



**Hannah Weiser, Child Day Care Center, Conditional Use No. CU 2016-07**

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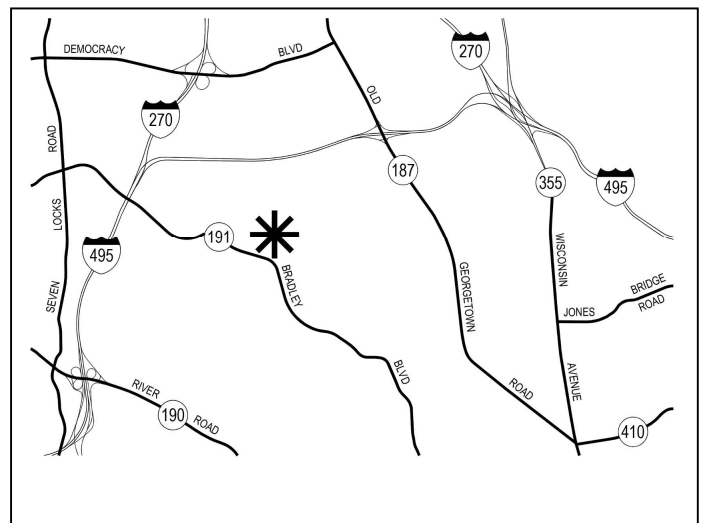
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**Staff Report Date: 4/29/16**

**Description**

- Request for a Child Day Care Facility for 15 Children
- Address: 9205 Fernwood Road
- Zone: R-90
- Master Plan: 1990 Bethesda -Chevy Chase
- Applicant: Hannah Weiser
- Filing Date: November 13, 2015
- Public Hearing: June 3, 2016 at the Hearing Examiner’s Office.



**SUMMARY**

**Recommendation**

Staff recommends **Approval** with conditions of Conditional Use CU 2016-07 for a child day care facility for 15 children and four non-resident employees.

Section 59.6.2.10 of the Zoning Ordinance allows an Applicant to request the following parking waivers:

- from Section 59.6.2.5.D.1 for striping and marking of off-street parking spaces;
- from Section 59.6.2.5 K.2.b. for the minimum side yard setback along the northern lot line for the parking facility; and
- from Section 59.6.2.9.B.1.a., b., and c. for parking lot landscaping for conditional uses

Staff supports waiver requests from Sections 59-6.2.5.K.2.b and 59.6.2.9.B.1.a., b., and c. of the Zoning Ordinance.

Staff does not support the waiver request from Section 59.6.2.5.D.1 of Zoning Ordinance, as elimination of striping and marking for off-street parking spaces has the potential to create vehicular conflicts on site.

The Applicant is also requesting Alternative Compliance for the screening requirements under Section 59.6.5.3C.7 of the Zoning Ordinance. Staff supports the Alternative Compliance request.

## Section I.: Staff Recommendation:

Staff recommends approval of Conditional Use (CU 2016-07) for child day care facility with the following conditions:

1. The day care facility is limited to 15 children and 4 non-resident employees.
2. The hours of operation are Monday through Friday from 7:00 a.m. to 7:00 p.m.
3. No more than 10 children are permitted to play outdoors at any one time.
4. Outside play time may not start prior to 9:00 a.m. and may not extend beyond 5:00 p.m.
5. Four on-site parking spaces must be provided for non-resident employees.
6. The Applicant must supplement the existing landscaping along the northern lot line in the front yard with three additional shrubs.
7. The applicant must provide one long-term weather-protected bicycle parking space on site. The exact location and type of bicycle parking space should be coordinated with the Montgomery County Department of Permitting Service (MCDPS) prior to issuance of a use and occupancy permit for the proposed use.
8. The applicant shall enter into an agreement with each parent to specify an assigned arrival and departure time for each child so that no more than two vehicles are:
  - a) arriving within any 15-minute time period between 7:00 a.m. and 10:00 a.m., or
  - b) departing within any 15-minute time period between 4:15 p.m. and 7:00 p.m.The agreement shall also require that all vehicles exiting the site are limited to a right turn only onto Fernwood Road during the hours of operation for the child day care facility.
9. The Applicant must construct and maintain a hard surface pedestrian path between the parking area and the entrance to the child day care center located at the rear of the existing dwelling unit.
10. The Applicant must install low-level lighting along the new pedestrian path to ensure safe pedestrian movements on-site.
11. The Applicant must install a gate in the existing fence to connect the proposed pedestrian path to the entrance to the conditional use.
12. The Applicant must upgrade the existing driveway as follows:
  - a. Widen both driveway access points to a standard 20-foot wide.
  - b. Widen the driveway, between the northern driveway access point and garage, to a minimum width of 18 feet to accommodate two standard (8.5' x 18') parallel parking spaces.
  - c. Widen the semi-circular portion of the driveway to a minimum width of 18 feet to accommodate two seven-foot wide parallel parking spaces along the east side of the circular driveway and one 10-foot wide travel/ loading lane along western side of the driveway.
  - d. Mark and stripe each individual parking and loading space to provide for orderly and safe on-site vehicular movements subject to approval by MCDPS.
13. The existing driveway must be signed and restricted to one-way (counter-clockwise movement) operation where traffic enters the site via the southern driveway entrance (inbound right-turn only) and exits the site via the northern driveway entrance (outbound right turn only). Driveway signage must be approved by the Montgomery County Department of Permitting Services.
14. The Applicant must submit a sign application, for the child day care facility, proposed sign's location to the Sign Review Board for approval.

## Section II: Project Description

### A. Background

The subject Property (“Property” or ‘Site”) is located on the east side of Fernwood Road approximately 150 feet northeast of its intersection with Greentree Road in Bethesda. It contains 10,000 square feet of land and is zoned R-90. The property was recorded in the County Land Records as Plat #3672, Lot 1, Block 8, Green Tree Manor Subdivision, Section One.

### B. Site Description

The property is rectangular in shape with 100 feet of frontage on Fernwood Road. It is developed with a 2-story one-family detached dwelling unit and an attached two car garage. The property is served by a semi-circular driveway with two access points on Fernwood Road. The area between the two access points contains a planting strip approximately 13 feet in width and 37 feet in length, containing evergreen and deciduous trees. The planting strip is completely within the right-of-way for Fernwood Road. Figure 1 shows the subject property.



Figure 1: View of Site from Fernwood Road, (looking east)

Fernwood Road is classified as a primary residential roadway. The intersection of Fernwood and Greentree Roads is a four-way stop with a northbound yield lane for Fernwood Road. The northbound lane of Fernwood Road contains a raised median with traffic flex poles along the majority of the site’s frontage. Significant landscaping and foundation plantings are located along the front of the dwelling unit. Mature and healthy evergreen landscaping is located along the

southern lot line and a portion of the front yard at the southernmost driveway entrance. A hedge and ornamental plantings are located along the northern lot line. The rear yard of the site is enclosed with a 6-foot high board on board wooden fence. Figures 2 and 3 show the intersection's configuration and raised median along the site's frontage, respectively.



Figure 2: Intersection Fernwood and Greentree Roads (Site outlined in red)



Figure 3: Raised median with traffic flex poles on Fernwood Road (looking south from the site)

### C. Neighborhood Description

The neighborhood is bounded by Marywood and Wilmett Roads to the north, Bulls Run Parkway and Ridge Place to the east; Greentree Road to the south and Fernwood Road to the west. The neighborhood is developed with one-family detached residential uses in the R-60 and R-90 zones. Two schools, Wyngate Elementary on Wadsworth Drive and North Bethesda Middle School on Broadmoor Drive, are located immediately adjoining the northern and eastern boundaries of the defined neighborhood. Approved conditional uses located in the defined neighborhood are as follows:

- S-1804 located at 9204 Fernwood Road approved for an accessory apartment on October 3, 1990; and
- S-24 located at 6301 Greentree Road approved for a charitable and philanthropic institution (the National Center for Families and Children) on November 15, 1971; subsequent amendments were approved in 1995, 1999, and 2002.



Figure 4: Defined Neighborhood Outlined in Red (Site outlined in yellow)

#### D. Zoning History

The property is located in the *Bethesda-Chevy Chase Master Plan (1990)* area. The Master Plan reconfirmed the R-90 zone for this site. There are no previously approved conditional uses for the site.

#### E. Proposed Use

The applicant is proposing to operate a day care center for 15 children in her home. The day care center will be located in the basement and will consist of 1,136 square feet. Four non-resident employees will be associated with the use. The hours of operation will be 7:00 am to 7:00 pm, Monday through Friday. Ages of the children will range from infant through pre-school. The applicant proposes to have no more than 10 children in the rear yard at any one time.



Figure 5: Existing Site Conditions of Proposed Conditional Use (Property lines in blue)

Initially, the applicant submitted a vehicular circulation and parking plan to serve the proposed child care use. Figure 6 illustrates the initial plan which was not to scale and could not accommodate parked vehicles or safe on-site vehicular circulation pattern. After meeting with Staff to discuss this submittal, the applicant revised and submitted another vehicular circulation and parking plan as shown in Figure 7. Problems with vehicular parking and circulation were again identified by staff. Staff worked with the applicant to develop a circulation and parking plan as shown in Figure 8. The applicant supports the plan shown in Figure 8.



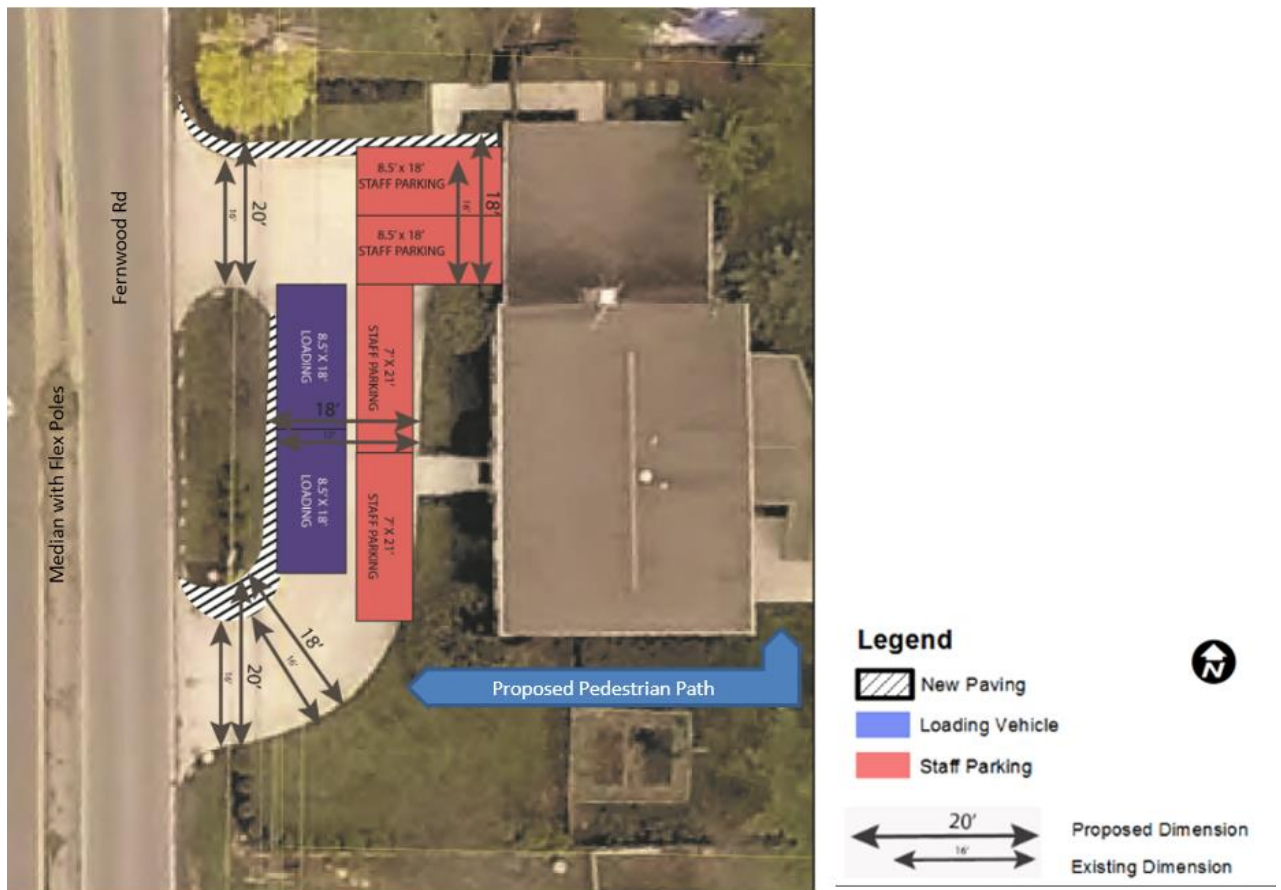


Figure 8: Staff and Applicant’s Proposed Vehicular Circulation and Parking Plan

As shown in Figure 8, the semi-circular driveway and access points will be widened to accommodate on-site vehicular parking and circulation patterns. The semi-circular driveway will be signed for one-way traffic movement. Vehicles will enter the southern access point and exit at the northern access point. Four non-resident employee parking spaces are proposed on-site. Figure 8 shows employee parking in front of the garage and along the inner lane of the semi-circular driveway closest to the dwelling unit. Pick up and drop off areas for children will occur along the outer lane of the semi-circular driveway, closest to the road, shown in dark blue on Figure 8. This outer lane will also serve as short-term parking for parents to the site.

Arrival times for staff and children will occur between 7:00 a.m. and 10:00 a.m., while departure times will occur between 4:15 p.m. and 7:00 p.m. There will be no more than two parents on-site to either drop off or pick up children during any 15- minute period. There will be no more than two vehicles entering or exiting the property during any 15-minute time period.

The applicant will construct a path from the front yard adjacent to the parking facility. This path will connect to a new gate in the existing fence and continue into the enclosed rear yard which leads to the proposed use’s entrance at the rear of the dwelling unit. Entrance to the proposed use consists of a set of at-grade double doors.



There will be no physical changes to the residence. The following changes are proposed to the site's design:

- Widen both driveway access points to 20 feet in width;
- Widen drive aisle by a minimum of 2 feet along the front property line;
- Widen the existing driveway by a maximum of 5 feet along the northern edge;
- Construct a hard-surface path from the semi-circular driveway in the front yard to connect to the rear yard; and
- Add a gate to the existing fence leading from the new path.

The applicant is requesting several waivers under Section 59.6.2.10 of the Zoning Ordinance related to parking facilities for conditional uses. These waivers are as follows:

- from Section 59.6.2.5.D.1 for striping and marking of off-street parking spaces;
- from Section 59.6.2.5 K 2.b. for the minimum side yard setback along the northern lot line for the parking facility; and
- from Section 59.6.2.9.B.1.a., b., and c. for parking lot landscaping for conditional uses.

Staff does not support the waiver request for striping and marking of off-street parking spaces under Section 59.6.2.5.D.1 of the Ordinance. An analysis of each requested waivers is discussed more fully under the Parking, Queuing, and Loading Section of this report.

The applicant proposes to supplement the existing landscaping along the northern lot line with landscaping. No other additional landscaping is proposed. No additional lighting is proposed by the applicant as the existing lighting, residential in nature, will remain unchanged.

Finally, the applicant proposes to place a freestanding sign for the child day care facility within the planting strip between the two existing access points. The sign will have two faces; each face will be 2 feet by 2 feet. The sign will be mounted to a wooden post approximately 4 feet in height. The sign will not be illuminated.

## Section III: Analysis and Findings

### A. Development Standards

The proposed use meets the R-90 Zone Development Standards as shown in Table 1.

**Table 1 Development Standards**

| Development Standards  | Required                     | Proposed                                    |
|--|------------------------------|---|
| Minimum Lot Area (59.4.4.8.B.1)-   | 9,000 sf                     | 10,000 sf                                   |
| Minimum Lot Width (59.4.4.8.B.1) <ul style="list-style-type: none"> <li>• At front building line</li> <li>• At front lot line</li> </ul> | 75 ft.<br>25 ft.             | 100 ft.<br>100 ft.                          |
| Maximum Lot Coverage   | 30%                          | 21%   |
| Minimum Building Setback (59.4.4.8.B.2) <ul style="list-style-type: none"> <li>• Front</li> <li>• Side</li> <li>• Rear</li> </ul>        | 30 ft.<br>8/25 ft.<br>25 ft. | 26 ft <sup>1</sup> .<br>12/25 ft.<br>28 ft. |
| Maximum Building Height (59.4.4.8.B.3).  | 35 ft.                       | 30 ft.                                      |
| Parking Requirements (59.6.2.4)  | 4 spaces                     | 6 spaces <sup>2</sup>                       |
| Minimum parking setback (59.6.2.5.K.2) <ul style="list-style-type: none"> <li>• Sides</li> <li>• Rear</li> </ul>                         | 16 ft.<br>25 ft.             | 16/7 ft <sup>3</sup><br>NA                  |

<sup>1</sup>The property was subdivided in 1954; under the 1955 Zoning Ordinance front yard setback was 25 feet.

<sup>2</sup> Three parking spaces per 1,000 square feet of gross floor area (GFA) are required for a day care facility. The proposed use will have 1,136 square feet GFA, thus 4 parking spaces are required for this use. The Applicant is providing 4 on-site parking spaces for the proposed use and also providing two parking spaces for the residential use in the attached garage.

<sup>3</sup>The required side yard setback for a parking facility is two times the minimum 8 foot required setback. The proposed parking facility will be sited 16 feet from the southern side yard and can meet this setback requirement. Along the northern side yard, a 16-foot setback would also be required for the parking facility. The existing driveway is located 8 feet from this side yard. The Applicant is requesting a maximum 9-foot waiver from the 16-foot side yard setback requirement for the parking facility to increase the driveway width and access points. Staff supports the waiver request.

### B. Master Plan

The site is located in the *1990 Bethesda Chevy Chase Master Plan* area which reconfirmed the R-90 zone for the site. While the Plan contains no specific recommendations for the site, it does offer the following relevant Goals and Objectives:

#### Land use and Zoning

- *Protect the high quality residential communities throughout the Planning Area, as well as the services and environmental qualities that enhance the area.*
- *Reconfirm the zoning for extensive single-family detached residential areas.*
- *Maintain and enhance residential communities along major highways and arterials.*  
(p.31)

#### Public Facility and Community

- *Contribute to a strong sense of community and help reinforce community cohesion.*
- *Provide services to meet the special needs of the elderly and for child day care.* (p.20)

Additionally, the Master Plan offered guidelines for the location of special exception land uses (now known as conditional uses) in residential areas. Guidelines applicable to this site are as follows:

- *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 only be allowed if it can be landscaped and screened adequately. (p.31)*
- *Support special exception uses that contribute to the service and health objectives of the Master Plan. In general, the Plan endorses provisions of child day care, group homes, elderly care and nursing homes. It is important to meet health needs through hospital services and hospice centers that are appropriately sized to be compatible with surrounding neighborhoods. (p.31)*

The Master Plan also *“supported the locations of child care centers within public and private facilities when they are compatible with the surrounding residential communities.” (p.155)*

The Plan continues to state:

*Family day care homes and small centers provide accessible child care services through residential neighborhoods within B-CC. By utilizing existing dwelling units, they require minimal additional capital investment to provide services. The family day care homes are currently permitted and the development of small centers should be encouraged”. (p.155)*

The requested conditional use, for a child day care center, will be located in an existing one-family residence located along Fernwood Road, a primary roadway. The existing residence will not increase in size under this requested use. The existing semi-circular driveway is located in the front yard and cannot be relocated to the side or rear yards due to property constraints and without significantly altering the residential appearance of the property. The driveway and associated access points will be minimally widened to accommodate vehicular trips made to the property. The property will be adequately landscaped and screened along all property lines. As conditioned, the proposed landscaping along the northern lot line will further the Plan’s guidelines for landscaping and screening of new conditional uses. The proposed use conforms with the Plan’s recommendations for new conditional uses meeting the social needs of the community through the provision of a child day centers and by ensuring these new uses maintain a residential appearance through adequate on-site landscaping and screening.

### **C. Transportation**

The site is improved with a semi-circular concrete driveway that has two access points on Fernwood Road. These access points connect on-site in a “u-shaped” configuration that allow vehicles to both enter and exit the site “head-first” without backing into the public roadway. Vehicular ability to enter and exit the site “head-first” is an important safety feature due to the proximity of the Fernwood and Greentree Roads intersection and the relatively heavy traffic volume on Fernwood Road along the site’s frontage. Due to the existing Fernwood Road median, the southern driveway apron currently functions as a right-in/ right-out access point for northbound Fernwood Road. The northern driveway apron currently functions as a full-movement access point for the dwelling unit. Dimensions for the existing driveway configuration are provided in Figure 9.

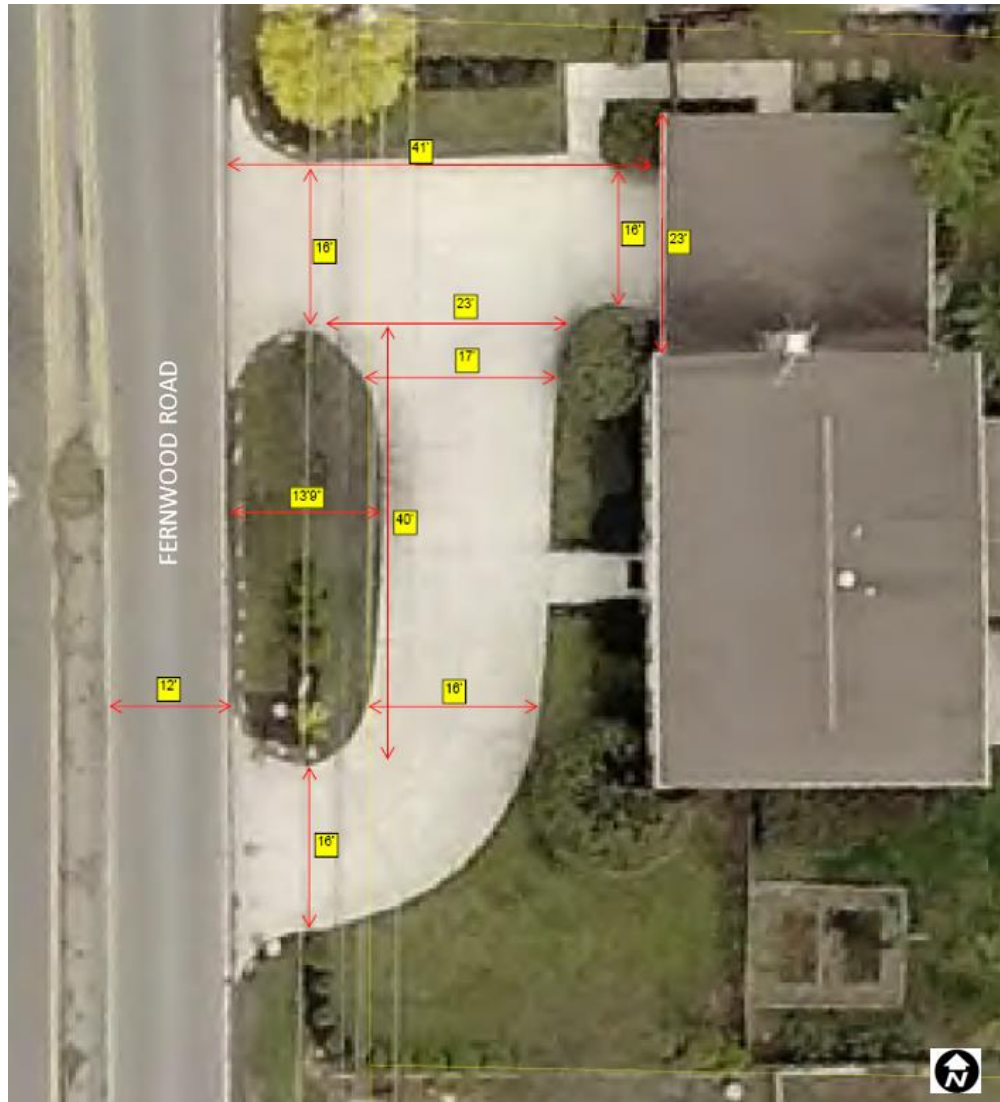


Figure 9: Existing Site Driveway Dimensions

Fernwood Road is classified as a Primary Roadway “P-5” within a 70-foot wide right-of-way by the *1990 Bethesda Chevy Chase Master Plan*. The *2005 Countywide Bikeways Functional Master Plan* designates Fernwood Road as “BL-4” and recommends that the road be improved with either bike lanes or signed as a shared roadway. The bicycle facility type, either bike lanes or shared roadway, will be determined by the Montgomery County Department of Transportation (MCDOT) at the time of a facility planning for the bikeway. Fernwood Road is median-divided with one 12-foot wide travel lane in each direction and a posted speed limit of 30 miles per hour within the vicinity of the site. There is no shoulder, acceleration or deceleration lane, no on-street parking, and no sidewalk along the site’s frontage.

Peak northbound traffic on Fernwood Road typically occurs in the late afternoon/ early evening hours and peak southbound traffic typically occurs during the morning hours. During periods of peak northbound demand, the intersection regulates northbound vehicles into a steady stream of continuous traffic past the subject site. During periods of peak southbound demand, cars queue along the site’s frontage as they wait to traverse the intersection. Staff notes that while conditions

on Fernwood Road may cause some delay for patrons exiting the site, the conditional use will not adversely impact the adjacent street traffic.

Transit service within the vicinity of the site includes a Montgomery County Ride On bus stop (Route 47) at the intersection of Greentree Road/ Friars Road, approximately 600 feet south of the site. However, the bus stop is inaccessible from the site because there is no sidewalk abutting the subject site and the two properties immediately to the south.

As a result of the site's proximity to the Fernwood Road/ Greentree Road intersection, Staff recommends that the driveway be restricted to one-way (counter-clockwise) movement as shown in Figure 10. This configuration requires all traffic to enter the site via the southern driveway entrance as an inbound right-turn only and exit the site via the northern driveway entrance as a right-turn movement. This configuration restricts all inbound site access at the northern driveway apron and effectively prohibits southbound left-turns from Fernwood Road into the site because of the existing median along this roadway. The access restriction and one-way internal driveway operation are necessary to mitigate the constrained nature of the site and respond to the traffic volume on Fernwood Road. Specifically, the recommended operations address the following:

- require all traffic to enter and exit the site "head-first," thus eliminating backing maneuvers onto Fernwood Road;
- eliminate potential conflicting maneuvers, at the northern access point, between entering and exiting vehicles;
- accommodate on-site parking; and
- promote safe on-site circulation.

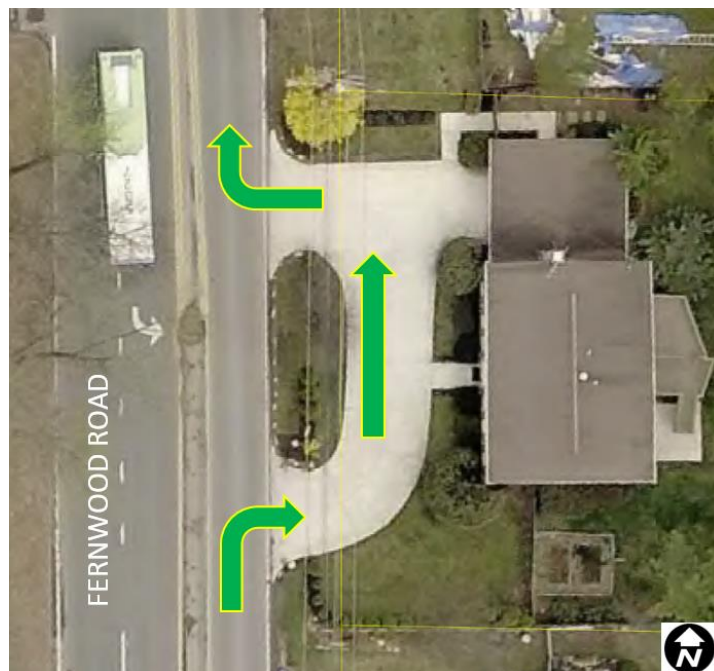


Figure 10: Staff Recommended On-site Vehicular Circulation Movements

This child day care center requires four parking spaces in addition to the two parking spaces required for the site's primary use, a one-family residence. Resident parking will be provided in the garage. The non-resident employee parking spaces must be exclusive of the on-site circulation

patterns and loading areas to ensure safe and adequate vehicular movements. Based on all parking requirements, parking and loading on-the site can be configured to accommodate a maximum of six vehicles on-site as follows:

- Two employee vehicles parked (perpendicular) in front of the garage (along the north side of the driveway);
- Two employee vehicles parked (parallel) in front of the house (along the eastern side of the driveway); and
- Two parent drop off/ pick up vehicles parked in tandem and parallel to the front of the house (along the outer lane of the driveway closest to the street). The outer lane will be located completely within the 10-foot wide drive aisle. These two spaces are intended for drop off and pick up of children only and do not count towards the parking requirement; and
- One long-term weather protected bicycle parking space may be provided inside the child day care facility and close to its entrance.

As described in the applicant's traffic statement, the most congested scenario would be when all employees are present and two parents are picking up or dropping off children at one time. As a result of the constrained nature of the site, Staff recommends that the applicant enter into an agreement with each parent. This agreement will specify an assigned arrival and departure time for each child so that no more than two vehicles are arriving within any 15-minute time period between 7:00 a.m. and 10:00 a.m., or departing within any 15-minute time period between 4:15 p.m. and 7:00 p.m. The agreement will also restrict all vehicles exiting the site to make only a right turn movement onto Fernwood Road during the hours the child day care facility is operating.

To accommodate the required parking and loading, Staff recommends that the applicant upgrade elements of the driveway to provide safe and adequate access and on-site circulation. The existing driveway access points must be upgraded to comply with the Montgomery County Code standard for commercial driveways. This improvement is necessary to accommodate new trips to the property.

The Applicant must also widen the semi-circular driveway to a minimum width of 18 feet to satisfy the design requirements for drive aisles and parking spaces as cited in Section 59.6.2.5.G.2 of the Zoning Ordinance. This improvement will provide the four required on-site parking spaces for the proposed use as well as a 10-foot wide one-way drive aisle. This drive aisle can be used for on-site circulation and loading (parent pick up and drop off). The parking spaces, loading spaces, and drive aisle should be clearly demarcated with pavement markings specified in the Zoning Ordinance. Staff notes that the site's constrained nature precludes concurrent loading and circulation activities and necessitates pavement marking to ensure orderly and safe on-site operations.

To accommodate pedestrian movement onsite for parents, children and staff, the applicant is constructing a hard surface path from the front yard adjacent to the parking area through the rear yard to the entrance of the child day care facility. The path is not lit. As a condition of approval, staff recommends that low-level lighting be installed along the path to ensure safe pedestrian movement for all visitors to the site.

MDCOT reviewed this submittal and provided comments included in Attachment B. MCDOT recommended that the applicant install a 5-foot sidewalk from "9213 Fernwood Court and the existing sidewalk at the intersection of Fernwood and Greentree Roads." Staff does not support this recommendation because the applicant's expense outweighs the public benefit.

### Adequate Public Facilities

The proposed use is estimated to generate less than 30 peak-hour trips during the typical weekday morning (6:30 a.m. – 9:30 a.m.) and evening (4:00 p.m. – 7:00 p.m.) peak periods. Since the four employees are below the minimum number specified in the Local Area Transportation Review (LATR) Guidelines, Staff applied the Institute of Transportation Engineers' (ITE) *Trip Generation Manual, 9<sup>th</sup> Edition* (Land Use Code 565: Day Care Center)<sup>1</sup> to determine site generated peak hour trips. The ITE rate estimates a total of 19 new peak-hour trips during the weekday morning peak period and 19 new peak-hour trips during the weekday evening peak period. Thus, the proposed conditional use satisfies the Local Area Transportation Review without further analysis. The proposed use is exempt from the Transportation Policy Area Review (TPAR) as no new square footage will be added to the existing dwelling unit. The requested conditional use will have no adverse impacts to existing roadway conditions or pedestrian facilities and is therefore recommended for approval.

### **D. Parking, Queuing and Loading Section 59.6.2**

Section 59-6.2.10, , of the Zoning Ordinance entitled, Parking Waiver states , *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.*

The intent of Section 6.2.1. is to ensure that adequate vehicle and bicycle parking, queuing, and loading requirements are provided in a safe and efficient manner. The applicant is requesting the following parking facility waivers from the Zoning Ordinance:

- for the marking of off street parking spaces (59.6.2.5.D.1)
- for reduction to parking facility required yard setbacks (59.6.2.K.2.b); and
- for reduction to perimeter planting areas (Section 6.2.9.B. 1.a.b.and c).

#### **Parking Facility Waiver Requests**

**Section 59.6.2.5.D.1, Markings** *any off street parking area must be arranged and marked to provide orderly and safe loading, unloading, parking and storage of vehicles.*

The proposed use will require 4 off-street parking spaces for employees and an area for loading and unloading. The existing semi-circular driveway is inadequate to safely accommodate new trips to this property generated by the proposed use. The Applicant has agreed to widen the access points and semi-circular driveway to facilitate traffic movements on site.

However, the Applicant has requested a waiver of the requirement for parking lot markings as she believes marking or striping of parking spaces will detract from the residential appearance of the property. Even with the proposed driveway and access widening, it is unclear if safe and orderly loading and unloading of vehicles could occur on-site without the required markings. Furthermore, given the site's constrained conditions, the potential exists for on-site vehicular conflicts without these markings. The marking and arrangement of off-street parking is necessary to allow for an orderly and safe circulation of on-site traffic.

Without the mandated markings for off-street parking spaces, Staff cannot find that an adequate discharge and pick-up area for children as required for the conditional use under Section

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<sup>1</sup> ITE LUC 565 (peak hour trips by employee) 4.85 AM/ 4.73 PM

59.3.4.4.E.2.b would exist on the site. Thus, Staff does not support this waiver request and recommends that the Applicant be required to comply with this requirement for the marking of off-street parking spaces.

**Section 59.6.2.5.K.2.b Facilities for Conditional Uses in Residential Detached Zones**

*Any off-street parking facility for a conditional use that is located in a Residential Detached zone where 3 or more parking spaces are provided must satisfy the following standards:*

**2.b.** *The minimum side parking setback equals 2 times the minimum side setback required for the detached house*

In the R-90 zone, the minimum side yard setback is 8 feet. The parking facility can meet the minimum 16-foot side yard setback requirement along the southern property line. The applicant is requesting a waiver to the parking facility side yard setback along the northern property line. The existing driveway is approximately 12 feet from the northern property line and approximately 16 feet in width which is insufficient space to accommodate two vehicles parked side by side. Based on the above cited requirement, the side yard setback along the northern property line for this parking facility would need an additional 4 feet to meet the minimum side yard setback of 16 feet.

The applicant is widening the driveway to safely accommodate 2 side by side parked vehicles associated with the proposed use. The driveway will be widened from 2 feet in some areas up to 5 feet in other areas. Given the existing driveway’s configuration, the full 16-foot setback could not be met without removing all the existing landscaping along northern property line and thereby changing the property’s residential appearance. Thus, the applicant is requesting a maximum waiver of 9 feet from the 16-foot setback requirement along the northern property line. Figure 11 shows the driveway along the northern lot line.



Figure 11: Existing Driveway Adjacent to Northern Property Line

Staff supports this waiver request as the increased driveway width is minimal and it will not substantially alter the character of the existing residential neighborhood. The applicant will also



be supplementing the existing hedge and plantings along northern lot line with additional plantings. The new landscaping will continue to maintain the residential character of the area.

**Section 6.2.9.B. 1. Parking Lot Requirements for Conditional Uses Requiring 3 to 9 Spaces**

*1. If a property with a conditional use requiring 3 to 9 parking spaces is abutting Agricultural, Rural Residential, or Residential Detached zoned property that is vacant or improved with an agricultural or residential use, the parking lot must have a perimeter planting area that:*

- a. satisfies the minimum specified parking setback under Article [59-4](#) or, if not specified, is a minimum of 8 feet wide;*
- b. contains a hedge, fence, or wall a minimum of 4 feet high; and*
- c. has a minimum of 1 understory or evergreen tree planted every 30 feet on center.*

The parking facility is located in the front yard. Under the R-90 Zone, there is no minimum specified parking setback for the front yard, thus an 8-foot wide planting area is required. A planting area is located between the two existing access points. This planting area is approximately 13 feet wide and 37 feet long, and contains several deciduous and evergreen trees ranging in height from 4 feet to 9 feet. See Figure 12. This planting strip lies entirely in the right-of-way for Fernwood Road, which is maintained by MCDOT.



Figure 12: Perimeter Planting Area along Fernwood Road (looking east into the Subject Site)

Because the perimeter planting area is owned by a government agency, requiring the applicant to supplement this planting area which they do not own appears infeasible. The applicant has requested a waiver from this requirement. Existing landscaping in the planting strip is healthy and appears to be well maintained. With continued maintenance from the applicant, this planting area should continue to flourish until that time MCDOT seeks to change its appearance. Staff supports this waiver request for the perimeter planting area requirement along this portion of the parking lot.

Along the southern property line, the parking facility does not meet the 8-foot planting area requirement. Presently, evergreen trees greater than 10 feet in height are planted for a length of 41 feet along this property line. Although the perimeter planting area is not 8 feet wide, the existing evergreens provide an adequate and effective screening for the abutting residential use. See Figure 13.



Figure 13: Existing Landscaping along the southern lot line

The 8-foot wide perimeter planting area cannot be met along the northern property line. Presently, a hedge, less than 8 feet wide is planted along the property line. See Figure 14. The applicant proposes to supplement this hedge with additional landscape materials. The supplemental landscaping is adequate to screen the proposed use from the adjacent residential use to the north.



Figure 14: Existing Landscaping Along Northern Property Line

**Section 6.2.5.M.2.a. and 3 b, Surface Parking in R-200, R-90, R-60, and R-40 Zones**

2. Except as provided in Section [6.2.5.M.3](#), the maximum surfaced parking area between the lot line and the front or side street building line, excluding the surfaced parking area in a driveway on a pipestem or flag-shaped lot, is:
  - a. in the R-200 and R-90 zones, 30% or 320 square feet, whichever is greater; and
3. A surfaced parking area may exceed the size limits in Section [6.2.5.M.2](#) if:
  - b. the property has primary access from a primary residential street, minor arterial road, major highway, arterial, or any state road, and is equal to or less than 50% of the area between the lot line and the front or side street building line;

The area between the lot line and the front street building line on the subject site is 2,600 square feet. The maximum surfaced parking area for the proposed conditional use is 1,172 square feet, or 45%, which exceeds the 30% requirement. However, the subject property has access onto Fernwood Road, a primary residential street. The existing surfaced parking area is less than 50% of the area between the lot line and the front building line. Therefore, this requirement has been satisfied.

**Section 6.2.6.A.1.a Bicycle Parking Design Standards**

**A.1.a.** Each long-term bicycle parking space must be provided within a building, covered parking garage, or bicycle locker located near the building or structure and the street or other bicycle right-of-way

Under this conditional use, one long-term bicycle parking space is required. The submitted site plan did not show a designated bicycle parking space. However, the applicant has agreed to provide one long-term space on-site. The exact location and type of the bicycle parking space will be determined by MCDPS prior to issuance of permits for this conditional use.

**Section 6.2.7. B.1. and 3 Queuing Design Standards**

1. A queuing space must be the same size as a standard parallel parking space under Division [6.2](#).
3. Any aisle to accommodate queuing must be clearly marked or physically separated from driveway aisles, parking spaces, and pedestrian walkways.

A standard parallel parking space is 7 feet by 21 feet. As shown on the submitted plan, two tandem queuing spaces for the proposed use will be a minimum of 8.5 feet by 18 feet. The conditional use will have a driveway aisle queuing of approximately 18-feet in width which will serve as the pickup and discharge area for clients. As reviewed by Staff, this queuing area and driveway aisle can adequately and safely accommodate vehicles on site and will be separated from the required parking spaces. As a condition of approval, Staff is recommending that the driveway aisle/queuing area be clearly marked to separate it from parking spaces and walkways.

**E. Section 59-6.4.4. E Outdoor Lighting Requirements**

Outdoor lighting for conditional uses must be directed or screened to ensure that illumination is 0.1 footcandles or less at any lot lines that abuts a detached building type not located in a Commercial/Residential or Employment zone.

The applicant is not proposing new outdoor lighting for the child day care facility. The existing lighting located above the garage door, adjacent to the front door and rear doors will remain. The

existing lighting is residential in nature and will not create a problem with illumination on abutting properties. The applicant is proposing a new path leading from the parking area in the front yard through the rear yard and to the entrance of the child day care facility. Staff recommends a development condition that ample low-level lighting be installed along this path to provide safe pedestrian access to the child day care facility for parents, children and employees.

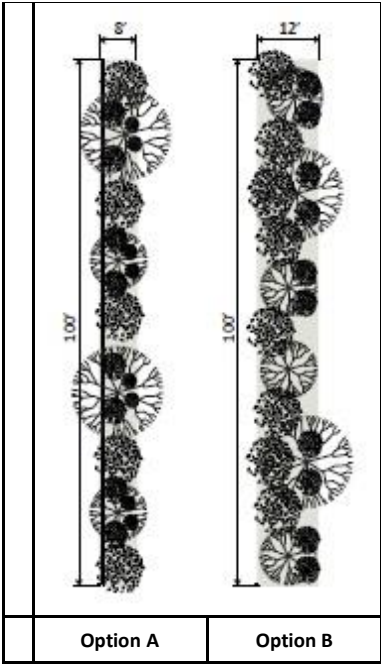
**F. Section 6.5. Screening Requirements**

**Section 59.6.5.2.B.1 Agricultural, Rural Residential, and Residential Detached Zones**

*In the Agricultural, Rural Residential, and Residential Detached zones, a conditional use in any 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.*

**Section 6.5.3.C.7 Screening Requirements by Building Type**

*General Building with a Non-Industrial Use; Conditional Use in the Agricultural, Rural Residential, or Residential Detached Zones; and Conditional Use in a Detached House or Duplex in Any Other Zone*



| Dimensions (min)                           | Option A         | Option B |
|--|------------------|----------|
| Depth                                      | 8'               | 12'      |
| <b>Planting and Screening Requirements</b> |                  |          |
| Trees (minimum per 100')                   |                  |          |
| Canopy                                     | 2                | 2        |
| Understory or Evergreen                    | 2                | 4        |
| Shrubs (minimum per 100')                  |                  |          |
| Large                                      | 6                | 8        |
| Medium                                     | 8                | 12       |
| Small                                      | 8                | --       |
| Wall, Fence or Berm (min)                  | 4' fence or wall | --       |

Based on Section 59.6.5.3.C.7 the proposed conditional use building, including its parking facility, must be screened from the abutting residential uses along the rear property line as well as the northern and southern (side) property lines. The rear property line and portions of the side property lines are enclosed with six-foot high board-on-board fence. Aerial photos of the property show healthy landscaping inside the rear yard and along all fence lines. The screening requirement has been satisfied for the rear property line and portions of the side property line.

However, the conditional use does not meet the minimum depth for planting requirements of Section 6.5.3.C.7, along the remaining portions of northern and southern (side) property lines. Therefore, Alternative Compliance is needed along these property lines.

**Section 6.8.1. Alternative Method of Compliance** *The applicable deciding body may approve an alternative method of compliance with any requirement of Division [6.1](#) and Division [6.3](#) through Division [6.6](#) if it determines that there is a unique site, a use characteristic, or a development constraint, such as grade, visibility, an existing building or structure, an easement, or a utility line. The applicable deciding body must also determine that the unique site, use characteristic, or development constraint precludes safe or efficient development under the requirements of the applicable Division, and the alternative design will:*

- A. satisfy the intent of the applicable Division;*
- B. modify the applicable functional results or performance standards the minimal amount necessary to accommodate the constraints;*
- C. provide necessary mitigation alleviating any adverse impacts; and*
- D. be in the public interest*

Alternative Compliance was requested by the applicant and Figure 15 shows the site's northern and southern property lines where this request is sought. The development constraints of the site are the restricted turning movements from the southern driveway due to a raised median with traffic flex poles along the site's frontage and the traffic volumes along Fernwood Road. The proposed child day care use characteristics requires on-site parking facilities to accommodate safe vehicular and pedestrian movements and the provision of adequate screening between a conditional use and adjacent residentially zoned properties.



Figure 15: Alternative Compliance Requested for Screening Requirements

Along the southern lot line, landscaping of evergreen trees in excess of 10 feet high are planted. Although, the planting strip is not the required 8-foot depth, this existing landscaping more than adequately screens the conditional use from the residential property to the south. Thus, Staff supports the Alternative Compliance request for not meeting the full 8-foot planting strip along this southern lot line.

A planting strip of 8 feet in width is required along the northern lot line. Presently, there exists a hedge less than less than 8 feet wide in this location. The applicant is requesting Alternative Compliance to meet this screening requirement and proposes to supplement the existing landscaping with three additional shrubs. Since the entire driveway, access points and drive aisles, will be widened to accommodate safer on-site vehicular and pedestrian movements for the conditional use, the full 8-foot planting strip along the northern lot line could adversely affect vehicular and pedestrian movements. Staff supports the Applicant's proposal for supplemental landscaping and Alternative Compliance in this location.

- a. With the recommended conditions of approval for screening, the conditional use will meet the intent of the Division 6.5.
- b. Minimal widening of the existing driveway and its access point will modify the performance standards (access and onsite circular) to sufficiently accommodate the site's constraints.
- c. Supplemental landscaping along a portion of northern lot line will provide mitigation necessary to alleviate any adverse impacts.
- d. The proposed facility will be in the public interest by providing a use that is recommended in the Master Plan.

As conditioned, with the supplemental landscaping along the northern lot line and the existing landscaping along the southern lot line, Alternative Compliance for this proposed use is met.

### Section 59-6.7 Signs

**Sign in the Public Right-of-Way** A sign in the right-of-way is prohibited, except for the following:

3. A permanent sign allowed to be located in the public right-of-way in Division [6.7](#), if:
  - a. the sign is approved by the Sign Review Board; and
  - b. the appropriate transportation jurisdiction issues a permit after approving the structural adequacy, physical location, sight distance, pedestrian access, and other safety characteristics of the sign.

### Section 6.7.8. Signs in Residential Zones

A. **Base Sign Area** The maximum total area of all permanent signs on a lot or parcel in a Residential zone is 2 square feet, unless additional area is permitted under Division [6.7](#).

#### 1. Freestanding Sign

- a. One freestanding sign is allowed.
- b. The minimum setback for a sign is 5 feet from the property line.
- c. The maximum height of the sign is 5 feet.
- d. Illumination is prohibited.

The applicant is requesting a free-standing sign of no more than 4 feet in height, with a double sided sign face of 2 feet by 2 feet each side. The sign would be located in front of the house within the perimeter planting area. The perimeter planting area is entirely contained within the Fernwood Road right-of-way. An example of the sign requested by the applicant is shown in Figure 16.



Figure 16: Example of Applicant's Proposed Sign

Section 59-6.7. F, prohibits signs within a right-of-way unless approved by the Sign Review Board or the appropriate transportation jurisdiction. Moreover, Section 6.7. A.1. permits a sign face of only 2 square feet. The sign is compatible with the existing residential character of the area. Staff supports a sign for the child day care facility but not the size or location requested by the applicant. The proposed dimensions for each sign face need to be reduced to comply with Section 59.6.7.8.A of the Zoning Ordinance. As a condition of approval, staff recommends the applicant submit an application for the sign's proposed location to the Sign Review Board or and MCDOT for approval.

#### **G. Environment and Forest Conservation**

There are no champion trees on or near the property. The Forest Conservation Law does not apply to the requested conditional use, because the property is less than 40,000 square feet. A non-applicability form was signed by Staff on November 3, 2015 and was included in the submittal package. Therefore, no forest conservation or environment issues are associated with this proposed use.

#### **H. Community Concerns**

To date, no comments from the community have been received.

### **Section IV: Conditional Use General and Specific Findings**

#### ***Sec. 59.7.1.E. Necessary Findings***

***Sec. 59.7.1.E.1-*** *To approve a conditional use application, the Hearing Examiner must find that the proposed development:*

- (i) ***Sec. 59.7.1.E.1.a-*** *satisfies any applicable previous approval on the subject site or, if not, that the previous approval must be amended;*

No previously approved conditional uses are associated with this site.

- (ii) ***Sec. 59.7.1.E.1.b-*** *satisfies the requirements of the zone (Division 59-4), the use standards under Division 59-3, and to the extent the Hearing Examiner finds necessary to ensure compatibility, meets applicable general requirements under Article 59-6.*

The requested child day care facility is allowed as conditional use in the R-90 Zone. As shown previously in Table 1, under the Development Standards section, the proposed use meets the standards for the R-90-zone. The applicant is requesting waivers from the parking facility setbacks and perimeter landscaping requirements as previously cited. Staff supports these requests. Staff does not support the applicant's waiver request for the off-street parking space markings and the applicant will need to comply with the recommended development condition for delineating these parking spaces on the site. Staff supports the Alternative Compliance request for the screening requirements along the northern and southern (side) property lines for this use.



### **Section 3.4.4.E.2 Day Care Facility**

#### **2. Use Standards**

Where a Day Care Center (13-30 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:

- a. *The facility must not be located in a townhouse or duplex building type.*

The proposed facility is located in a one-family detached residential unit.

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

The drive aisle is sufficient in depth to accommodate an adequate area for discharge and pick-up of children. The recommended development conditions that: restrict onsite vehicular circulation patterns; limit the number of vehicles on-site during any 15-minute period; and require the marking of off-street parking spaces ensure that an adequate area for discharge and pick up of children will be maintained during the use's hours of operation. Furthermore, the discharge and pickup area will not create unsafe vehicular or pedestrian conditions on the property.

*The number of parking spaces under Division [6.2](#) may be reduced if the applicant demonstrates that the full number of spaces is not necessary because:*

- i. *existing parking spaces are available on abutting property or on the street abutting the site that will satisfy the number of spaces required; or*  
ii. *a reduced number of spaces would be sufficient to accommodate the proposed use without adversely affecting the surrounding area or creating safety problems.*

The applicant is not requesting a reduction to the 4 required parking spaces.

- d. *For a Family Day Care where the provider is not a resident and cannot meet the non-resident provider requirement, screening under Division [6.5](#) is not required.*

Not applicable; the applicant is proposing a day care facility not a family day care use.

- e. *In the AR zone, this use may be prohibited under Section [3.1.5](#), Transferable Development Rights.*

Not applicable, the site is located in the R-90 zone.

- (iii) **Sec 7.3.1.E.1.c-** *substantially conforms with the recommendations of the applicable master plan.*

The property is located in the *1990 Bethesda-Chevy Chase Master Plan* area. As discussed under the Master Plan section of this report, the proposed use substantially conforms with the recommendations addressing social needs of the community by providing child day care facilities and by encouraging conditional

uses to maintain the residential character of an area through appropriate landscaping and screening.

- (iv) **Sec. 7.3.1E.1. d.-** *Is harmonious with and will not alter the character of the surrounding neighborhood in a manner inconsistent with the plan.*

The proposed use will be harmonious with the character of the surrounding one-family neighborhood. There are no new structures proposed by this conditional use nor will the scale or design of the existing residential use increase in size. Additional landscaping along a portion of the northern lot line will maintain the property's residential appearance. The activities and traffic conditions associated with the use will be limited to specific hours of operation and days of the week, as stated in the recommended conditions of approval. Therefore, the proposed use will not alter the character of the surrounding neighborhood in a manner inconsistent with the Master Plan.

- (v) **Sec. 7.3.1E.1.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 predominately residential nature of the area; a conditional use application that conforms with the recommendations of a master plan does not alter the nature of the area.*

The defined neighborhood contains two conditional uses: an accessory apartment; and a charitable and philanthropic use. The requested use does not significantly increase the number of conditional uses in a manner that would affect the area adversely or alter its residential nature. Moreover, the proposed use conforms with the Master Plan recommendation for offering child day care facilities in the Bethesda-Chevy Chase area.

- (vi) **Sec. 7.3.1E.1.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 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 facilities, including schools, police and fire protection, water, sanitary sewer, public roads, or storm drainage; or*
  - ii. *If a preliminary plan of subdivision 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.*

A Preliminary Plan of subdivision is not required, as the property was subdivided in 1954. The property is served by adequate public services and facilities.

(vii) **Sec. 7.3.1.E.1.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 lack of parking; or*
- iii. *The health, safety or welfare of neighboring residents, visitors or employees.*

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

With the development conditions as proposed by staff, there are no adverse traffic impacts that would result from the proposed conditional use. The applicant will use the existing semi-circular driveway along Fernwood Road for staff parking and drop-off and pick-up of children. A path will be constructed in the front yard that will lead to the entrance of the day care at the rear of the residence. The path will be lit to ensure safe access for parents, children and staff. The applicant will limit the number of children outside at any one time to 10. Outdoor play will not begin before 9:00 a.m. and no outdoor play is permitted after 5:00 p.m. as recommended by staff. Existing lighting on the property will be modified to include foot lighting standards along the new path. All lighting is adequate and consistent with the residential character of the neighborhood. The site is well landscaped and a six-foot high fence surrounds the entire rear yard.

Non-inherent characteristics associated with this proposed conditional use include the median on Fernwood Road along the site's frontage, and the existing semi-circular driveway. The median on Fernwood Road restricts vehicular turning movements into and out the site. The semi-circular driveway limits vehicular circulation movements on-site. With the recommended conditions of approval, vehicular movements into and out

of the site and circulation movements for traffic to the site, will be acceptable and would not create adverse impacts sufficient to result in denial of this conditional use.

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.*

Site design alterations proposed by this conditional use include: widening the semi-circular driveway and driveway access points, constructing a pathway with ample foot lighting from the front yard to the rear yard and adding a new gate to the existing fence. These physical alterations are not excessive in nature and will be compatible with 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 is recommending approval of the proposed use with conditions. The requested waivers for parking facility setbacks, parking facility perimeter landscaping and the Alternative Compliance request for screening requirements are deemed compatible with nearby properties.

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, as the site is located in the R-90 zone.

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, as the requested use is not among the above listed uses.

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, as the requested use is a child day care facility.

**Section V: Conclusion**

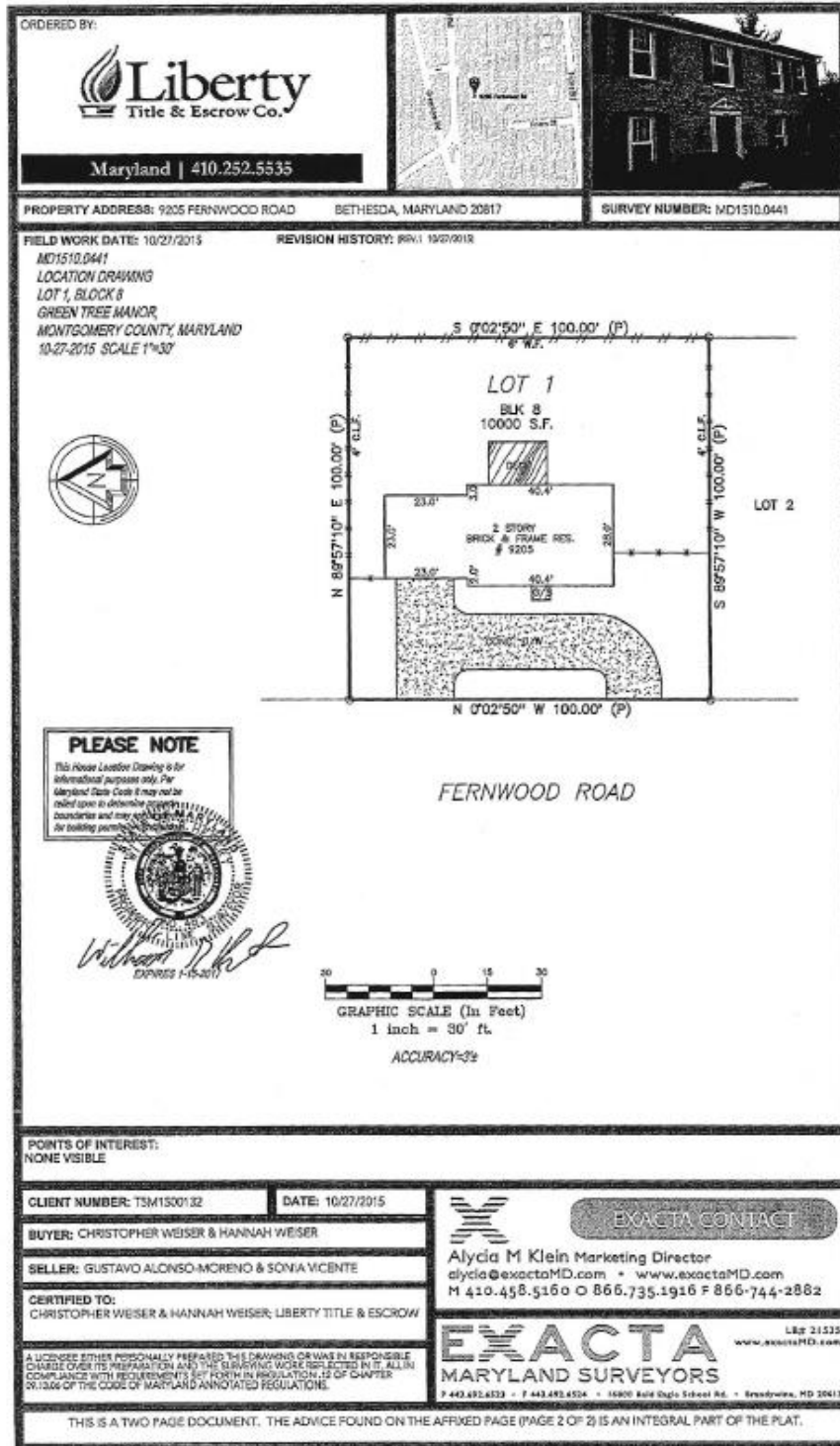
Staff recommends approval of Conditional Use 2016-07 for a child day care facility subject to conditions stated on page 2. Staff recommends approval of two of the three requested waivers for the minimum side yard setback along the northern lot line for the parking facility (Section 59.6.2.5 K 2.b.) and for parking lot landscaping for conditional uses (Section 59.6.2.9.B.1.a., b., and c). Staff does not support the waiver request for striping and marking of off-street parking spaces (Section 59.6.2.5.D). Staff supports the Alternative Compliance request from the screening requirements of Section 59. 5.3.C.7 of the Zoning Ordinance along portions of the northern and southern (side) property lines.

**Attachments:**

Attachment A: House Plat, Floor Plan

Attachment B Transportation Memo

Attachment C: Environmental Memo







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

**MEMORANDUM**

March 29, 2016

**TO:** Kathy Reilly, AICP, Planner Coordinator  
Area 1 Planning Division

**FROM:** Matthew Folden, AICP, Planner Coordinator  
Area 1 Planning Division

**SUBJECT:** Board of Appeals Petition No. CU 16-07  
Conditional Use Day Care Center (13-30 Persons)  
9205 Fernwood Road, Bethesda  
Bethesda Chevy Chase Policy Area

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This memorandum summarizes the Transportation Adequate Public Facilities (APF) review of the subject Board of Appeals petition. The petitioner is requesting approval to establish a conditional use Day Care Center (13-30 persons), for up to 15 children and four staff, at 9205 Fernwood Road. The requested use would operate Monday – Friday from 7:00 AM – 7:00 PM and is governed by the definition and use standards set forth in section 59.3.4.4.E of the Zoning Ordinance.

**RECOMMENDATIONS**

Staff finds that the requested conditional use satisfies the Local Area Transportation Review and Transportation Policy Area Review and will have no adverse impacts to existing roadway conditions or pedestrian facilities. As a result, staff recommends approval of the conditional use petition and offers the following conditions and comments:

1. The conditional use must be limited to:
  - a. A maximum enrollment of 15 children and four non-resident employees.
  - b. Standard operating hours of Monday through Friday, 7:00 AM to 7:00 PM.
  - c. Arrival and departure times for parents and staff must be staggered into separate groups such that no more than six (6) vehicles are parked in the driveway at any given time. At full capacity, arrival/ departure groups could be structured as follows:
    - i. Group A: 7:00 AM – 8:15 AM; 4:15 PM – 5:00 PM
    - ii. Group B: 8:15 AM – 9:15 AM; 5:00 PM – 6:00 PM
    - iii. Group C: 9:15 AM – 10:00 AM; 6:00 PM – 7:00 PM

Morning drop-off may extend beyond 10:00 AM, as suggested in “Group C,” but must not begin before 7:00 AM, as suggested in “Group A.” Likewise, afternoon pick-up may begin before 4:15 PM, as suggested in “Group A,” but must not extend beyond 7:00 PM, as suggested in “Group C.”
2. The petitioner must provide four on-site parking spaces.

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3. The petitioner must provide one long-term weather protected bicycle parking space in accordance with Sec. 59.6.2.4.C of the Zoning Ordinance.
4. The petitioner must construct and maintain a hard surface pedestrian path between the proposed parking area and proposed day care center entrance located at the rear of the existing one family dwelling.
5. The petitioner must install a gate in the existing fence to connect the proposed pedestrian path and entrance to the conditional use.
6. The petitioner must upgrade the existing driveway and site frontage in the following manner:
  - a. Both driveway aprons to the Montgomery County standard 20-foot wide commercial driveway apron (MC 302.01).
  - b. A five-foot wide sidewalk, within the public right-of-way, along the entire frontage.
  - c. the northern driveway segment, between the northern driveway apron and garage, to a minimum width of 18 feet to accommodate two standard (8.5' x 18') parking spaces, as per Sec. 59.6.2.5.E.1 of the Zoning Ordinance.
  - d. the center driveway segment, parallel to the front of the house, to a minimum width of 18 feet to accommodate two seven-foot wide parallel parking spaces along the east side of the driveway and one 10-foot wide travel/ loading lane along the west side of the driveway, as per Sec. 59.6.2.5.E.1 and Sec. 59.6.2.5.G.2 of the Zoning Ordinance.
  - e. Each individual parking and loading space must be clearly marked to provide for orderly and safe operation, as per Sec. 59.6.2.5.D.1 of the Zoning Ordinance.
7. The existing driveway must be restricted to one-way (counter-clockwise) operation so that traffic enters the site via the southern driveway entrance (inbound right-turn only) and exits the site via the northern driveway entrance (outbound full movement). This restriction should be achieved through the use of traffic control signs and pavement marking (Sec. 59.6.2.5.D.1), to be specified by the Montgomery County Department of Permitting Services.
8. Southbound left-turns into the site are specifically prohibited.

## **DISCUSSION**

### Site Location and Vicinity

The site is located on the east side of Fernwood Road, approximately 150 feet north of the Fernwood Road/ Greentree Road intersection. Fernwood Road is classified as Primary Roadway "P-5" within a 70-foot wide right-of-way by the 1990 Bethesda Chevy Chase Master Plan. The 2005 Countywide Bikeways Functional Master Plan designates Fernwood Road as "BL-4" and recommends that the road be improved with either bike lanes or signed as a shared roadway<sup>1</sup>. The roadway is median-divided with one 12-foot wide travel lane in each direction and a posted speed limit of 30 miles per hour within the vicinity of the site. Data collected by the Montgomery County Department of Transportation (MCDOT) on January 6, 2016 indicates that Fernwood Road has an Average Daily Traffic (ADT) volume of 15,254 vehicles, of which 7,399 are northbound and 7,855 are southbound. There is no shoulder, acceleration/ deceleration lane, on-street parking, or sidewalk along the site frontage. Staff requested State of Maryland crash data from MCDOT on December 4, 2015, however, that agency declined to provide this data for the public record. As a result, staff was unable to evaluate crash trends within the vicinity of the subject site.

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<sup>1</sup> Bicycle facility type (either bike lanes or shared roadway) to be determined by the Montgomery County Department of Transportation at the time of facility planning.

The Fernwood Road/ Greentree Road intersection, located just south of the site, is configured as a four-way stop-controlled intersection with an additional northbound through lane (yield condition), from Greentree Road onto Fernwood Road.

Peak northbound traffic on Fernwood Road typically occurs in the late afternoon/ early evening hours and peak southbound traffic typically occurs during the morning hours. During periods of peak northbound demand, the intersection regulates northbound vehicles into a steady stream of continuous traffic past the subject site. During periods of peak southbound demand, cars queue along the site frontage as they wait to traverse the intersection. Staff notes that while conditions on Fernwood Road may cause some delay for patrons of the condition use to exit the site, the conditional use will not adversely impact the adjacent street traffic.

Transit service within the vicinity of the site includes a Montgomery County Ride On bus stop (Route 47) at the intersection of Greentree Road/ Friars Road, approximately 600 feet to the south of the site. Although the distance to transit is relatively short, the bus stop is inaccessible from the site because the subject site and the two properties immediately south of the site, a distance of approximately 220', lack a public sidewalk. As a result, staff does not anticipate or endorse trips made to the site by either transit or pedestrians from the adjacent neighborhood as a trip reduction measure.

#### Site Description

The site is currently improved with a concrete driveway that has two access points on Fernwood Road. These access points connect on-site in a “u-shaped” configuration so that vehicles may both enter and exit the site “head-first” without backing into the public roadway. The ability to enter and exit the site head-first is an important safety provision due to the close proximity of the Fernwood Road/ Greentree Road intersection and the relatively heavy traffic volume on Fernwood Road along the site frontage. As a result of the Fernwood Road median, the southern driveway apron currently functions as a right-in/ right-out access point for northbound Fernwood Road. The northern driveway apron currently functions as a full-movement access point for the residence. Dimensions for the existing driveway configuration are provided in Figure 1.

#### Site Access, Parking, and Circulation

As a result of the site’s proximity to the Fernwood Road/ Greentree Road intersection, staff recommends that the driveway be restricted to one-way (counter-clockwise) operation (Figure 2). This configuration requires all traffic to enter the site via the southern driveway entrance (inbound right-turn only) and exit the site via the northern driveway entrance (outbound full movement). This configuration restricts all inbound site access at the northern driveway apron and effectively prohibits southbound left-turns into the site due to the existing median on Fernwood Road. These access restrictions and one-way internal driveway operation are necessary to mitigate the constrained nature of the site and respond to the traffic volume on Fernwood Road. Specifically, the recommended operations address the following:

- require all traffic to enter and exit the site “head-first,” thus eliminating backing-maneuvers onto Fernwood Road,
- eliminate potential conflicting maneuvers, at the northern access point, between entering and exiting vehicles,
- accommodate on-site parking,
- promote safe on-site circulation

Figure 1: Existing Site Driveway Dimensions

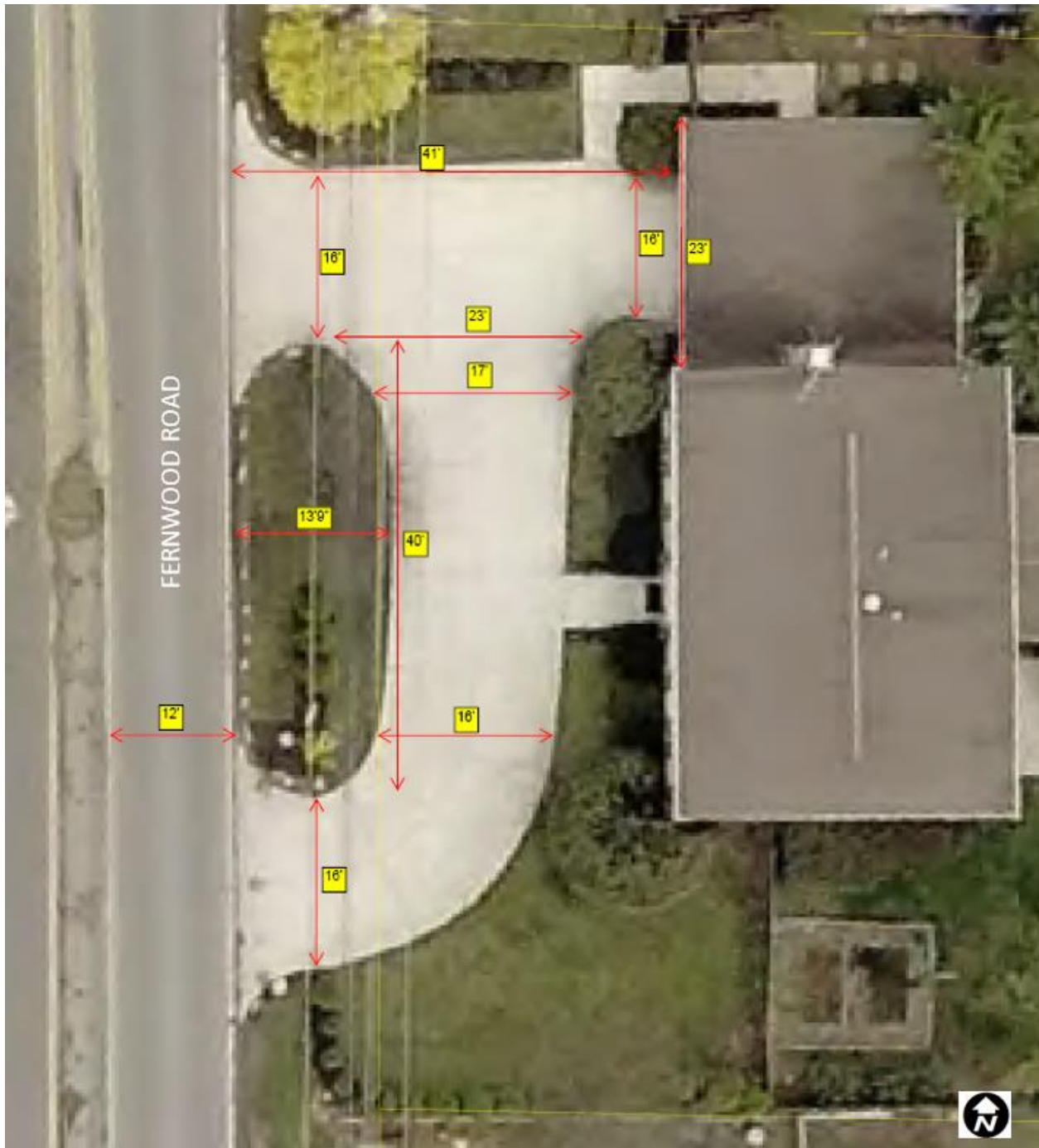
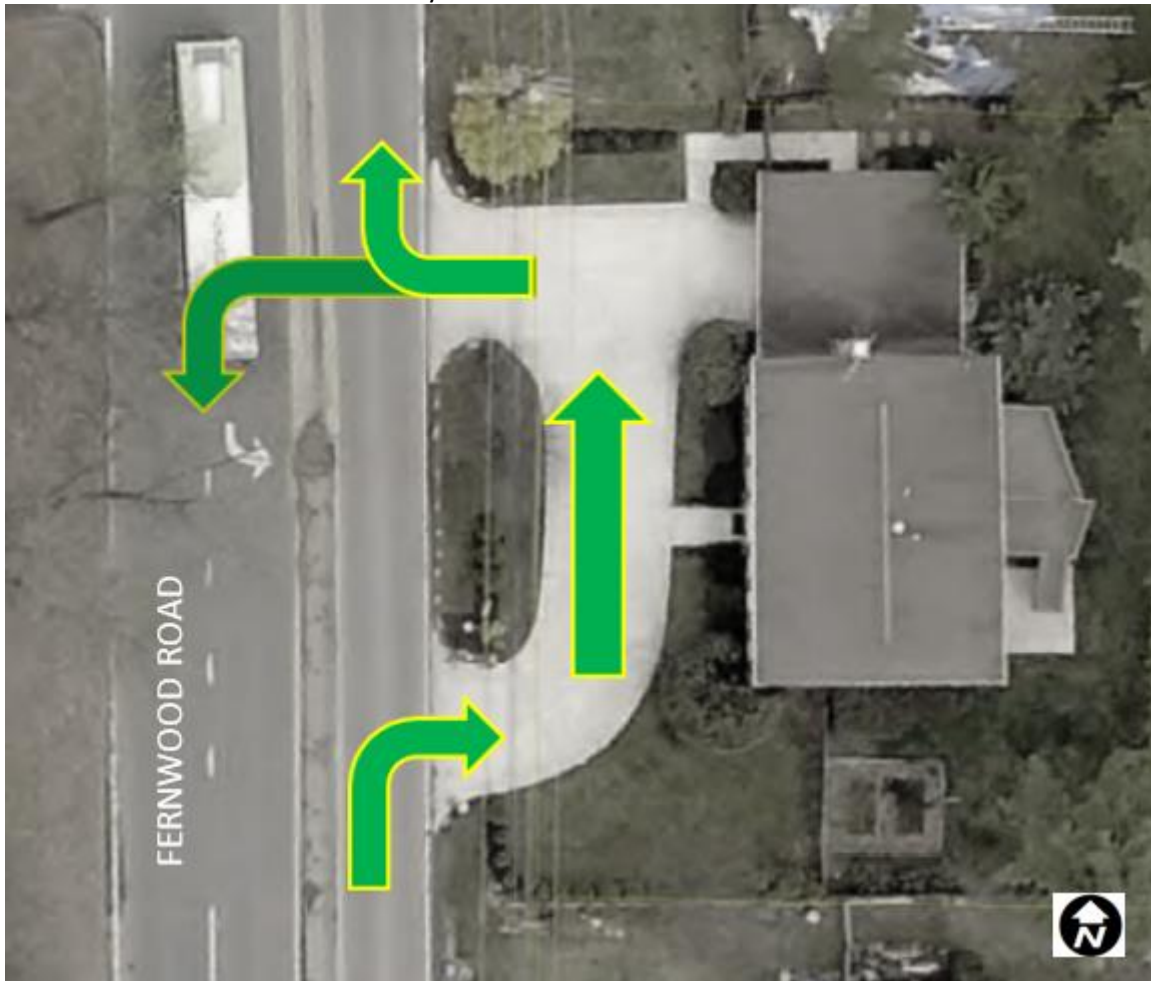


Figure 2: Staff Recommended “One-Way” Access Pattern



Parking requirements for the conditional use<sup>2</sup> are based on the number of employees (four), rather than child enrollment in the conditional use. As a result, the conditional use requires four parking spaces in addition to the two parking spaces required for the site’s primary use, a single family residence. The non-resident employee parking spaces must be exclusive of the on-site circulation/ loading area to ensure safe, adequate, and efficient site operation. Based on the parking requirement, staff estimates that parking and loading on the site will be configured to accommodate a maximum of six vehicles on-site as follows (Figure 3):

- Two employee vehicles parked (perpendicular<sup>3</sup>) in front of the garage (along the north side of the driveway)
- Two employee vehicles parked (parallel<sup>4</sup>) in front of the house (along the eastern side of the driveway)
- Two parent drop-off/ pick-up vehicles parked parallel to the front of the house (along the western side of the driveway; completely within the on-site 10-foot wide drive aisle<sup>5</sup>). These two spaces are not counted toward the parking requirement.

<sup>2</sup> Parking requirements in accordance with 59.6.2.4.B

<sup>3</sup> Perpendicular parking spaces have a minimum dimension of 8.5’ x 18’ in accordance with Sec. 59.6.2.5.E.1

<sup>4</sup> Parallel parking spaces have a minimum dimension of 7 x 21’ in accordance with Sec. 59.6.2.5.E.1

<sup>5</sup> A one-way drive aisle width of 10 feet is required adjacent to parallel parking in accordance with Sec. 59.6.2.5.G.2

- One long-term weather protected bicycle parking space<sup>6</sup>. This requirement may be satisfied internal to the conditional use, convenient to the main entrance.

Under the most congested scenario described in the petitioner’s traffic statement, in which all employees are present and two parents are picking-up/ dropping-off children at a time, there will be six vehicles on-site. This scenario is demonstrated in Figure 3. As a result of the constrained nature of the site, staff recommends that the petitioner restrict the arrival of vehicles into separated arrival and departure groups such that no more than two parents arrive to pick-up/ drop-off children at a time and there are no more than six vehicles in the driveway at any given time. At full capacity, arrival/ departure groups could be structured as follows:

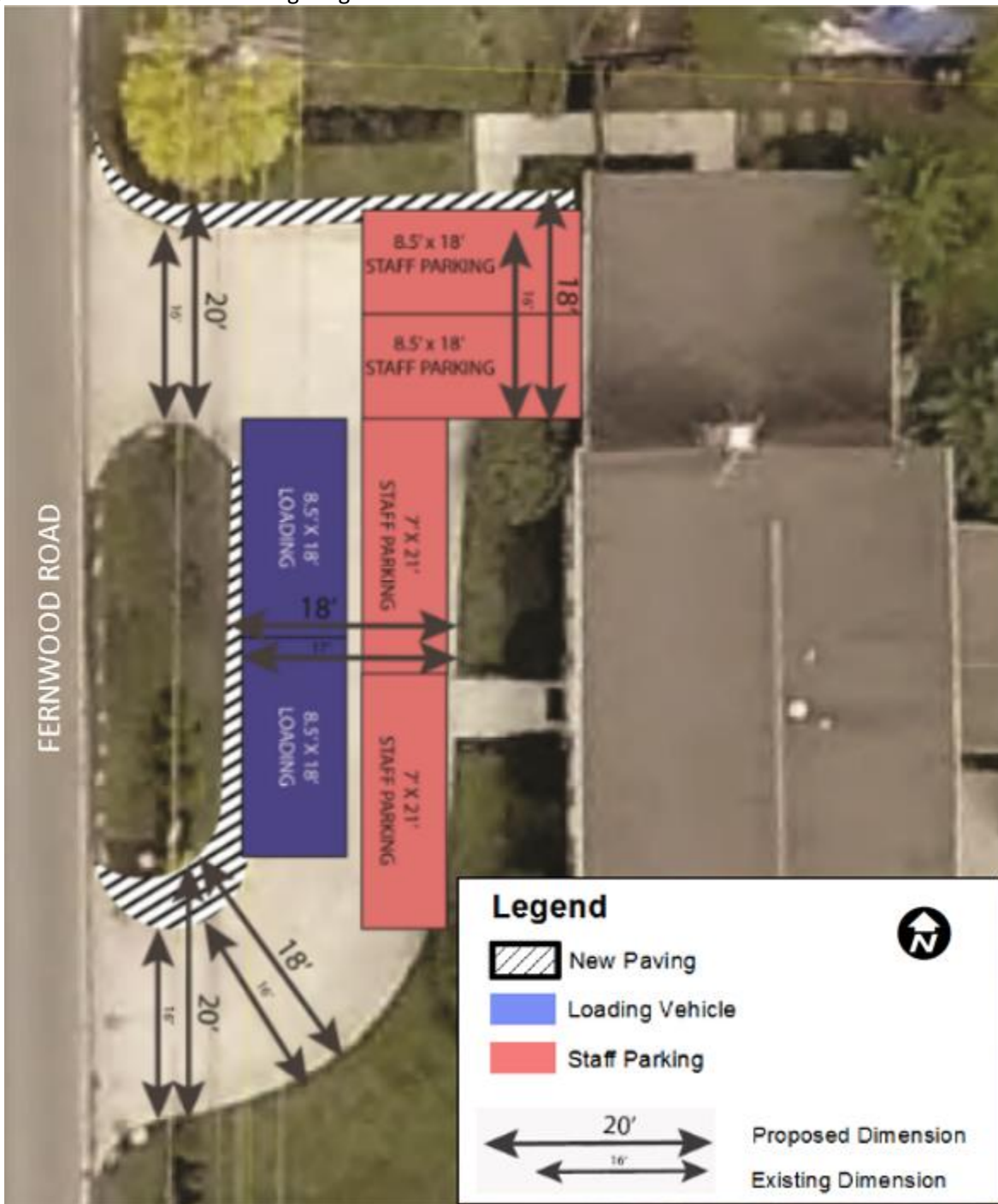
- Group A: 7:00 AM – 8:15 AM; 4:15 PM – 5:00 PM
- Group B: 8:15 AM – 9:15 AM; 5:00 PM – 6:00 PM
- Group C: 9:15 AM – 10:00 AM; 6:00 PM – 7:00 PM

Morning drop-off may extend beyond 10:00 AM, as suggested in “Group C,” but must not begin before 7:00 AM, as suggested in “Group A.” Likewise, afternoon pick-up may begin before 4:15 PM, as suggested in “Group A,” but must not extend beyond 7:00 PM, as suggested in “Group C.”

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<sup>6</sup> Bicycle Parking requirements in accordance with 59.6.2.4.C

Figure 3: Illustrative Site Parking Diagram



In order to accommodate the required parking and loading, as described in this memorandum, staff recommends that the petitioner upgrade elements of the driveway and site frontage to provide safe, adequate, and efficient access and circulation. Beginning with the public right-of-way, the petitioner should provide a five-foot wide public sidewalk along the entire site frontage and upgrade the existing driveway aprons to comply with the Montgomery County standard commercial driveway apron (MC 302.01). These improvements are necessary to safely convey pedestrians across the site frontage when the conditional use is in operation and to withstand the volume of non-residential traffic to the conditional

use. The petitioner should widen the on-site driveway to a minimum width of 18 feet to satisfy the Zoning Ordinance design requirements for drive aisles and parking spaces. This modification would provide the four requisite parking spaces as well as a 10-foot wide one-way drive aisle that could be used for on-site circulation and loading (parent pick-up/ drop-off). The parking spaces, loading spaces, and drive aisle should be clearly demarcated with pavement markings specified by the Department of Permitting Services. Staff notes that the constrained nature of this site precludes concurrent loading and circulation activities and necessitates pavement marking to ensure orderly on-site operations.

#### Adequate Public Facilities

The proposed development is estimated to generate less than 30 peak-hour trips during the typical weekday morning (6:30 a.m. – 9:30 a.m.) and evening (4:00 p.m. – 7:00 p.m.) peak periods. Since the number of employees (four) is below the minimum specified in the Local Area Transportation Review (LATR) Guidelines, staff used the Institute of Transportation Engineers' (ITE) Trip Generation Manual, 9<sup>th</sup> Edition (Land Use Code 565: Day Care Center)<sup>7</sup> to determine site generated peak hour trips. The ITE rate estimates a total of 19 new peak-hour trips during the weekday morning peak period and 19 new peak-hour trips during the weekday evening peak period. As a result, the subject conditional use satisfies the Local Area Transportation Review without further analysis. Since the subject conditional use petition does not propose adding square footage to the existing structure, the use is exempt from the Transportation Policy Area Review (TPAR).

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<sup>7</sup> ITE LUC 565 (peak hour trips by employee) 4.85 AM/ 4.73 PM

Table 1: Estimated Morning Arrival/ Departure Operations

| Morning Arrival/ Departure Operations |         |          |                  |     |       |                         |                        |   |
|---------------------------------------|---------|----------|------------------|-----|-------|-------------------------|------------------------|---|
| Arrival/ Departure Window             |         |          | Total Site Trips |     |       | Parked Vehicles (Staff) | Total Cars in Driveway | Notes                                     |
|                                       |         |          | In               | Out | Total |                         |                        |   |
| Group A                               | 7:00 AM | 7:15 AM  | 1                | 0   | 1     | 1                       | 2                      | Staff 1 Arrives                           |
|                                       | 7:15 AM | 7:30 AM  | 1                | 1   | 2     | 1                       | 2                      | First Parent Arrives                      |
|                                       | 7:30 AM | 7:45 AM  | 2                | 1   | 3     | 1                       | 2                      | Parent 2 Arrives                          |
|                                       | 7:45 AM | 8:00 AM  | 2                | 1   | 3     | 2                       | 3                      | Staff 2 Arrives                           |
|                                       | 8:00 AM | 8:15 AM  | 2                | 2   | 4     | 2                       | 4                      | Parents 3 & 4 Arrive                      |
| Group B                               | 8:15 AM | 8:30 AM  | 1                | 1   | 2     | 2                       | 3                      | Parent 5 Arrives                          |
|                                       | 8:30 AM | 8:45 AM  | 2                | 2   | 4     | 2                       | 4                      | Parents 6 & 7 Arrive                      |
|                                       | 8:45 AM | 9:00 AM  | 2                | 1   | 3     | 3                       | 4                      | Parent 8 & Staff 3 Arrive                 |
|                                       | 9:00 AM | 9:15 AM  | 2                | 2   | 4     | 3                       | 5                      | Parents 9 and 10 Arrive                   |
| Group C                               | 9:15 AM | 9:30 AM  | 2                | 2   | 4     | 3                       | 5                      | Parents 11 & 12 Arrive                    |
|                                       | 9:30 AM | 9:45 AM  | 3                | 2   | 5     | 4                       | 6                      | Parents 13 and 14 Arrive; Staff 4 Arrives |
|                                       | 9:45 AM | 10:00 AM | 1                | 1   | 2     | 4                       | 5                      | Parent 15 Arrives                         |
| <b>Cumulative Total</b>               |         |          | 19               | 15  | 34    |                         |                        |   |

- 1) The cumulative total reflects the entire morning operation period and does not indicate "peak hour" trip generation.
- 2) Morning drop-off may extend after 10:00 AM but must not begin before 7:00 AM.

Table 2: Estimated Evening Arrival/ Departure Operations

| Evening Arrival/ Departure Operations |         |         |                  |     |       |                         |                        |                                       |
|---------------------------------------|---------|---------|------------------|-----|-------|-------------------------|------------------------|---------------------------------------|
| Arrival/ Departure Window             |         |         | Total Site Trips |     |       | Parked Vehicles (Staff) | Total Cars in Driveway | Notes                                 |
|                                       |         |         | In               | Out | Total |                         |                        |                                       |
| Group A                               | 4:15 PM | 4:30 PM | 1                | 1   | 2     | 4                       | 5                      | First Parent Arrives                  |
|                                       | 4:30 PM | 4:45 PM | 1                | 1   | 2     | 4                       | 5                      | Second Parent Arrives                 |
|                                       | 4:45 PM | 5:00 PM | 2                | 2   | 4     | 4                       | 6                      | Parents 3 & 4 Arrive                  |
| Group B                               | 5:00 PM | 5:15 PM | 1                | 2   | 3     | 3                       | 4                      | Parents 5 Arrives; Staff 1 Departs    |
|                                       | 5:15 PM | 5:30 PM | 2                | 2   | 4     | 3                       | 5                      | Parents 6 & 7 Arrive                  |
|                                       | 5:30 PM | 5:45 PM | 2                | 3   | 5     | 2                       | 4                      | Parents 8 & 9 Arrive; Staff 2 Departs |
|                                       | 5:45 PM | 6:00 PM | 2                | 2   | 4     | 2                       | 4                      | Parents 10 & 11 Arrive                |
| Group C                               | 6:00 PM | 6:15 PM | 2                | 2   | 4     | 2                       | 4                      | Parents 12 & 13 Arrive                |
|                                       | 6:15 PM | 6:30 PM | 1                | 1   | 2     | 2                       | 3                      | Parent 14 Arrives                     |
|                                       | 6:30 PM | 6:45 PM | 1                | 2   | 3     | 1                       | 2                      | Parent 15 & Staff 3 Depart            |
|                                       | 6:45 PM | 7:00 PM | 0                | 1   | 1     | 1                       | 1                      | Staff 4 Departs                       |
| <b>Cumulative Total</b>               |         |         | 15               | 19  | 34    |                         |                        |                                       |

- 1) The cumulative total reflects the entire evening operation period and does not indicate "peak hour" trip generation.
- 2) Evening pick-up may begin before 4:15 PM but must not extend beyond 7:00 PM.



**Reilly, Kathy**

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**From:** Leck, Gregory <Gregory.Leck@montgomerycountymd.gov>  
**Sent:** Friday, January 29, 2016 2:24 PM  
**To:** Reilly, Kathy; Folden, Matthew  
**Cc:** Terry, Mark; Liang, Kyle; Dave, Devang; Torma, Rebecca; william.whelan; Winestone, Lee  
**Subject:** RE: cu 2016-07, 9205 Fernwood Road - CORRECTION TO EARLIER COMMENTS regarding sidewalk construction limits

Hi Kathy & Matt,

**This message is to correct a mistake in my earlier message.** I am also copying other folks not cc'd on my earlier message, in my haste to make another appointment.

I just realized that I confused "Fernwood Place" IS NOT the eyebrow-shaped right-of-way labelled "Fernwood Road" on record plat no. 6135 & also labelled as "Fernwood Court" on record plat no. 3672.

The existing bus stops mentioned in the earlier message (which I recommended the applicant should extend the sidewalk to connect with) are actually located at the intersection of Fernwood Road & Fernwood Place - a much greater construction distance than I originally envisioned (I mistakenly thought the bus stops were opposite the nearby eyebrow).

**Accordingly, please amend the final comment to recommend the sidewalk construction be limited to the section of the site between "9213 Fernwood Court and the existing sidewalk at the intersection of Fernwood and Greentree Roads."**

If that section of sidewalk is constructed by this applicant, visitors to the site should be able to park in the paved eyebrow-shaped right-of-way of Fernwood Road [nee Court] and walk to the proposed day care facility.

Please accept my apologies for this oversight. If you have any questions or comments, please contact me at your earliest convenience.

Greg

**From:** Leck, Gregory  
**Sent:** Friday, January 29, 2016 11:19 AM  
**To:** Reilly, Kathy <kathy.reilly@montgomeryplanning.org>; 'Folden, Matthew' <matthew.folden@montgomeryplanning.org>  
**Cc:** Terry, Mark <Mark.Terry@montgomerycountymd.gov>; Liang, Kyle <Kyle.Liang@montgomerycountymd.gov>; Dave, Devang <Devang.Dave@montgomerycountymd.gov>  
**Subject:** Re: cu 2016-07, 9205 Fernwood Road

Hi Kathy & Matt,

I wasn't able to get over to Edison Park/Traffic Engineering (to research our location files) until yesterday afternoon due an emergency last Friday at home and the snow.

Our files do not show when the median was installed on southbound Fernwood Road approaching Greentree Road. I did find a plan dated 7/25/69 for "proposed channelization" at that intersection but the plan did not indicate whether

the island existed (and was being improved) at that time. A search of our archived CIP projects for that intersection was also unsuccessful.

The 1972 plan also did not indicate existing driveways for either 9205 nor 9203 Fernwood Road. (A review of SDAT property records indicates both structures were built in 1972.)

Here are DOT's concerns with the proposed conditional use:

- The name of the applicant and SDAT property records for 9205 Fernwood do not agree on the owner of this property. SDAT indicates "Alonso-Moreno Gustavo & Sonia Vicente" are the owners of Lot 1, Block 8 in the Green Tree Manor subdivision.
- The drawing on page 4 of the applicant's supplemental information document conveniently fails to note the existence of the 4' raised island on Fernwood Road in front of the subject property. That drawing also proposes two-way operations at the northern driveway - which we do not support for a non-residential use - to avoid conflicting movements on-site, all traffic should be required to enter from the southern driveway and exit at the northern driveway. If this Conditional Use is approved, there should be a requirement that applicant must sign the driveway for a one-way, counter-clockwise movement (no entrance at the northern apron nor egress from the southern apron).
- Both Fernwood and Greentree Roads are identified as primary residential streets on the 2010 Master Plan of Highways map (traffic signal warrant studies conducted in the 1980s identified Fernwood as an arterial; perhaps it was downgraded at some point in time).
- I have a few questions about the results of our recent accident history review; will advise when more info is available.
- We defer to your office for the location/arrangement of the on-site parking spaces, although we agree with you that it appears the applicant is optimistic they can accommodate more vehicles than there is adequate room on the site.
- Page 5 of the applicant's supplemental information document notes "*Of the four staff, I also anticipate two will take public transportation, which will allow for additional space in the parking area.*" If true, that action will help with on-site parking concerns. However, there are no existing sidewalks on Fernwood Road between Greentree Road and nearby Fernwood Court. (According to our RideOn map, there are bus stops near the Fernwood Rd/Ct intersection). If this CU is approved, we recommend the applicant be required to construct a 5' concrete sidewalk in the right-of-way to connect those bus stops with the existing sidewalk at the Fernwood Rd/Greentree Rd intersection to facilitate pedestrian movements to/from the proposed use.

Greg

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**From:** Reilly, Kathy <[kathy.reilly@montgomeryplanning.org](mailto:kathy.reilly@montgomeryplanning.org)>

**Sent:** Thursday, January 21, 2016 3:53 PM

**To:** Leck, Gregory

**Subject:** RE: cu 2016-07

Greg,

The Friday meeting time does not work for me. You can provide informal comments, no memo required if that would work for you & your staff.

Let's talk today (1/21/16) or early next week, possibly we can flesh out some initial comments. I won't be in the office Friday 1/22/16 or Monday 1/25/16.

Thanks,  
Kathy

-----Original Appointment-----

**From:** Leck, Gregory [<mailto:Gregory.Leck@montgomerycountymd.gov>]

**Sent:** Thursday, January 21, 2016 2:56 PM

**To:** Reilly, Kathy

**Subject:** New Time Proposed: cu 2016-07

**When:** Thursday, January 28, 2016 2:30 PM-3:30 PM (UTC-05:00) Eastern Time (US & Canada).

**Where:** ZZ-MCP-MRO-CNF-3rdFL-RM300C-AtriumConfrm

Hi Kathy,

We have not completed our review (of the additional information) received due to other previous review commitments; our target for review responses is 30 days.

Am trying to complete our review by end of next week, but am not available on Thursday due to other commitments.

Any chance we could meet on Friday pm instead?

If not, I'll plan to call you before your meeting with the applicant.

Greg



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

TO: Kathy Reilly, Planner Coordinator, Area 1

FROM: Marco Fuster, Senior Planner, Area 1

SUBJECT: Forest Conservation Review:  
Conditional Use 16-07  
Petition for Daycare Facility  
9205 Fernwood, Bethesda MD  
Bethesda/ Chevy Chase Policy Area

DATE: November 25, 2015

Mrs. Reilly,

There are no champion trees on or near the subject property (and there are no exterior modifications or disturbance proposed). Therefore the forest conservation law does not apply to this conditional use, since it is on a property less than 40,000 square feet. A non-applicability form was previously signed by Staff on November 3, 2015 and was included in the submission packet.

There are no forest conservation or environmental issues associated with the request and the petition is recommend for approval.

Marco Fuster  
Area 1  
MNCPPC  
301-495-4521  
Email: [Marco.Fuster@montgomeryplanning.org](mailto:Marco.Fuster@montgomeryplanning.org)