjacent driveways and residents' ability to enter and exit
- No parking signs posted all along the road prohibiting any attempts to pull off onto the side
- Excessive turning movements in and out of driveway for the car trips of 30 kids and staff
- Cars in applicant's driveway blocking the view of neighbors trying to safely exit their own driveways
- Driveway is a single lane such that 1 parent's temporarily parked car can cause a back up onto Layhill

### Non-Compatibility with Residential Character

§59-G-1.21(a)(4),(6)      §59-E-2.83(a),(c)      §59-G-2.13.1(a)(5)

- Driveway and parking for staff readily and necessarily visible from Layhill Rd
- Applicant's statement of operations believed to understate the number of staff parking spaces required
- Cars lining the driveway for pick-ups and drop-offs readily and necessarily visible from Layhill Rd
- There is no way to effectively screen any of this activity
- Natural topography of the side and rear properties prevents screening of the backyard playground

- Increased activity and parking areas create a non-compatible commercial appearance from the road and from the neighboring properties

**Disturbance to Peaceful Enjoyment of Nearby Properties**

§59-G-1.21(a)(5)-(6)      §59-G-2.13.1(a)(5)

- Permit would increase enrollment by 150%
- Noise produced (children outdoors, car doors slamming, early morning arrivals, etc.) is already a disturbance to neighbors
- Natural topography has adjacent properties' decks directly overlooking the playground area
- Noise and aesthetic impairments cannot be effectively screened from adjacent properties
- Applicant's suggested mitigation by limiting outdoor activities is neither practical nor likely to occur

**Non-Compliance with Parking Requirements**

§59-E-2.83(d)      §59-E-2.22

- Applicant's parking area and driveway do not meet the screening requirements
- Applicant's parking area and driveway do not meet the tree shading requirements
- Applicant's parking spaces do not meet the code's standards

**Unique Circumstances**

§59-G-1.21(a)(5),(6),(8)      §59-E-2.83

- Owners of adjacent property are elderly and infirmed (Mr. Schilling has Parkinson's disease)
- Current noise produced by applicant's property is already detrimental to their health
- Increased turns, movement, and traffic will substantially impair the Schillings' visibility to safely exit adjacent driveways onto Layhill Rd
- Increased parking will substantially impair visibility by adjacent properties of Layhill Rd

Additionally, the applicant's property operates on well-water. This information is not in their application. It has yet to be determined whether the well capacity is sufficient to handle the increased number of children and staff. (§59-G-1.21(a)(9)) We also note that the adjacent property was previously found to contain arsenic in its own water table.

Thank you again for your time in reviewing our clients' concerns.

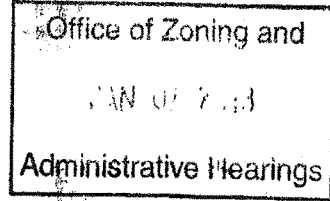
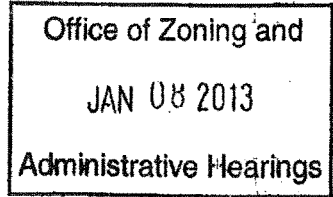


Norman G. Knopf

CC: Mr. and Mrs. William Schilling

January 5, 2013

To Ellen Forbes,



This is our opposition concerning of proposed Day Care Center at 15010 Layhill Road. Eleven years ago we moved from city to a country side in order to have peaceful live. To have Day Care Center in our neighborhood most definitely will create more traffic congestion, and parking on the shoulder which is very narrow will obscure site just to get out from our driveway. Currently they have two signs at their front lawn that not very appealing.

We are strongly opposing this proposal. Please take this to consideration.

We wish to become an objector of record.

Thank you very much.

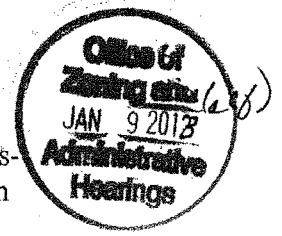
Delmo Barbieri

A handwritten signature in cursive script that reads "Delmo Barbieri".

Irene Barbieri

A handwritten signature in cursive script that reads "Irene Barbieri".

EXHIBIT NO. 31  
REFERRAL NO. JE1301



Ernst Benjamin, President  
Allanwood-Gayfields-Willson Hills-  
Gaywood Estates Civic Association  
(AGWG)  
1912 Norvale Rd.  
Silver Spring, MD 20906  
(240-723-6076)

RE: Special Exception Case 13-01 for the child day care facility  
in the Gayfields Sub-Division at 15010 Layhill Rd.,  
Silver Spring Maryland, 20906

Martin Grossman, Director  
Office of Zoning and Administrative Hearings  
For Montgomery County Maryland  
Stella B. Werner Council Office Building  
100 Maryland Ave., Room 200  
Rockville, MD 20850

DATE: January 6, 2013

I am writing as an "objector of record" on behalf of the AGWG, which represents about 300 families in Gayfields and other nearby communities located off northern Layhill Road. I write pursuant to a discussion and vote at our fall membership meeting on November 15, 2012 to express and explain our opposition to the proposed Special Exception to allow the existing child day care center to increase its permissible enrollment from 12 to 30 children.

Our primary concern arises from the likely worsening of the already hazardous traffic situation on Layhill Road where the child day care center is located. The petitioner's "Statement of Operations" describes the location as Layhill Road (Rt 182) about a mile southwest of Norbeck Road and northwest of Bonifant and Bel Pre Roads. The petitioner omits to mention that the location is also about 2000 feet north of the newly constructed major interchange with Rt 200, the Inter-County Connector. The ICC interchange, which did not exist at the time that the current child day care center was established, must be expected to generate increasing traffic north of the interchange. The petitioner also largely ignores the fact that Layhill Road itself is a State Highway with a 40 mile per hour speed limit.

Our concern regarding the hazardous nature of Layhill Road north of the ICC long pre-dates our now heightened concern resulting from petitioner's proposal to substantially expand traffic in and out of the day care center. In 2007-2008 a community member wrote repeated letters to state authorities resulting in a meeting of community members and State Senator Roger Manno, who

EXHIBIT NO. 32  
APPLICATION NO. S.E. 13-01

is a member of the AGWG board, with a SHA traffic engineer to discuss the dangers of Layhill Road intersection with Baughman Drive immediately south of the day care center. The State was unresponsive to our request to widen the road to include shoulders but proposed improved speed calming signage which has not materialized. In December 2011, following the completion of the ICC, we pursued the matter again and State Senator Manno reported to us that he had spoken to Melinda Peters and had "expressed the community's desire to see shoulders on upper Layhill Road . . . and overall safer conditions for local residents in cars, on bicycles and on foot." The State remains unresponsive.

The underlying problem is that, despite its designation as a State Highway, Layhill Road immediately north of the ICC interchange ceases to be a divided four-lane highway. First it passes over a narrow bridge with raised sides but no shoulders and then it continues as an undulating two lane country road with short sight-lines, no shoulders, no sidewalks and uneven road edges—hazardous even to pedestrians or cyclists. The narrow lanes provide absolutely no room for maneuver for trailing cars when cars in front of them stop to turn left into Baughman Drive south of the child care center or into the child care center itself. Nonetheless, a 40 mile per hour speed limit sign facing the northbound lane of Layhill is located directly across the road from the child care center drive. Drivers routinely exceed this posted speed. The Google traffic indicator describes this area of Layhill Road as "fast" throughout the day.

Cars turning left into the child day care center must stop to allow southbound traffic to pass. Since the drive is not a signed intersection, the danger that trailing cars will fail to brake in time is greater than at Baughman Road about which we were already concerned. A similar problem may occur as cars turn left from the center to proceed north. We believe that this additional traffic out of, as well as the traffic into, the center will not only be an inconvenience but a serious hazard to those traveling on Layhill Road--including not only the AGWG residents we represent but the day care center children and their parents.

The problem of getting more than 30 cars twice per day in and out of the drive and the available parking may cause stacking up in the childcare entry drive and add to the difficulty of turning into the center. This is especially likely in inclement weather when bringing children in and out of the center may be a slow process and Layhill Road is especially hazardous. The August 30 "Statement of Operations" available to me as I write plans parking on the assumption that one present staff member will not require parking and that the proposed number of staff will be adequate without regard to the age mix of the children. Even so, the 11 parking spaces that petitioner states will be available appears to require that six cars will be parked three layers deep: two in the garage, two in front of the garage and two behind those. The remaining five cars appear to require parallel parking alongside the thru lane. Backing cars in and out of the blocked and parallel parking spaces is likely to endanger children entering and leaving the facility as well as to clog the single thru lane. AGWG is concerned that if cars stack up waiting to enter the child care center drive, or become impatient trying to leave the center, as they may do given the fact that most families will come and go during the morning and evening rush hours, the danger to children and the traffic hazard will be compounded.

The fact that petitioners propose to stagger pick-up and drop-off times suggests that they recognize this problem but it is obviously impossible to ensure that such a schedule is

maintained. Although the entrance and exit drives are longer than the parking area, they are also too narrow to permit parking or passing. Widening the drives to obtain more parking or to avoid stacking up would eliminate space for even the proposed inadequate screening for the front yard parking. Even if the drives are not widened the increased number of visible parked cars will be unsightly and present a commercial appearance inconsistent with residential neighborhood frontage. The anticipated traffic volume and noise is similarly inconsistent with a residential location.

In our discussion with our members, an immediate neighbor of the center emphasized two further concerns. On one occasion, a child from the day care center (then under previous ownership) managed to wander off onto Layhill road where he was found by a passing trucker and brought to the neighbors home. (See enclosed Schilling letter.) This neighbor also related that on several occasions in previous years neighbors south of the center have complained that parents have tried to park in the neighbors' drives. The latter problem is especially likely to recur with the larger enrollment due to the absence of any off-site public parking on Layhill due to the narrow lanes and lack of shoulders. Moreover, should anyone park on Baughman Drive, the nearest street with public parking, or inappropriately in the private drives between Baughman and the child day care center, they and their child would have either to walk across private property or risk a very hazardous walk on the edge of the shoulder-less road to and from the center.

In view of our serious concerns regarding this hazardous proposal, I do desire to attend and speak for up to 10 minutes as an objector of record on behalf of AGWG at the hearing. I would like to be included if new or modified plans and proposals are circulated. Neither AGWG nor I will be represented by counsel.

Thank you for your consideration,



Ernst Benjamin  
President, AGWG

Office of Zoning and  
JAN 17 2013  
Administrative Hearings

15012 Layhill Road  
Silver Spring, MD 20906

26 December 2012

Mr. Ernie Benjamin  
President  
Allenwood Gayfields Willson Hills  
1912 Norvale Road  
Silver Spring, Maryland 20906

Dear Mr. Benjamin,

My wife, Fay and I would like to record an upsetting event concerning the operation of the residential day care center located at 15010 Layhill Road (our adjacent neighbor). While the unsettling even occurred many years ago when the residential day care center was operated by someone else, the incident still haunts us.

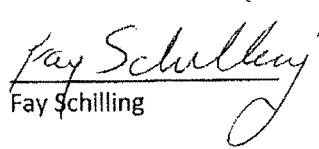
A truck driver spotted a small child of approximately 3-4 years of age walking along Layhill Road. The truck driver stopped his truck, collected the child and brought the child to our home and asked if we knew the child. We suspected that the child was from the day care center next door. I left my wife at home and walked next door to the residential day care center with the truck driver and the child.

The child had indeed escaped from the residential day care center and the women who operated the center had not even notice that the child was gone. Regrettably, we do not remember the name of the woman who operated the day care center at the time of the incident. The day care operator was not the owner of the residence.

In hind sight we should have called the police and reported the incident, but we did not wish to cause problems for our neighbor.

We are concerned that another such incident might easily occur should the current owners of the residence at 15010 Layhill Road obtain approval to operate a commercial 30 child Day Care Center (Special Exception 13-01).

Sincerely,

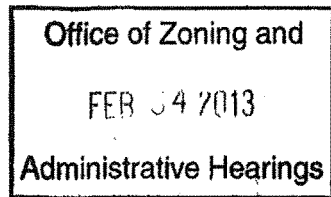
  
Fay Schilling

  
William Schilling

EXHIBIT NO. 33  
REFERRAL NO. S.E. 13'01



15320 Layhill Road  
Silver Spring, Md 20906



Ms. Ellen Forbes  
Office Service Coordinator  
Office of Zoning and Administrative Hearings  
100 Maryland Avenue  
Room 200  
Rockville, Md.

January 22, 2013

Dear Ms. Forbes,

I wish to be an objector of record to Special Exception request 13-01. I have a number of concerns about the request and its negative impact of this neighborhood. These are:

- 1) This is a purely residential neighborhood. A daycare center for 30 children, and additional staff sounds like a commercial business establishment that is very much out of place in such an environment.
- 2) Since the ICC has opened, there has been a significant increase in the amount of traffic on Layhill Road. Cars and trucks routinely exceed the posted speed limit. The house at 15010 Layhill Road is relatively close to the road, and I feel this could pose a real danger to a child playing in the front of the house, or exiting or entering a vehicle.
- 3) The house at 15010 Layhill Road currently has a one lane driveway. The amount of traffic that would be attempting to enter or leave this driveway could cause traffic back-ups on Layhill. Expansion of the driveway and/or construction of a parking lot would be unsightly, and again, out of character for the neighborhood.
- 4) A facility of the size will generate a tremendous amount of noise. This would be detrimental to the quality of life in the neighborhood, and potentially could pose a problem for a neighbor trying to sell their property.

I appreciate your consideration of these concerns, and urge you not approve the Special Exception.

Sincerely,

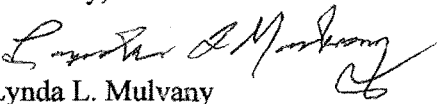
  
Lynda L. Mulvany

EXHIBIT NO. 35  
REFERRAL NO. S.E. 1301

RECEIVED  
0176  
MAR 14 2013

OFFICE OF THE CHAIRMAN  
THE MARYLAND-NATIONAL CAPITAL  
PARK AND PLANNING COMMISSION

Phuong-Mai Do  
Paul Nguyen  
15002 Layhill Road  
Silver Spring, MD 20906  
(301) 438-1517

25 February 2013

Ms. Francoise Carrier, Chair  
Montgomery County Planning Board  
8787 Georgia Ave.  
Silver Spring, MD 20910

**RE: Special Exception 13-01, ABC Loving Child Care Center**

Dear Ms. Carrier,

I am opposing Special Exception 13-01. I have sent a similar letter, for the record, to the Office of Zoning and Administrative Hearings. However, I feel that it is important that the Montgomery County Planning Board learn of my objections as well.

I fear that an expansion in Chandrasekaran E. Mani and Dharmalatha M. Rajapaksha's Child Day Care Center will result in a myriad of problems for our neighborhood.

Currently, noise can already be heard from the children at play in the day care's backyard. I work from home two days a week. Every time the children are outside, they yell; they scream and small kids cry so loud that I can hear them well from my home office even with the windows closed. This happens at least twice a day. This really affects my concentration. I am an IT specialist at USDA. My jobs are loading USDA data to the Data Warehouse, writing codes to develop new systems, etc. I need a quiet place to do my work. Several times I was in a job teleconference at the same time the children were playing outside. I had my speaker phone on, and the children were so loud that my co-workers asked me what was going on.

Sometimes I like to go outside to work in my garden, or I want to sit at my front porch or backyard deck to relax. However, it is very stressful with the noise. It is not pleasurable and peaceful any more at my own house because of the neighbor's daycare. Eighteen additional children would significantly increase the noise level, disturbing the peacefulness our neighborhood has enjoyed for years.

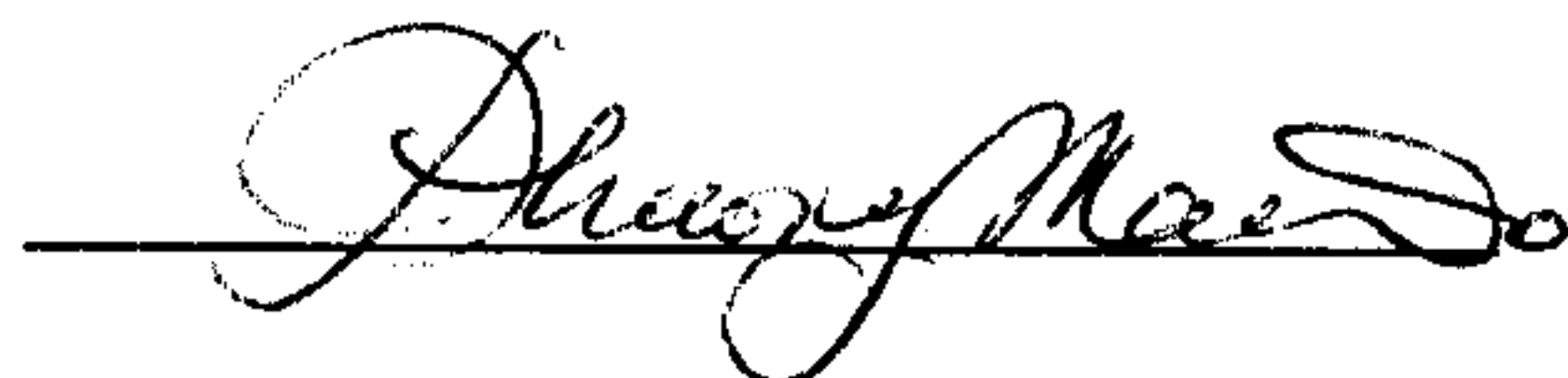
It is also certain that the expansion will cause many traffic issues on Layhill Road as parents arrive to drop off and pick up their children. With so many cars, parents will have to wait on the main road to enter to the driveway, resulting in congestion. This issue has already happened. Many times, I have seen cars lining up on the road because drivers have to wait for the car that wants to turn left onto the daycare driveway. With an expansion, this issue will worsen as cars wait to turn onto the driveway from both the left and right sides. Layhill can be dangerous because it is a one lane road, very hilly and there

are no sidewalks on either side. Many accidents have occurred in the past. One time, an accident occurred early morning while the children from the daycare were waiting for the school bus. The cars crashed between the daycare and the dentist's house (the neighboring house). The car was hit from the main road, onto the grass and slammed into our red brick gate. Luckily, it did not hit any children, but they were very close to the scene of the crash. The brick gate still remains damaged. The road is so hilly that drivers cannot see children or anything else, until they go over the hill.

Security is another one of our concerns. An expanded day care brings too many people from other areas to our neighborhood. We need to keep our neighborhood safe and our children safe. We know our neighbors and we do not want to see strangers in and out our neighborhood. We live in a residential zone and do not want to turn our residential zone into a commercial zone.

I hope that my concerns, as well as those of my neighbors, will be taken into consideration and that this Special Exception for a commercial Child Day Care Center with 30 children will not be granted.

Sincerely,

A handwritten signature in cursive script, reading "Phuong-Mai Do", written over a horizontal line.

Phuong-Mai Do

A handwritten signature in cursive script, reading "Paul Nguyen", written over a horizontal line.

Paul Nguyen

RECEIVED  
0197  
MAR 20 2013

OFFICE OF THE CHAIRMAN  
THE MARYLAND NATIONAL CAPITAL  
PARK AND PLANNING COMMISSION

15 March 2013

15006 Layhill Road  
Silver Spring, MD 20906

**RE: Special Exception 13-01,  
Child Day Care Facility for 30 Children**

**Petitioner: Chandrasekaran E. Mani and Dharmalatha M. Rajapaksha**

Ms. Francoise Carrier, Chair  
Montgomery County Planning Board  
8787 Georgia Ave.  
Silver Spring, MD 20910

Dear Ms. Carrier,

We would like to become objectors of record in our opposition to Special Exception 13-01 for a 30-child Day Care Center to be located at 15010 Layhill Road, Silver Spring, MD 20906. We have sent a similar letter stating our objections to the Office of Zoning and Administration Hearings.

We are significantly affected by the current childcare center for 12 or less children. Increasing the permitted number beyond 12 would adversely affect us by further disturbing the use and peaceful enjoyment of our home.

Our property is adjacent to the rear yard of the Petitioner's property. Our home is located on a hill directly behind the Petitioner's childcare facility. Our house is situated on our lot so that the side of the home and our rear deck and backyard directly overlook the Petitioner's back yard and playground area. It is impossible to screen the Petitioner's site from our view because we are at a higher elevation than the Petitioner's rear yard.

The noise level of the children yelling, playing and crying outside is currently a problem for us. It is unpleasant to have our windows open, to use our deck, and to enjoy our backyard. Increasing the permitted enrollment beyond 12 to as many as 30 children will significantly exacerbate the noise levels now generated by the playing children and make our home environment even more unpleasant.

Our residential neighborhood in the "country" is in danger of turning into a commercial zone if you grant Special Exception 13-01. There already is a home dental office at 15008 Layhill Road, and there is a group home at

pick-up time is nice in theory it is impractical and unrealistic. Key drop-off and pick-up times are more likely to be shorter. We do not see how the Petitioner can regulate the staggered drop-off and pick-up times. Are they going to turn away the majority of clients who work the typical eight-hour day from 8:00 AM to 5:00 PM? Thus, we would expect arrival and departure times to be very congested. The staggered arrival and departure time is also impractical because the Petitioner can't guarantee the length of time it will take to drop-off and pick-up each child due to the need for special instructions to and from parents, fussy kids not willing to let go of a parent or to leave the day care, inclement weather, etc.

Widening the Petitioner's driveway is not a solution as it would not be in keeping with our residential neighborhood. Currently, the Petitioner cannot screen their driveway from cars passing on Layhill Road, nor can they screen the driveway and parking area from the adjacent homes. The additional staff parking required for a 30-child day care facility alone will give our residential neighborhood a commercial appearance. Once you add cars lining the driveway the problem worsens.

The proposed 30- child Day Care Center is inappropriate for our residential neighborhood because:

1. Our safety entering and exiting our driveways will be adversely affected.
2. The safety of drivers on Layhill Road will adversely be affected.
3. The Day Care Center will have a commercial appearance and will not be in keeping with the harmony of our residential neighborhood.
4. There are already two commercial businesses in our immediate neighborhood.
5. The Day Care Center's playground, rear yard, driveway, and parking facilities are not now nor can they be effectively screened from us, adjacent neighbors or from Layhill Road.
6. The Day Care Center will further disturb the use and peaceful enjoyment of our homes.

We respectfully ask that you decline Petitioner's request for a Special Exception for a 30-child Day Care Center. We further ask that you do not increase the number of children permitted at the Petitioner's child-care center beyond twelve (12).

Sincerely,



Dereje Woreta



Mimi Tadesse

Ms. Francoise Carrier, Chair  
Montgomery County Planning Board  
8787 Georgia Ave.  
Silver Spring, MD 20910

**RECEIVED**  
0217  
MAR 25 2013

18 March, 2013

OFFICE OF THE CHAIRMAN  
THE MARYLAND-NATIONAL CAPITAL  
PARK AND PLANNING COMMISSION

**RE: Special Exception 13-01**

Dear Ms. Carrier,

I wish to express my objection and become an objector of record to the petition of Chandrasekaran E. Mani and Dharmalatha M. Rajapaksha (Applicant) for a "child day care center" for 30 children (Special Exception 13-01).

I am the daughter of William and Fay Schilling who reside at 15012 Layhill Road, Silver Spring, MD 20906. My parents are the next door neighbors to the Applicant. The statements made in this letter are based both on my personal observations during my biannual visits (each visit of 6-7 weeks duration) to my parent's home over the past several years and the difficulties I have personally experienced due to the current Family Center located at 15010 Layhill Road.

Granting the Applicant's Special Exception may provide convenience and economic gain to the Applicant, but only at the expense/detriment of my elderly parents. Due to the projected increase in noise and traffic, my parent's health and safety will certainly decrease. So will their quality of life. And it will become even more difficult than it is now to communicate with them over the telephone.

My parents already find it difficult to cope with the Applicant's existing Family Center licensed for only 12 children (but often operating with fewer than 12 children). I have been very concerned for my parent's general welfare for some time now. Increasing the number of children beyond twelve (12) to thirty (30) at the Applicant's private residence will, without doubt, exacerbate my parent's existing problems, create new problems for my parents, and increase my parent's stress.

My father has Parkinson's disease. Parkinson's disease has caused my father's voice to soften to the point where he can no longer project his voice. When the children from the Applicant's Family Center are playing in the Applicant's yard I find it very difficult to hear my father over the telephone. The telephone connection is not at fault. The problem exists because there is just too much background noise emanating from the children next door. I live in New Zealand and the telephone is my only direct means of communicating with both of my parents. I am a trained Physical Therapist who specialized in neurological patients so if it is difficult for me to understand my father's speech over the noise of less than 12 children it will be even more difficult for other individuals who are not trained to communicate and understand someone who has speech difficulties.

My father requires a great deal of rest because of his disease. He does not currently get adequate rest due to the activity and noise generated from the existing Family Center. My parent's master bedroom is on the side of the house nearest the Applicant's home. The master bedroom runs the width of the house. The three master bedroom windows face the front, side, and rear of the Applicant's property. Currently, children being dropped off early in the morning wake my parents up very early each weekday and children playing in the yard interfere with my father's nap times. The constant tremors of Parkinson's disease fatigue my father and everyday activities take longer and are more difficult for him to perform because of the tremors. My father needs several rest/nap periods during the day, but he is not now getting adequate rest because the noise from the Family Center interrupts his nap/sleep cycle. Increasing the maximum number of children beyond 12 will make his napping almost impossible and will ensure that my parents must wake early every weekday.

Stress increases Parkinsonian tremors. Lack of sleep during the day, the noise level of playing children, and the general nuisance of the child day care center are all stress factors that exacerbate my father's tremors and put my father at risk for his safety. When he is stressed, his limbs do not function effectively which creates safety issues, especially for walking, and his speech is further diminished, which makes effective communication a problem.

My mother has a hearing loss and wears hearing aids in both ears. The background noise from the screaming and shouting children at play and the slamming of car doors at the beginning and end of each day make it difficult for my mother to hear my father, even when they are both in the same room. The background noise also makes it difficult for her to hear anyone over the telephone. I know that when I call her I must frequently repeat myself when the children are in the yard playing and yelling. The background noise from the day care center also interferes with my parent's social life. Their elderly friends who visit also find it difficult to hear one another and may be less likely to visit in the future if the Special Exception is granted.

Should the Special Exception be approved the increase in traffic movements on Layhill Road will make getting in and out of my parent's driveway more difficult and dangerous for them and for their elderly friends who visit them. Layhill Road is a very busy two-lane road with increasing levels of traffic. Getting in and out of my parent's driveway is already a challenge. Permitting an increase of 150% (18 additional children) and a minimum increase of three (3) additional staff at the Applicant's residence means there could be as many as 70 vehicles accessing and exiting the day care center each day. This number does not include the two times per day the school bus stops to unload children. The Applicant (or their staff) then leaves to deliver the children to another location and then returns to the day care center. The Applicant has omitted this drop off and delivery service from their statement of operations which will certainly increase the projected number of vehicle movements every day.

The Applicant's driveway is not wide enough for two cars to pass one another. I foresee mothers or fathers parallel parking on the edge of Layhill Road and also on my parent's front lawn (which runs to the edge of Layhill Road) in their haste to drop off their child and get to work on time. I also foresee the stacking up of cars on Layhill Road waiting to enter the

Applicant's driveway. Just one or two cars stacked on Layhill Road awaiting entrance to the Applicant's driveway will badly limit the sight lines from my parent's driveway and put them at risk. Cars parallel parked on the edge of Layhill Road or on my parent's front lawn further diminish the sight lines from my parent's driveway. I am concerned for my parent's safety as well as the safety of all who drive along Layhill Road. Drivers all too often speed over the rolling hills on Layhill Road near my parent's property. There have been four traffic accidents that I know of in front of my parent's property since they moved in their home. I fear that more accidents will occur if the 30-child day care center is approved because a car stopped at the entrance to the Applicant's driveway would be hidden by the small hills on Layhill Road. A vehicle traveling fast over the small hills may not be able to stop in time to avoid colliding with the stopped car waiting to enter the Applicant's driveway.

The noise level and child activity of the current Family Center already means that my parents can seldom enjoy their rear deck and their own backyard. Nor can they entertain their friends there. They also are unable to enjoy having their windows open during the weekday due to the noise from the children. Closed windows put a financial burden on their fixed income because they have to use their air conditioner for many more weeks than they prefer or that they can afford. The projected increase of 18 additional children will further diminish the enjoyment of their home. My parents will be forced to have their windows closed year round and even with the windows shut they will still hear a high level of noise.

Vehicle headlights accessing the Applicant's driveway for child drop-off and pick-up shine into my parent's living room, often with a strobe-like effect. Vehicles have their headlights on for approximately half the year due to the change in seasons. My parents are stressed that they can no longer enjoy the use of their living room as they would like.

Furthermore, my parent's home is their largest asset. They have lived in their home for 25 years and they hope to be able to enjoy their home for many more years to come. However, a decline in their health may someday force them to sell and move to an assisted living complex. Having a child day care center as an adjacent neighbor will severely limit the pool of potential buyers and will decrease the value of their home. Their home may also take longer to sell. All of these factors will handicap the sale of their home and, as a result, may substantially diminish their future financial wellbeing. It is just not fair to them particularly if the added stress from a 30-child day care center facilitated a decline in their health, necessitating a move to an assisted living complex and then they were forced to sell their home below market value all because of a 30-child day care center next door.

My parents are the original owners of their home, purchased in 1987 in a bucolic neighborhood of one-acre homes. Despite the increase in traffic on Layhill Road, the neighborhood still retains its quiet country nature characterized by open expanses. The intrusion of a child day care center for 30 children is an inappropriate commercial activity for this neighborhood. It is a nuisance, a noxious neighbor, and it will adversely affect the quality of life, the health and the safety of my parents and their neighbors.

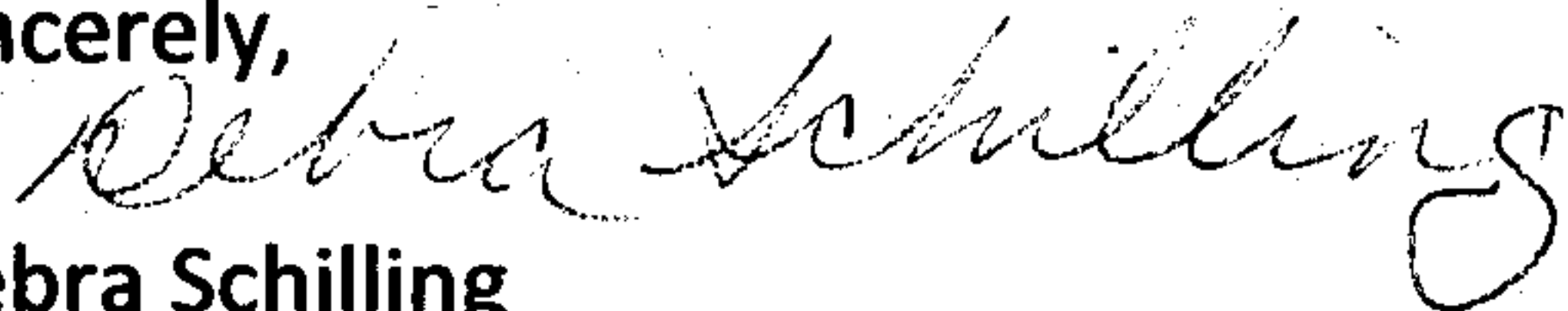


A home Dentist office has already been permitted (Applicant's other adjacent neighbor at 15008 Layhill Road) and a Special Exception for a group home has been granted at 15309 Layhill Road. If you now grant the Applicant's Special Exception 13-01 it will result in two (2) commercial businesses in a row and another commercial establishment a few doors north from my parent's home. Granting this Special Exception will result in an inevitable slide of this peaceful country residential neighborhood into a busy commercial zone.

I had hoped that I would be able to attend the Planning Board meeting in April when Special Exception 13-01 will be discussed. Unfortunately, I am unable to leave New Zealand in time for the Planning Board meeting. Therefore, I have tried my best to express my concerns and objections, to the Applicant's petition for a zoning change, in this correspondence.

Please carefully examine the nuisance of the day care center, its lack of harmony with the neighborhood, the many traffic safety risks, and the many burdens it will place on my parents, my parent's friends, and the elderly and the long-term residents of this residential neighborhood. I ask that you not approve Special Exception 13-01.

Sincerely,



Debra Schilling

33 Aspen Grove

Queentown 9300 New Zealand

011-64-3-442-8300

djmschilling@gmail.com

ATTACHMENT 7



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.

*[Handwritten signature]*

Petitioner

Subscribed and sworn to me, a Notary Public for Montgomery County, Maryland, this 1st day of August, 20 12.

SARA OBANDO  
NOTARY PUBLIC  
MONTGOMERY COUNTY  
MARYLAND  
MY COMMISSION EXPIRES JULY 20, 2015

*[Handwritten signature]*

Notary Public

My Commission Expires: July 20, 2015

EXHIBIT NO. 10(a)  
REFERRAL NO. J.E. 13-01



## ATTACHMENT 8

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

March 18, 2013

#### **MEMORANDUM**

TO: Stephanie Dickel, Senior Planner  
Area 2 Planning Division

VIA: Khalid Afzal, Team Leader, Eastern County Team  
Area 2 Planning Division

FROM: Marc Lewis-DeGrace, AICP, Planner  
Area 2 Planning Division

SUBJECT: ABC Loving Child Care Center  
Special Exception Case No. SE 13-01  
15010 Layhill Road  
Aspen Hill Policy Area

---

This memorandum is Area 2 transportation staff's Adequate Public Facilities (APF) review of the subject Special Exception. The Applicant is proposing to increase an existing child care center from 12 children and three staff to a maximum of 30 children and five staff. The current child care center is located in an existing single-family detached unit.

#### **RECOMMENDATIONS**

We recommend the following conditions to satisfy the APF test as part of transportation requirements related to the granting of the subject Special Exception:

1. The child care center must be limited to a maximum of 30 children and five staff.
2. The applicant must ensure that vehicles can safely pick up and drop off children at the entrance to the child daycare center.

With the conditions above, transportation staff finds that the proposed Special Exception satisfies the Local Area Transportation Review (LATR) and Transportation Policy Area Review (TPAR) tests and will have no adverse traffic impact on existing area roadway conditions or pedestrian facilities.

#### **DISCUSSION**

##### Site Location

The current child care center is located in an existing single-family detached house on the west side of Layhill Road, north of the Intercounty Connector, between Baughman Drive and Merrifields Drive.

8787 Georgia Avenue, Silver Spring, Maryland 20910

[www.MontgomeryPlanning.org](http://www.MontgomeryPlanning.org)

### Vehicular Access Points

Access to the child care center is via an existing circular driveway, which has two curb cuts onto Layhill Road (MD 182). Vehicles enter the site via the northern curb cut and exit via the southern curb cut.

### Parking

In order to accommodate an increase in the number of children and staff at the existing child care facility, the applicant must make changes to the existing driveway. In order to accommodate 30 students and five staff members, the subject day care center would need to provide a total of ten parking spaces; five for employees and five for drop-offs and pick-ups.

Four parking spaces are currently provided by an on-site garage (two cars) and space for two cars in front of the garage. There are no additional parking spaces on the property.

The Applicant must modify the existing driveway in order to accommodate the additional parking necessary for the proposed expansion. As noted above, two cars can be accommodated in the parking garage, and two more can be accommodated in front of the garage, leaving six parking spaces still to be provided by the applicant. The applicant has provided a Site Plan (Attachment #1) that depicts: 1) a driveway that has been widened from 10 feet to 17 feet; 2) five parallel parking spaces along the widened driveway; and 3) a separate on-site parking lot that can accommodate five parking spaces. This would result in a total of 14 parking spaces. Although the 14 parking spaces shown are sufficient, the five-space on-site parking area does not meet the front yard setback (40') and "the twice the building side yard" setback (24') required by the R-200 Zone per the Zoning Ordinance Section 59-E-2.83(b).

In addition, the widening of the existing driveway would allow a vehicle to safely pass a parked vehicle at the entrance to the daycare center. The widening of the driveway as depicted will make changes to the curb cuts leading to Layhill Road. These widening of the curb cuts will require approval by the Maryland State Highway Administration (SHA).

All parking spaces must be clearly marked in order to ensure that cars are not blocked in the driveway. Based on the number of parking spaces necessary for the expanded day care center for 30 children, pick-ups and drop-offs must be limited to five per half hour each in the morning and afternoon.

### Available Transit Service

There is no transit service available to this property.

### Pedestrian Facilities

There are no lead-in or internal sidewalks or other pedestrian facilities available to this property.

### Master-Planned Roadways and Bikeways

The 1994 *Aspen Hill Master Plan* and the 2005 *Countywide Bikeways Functional Master Plan* designate Layhill Road as a major highway, M-16, with a 140-foot wide right-of-way including bike lanes; BL-18 on

both sides of the road north to Norbeck Road (MD 28). There are bike lanes constructed on both sides of Layhill Road to Park Vista, which is south of the subject property.

#### Local Area Transportation Review (LATR)

According to the 2012 LATR Guidelines; a traffic study is not needed to satisfy LATR for day care facilities that will have fewer than six employees and in such cases the applicant “may proffer a specific schedule of the arrival and departure of those staff arriving during weekday peak periods specified in the special exception statement of operation.”

A traffic study is not required for child daycare centers with six or fewer employees for the following three reasons.

First, the trip generation rates used for daycare centers are Montgomery County-specific. They are based on actual driveway counts of daycare facilities, and it was found that the most reliable way to forecast trip generation rates was to use the number of employees, and not the number of children. Second, based on the driveway counts, it was discovered that child daycare centers with over 6 employees corresponded to 30 or more peak-hour trips, and child day care center applications with 6 or fewer employees that generate fewer than 30 peak-hour trips are exempt from submitting a traffic study to satisfy LATR. Third, the driveway counts were taken at large daycare centers (with more than six employees).

For this application, the applicant has submitted a traffic statement which explains the schedule of drop-offs and pick-ups for both children and employees, parking and vehicular circulation.

The proposed hours of operation, from 7:00 a.m. to 6:00 p.m. overlap the weekday morning peak period (6:30 a.m. to 9:30 a.m.) and the evening peak period (4:00 p.m. to 7:00 p.m.).

Based on the 2012 LATR Guidelines and the 2012-2016 Subdivision Staging Policy, the daycare center satisfies the LATR test because it will generate fewer than 30 peak-hour trips.

#### Transportation Policy Area Review (TPAR)

The existing daycare center is located in the Aspen Hill Policy Area. According to the 2012-2016 Subdivision Staging Policy, the Aspen Hill Policy Area is adequate under both the roadway and transit tests. Therefore, the daycare facility is exempt from making a TPAR payment, and satisfies the TPAR test.

MLDG

**ATTACHMENT 9**  
GENERAL SITE PHOTOGRAPHS, SE 13-01



Front of the House



Layhill Road, looking south



Layhill Road, looking north



View of backyard (from Neighbor's yard to the North)





Backyard behind existing 4' tall fence



Backyard

