



## Smart Ed Learning Center, Conditional Use No. 15-08

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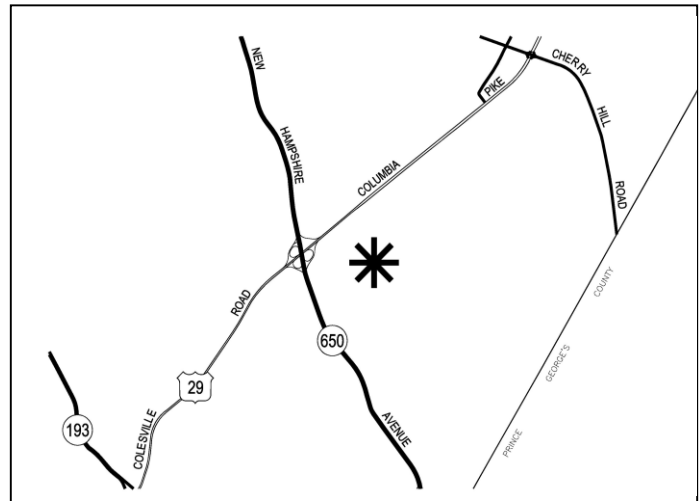
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Completed: 5/20/16

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### Description

- Request to expand an existing day care center from 73 to 93 children, grant a parking waiver for seven spaces, and abandon all previously approved special exception cases for the existing use;
- Location: 11624 and 11628 Lockwood Drive, Silver Spring, MD 20904;
- Size: 10,492-square-foot site (0.24 acres);
- Zone: R-20;
- Master Plan: 2014 *White Oak Science Gateway Master Plan*;
- Applicant: Samina Ali-Zai;
- Filing Date: February 9, 2016;
- The public hearing for the Hearing Examiner is scheduled for June 24, 2016.



### Summary

- The staff recommends approval with conditions.

## **STAFF RECOMMENDATION**

Staff recommends approval with the following conditions:

1. The Conditional Use must be limited to a child Day Care Center with up to 93 children, from infants to twelve years old, and a maximum of 15 non-residential employees.
2. The Applicant must schedule staggered drop-off and pick-up times with no more than three vehicles every 15 minutes.
3. The hours of operation are limited to Monday through Friday 6:30 a.m. to 7:00 p.m.
4. The number of children playing outside at any one time must not exceed 19.
5. Outside play time may not start before 9:00 a.m. and must end by 5:30 p.m. Outdoor play will be staggered in 30-minute increments for two hours in the morning and two hours in the afternoon.
6. The Applicant must abandon all previously approved special exceptions for the existing use that are still valid.
7. Provide a minimum of one bike rack.

## **PROJECT DESCRIPTION**

The Applicant, Samina Ali-Zai, is requesting approval for a conditional use to expand an existing child day care center from 73 to 93 children. Currently, the 73-child day care center with 12 employees is located in units T-1, T-2 and T-3 on the ground floor of 11624 Lockwood Drive and unit T-2 on the ground floor of the adjoining building, 11628 Lockwood Drive. The proposed expansion will occupy an additional unit (T-3) in 11628 Lockwood Drive. The total combined square footage of the five units will be 4,270 square feet. The existing day care center is a result of a number of previous approvals starting with the first approval for up to 40 children in December 21, 1967 (see Previous Approvals on page 6). If the requested conditional use is approved, the Applicant will abandon all previously approved special exceptions granted for the current day care center.

The day care center is located in the 160-unit White Oak Gardens Apartment Complex (the Property) comprising 7.6 acres zoned R-20. The Property is bound by Lockwood Drive to the south, and R-20 zoned medium-density multifamily units along all other sides. It is currently improved with three- to four-story garden apartment structures and generally slopes from south to north.

The proposed day care center (the Site or the building) will have up to 93 children, ranging in age from infant to twelve years, and 15 non-residential employees. The proposed hours of operation are Monday through Friday, 6:30 a.m. to 7:00 p.m. No weekend or overnight hours are proposed.

When the weather permits, all classrooms will have 30 minutes of outdoor play time in the morning and 30 minutes in the afternoon in play areas enclosed with a six-foot tall fence on all sides and dense trees and plantings on two sides in the rear that buffer the play areas from surrounding residences. Lighting for the outdoor areas is mostly for security purposes since the day care center will not have any night

time activities. The Applicant is not planning to modify the exterior of the structure, landscaping, or lighting. The current day care center has three 30" by 24" business signs; one is located at the center's front entrance, and one each at the two entrances/exits of the apartment complex.

The Property has two existing curb cuts from Lockwood Drive, which provide two-way access and circulation into the parking area for the day care center as well as other apartments in the complex. The main entrance to the day care center, accessed from the parking area via a sidewalk, is one-story below grade due to the sloping topography. The Applicant proposes to reserve two more parking spaces to the four existing spaces currently serving the existing day care center and located in front of the building. (see below).

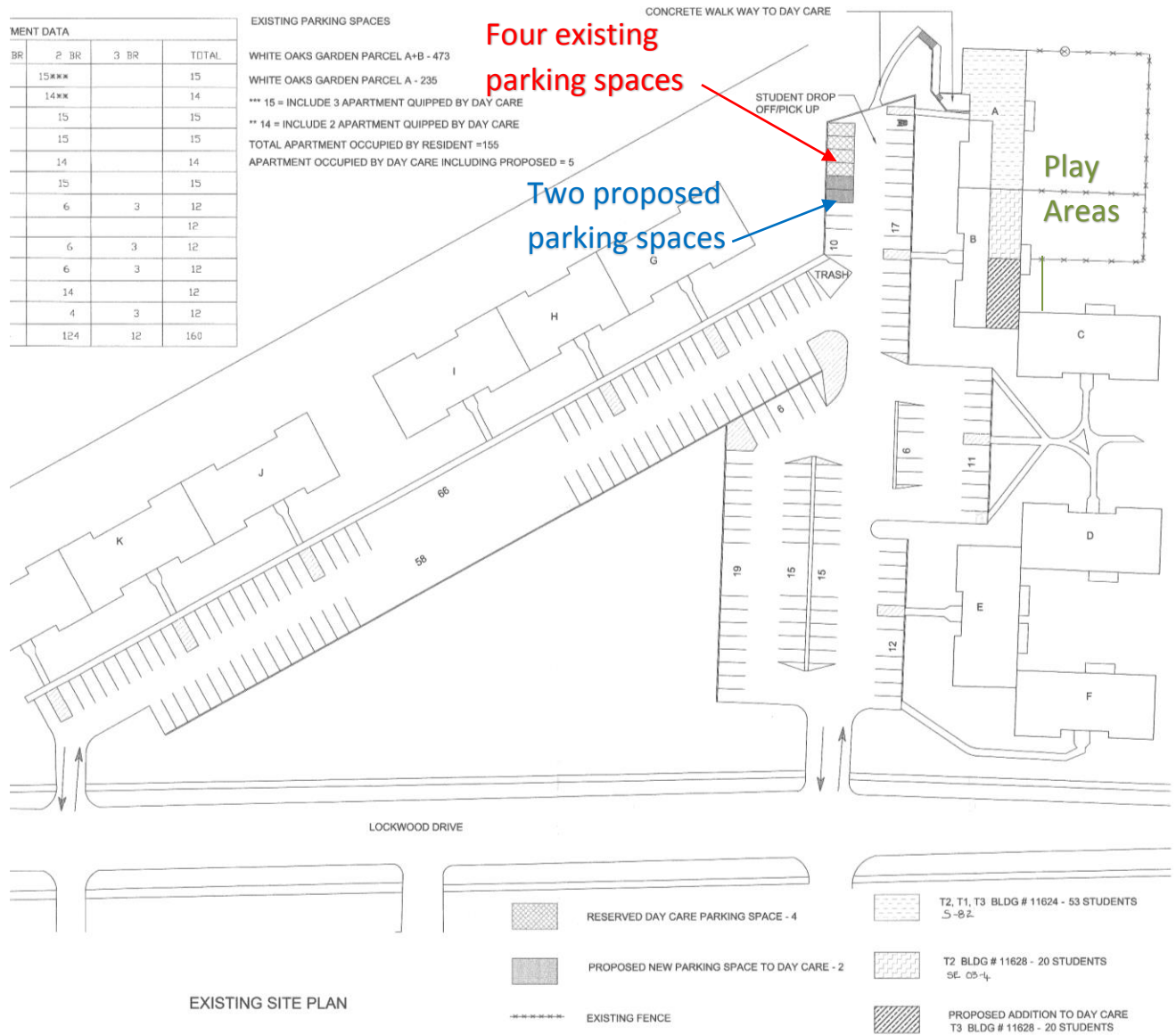


Figure 1: Parking

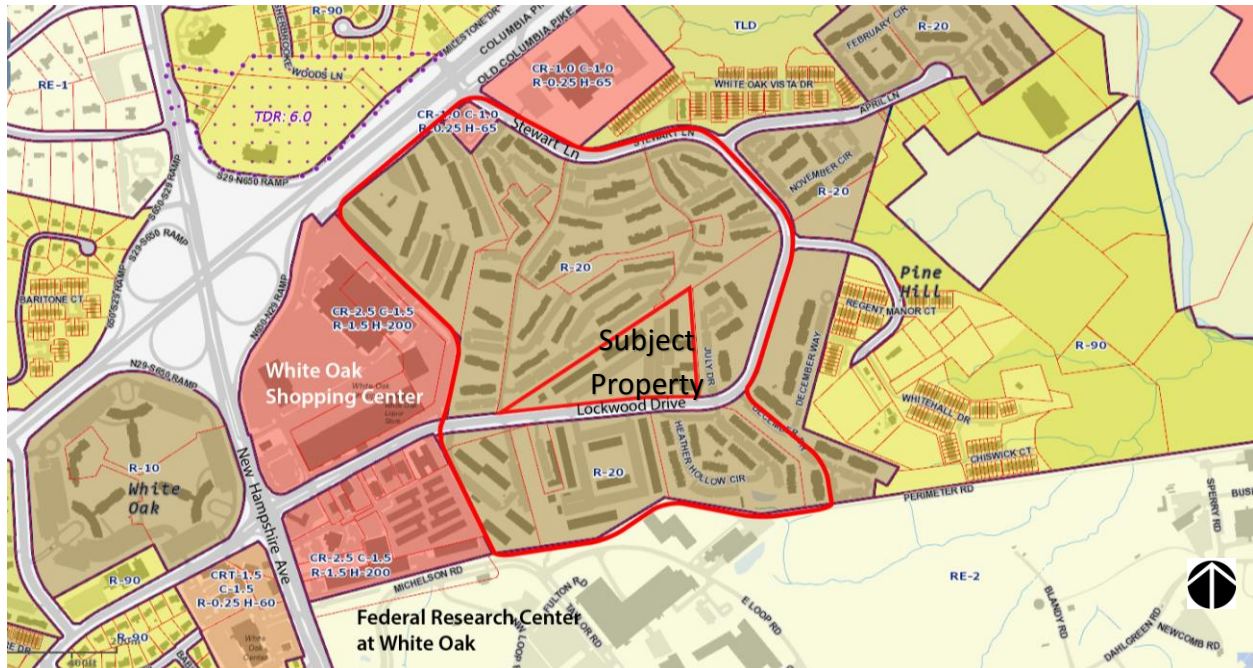


Figure 2: Neighborhood Boundary and Zoning Map

### Neighborhood Description

The Staff-defined neighborhood is generally bounded by the Federal Research Center at White Oak to the south, Lockwood Drive to the east, Stewart Lane and Columbia Pike to the north, and White Oak Shopping Center and other commercial uses to the west.

The neighborhood is primarily zoned R-20 with CRT zones on the commercial property along the western boundary. There is one other special exception for a medical practice in the staff-defined neighborhood. The existing day care is the only special exception (now a conditional use) on the Property (Figure 3).



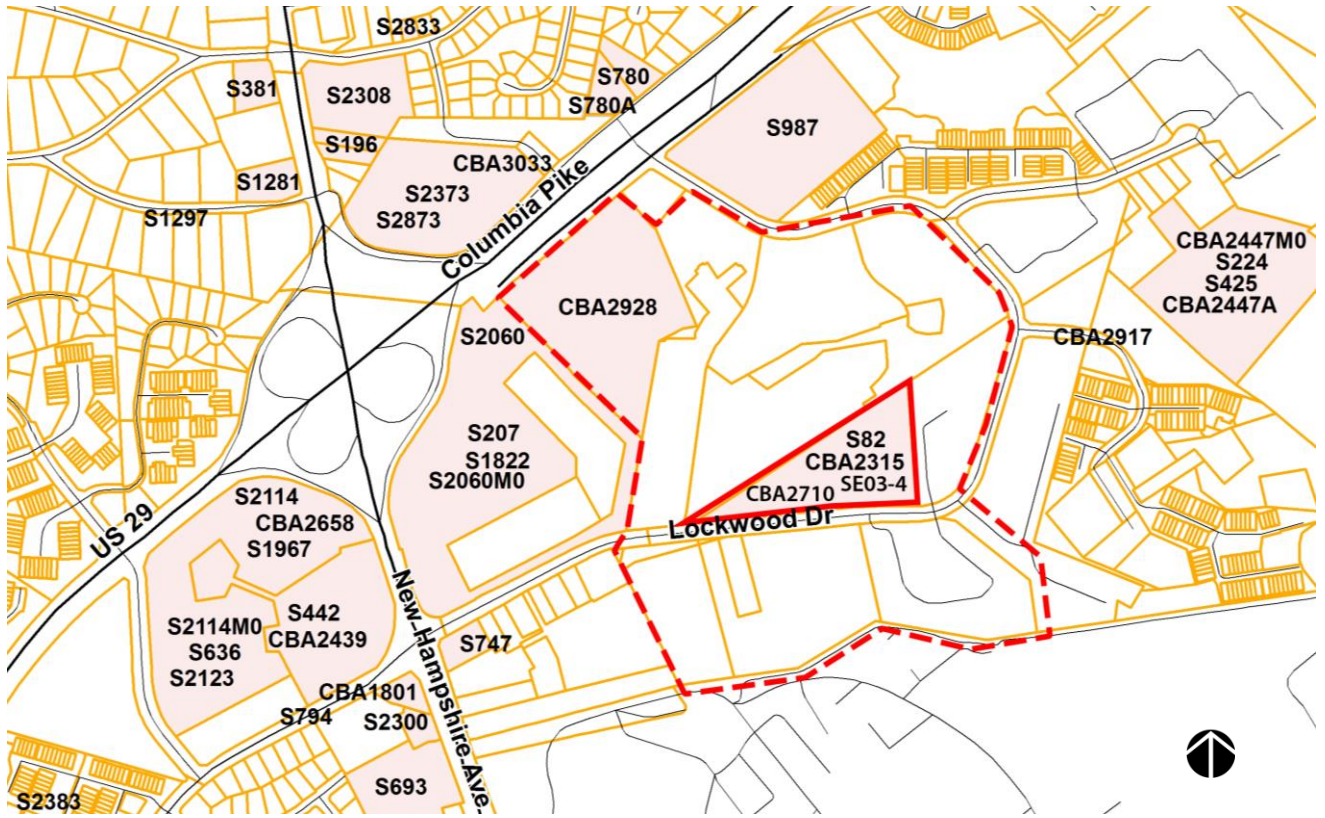


Figure 3: Approved Special Exceptions and Conditional Use applications within the defined Neighborhood Boundaries



Figure 4: Subject Property Aerial

## **Previous Approvals**

Effective December 21, 1967, the Board of Appeals granted Case No. CBA 2315 to allow a day care center for up to 40 children in Apartment Units T-1 and T-2 at 11624 Lockwood Drive.

Effective December 18, 1969, the Board of Appeals granted Case No. CBA 2710 to allow a day care center for up to 60 children in Apartment Units T-1, T-2, and T-3 at 11624 Lockwood Drive.

Effective June 7, 1972, the Board of Appeals granted Case No. S-82 to permit the operation of a child day care center of up to 60 children in Units T-1, T-2, and T-3 at 11624 Lockwood Drive, with hours of operations from 7:30 a.m. to 6:30 p.m.

Effective March 5, 1980, the Board of Appeals transferred the special exception No. S-82 to Audra Stone, and modified it to reflect hours of operation from 7:00 a.m. to 6:30 p.m.

Effective June 23, 1982, the Board of Appeals transferred the special exception S-82 from Audra Stone to Elizabeth Cottrell.

Effective October 29, 1993, the Board of Appeals transferred the special exception No. S-82 from Elizabeth Cottrell to Kamini Wayal.

Effective September 5, 1997, the Board of Appeals granted a modification of the special exception No. S-82 to allow hours of operation from 6:30 a.m. to 6:30 p.m., and expanded the age of the children from infant to twelve years.

Effective April 4, 2004, the Board of Appeals granted Case No. SE 03-4 to allow a day care center in Unit T-2, at 11628 Lockwood Drive for up to 20 children between the ages of four and twelve, and three staff. The day care center currently has 13 of the 20 children approved.

Effective June 23, 2015, the Board of Appeals transferred special exception No. S-82 to from Kamini Wayal to Samina Ali-Zai.

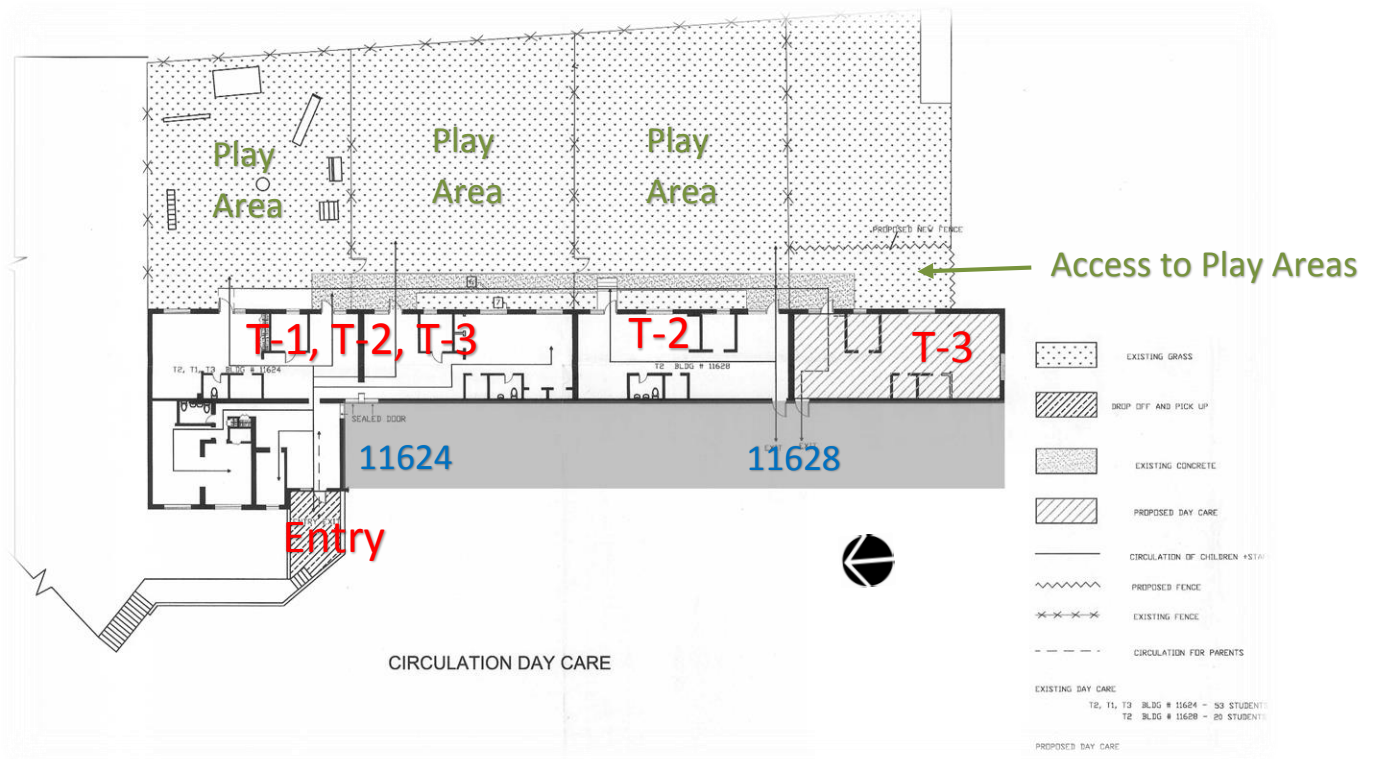


Figure 5: Proposed day care center floor plan

## ANALYSIS

### Master Plan Conformance

The Property is located within the *2014 White Oak Science Gateway Master Plan*. It is the only day care center within the Staff-defined neighborhood boundary. The Master Plan recommends retaining the R-20 zoning for this neighborhood primarily to maintain the current stock of market affordable housing in the area. It has no specific recommendations for the proposed use or other potential conditional uses on the Property. The proposed day care center will support the Master Plan's goal of maintaining the market-affordable housing by providing a service needed for this community. By providing the day care service in a dense development of multifamily apartments, the proposed use will reduce the reliance on cars and help achieve the Master Plan goal of reducing the single occupancy mode of travel since over 75% of its children live within walking distance, and many of its employees use transit.

### Environment

This Conditional Use is subject to the Forest Conservation Law per Chapter 22A of the Montgomery County Code. The Property contains no forest, streams, wetlands, 100-year floodplains, steep slopes, or known habitats of rare, threatened or endangered species. The application received an exemption from the requirements of submitting a Forest Conservation Plan under Section 22A-5 (q)(1) of the Forest Conservation Law (Attachment 1).



## Transportation

### Master-Planned Roadway, Bikeway, and Transitway

The 2014 *White Oak Science Gateway Master Plan* designates Lockwood Drive as a two-lane arterial, A286, with a recommended 90-foot wide minimum right-of-way and bike lanes, LB-2.

The 2013 *Countywide Transit Corridors Functional Master Plan* for the Bus Rapid Transit (BRT) recommends a BRT station along Corridor No. 9 (US 29) with buses operating within the existing travel lanes and a BRT station at the White Oak Shopping Center.

### Pedestrian Facilities

There is a sidewalk connection from the parking area with steps down to the day care center entrance. Within the apartment complex, internal sidewalks and informal worn paths through the grass areas connect the apartment buildings in the complex. The existing sidewalks along Lockwood Drive are 4 feet wide with a 10-foot wide grass panel. There are no lead-in sidewalks from Lockwood Drive in to the complex.

### Available Transit Service

Transit service is available on Lockwood Drive between the White Oak Shopping Center and Stewart Lane as follows:

1. Ride On Route 10 operates between the Twinbrook Metrorail Station and the Hillandale Shopping Center with 30-minute headways on weekdays and weekends.
2. Metrobus Routes Z6 & Z8 operate between the Burtonsville Crossing Park & Ride Lot and Silver Spring Metrorail Station with 30-minute headways on weekdays and weekends

### Local Area Transportation Review

The 2012-2016 Subdivision Staging Policy (County Council's Resolution No. 17-601) states that if the use and occupancy certificate for 75% of the originally approved development was issued more than 12 years ago (April 2004, in this case), the traffic study for the proposed uses must be based on the increased number of peak-hour vehicular trips rather than the total number of peak-hour trips. Therefore, the six vehicular trips generated by the existing 73-child day care center in each of the weekday peak hours (morning or evening) are considered existing trips already on the road network and only the traffic generated by the additional 20 children and three employees is analyzed for trip generation purposes.

According to the Applicant's traffic statement, within the weekday morning (6:30 to 9:30 a.m.) and evening (4:00 to 7:00 p.m.) peak periods, 58 of the 73 existing children walk with their parents to the existing day care center, the other 15 are driven to the center. Eleven of twelve existing employees walk or take transit, only one drives to the site. This pattern of travel has existed since at least the approval of SE 03-04 in April 2004, and is expected to continue with the proposed addition of 20 children and three employees. Therefore, with the arrivals and departures to be staggered with no more than three vehicles every 15 minutes, as recommended by Staff as a condition of approval, the proposed addition of 20 children and three employees will result in no more than two additional vehicular trips in any peak hour within each of the weekday morning and evening peak periods.



A traffic study is not required to satisfy the Local Area Transportation Review (LATR) test because two new peak hour vehicular trips generated by the proposed addition of 20 children and three employees during each of the weekday peak period is below the threshold of 30 vehicular peak hour trips during any of the weekday peak periods. Although not relevant for the LATR analysis purposes, Staff notes that if the same day care center (with up to 93 children) was not located in such walkable, dense development of garden apartments, it would generate approximately 43 peak hour trips in the morning and 47 peak hour trips in the evening during weekday peak periods, and require a traffic study (as compared to eight in the morning and eight in the evening at the current location).

#### On-site Parking

The proposed six parking spaces are adequate for one staff person driving to the site and the low number of parents dropping off/picking-up children by car.

#### Policy Area Review

Under the current Transportation Policy Area Review (TPAR) controls, no TPAR payment will be required because the proposed use will not increase the square footage of the existing apartment building.

#### **Community Concerns**

Staff has not received any correspondence from the surrounding community in relation to this application.

### **FINDINGS**

#### **Conditions for Granting a Conditional Use Section 7.3.1.E Necessary Findings**

1. *To approve a conditional use application, the Hearing Examiner must find that the proposed development:*
  - a. *satisfies any applicable previous approval on the Subject Property or, if not, that the previous approval must be amended;*

If this request is approved, the Applicant must abandon all previous special exception approvals for the existing child day care center.

- b. *satisfies the requirements of the zone, use standards under Article 59-3, and applicable general requirements under Article 59-6;*

The Application does not propose any modifications to the existing building or landscape. The existing building will continue to comply with the requirements of the zone. The proposed use complies with all applicable use standards as described in this report.

**Section 59-3.4.4**

**F. Day Care Center (Over 30 Persons)**

**2. Use Standards**

The Application satisfies the Use Standards as detailed below:

- a. *Where a Day Care Center (Over 30 Persons) is allowed as a limited use and the subject lot abuts or confronts property zoned Agricultural, Rural Residential, or Residential Detached that is vacant or improved with an agricultural or residential use, site plan approval is required under Section 7.3.4.*

The proposed use is allowed as a conditional use and is not subject to site plan approval under Section 7.3.4.

- b. *Where a Day Care Center (Over 30 Persons) is allowed as a conditional use, it may be permitted by the Hearing Examiner under Section 7.3.1. Conditional Use, and the following standards:*

- i. *All required parking must be behind the front building line; however, required parking may be located between the structure and the street where the Hearing Examiner finds that such parking is safe, not detrimental to the neighborhood, accessible, and compatible with surrounding properties.*

The proposed Day Care Center is located in the White Oak Gardens Apartment complex. All parking spaces are located behind the front building line, and they are safe, not detrimental to the neighborhood, accessible, and compatible with surrounding properties.

- ii. *An adequate area for the discharge and pick up of children is provided.*

There is adequate area for drop-off and pick-up of children. The drive aisle is approximately 21 feet wide connecting to a sidewalk leading to the day care center entrance. In addition to the five of the six designated parking spaces available for discharge and pick up of children, the two-way drive aisle is wide enough for cars to remain parked while children are walked in.

- iii. *The Hearing Examiner may limit the number of children outside at any one time.*

As a condition of approval, Staff recommends a maximum of 19 children outside at any one time to limit noise.

- iv. *In the RE-2, RE-2C, RE-1, R-200, R-90, R-60, and R-40 zones, the Day Care Center (Over 30 Persons) must be located on a site containing a minimum of 500 square feet of land area per person. The Hearing Examiner may reduce the area requirement to less than 500 square feet, but not less than 250 square feet, per person where it finds that:*

- (a) *the facility will predominately serve persons of an age range that requires limited outdoor activity space;*
- (b) *the additional density will not adversely affect adjacent properties; and*
- (c) *additional traffic generated by the additional density will not adversely affect the surrounding streets.*

Not applicable; the site is zoned R-20.

- v. *The Hearing Examiner may limit the number of people allowed for overnight care.*

The applicant does not propose overnight care.

- vi. *In the AR zone, this use may be prohibited Section 3.1.5, Transferable Development Rights.*

Not applicable; the site is zoned R-20.

**General Requirements under Article 59-6**

The Application meets the applicable general requirements as described below:

***Division 6.1 Site Access***

***Section 6.1.2. Applicability***

*Division 6.1 applies to development in the Residential Multi-Unit, Commercial/Residential, Employment, Industrial, and Floating zones if:*

- A. *an apartment, multi-use, or general building type is proposed; and*
- B. *a site plan or conditional use approval is required.*

The Subject Property is zoned R-20, Residential Multi-Unit Medium Density. Therefore, Division 6.1 applies.

***Section 6.1.3 General Access Requirements***

A. *Any development must:*

- 1. *Allow a vehicle, pedestrian, or bicycle to enter and exit the property to and from a street or an abutting site safely;*
- 2. *Limit vehicle access across a primary pedestrian, bicycle, or transit route wherever feasible;*
- 3. *Allow a vehicle to enter and exit any on-site parking area in a forward motion; and*
- 4. *Allow a vehicle to access any pad site from within the site.*

The proposed day care center is located at a northern end of the apartment complex. The existing drive aisle allows vehicles, pedestrians and bicycles to enter from Lockwood Drive and exit back onto Lockwood Drive safely in a forward motion without crossing a primary pedestrian, bicycle and transit route.

*Section 6.1.4. Driveway Access*

A. *Driveway dimensions must satisfy the following table:*

<b>Zone</b>	<b>Width (min.)</b>	<b>Width (max.)</b>	<b>Radius (max.)</b>
Two-way	20'	24'	10'
Existing Driveway	+/- 21'		Dead end along a driveway

The existing driveway dimensions satisfy the required two-way driveway width.

**Division 6.2 Parking, Queuing, and Loading**

**Section 6.2.2. Applicability**

- A. *Under Division 6.2, any use must provide off-street parking that permits a vehicle to enter and exit the property. Any change in floor area, capacity, use, or parking design requires recalculation of the parking requirement under Division 6.2, and may be subject to a payment under Chapter 60. The parking ratios of Division 6.2 do not apply to any:*
- 1. structure on the National Register of Historic Places; or*
  - 2. expansion or cumulative expansions of less than 500 square feet in gross floor area or impervious cover.*
- B. *An applicant must not reduce the area of an existing off-street parking facility below the minimum number of parking spaces required under Division 6.2 unless an alternative compliance plan is approved.*

Division 6.2 is applicable because the proposal is a request to change the capacity of the existing use. The calculation of the parking requirement in accordance with Sections 6.2.4.B. and 6.2.4.C is as follows:

Table 3: Parking Calculation

Floor Area of the proposed Day Care Center: 4,270 SF			
Day Care Center Use	Required	Existing	Proposed
6.2.4.B. 3 Spaces/1,000 SF	13	4	6
6.2.4.C. 1 bicycle parking/5,000 SF	1	0	0

The Applicant proposes two parking spaces in addition to the four existing parking spaces currently serving the existing day care center.

The proposed conditional use request does not meet the parking requirements of Sections 6.2.4.B and 6.2.4.C. Per Section 6.2.10. Staff supports the requested parking waiver as discussed below.



**Section 6.2.10. Parking Waiver**

*The deciding body may waive any requirement of Division 6.2, except the required parking in a Parking Lot District under Section 6.2.3.H.1, if the alternative design satisfies Section 6.2.1. Any request for a waiver of the vehicle parking space requirement under Section 6.2.4.B requires application notice under Section 7.5.2.D.*

The current day care center has four parking spaces dedicated for its use. As Table 3 above shows, a total of 13 parking spaces are required for the proposed day care center. The Applicant is proposing to add two more parking spaces for a total of six spaces to be reserved for the proposed use. Since the proposed use is not located in a Parking Lot District, the Applicant is requesting a parking waiver for the remaining seven parking spaces. The alternative design (six spaces in the parking lot in front of the building) satisfies *Section 6.2.1. Intent*, which states:

*The intent of the vehicle and bicycle parking, queuing, and loading requirements is to ensure that adequate parking is provided in a safe and efficient manner.*

Of the 73 children currently enrolled in the day care center, 75% live within walking distance, 5% use public transportation, and the remaining 20% use private transportation. Ten of the twelve current employees walk or use public transportation. One employee is dropped off by car, and one drives and uses a parking space. The four existing spaces have served the existing use adequately for more than 10 years. The proposed use is expected to continue the current pattern of travel by the children and the employees coming to the site. Of the 20 additional children, approximately 12 will walk to the day care center with their families and eight will be dropped off and picked up by car or bus. With the staff recommended condition of approval, that the Applicant must schedule staggered drop-off and pick-up times with no more than three vehicles every 15 minutes, six parking spaces in the existing parking lot in front of the building will be safe and adequate for the proposed use. Therefore, Staff supports the requested parking waiver.

**Division 6.3 Open Space and Recreation**

The Applicant does not propose any modification to existing open space on the Subject Property. The proposed play area is adequate for the proposed center. No additional open space is required for the proposed use.

**Division 6.4 General Landscaping and Outdoor Lighting**  
**Section 6.4.2. Applicability**

*Division 6.4 applies to landscaping required under this Chapter, the installation of any new outdoor lighting fixture, and the replacement of any existing outdoor fixture. Replacement of a fixture means to change the fixture type or to change the mounting height or location of the fixture.*

The Applicant does not propose any modifications to the existing landscaping and outdoor lighting, and there is no required landscaping for the proposed use under this Chapter.

**Division 6.5 Screening Requirements**

**Section 6.5.2. Applicability**

*C. Residential Townhouse, Residential Multi-Unit, Commercial/Residential, Employment, and Industrial Zones*

*In the Residential Townhouse, Residential Multi-Unit, Commercial/Residential, Employment, and Industrial zones:*

*1. The conditional use in a detached house or duplex building type must provide screening under Section 6.5.3 if the subject lot abuts property in an Agricultural, Rural Residential, or Residential Detached zone that is vacant or improved with an agricultural or residential use.*

*a. The conditional use standards under Article 59-3 may exempt the development from this requirement.*

*b. The Hearing Examiner may increase the amount of screening required for conditional use approval under Section 7.3.1.*

Not applicable. The Site is in a Residential Multi-Unit Medium Density zone and does not abut property in an Agricultural, Rural Residential, or Residential Detached zone.

**Division 6.6 Outdoor Display and Storage**

**Section 6.6.2. Applicability**

*A. Division 6.6 applies to any site where merchandise, material, or equipment is displayed or stored outside of a completely enclosed building.*

*B. Division 6.6 does not apply to:*

*1. merchandise, material, or equipment for agricultural uses in an Agricultural or Rural Residential zone; and*

*2. where allowed, the outdoor sale, lease, or rental of motor vehicles and heavy equipment as part of a properly allowed use.*

There is no merchandise, material or equipment currently displayed or stored outside, and the Applicant does not propose to do so.

**Division 6.7 Signs**

**Section 6.7.2. Applicability**

*A. A property owner must obtain a permit under Division 6.7 before a sign is constructed, erected, moved, enlarged, illuminated, or substantially altered, except for signs covered by Section 6.7.3, Exempt Signs, Section 6.7.11, Limited Duration signs, and Section 6.7.12, Temporary Signs.*

*B. A property owner must maintain a sign in good repair and in a safe condition. Routine maintenance does not require a permit. Routine maintenance includes painting, cleaning, changing copy where permitted, or changing copy to satisfy a sign concept plan.*

*C. A sign not listed in Division 6.7 or that does not satisfy the requirements in Division 6.7 may be constructed if the applicant obtains a variance from the Sign Review Board.*

The Application does not propose any additions or modifications to the existing signage onsite.

**Section 7.3.1.E.1 (Necessary Findings cont'd)**

- c. substantially conforms with the recommendations of the applicable master plan:*

The Property is located within the *2014 White Oak Science Gateway Master Plan*. It is the only day care center within the Staff-defined neighborhood boundary. The Master Plan recommends retaining the R-20 zoning for this neighborhood primarily to maintain the current stock of market affordable housing stock in the area. It has no specific recommendations for the proposed use or other potential conditional uses on the Subject Property. The proposed day care center will support the Master Plan's goal of maintaining the market affordable housing by providing a service needed for this community. By providing the day care service in a densely developed area with multifamily apartments, the proposed use reduces the reliance on cars and helps achieve the Sector Plan goal of reducing the single occupancy mode of travel since over 75% of its children live within walking distance, and many of its employees use transit.

- d. is harmonious with and will not alter the character of the surrounding neighborhood in a manner inconsistent with the plan;*

The proposed day care center is contained within an existing apartment building. It does not propose any additions or modifications to the existing building. Therefore, the existing building containing the proposed use will continue to be in harmony with the surrounding neighborhood. The proposed use will be harmonious with, and will not alter, the character of the surrounding neighborhood in a manner inconsistent with the Master Plan.

- e. will not, when evaluated in conjunction with existing and approved conditional uses in any neighboring Residential Detached zone, increase the number, intensity, or scope of conditional uses sufficiently to affect the area adversely or alter the predominantly residential nature of the area; a conditional use application that substantially conforms with the recommendations of a master plan does not alter the nature of an area;*

The proposed use is the only child day care in the defined neighborhood. The proposed expansion from 73 to 93 children will increase pedestrian and vehicular activity in and around the Subject Property. But the intensity of vehicular and pedestrian activity associated with the proposed increase is minimal. The proposed use will not, when evaluated in conjunction with existing and approved conditional uses, increase the number, intensity, or scope of conditional uses sufficiently to adversely affect the area or alter the predominately residential nature of the area.

- f. 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. If an approved adequate public facilities test is currently valid and the impact of the conditional use is equal to or less than what was approved, a new adequate public facilities test is not required. If an adequate public facilities test is required and:*

- i. if a preliminary subdivision plan is not filed concurrently or required subsequently, the Hearing Examiner must find that the proposed development will be served by adequate*

- public services and facilities, including schools, police and fire protection, water, sanitary sewer, public roads, and storm drainage; or*
- ii. if a preliminary subdivision plan is filed concurrently or required subsequently, the Planning Board must find that the proposed development will be served by adequate public services and facilities, including schools, police and fire protection, water, sanitary sewer, public roads, and storm drainage; and*

The Subject Property is currently served by public services and facilities. The proposed use will not impact public schools. The existing roads and sidewalks, police and fire protection, water, sanitary sewer, and storm drainage currently serving the site will remain adequate. The existing and planned public services and facilities are adequate for the proposed use.

- g. will not cause undue harm to the neighborhood as a result of a non-inherent adverse effect alone or the combination of an inherent and a non-inherent adverse effect in any of the following categories:*
- i. the use, peaceful enjoyment, economic value or development potential of abutting and confronting properties or the general neighborhood;*
- ii. traffic, noise, odors, dust, illumination, or a lack of parking; or*
- iii. the health, safety, or welfare of neighboring residents, visitors, or employees.*

The proposed use will not cause undue harm to the neighborhood as a result of non-inherent adverse effect alone or in the combination of inherent and a non-inherent adverse effect of the defined categories.

An analysis of inherent and non-inherent adverse effects considers size, scale, scope, light, noise, traffic and environment. Every conditional use 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 conditional use.

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

There will be no adverse traffic impacts caused by the proposed use since a majority of the children will be walked to the day care by their families, and many of the employees will take transit. There will be adequate area for drop-off and pick-up of children. Outdoor play areas are adequate, and Staff is recommending as a condition of approval that outdoor play time be limited to 30 minutes for each group of no more than 19 children during two hours in the morning and two hours in the afternoon. Each of the play areas is enclosed by a six-foot tall fence. The landscaping and lighting on the property will not be modified and is adequate and consistent with the residential character of the neighborhood.



**Section 7.3.1. Conditional Use**

**E. Necessary Findings [cont'd]**

2. *Any structure to be constructed, reconstructed, or altered under a conditional use in a Residential Detached zone must be compatible with the character of the residential neighborhood.*

The proposed use will not modify the exterior of the building, which will continue to be compatible with the character of the residential neighborhood.

3. *The fact that a proposed use satisfies all specific requirements to approve a conditional use does not create a presumption that the use is compatible with nearby properties and, in itself, is not sufficient to require conditional use approval.*

Staff has no comments to address this finding.

4. *In evaluating the compatibility of an agricultural conditional use with surrounding Agricultural or Rural Residential zoned land, the Hearing Examiner must consider that the impact does not necessarily need to be controlled as stringently as if it were abutting a Residential zone.*

Not applicable. The proposed use is not an agricultural conditional use.

5. *The following conditional uses may only be approved when the Hearing Examiner finds from a preponderance of the evidence of record that a need exists for the proposed use to serve the population in the general neighborhood, considering the present availability of identical or similar uses to that neighborhood:*
  - a. *Filling Station;*
  - b. *Light Vehicle Sales and Rental (Outdoor);*
  - c. *Swimming Pool (Community); and*
  - d. *the following Recreation and Entertainment Facility use: swimming pool, commercial.*

Not applicable. The proposed use is a day care center.

6. *The following conditional uses may only be approved when the Hearing Examiner finds from a preponderance of the evidence of record that a need exists for the proposed use due to an insufficient number of similar uses presently serving existing population concentrations in the County, and the uses at the location proposed will not result in a multiplicity or saturation of similar uses in the same general neighborhood:*
  - a. *Funeral Home; Undertaker;*
  - b. *Hotel, Motel;*
  - c. *Shooting Range (Outdoor);*
  - d. *Drive-Thru;*
  - e. *Landfill, Incinerator, or Transfer Station; and*
  - f. *a Public Use Helipad, Heliport or a Public Use Helistop.*

Not applicable. The proposed use a day care center.

## **Conclusion**

The proposed conditional use complies with the general conditions and standards of a conditional use day care center, including the Parking Waiver section of the Zoning Ordinance. The proposed use is consistent with the goals and recommendations of Section 6.2.10 and the Master Plan, will not alter the residential character of the surrounding neighborhood, and will not result in any unacceptable noise, traffic, or environmental impacts on surrounding properties. Staff recommends approval with conditions.

### Attachments:

1. Forest Conservation Exemption dated March 3, 2016
2. Site Photos

ATTACHMENT 1



Development Applications and Regulatory Coordination Division

Effective 6/29/2015

M-NCPPC

8787 Georgia Avenue, Silver Spring, MD 20910

301-495-4550, fax: 301-495-1306

APPLICATION

Forest Conservation Law Applicability for Conditional Uses/Special Exceptions

Property Information

11624-11628 Lockwood Drive <sup>Unit 1</sup> (11600 Lockwood Drive) Silver Spring  
 Address: Whit Oak Gardens N/A Parcel N120 N/A City: K011 N120  
 Subdivision Name: OS-00277577 Plot(s): Lot(s): Block(s): Tax Map: Parcel(s):  
 Property Tax ID 1: Property Tax ID 2: Property Tax ID 3: Property Tax ID 4:

Applicant (Owner, Contract Purchaser, or Owner's Representative)

SAMINA ALI ZAI Smart-ED Early Learning Center  
 Name: 11624 Lockwood Drive, T-1 Company:  
 Street Address: Silver Spring MD 20904  
 City: 301-681-5373 State: Zip Code:  
 Phone Number: Email Address: 334501 sq. ft.

Total Area of Property: 7.68 acres -854 square feet (existing in a unit)

Applicant attests that the following statements apply to the subject property conditional use/special exception application:

*JKL 3/3/2016*  
 The application does not propose any clearing or grading activities on or near the conditional use/special exception site. (Requires plan number and M-NCPPC signature below)

OR, all of the following:

- The application applies to a property of less than 40,000 square feet. *X* (Not subject to Forest Conservation Law;
- The property is not subject to a previously approved Forest Conservation Plan. *not applicable*
- The conditional use/special exception proposal will not impact any champion tree as defined by the Montgomery County Forestry Board. *requires M-NCPPC signature below*

PLEASE NOTE: If regulated activities occur on the property other than what is being attested to, the exemption immediately terminates without action by the Planning Board. The Planning Director may require the submission and approval of a Natural Resources Inventory/Forest Stand Delineation and a Forest Conservation Plan and may also issue a fine of up to \$1,000 per day.

*X* [Signature] *X* 2-1-2016  
 Applicant's Signature Date  
*X* SAMINA ALI ZAI  
 Printed Name

For Staff Use Only

M-NCPPC acknowledges that the conditional use/special exception for the above property:

- is not subject to the Forest Conservation Law as defined in Chapter 22A of the Montgomery County Code.
- is exempt from the Forest Conservation Plan requirements under Section 22A-5(q)(1) of the Forest Conservation Law.

Plan Name: Smart-ED Early Learning  
 Plan Number: 4 2016/11 E

[Signature] 3/3/2016  
 M-NCPPC Signature Date  
 Jessica Leatherman  
 Printed Name



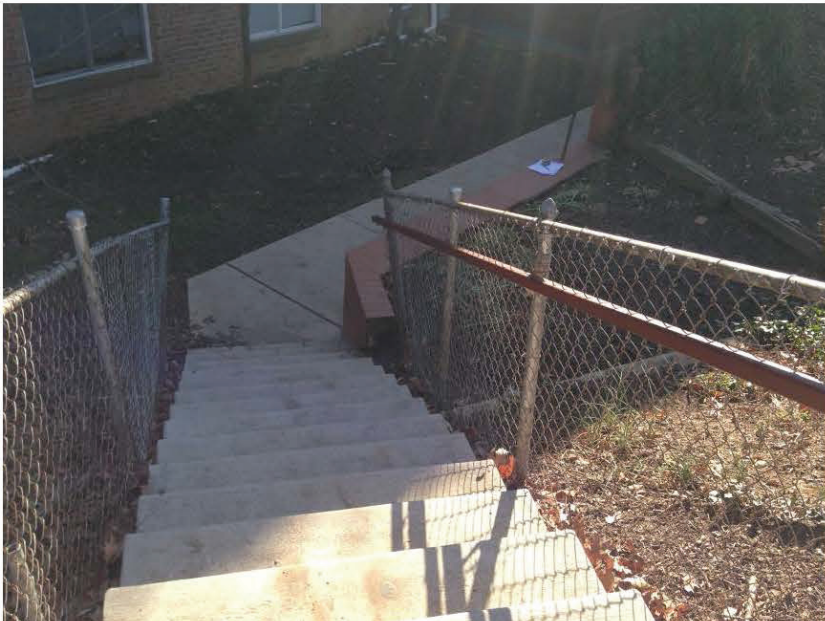
ATTACHMENT 2



**A** Sidewalk leading from the parking lot



**B** Sidewalk continuing to front entry



**C** Steps leading down from sidewalk to the entrance level



**D** Sidewalk to the front entrance

SMART-ED EARLY  
LEARNING CENTER

ATTACHMENT 2

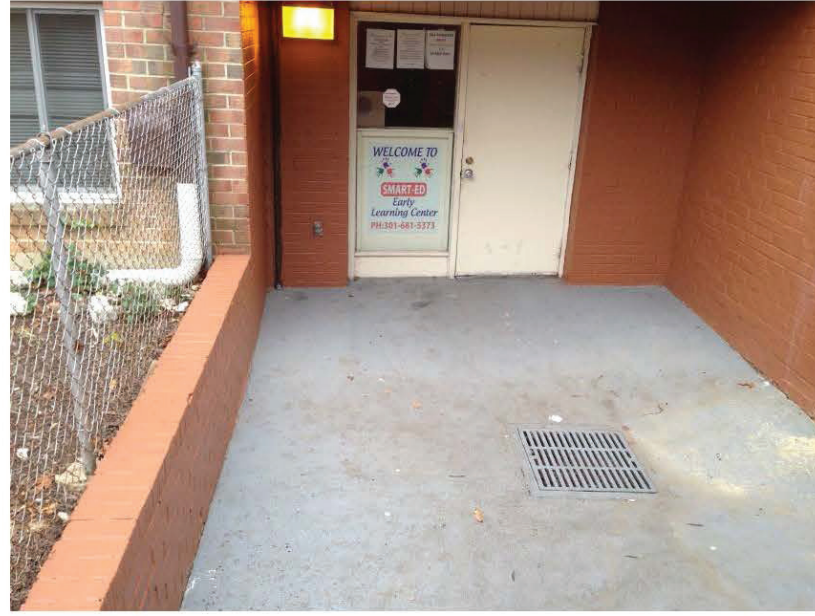
SHOWCASE  
ARCHITECTS



ATTACHMENT 2



E Steps down to the front entrance



F Entrance to the day care center

SMART-ED EARLY  
LEARNING CENTER

ATTACHMENT 2

SHOWCASE  
ARCHITECTS



ATTACHMENT 2



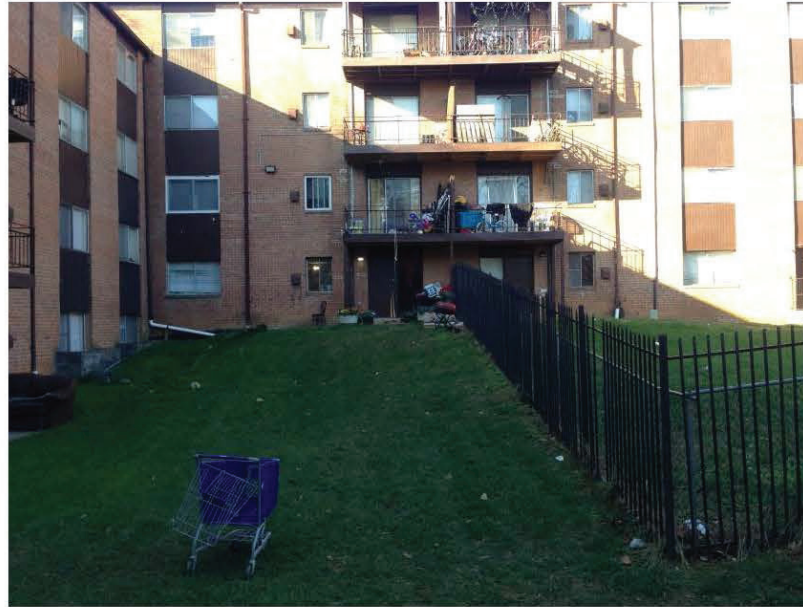
G Play areas



H Play areas



I Play areas



J Play areas

SMART-ED EARLY  
LEARNING CENTER

ATTACHMENT 2

SHOWCASE  
ARCHITECTS