

**MEMORANDUM**

DATE: September 7, 2001
TO: Montgomery County Board of Appeals
VIA: John Carter, Chief, Community-Based Planning *JAC*
 Sue Edwards, I-270 Corridor, Team Leader *SE*

FROM: Michael Ma, Supervisor, Development Review *Ma*
 Nkosi Yearwood, Community-Based Planning *NY*

REVIEW TYPE: Special Exception and Variance Petition
APPLYING FOR: Child Daycare Facility
APPLICANT: Kids N Care Learning Center
CASE NUMBER: S-2471 and A-5641

REVIEW BASIS: Chapter 59, Zoning Ordinance
ZONE: R-200
LOCATION: Dawson Farm Road and Mateney Hill Road
MASTER PLAN: Germantown Master Plan
FILING DATE: February 9, 2001
PLANNING BOARD: September 13, 2001
PUBLIC HEARING: September 20, 2001 before the Hearing Examiner

STAFF RECOMMENDATION:**Variance A-5641: Denial****Special Exception: APPROVAL** with the following conditions:

1. General
 - a) The applicant is bound by all submitted statements and plans.
 - b) Compliance with Department of Permitting Service (DPS) stormwater management and erosion control requirements.
 - c) The applicant must adhere to Montgomery County Noise Ordinance.

- d) The applicant must adhere to Montgomery County Sign Standards as established by Section 59-F of the Zoning Ordinance.

2. Operational

- a) The use shall be limited to six daycare employees and the hours of the facility are limited to the following: Monday through Friday from 6:30 a.m. to 7:00 p.m. and Saturday from 9:00 a.m. to 6:00 p.m.
- b) Enrollment for the proposed child daycare center is limited to 35 children.
- c) The applicant must comply with Maryland State and Montgomery County standards for the operation of a daycare center.
- d) The proposed use is limited to the proposed child daycare services only. The building must not be leased or rented to the public.
- e) Student play outdoor activities must be staggered during scheduled hours and must not exceed 15 students. Soft materials, such as wood chips, should be utilized for the play area's surface.

3. Transportation

- a) No daycare associated off-site vehicle queuing, except for turning movements, on Mateny Hill Road is to occur at any time.
- b) The applicant must coordinate with Department of Public Works and Transportation (DPWT) to widen Mateny Hill Road to a minimum of 20 feet across the site frontage.
- c) Designate eight parking spaces on site for drop-off and pick-up of students, including all six parking spaces adjacent to the building.

4. Design and Lighting

- a) Submit a final landscaping and lighting plan to M-NCPPC technical staff prior to the issuance of building permits that includes the following items:
 - i) The building must be setback 40 feet from Mateny Hill Road.
 - ii) Provide a wooden fence no higher than 6 feet with evergreen trees surrounding the garbage container.
 - iii) The height of the lighting poles must not exceed 10 feet.

Proposal Description

The applicant, Kids N Care Learning Center, proposes to construct and operate a child daycare center in the R-200 zone at 19002 Mateney Hill Road in Germantown. The applicant is a contract purchaser for the undeveloped site and operates a group daycare facility for 12 children at his residence. The maximum capacity for the proposed facility is up to 45 children between the ages of infant to 11 years with six staff members, including a director.

Site Description

The subject site is located at the intersection of Dawson Farm Road and Mateney Hill Road. It is recorded as Lot 4, Block A in the Mateney Subdivision of Germantown and is 25,137 square feet in size. The site is undeveloped with existing trees and grass, an asphalt driveway from Mateney Hill, and is irregular in shape. Frontage occurs along both Dawson Farm Road and Mateney Hill Road.

Neighborhood Description

The primary use surrounding the proposed daycare facility is residential. The adjacent residential properties to the west are in the R-200 zone along Mateney Hill Road. Properties to the north and east of the subject site are townhouses zoned RT-12.5 and properties to the south, across Dawson Farm Road, are townhouses in the R-200/TDR zone. Germantown Elementary School is located further west of the subject site at Dawson Farm Road and Liberty Hill Road. A MARC commuter rail is located at the end of Mateney Hill Road.

There are four approved special exceptions within relative proximity to the proposed daycare facility: (S-113) for a nursing home at 19310 Germantown Road, which was approved in 1972; (S-728) a non-resident medical office at 19330 Germantown Road, approved in 1980; (S-1186), a child daycare facility for 40 children at 12648 Gray Eagle Court, approved in 1985; and (S-2220) an automobile filing station and convenience store, located at Crystal Rock Drive, south of MD 118.

Elements of Proposal

The applicant proposes to construct a two-level building to accommodate the proposed child daycare facility. As proposed, the building will have a basement, first and second levels. Storage, utilities and mechanical space and an unfinished basement will comprise the lower level. On the first level, the main activities for the daycare center will take place in four classrooms, computer room, men's and women's bathrooms, reception and storage areas, and kitchenette. The second level of the building shows a meeting room, staff lounge, director's office, bathroom, and large balcony.

A play area, approximately 1,500 square feet in size, is proposed for the

south-eastern portion of the site and a parking area for 15 cars is proposed for the western side of the building. Trees, shrubs and other plantings are proposed for the perimeter of the site, parking area, play area and walkway leading to the entrance and play area. Further, a walkway is proposed from Dawson Farm Road and a wooden sign with no lighting is planned for the southern portion of the site. Physical activity for children will take place in the outdoor play area and no more than 15 children will play at one time.

Monday through Friday between the hours of 6:30 a.m. and 7:00 p.m. are the proposed hours of operation as well as Saturdays from 8:00 a.m. to 6:00 p.m. The applicant's third revised statement of operations states that "all staff will arrive and leave outside of peak hours" (7:00 a.m. to 9:00 a.m. and 4:00 p.m. to 6:00 p.m.). Additionally, the applicant states that "children will be transported by parental or carpool vehicles, arriving generally between 7:00 a.m. and 9:00 a.m. and leaving at various times during the day with adequate capacity for the trips generated."

The third revised statement of operation also states that one classroom will have children from 18 months to 2 years with a maximum of two toddlers and 10 children between the ages of two and three. A second classroom will accommodate 10-three to four year olds. Another classroom will have 10 children between the ages of 4 years and 5 years and the final classroom will accommodate 13 children five years of age and higher.

Building

A two-level "W" shape building with a basement is planned for the site with its entrance on Mateney Hill Road. The size of the building varies from the basement to the second level. The first level is approximately 3,470 square feet in size and the useable space on the second level is approximately 1,100 square feet.

The length of the building along the western property line is 59 feet; along the southern property line it is 59 feet in length; and varies in length along the northern and eastern sides. The eastern and northern sides of the building vary since the entrance is located near the intersection of the "W" shape of the facility. Three dormers will face Dawson Farm Road and three will face the adjacent single-family dwelling.

Analysis

Child daycare facilities are an allowable special exception in the R-200 Zone. The Zoning Ordinance divides child daycare facilities into three categories: family daycare home, group daycare home and child daycare center. The proposed petition is for a child daycare center, which is defined in Section 59-A-2.1 as a "dwelling or building in which child daycare services are provided in accordance with all applicable state and county laws and regulations."

The definition further states that a child daycare center could occur in a "dwelling in which child daycare services are provided and the provider is not a resident and does

not meet the requirements for a non-resident provider for family daycare home or a group home." Preschool and kindergarten educational programs are allowed as accessory uses, subject to accreditation by the State. The applicant's proposal must be reviewed by the Board of Appeals since more than 30 children are proposed for the site.

The applicant has indicated that some artistic teaching or instruction of students may occur on Saturdays at the facility. If any instruction would occur at the site, then the applicant must apply for a private educational institution special exception to comply with zoning standards. The applicant's revised statement of operation does not reflect this possibility; therefore, it is important that the applicant specify any alternative use of the facility on Saturdays to provide daycare services.

Background

Staff has reviewed several site plans and statement of operations from the applicant. Each revision has attempted to address various site design and operational issues, such as staffing levels and parking circulation. The applicant has modified the first and second floor plans of the building as well as the parking area and number of students and staff for the facility. A staff report was prepared for the Board of Appeals, dated June 8, 2001, which recommended deferral/denial for the proposed facility. A public hearing was not held since the applicant withdrew from the hearing.

Development Standards

The proposed child daycare facility is in the R-200 Zone. Since the building fronts on both Mateney Hill Road and Dawson Farm Road, the front is considered at both sides. The Zoning Ordinance, Section 59-A-2.1, states that the front lot for "A corner lot may front on either street if large enough to provide all minimum setbacks and yard area requirements."

Staff has defined the building as having two fronts: Dawson Farm Road and Mateney Hill Road. The submitted site plan does not meet the development standards since the front yard setback from Mateney Hill Road is only 30 feet, instead of 40 feet as required by the zone. Additionally, the parking area does not meet the front yard setback standards for the residential zone. The site is large enough to meet the development standards for the zone, but the building's design and size of the parking facility does not allow it to conform to development standards. Subsequently, the applicant has applied for a variance for the building and parking area.

The following table shows the development standards for the proposed daycare facility:

<i>R-200 Zone</i>	<i>Requirement</i>	<i>Provided</i>
Land size	20, 000 square feet	25, 136 square feet
Building Setback		
Front (Mateney Hill)	40 feet	30 feet
Front (Dawson Farm)	40 feet	40 feet
Side	12 feet	61 feet
Building Height	50 feet	23 feet
Building Coverage	25 percent	19 percent
Parking Spaces		
-1 space for each employee		
-1 space for every 6 students	12 spaces	15 spaces

Variance

The applicant’s variance application (A-5641) notes that narrowness and topography of the site are the main reasons why the variance application should be granted. A variance is needed for the front yard setback from Mateney Hill. The Board of Appeals may grant a variance based on Section 59-G.3.1 of the Zoning Ordinance (*See attachment for variance findings*).

Staff recommends denial of the variances since the proposed use could be accommodated on the site without infringing upon the setbacks for the R-200 zone. The applicant’s building footprint could be reduced to a level where no variances are required. Although the site is narrow at its north-eastern end given the curvature of the road, staff is of the position that the application for a variance is a self-imposed hardship by the applicant and not necessarily the narrowness of the site. Staff further acknowledges that some properties along Mateney Hill Road are not consistent with the 40-foot setback requirement, including the adjacent property. As a new use, however, staff strongly believes that this use should be consistent with the development standards as established in the Zoning Ordinance.

Subdivision

The subject site was subdivided in 1996. Prior to the subdivision, the adjacent lot to the west and the proposed site for the daycare was one lot, approximately 56, 427 square feet in size. The approved subdivision, (No. 1-96107), stated that no access should be permitted from Dawson Farm Road. Therefore, the proposed daycare center must gain access from Mateney Hill Road.

Master Plan

The proposed daycare facility is located in the Germantown planning area. The Germantown Master Plan (Approved and Adopted 1989) notes that child daycare services are important for the planning area. The Master Plan acknowledges there are various types of child daycare facilities, including family and group daycare homes in Germantown stating that there is a “very strong unmet need for child daycare facilities, particularly for infants, and for before-and after-school programs for older children” (p.140). The 1989 Plan also notes that “the many requests for child daycare services for infants and comments from providers of services suggest that there is a significant need for both infant care and school-age care facilities and opportunities in the area.” (p.140)

Between 1990 and 2000, the Plan projects that the number of children in the planning area will increase and then will taper off for the next decade. The Plan recognizes that “additional child daycare facilities and opportunities should be explored to meet the increasing needs of the next decade” (p.140). Preliminary data from the 2000 Census confirms this anticipated decline. The following figures shows the percentage of the population in Germantown, which includes the age ranges for the proposed daycare facility:

Age Range	1989 Plan	2000 Census *
0-4	9.8%	9.2%
5-9	9.0%	8.3%

**Source: MNCPPC-Research and Technology*

During the planning phase of the Master Plan, a child daycare location survey was conducted and it was determined that “the overall preference for child daycare location was indicated either at or near home, or at or near work, but not in between. Based on the survey results, this Plan recommends that child daycare facilities be developed in conjunction with recreation facilities in residential communities and at appropriate locations within employment areas.” (p.141) Subsequently, the Master Plan recommended that “child daycare facilities be included in community centers within subdivisions and at employment concentrations. Other sites should be explored as Germantown develops.” (p. 141) The applicant acknowledges that the proposed site is not at an employment concentration but it is an alternative site which the Plan anticipates as Germantown has continued to develop since the 1989 Plan was approved.

The proposed site is located in Analysis Area 1 of Clopper Village (CL-1) of the Master Plan, while portions along Dawson Farm Road and the site’s eastern edge is in Analysis Area (CL-3). Analysis area CL-1 includes the southern side of Germantown Road (MD 118) and Germantown Historic District around the train station at the north end of Mateney Hill Road. Analysis Area (CL-3) is located between MD 118 and Great Seneca Highway and is north of Clopper Road. (See attached map for more information).

The Master Plan recommends four properties for higher intense residential use or low intensity office use in area CL-1. Although this site was recently subdivided, it was not one of the four properties recommended for higher intense use. The predominant characteristic of the CL-1 analysis area is residential. Staff believes that the proposed child daycare facility, with the denial of the variance and recommended conditions, would allow the use to be consistent with the scale and character of the existing single-family dwellings.

Inherent/non-inherent

Inherent and non-inherent adverse effects of the special exception use must be considered on nearby properties and the general neighborhood at the proposed location, regardless of the adverse effects elsewhere in the zone. Section 59-G-1.2.1 of the Zoning Ordinance states:

Inherent adverse effects are the physical and operational characteristics necessarily associated with the particular use, regardless of its physical size or scale of operations. Inherent adverse effects alone are not a sufficient basis for denial of a special exception. Non-inherent adverse effects are physical and operational characteristics not necessarily associated with the particular use, or adverse effects created by unusual characteristics of the site. Non-inherent adverse effects, alone or in conjunction with the inherent effects, are a sufficient basis to deny a special exception."

When reviewing inherent and non-inherent adverse effects, it is recommended that seven points or physical operating effects be considered. These relate to: size, scale, scope, light, noise, traffic, and environment. It is understood that 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 will create adverse impacts sufficient to result recommending denial of the proposal.

Inherent adverse effects for a child daycare facility include the following: parking facilities for staff and parents, exterior lighting, activities area and licensing and building requirements dictated by the use. Furthermore, all daycare facilities are subject to State of Maryland certification and approval. This approval process establishes various State standards, including student per staff ratio and allowable number of students per interior square feet. From an operational standpoint, there are parents dropping off and picking up students in the morning and afternoon, emergency trips by parents, trash removal at limited times during the week and employees working at the facility.

The typical size of a daycare facility varies in size based upon the number of students and employees in the facility. Smaller daycare facilities can be accommodated in existing residential dwellings or church basements, for example, whereas a larger operation, such as the proposed center, could exist in a detached dwelling. The

applicant's proposal is larger than necessary given that the only offices will occupy the second floor. The nature of operating a child daycare center requires employees to have constant interaction, guidance and supervision of children. Staff is concerned that the rooms on the second floor are excessive and could become another use not associated with the daycare center if approved by the Board of Appeals.

As proposed, staff believes that the size of the building and scope of the operation, would not be not compatible with the existing single-family character of the area. Staff recommendation to deny the variance request is based on the fact that a smaller scale building could exist on the site without negating the applicant's petition. The applicant proposes four classrooms with three classrooms each having 10 students and staff has determined that the elimination of one classroom would produce a smaller building and reduced the parking area. Further, reducing the number of students could alleviate any off-site problems given the features of Mateney Hill Road. Staff further believes that adhering to the development standards would allow the building to be more compatible with surrounding single-family detached dwellings, although townhouses to the south and south-east are taller than the proposed use.

Traffic is an inherent element for a daycare facility with parents dropping off and picking up children during the day. Parking, as an associated element, is needed for parents and staff. There are sufficient parking spaces to accommodate the use but circulation and queuing may become problems at the ending or beginning of each day. Staff's recommendation to reduce the number of students for the facility would further alleviate potential off-site queuing and allow more spaces for drop-off and pick-up of students. As a condition of approval, staff recommends that the applicant develop in-concert with the community a Transportation Management Plan (TMP) if any off-site problems occur.

Traffic

Transportation Planning staff has reviewed the subject petition and recommends its approval subject to various conditions, including the widening of Mateney Hill (*See attachment for Transportation Memos*). Staff recommends that all parking spaces adjacent to the building be designated with signs for only drop-off and pick-up of students. Parking for staff members will take place on the opposite side of the parking area and remaining spaces could also be used for drop-off and pick-up of students.

The applicant has conducted traffic counts to gauge morning and afternoon traffic along surrounding roads, including the intersection of Mateney Hill Road and Dawson Farm Road. Other issues, such as queuing of vehicles, onsite circulation of vehicles and potential conflicts during morning and afternoon peak periods have not been sufficiently addressed by the applicant.

Since the proposed facility is a daycare center, parents will park in the parking area then take students into the facility. This process could take anywhere between five and 10 minutes. It is likely that all eight spaces available for parental use could be

occupied during morning and afternoon drop-off and pick-up. If this occurs, cars would queue along Mateney Hill Road; therefore, staff recommends that no offsite vehicle queuing on the road and reducing the number of children. Staff recommendation to reduce the number of students for the facility could assist in alleviating this potential issue.

Local Area Transportation Review

For Local Area Transportation Review (LATR), the proposed daycare facility for 45 children would generate thirty-five trips and fourteen trips during the AM and PM peak periods, respectively. Thus, the proposed development would not require a traffic impact study.

Policy Area Review

For Policy Area Transportation Review, the current FY01 AGP indicates that the Germatown West Policy Area has employment staging ceiling capacity available (1, 566 jobs as of April 30, 2001) to accommodate the proposed development.

Access

Access to the site is proposed from Mateney Hill Road, a two-lane road that is narrow, approximately 18 feet wide in pavement without any sidewalks and a sub-standard horizontal curve along the front of the site. From near the proposed entrance of the facility to Dawson Farm Road, double yellow lines mark Mateney Hill. These lines terminate close to the proposed entrance to the facility. Unlike Mateney Hill, Dawson Farm Road has a median, sidewalks and landscaping..

Parking Standards

The parking standard for a child daycare facility, Section 59-E-3.7, notes that one space for every six children is required as well as one space for each employee and adequate parking and pick-up for children. The configuration of the parking area creates a conflict between the parent drop-off and exiting the parking with entering the driveway. The desire to reduce the number of children would permit more parking spaces for parents and reduce any potential off-site unsafe conditions.

Based on the submitted site plan and statement of operations, the applicant does meet the required number of parking spaces for a daycare facility. However, the applicant's revised site plan does not meet the front yard setback requirements, Section 59-E-2.81, for residential parking.

Environmental

Environmental Planning staff has reviewed the subject petition and notes that the application is exempt from Forest Conservation Law (#4-96006E) as a small property.

This site is located in the Gunners Branch of the Great Seneca Creek Watershed. The *Countywide Stream Protection Strategy (CSPS)* assesses Gunners Branch as having fair stream conditions and fair habitat conditions, labeling it as a Watershed Restoration Area. The applicant has received approval of the stormwater management concept plan submitted to the Department of Permitting Services (DPS). Water quality shall be provided on-site via sand filters and water quantity control shall be provided off-site via an existing pond.

Community Concern

Prior to the first Board of Appeals hearing in June, staff met with the adjacent property owner and current resident of the single-family dwelling. On Wednesday September 5, 2001 staff again met with the adjacent property owner who maintains his opposition to the proposed use. They opposed the proposed facility for the following reasons: increased traffic to the neighborhood, compatibility of the proposed building to his residence and the neighborhood, increased noise and physical activity, and incompatibility to the Master Plan. Staff also met with a resident in the Germantown Station subdivision who expressed reservation of the proposal based on several factors, including size of the facility and safety. (*See attachment for letter*). The applicant held a meeting to discuss the previous proposal with residents on May 30, 2001, at Germantown Elementary School.

Conclusion

Based upon review of the applicant's revised petition, staff recommends approval of the subject special exception. As proposed, the project does raise issues regarding compatibility with the character of the surrounding neighborhood. Moreover, the application for a variance would negate the possibility of having a building that is compatible to the neighborhood and adheres to the development standards. Staff further believes that the granting of a variance is a self-imposed hardship since the use could exist without the need for a variance. A reduction in one classroom as proposed by staff and the denial of the variance would allow a smaller scale building with less activity to occur at the site. Staff does have concerns regarding the safe onsite circulation of vehicles and the potential queuing of vehicles onto Mateney Hill Road and the potential of uses on the site that are not part of the daycare facility. However, staff recommends the petition with the conditions listed on the first and second page of this report.

Attachments

Vicinity Map	A-1
Site Plan	A-2
Landscaping and Lighting Plan	A-3
Basement Level	A-4
First and Second Floor Level	A-5
Building Elevations	A-6
Master Plan Map of Analysis Areas	A-7
Transportation Memos	A-8
Citizen Letter	A-9
Variance Findings	A-10

Montgomery County Zoning Ordinance

Sec. 59-G-1.2. Conditions for granting.

59-G-1.2.1. Standard for evaluation. A special exception must not be granted absent the findings required by this Article. In making these findings, the Board of Appeals, Hearing Examiner, or District Council, as the case may be, must consider the inherent and non-inherent adverse effects of the use on nearby properties and the general neighborhood at the proposed location, irrespective of adverse effects the use might have if established elsewhere in the zone. ~~Inherent adverse effects are the physical and operational characteristics necessarily associated with the particular use, regardless of its physical size or scale of operations. Inherent adverse effects alone are not a sufficient basis for denial of a special exception. Non-inherent adverse effects are physical and operational characteristics not necessarily associated with the particular use, or adverse effects created by unusual characteristics of the site. Non-inherent adverse effects, alone or in conjunction with the inherent effects, are a sufficient basis to deny a special exception.~~

The physical and operational characteristics of the proposal with staff recommendations are consistent with the normal operations of a child daycare facility. A non-inherent adverse effect of the site is its location on a sub-divided property that limits the entrance of the facility from Mateney Hill Road.

59-G-1.21. General conditions.

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

A child day care facility is a permitted special exception in the R-200 zone.

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

The proposed use, with staff recommendations, will comply with Section 59-G-2.13.1 for a daycare facility.

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

The Master Plan acknowledges the need for daycare facilities, but the analysis area where the subject site is located recommends low density residential uses in the analysis area.

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

The building, with staff recommendations, will be in harmony with the general character of neighborhood when considering design, scale and bulk.

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

The adjacent property owner has stated that the proposed use will impact his opportunity to sell his property in the future. Staff does not agree that the proposed use will adversely impact the peaceful enjoyment or economic value of the surrounding neighborhood.

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

The proposed use will cause noise and physical activity that is commonly associated with a child daycare facility.

- (7) Will not, when evaluated in conjunction with existing and approved special exceptions in any neighboring one-family

residential area, increase the number, intensity, or scope of special exception uses sufficiently to affect the area adversely or alter the predominantly residential nature of the area. Special exception uses that are consistent with the recommendations of a master or sector plan do not alter the nature of an area.

The proposed petition will not increase the number or intensity of special exceptions.

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

The narrowness and curvature of Mateney Hill could impact the safety and security of residents, visitors and workers if queuing from the site spills over onto the road. Staff recommendation to reduce the number of children would assist in reducing any adverse impact of the proposal.

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

The subject site is served by public water and sewer.

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

Not applicable.

- (ii) With regard to findings relating to public roads, the Board, the Hearing Examiner or the District Council, as the case may be, must further determine that the proposal will have no detrimental effect on the safety of vehicular or pedestrian traffic.

If any queuing occurs off-site, it could have a detrimental effect on vehicular safety.

Sec. 59-G-2.13.1. Child day care facility.

(a) The Hearing Examiner may approve a child day care facility for a maximum of 30 children if:

- (1) a plan is submitted showing the location of all buildings and structures, parking spaces, driveways, loading and unloading areas, play areas, and other uses on the site;

The applicant has submitted a site plan that illustrates the above criteria.

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

The required number of parking spaces is provided on the site plan.

- (A) existing parking spaces are available on adjacent property or on the street abutting the site that will satisfy the number of spaces required; or

Not applicable.

- (B) a reduced number of spaces would be sufficient to accommodate the proposed use without adversely affecting the surrounding area or creating safety problems;

Not applicable.

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

Although the applicant has provided enough spaces as determined by the use. However, offsite queuing could occur at certain times.

- (4) the petitioner submits an affidavit that the petitioner will:

The applicant has submitted an affidavit regarding compliance with State and County requirements.

- (A) comply with all applicable State and County requirements;

- (B) correct any deficiencies found in any government inspection; and
 - (C) be bound by the affidavit as condition of approval for this special exception; and
- (5) the use is compatible with surrounding uses and will not result in a nuisance because of traffic, parking, noise or type of physical activity. The hearing examiner may require landscaping and screening and the submission of a plan showing the location, height, caliper, species, and other characteristics, in order to provide a physical and aesthetic barrier to protect surroundings properties from any adverse impacts resulting from the use.

The use, as proposed, is not compatible with the surrounding residential neighborhood.

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

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

A landscaping plan has been submitted showing all proposed landscaping for the site.

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

The subject site is 25, 137 square feet; therefore, 50 children could be permitted on the site. The applicant is requesting 45 children for the site.

- (c) The requirements of section 59-G-2.13.1 do not apply to a child day care facility operated by a nonprofit organization and located in:

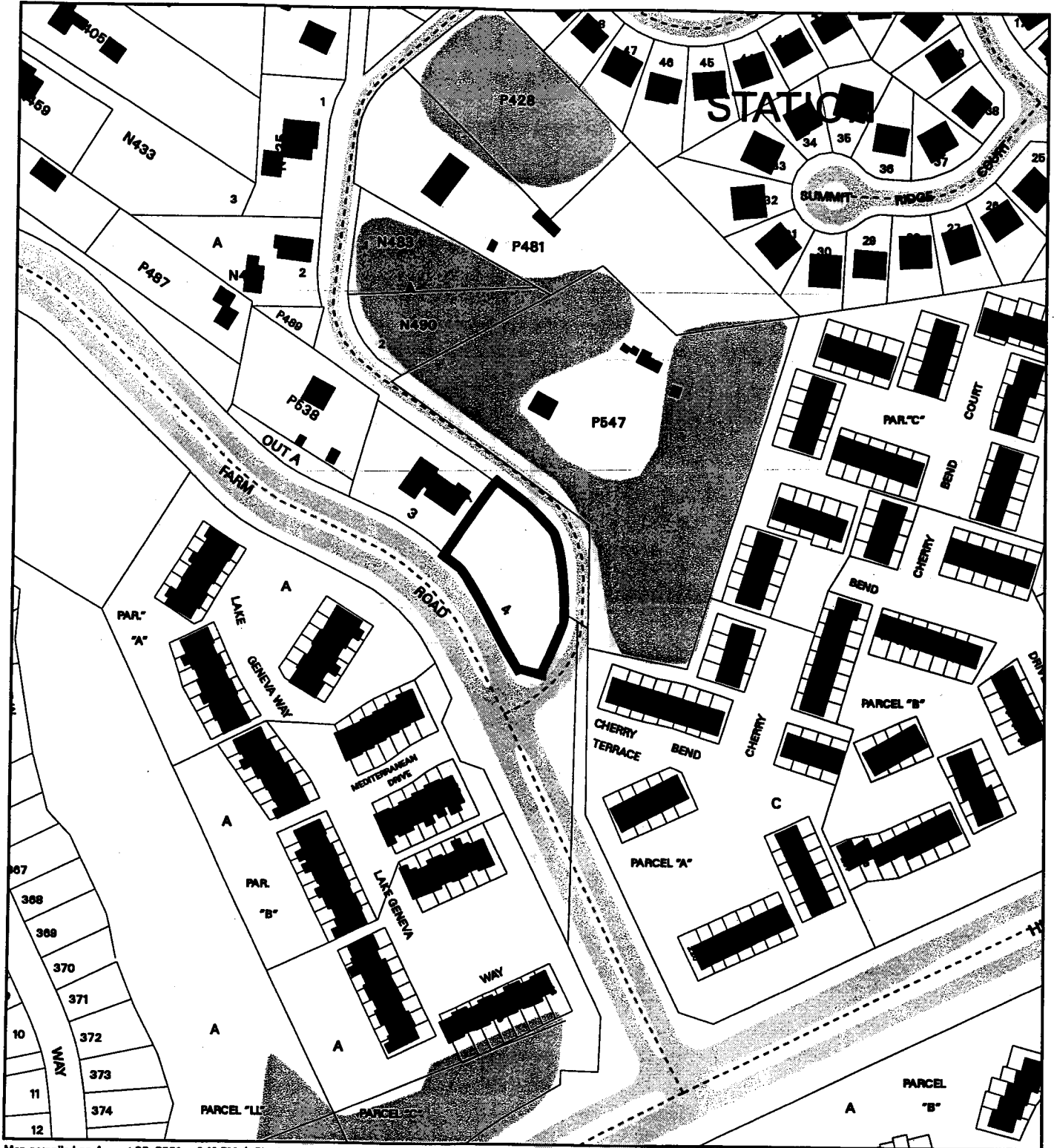
- (1) a structure owned or leased by a religious organization and used for worship; or
- (2) a structure located on premises owned or leased by a religious organization that is adjacent to premises regularly used as a place of worship; or

(3) a structure used for private parochial educational purposes which is exempted from the special exception standards under section 59-G-2.19(c); or

(4) a publicly owned building.

Not applicable.

VICINITY MAP FOR
DAYCARE CENTER (S-2471)



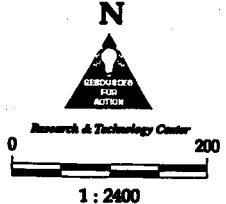
Map compiled on August 30, 2001 at 3:10 PM | Site located on base sheet no - 228NW13

NOTICE

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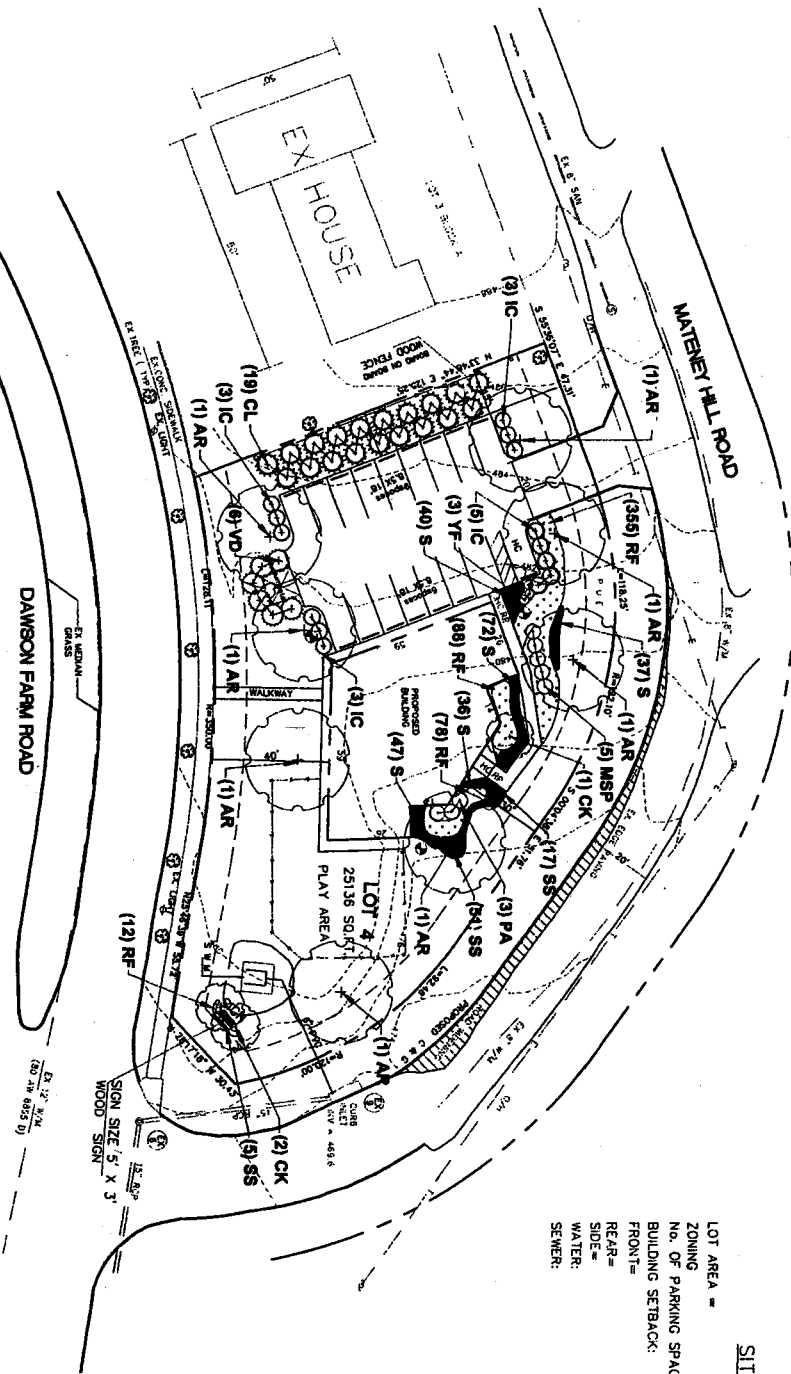
Property lines are compiled by adjusting the property lines to topography created from aerial photography and should not be interpreted as actual field surveys. Planimetric features were compiled from 1:14400 scale aerial photography using stereo photogrammetric methods.

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

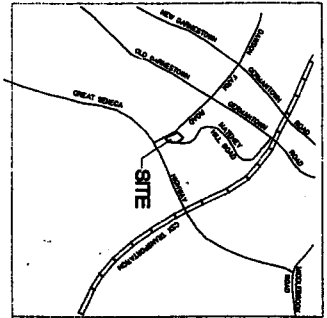




KENNETH R. WALLICH
P. 547
ZONE RT.



SITE DATA:
 LOT AREA = 25,136 sq. ft.
 ZONING = R-200
 NO. OF PARKING SPACES PROVIDED: 15
 BUILDING SETBACK:
 FRONT = 30'
 REAR = 40'
 SIDE = 15'
 WATER = PUBLIC
 SEWER = PUBLIC



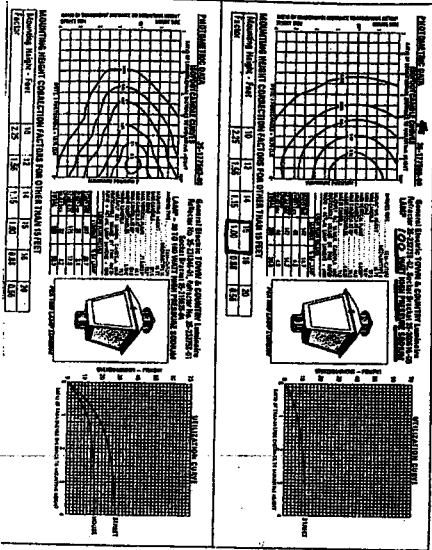
PROJECT NAME:
 MATHEW DANCARE CENTER
 LOT 4, BLOCK A
 LANTIER SUBDIVISION
 CHRYSLER
 8th ELECTION DISTRICT
 MONTGOMERY COUNTY, MARYLAND

DRAWING TITLE:
 SPECIAL EXCEPTION PLAN
 SITE PLAN
 LANDSCAPING PLAN



Scale: 1" = 20'
 Drawing No: 1 OF 2
 Date: 9/8/2001

**PHOTOMETRIC DATA G&T 710C
TOWN AND COUNTRY LUMINAIRES**

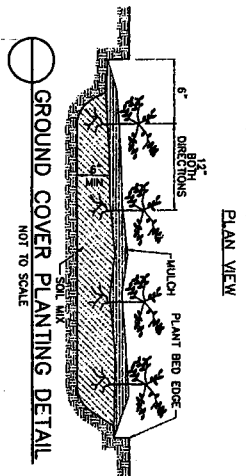
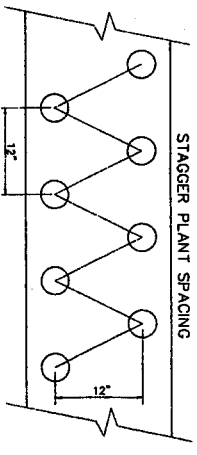
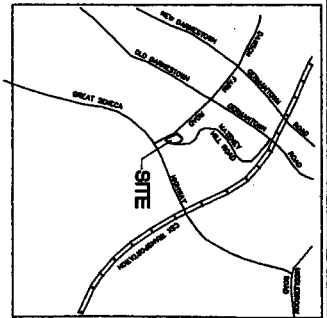
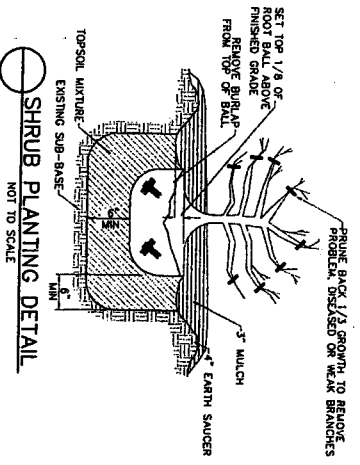
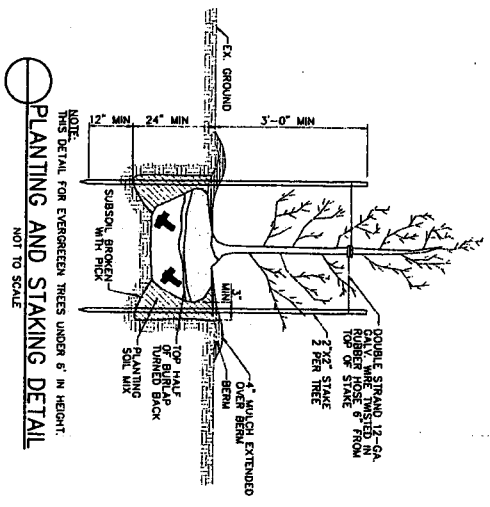


Plant No.	Plant Name	Quantity	Plant Size	Plant Spacing	Plant Location
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PLANT SCHEDULE - RECOMMENDED SPECIES LIST

PLANT NO.	PLANT NAME	PLANT SIZE	PLANT QUANTITY	PLANT SPACING	PLANT LOCATION
1
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ATES
TOTAL ENGINEERING SERVICES
PLANNERS, ENGINEERS, SURVEYORS
P.O. BOX 10123
SILVER SPRING, MD 20914
TEL: (301) 315 1514 FAX: (301) 315 5588

REVISIONS:

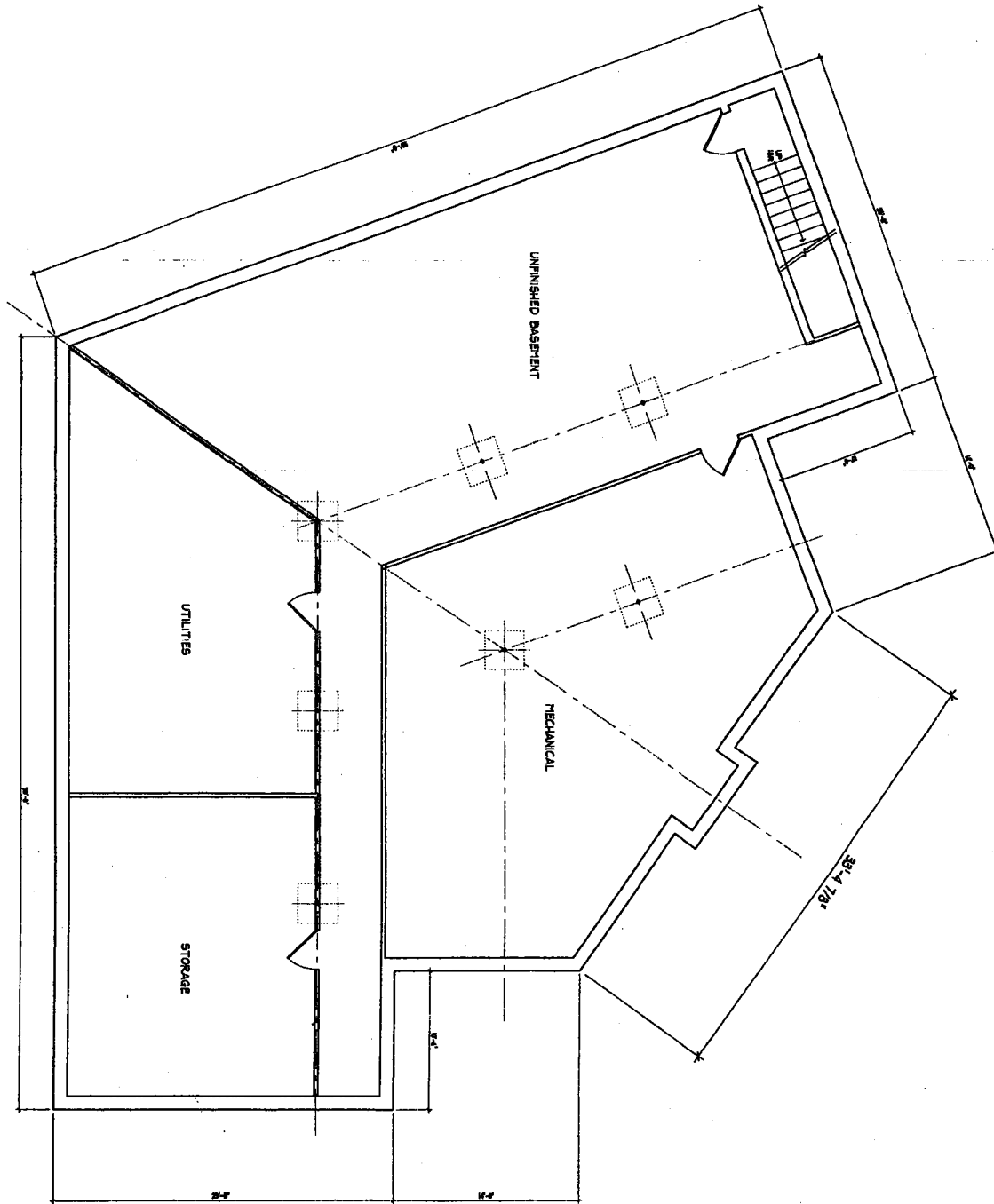
NO.	DESCRIPTION	DATE

PROJECT NAME
MATTHEW DANCONE CENTER
MATHER'S SUBDIVISION
DANNERSBURG
9th ELECTION DISTRICT
MONTGOMERY COUNTY, MARYLAND

DRAWING TITLE:
**SPECIAL EXCEPTION PLAN
LANDSCAPING PLAN**

NO.	DATE	BY	CHKD.

Scale: 1" = 20'
Sheet No. 2 OF 2
Date: 5/22/2001

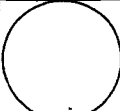


BASEMENT FLOOR PLAN

BASEMENT FLOOR PLAN

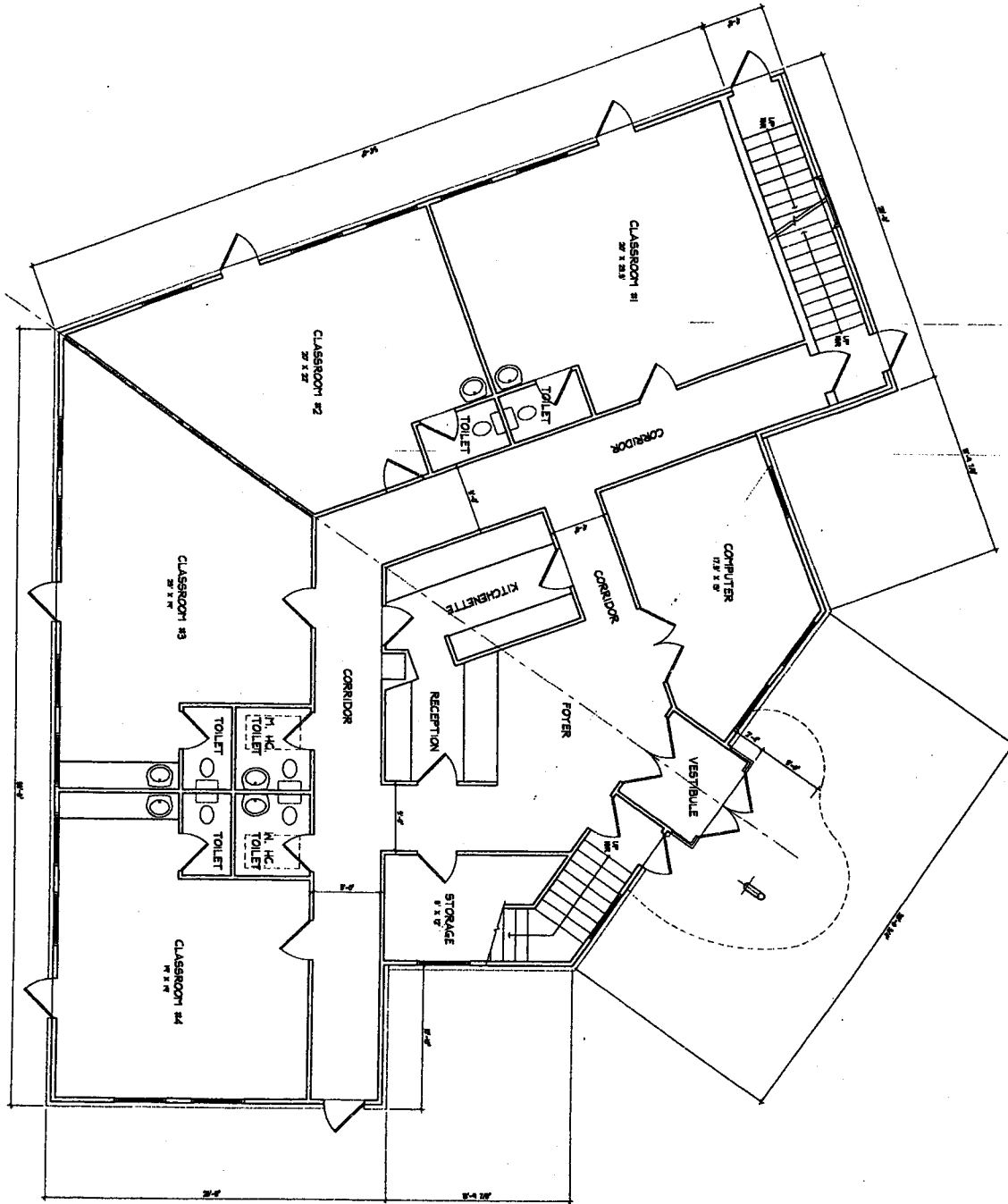
MATENY DAYCARE CENTER
 9002 MATENY HILL RD.
 GERMANTOWN, MARYLAND

NO.	REVISION	DATE



ARCON, Ltd.
 5272 RIVER ROAD, SUITE 600, BETHESDA, MD 20816
 TEL. 301.654.9299 FAX. 301.654.7870



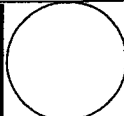


FIRST FLOOR PLAN (3470 S.F.)

A-2

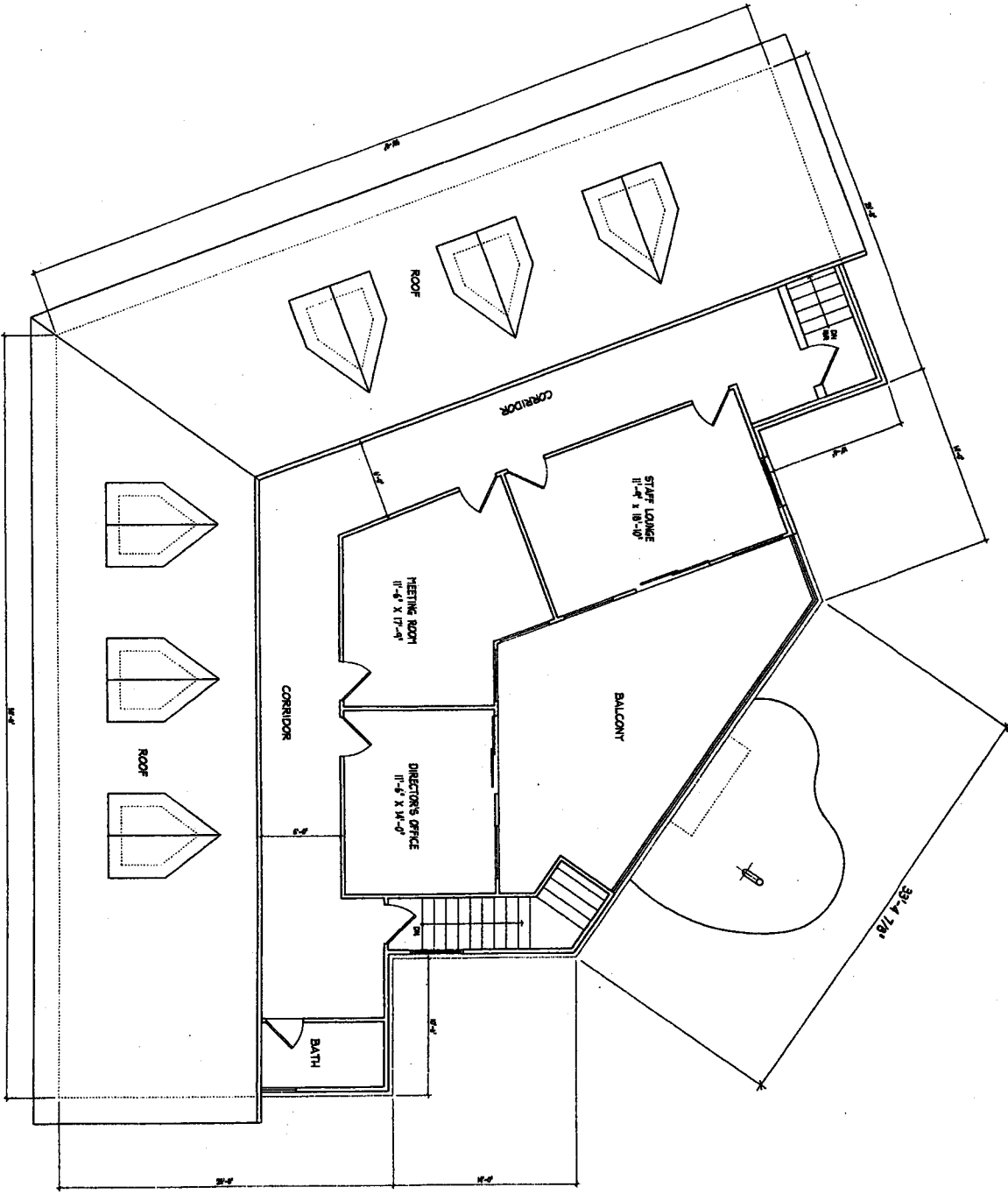
FIRST FLOOR PLAN
 MATENY DAYCARE CENTER
 9002 MATENY HILL RD.
 GERMANTOWN, MARYLAND

NO.	REVISION	DATE



ARCON, Ltd.
 5272 RIVER ROAD, SUITE 600, PETHESDA, MD 20816
 TEL. 301.654.9299 FAX. 301.654.7870





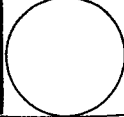
MEZZANINE FLOOR PLAN (100 s.f.)

A-3

MEZZANINE FLOOR PLAN

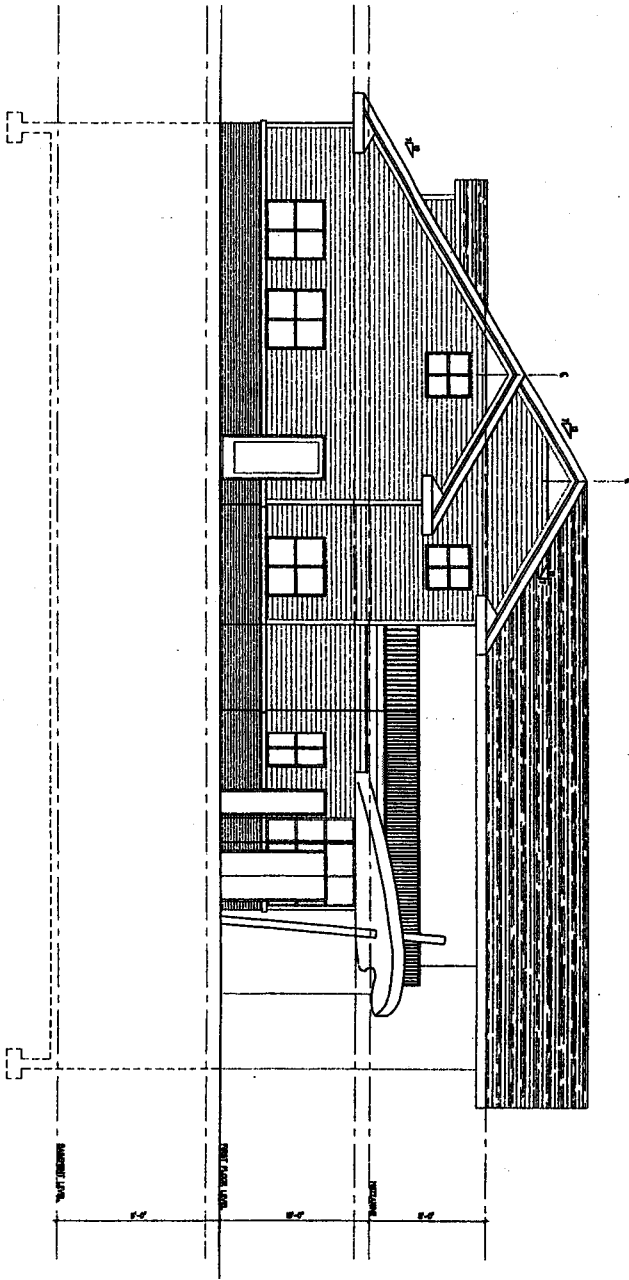
MATENY DAYCARE CENTER
 9002 MATENY HILL RD.
 GERMANTOWN, MARYLAND

NO.	REVISION	DATE

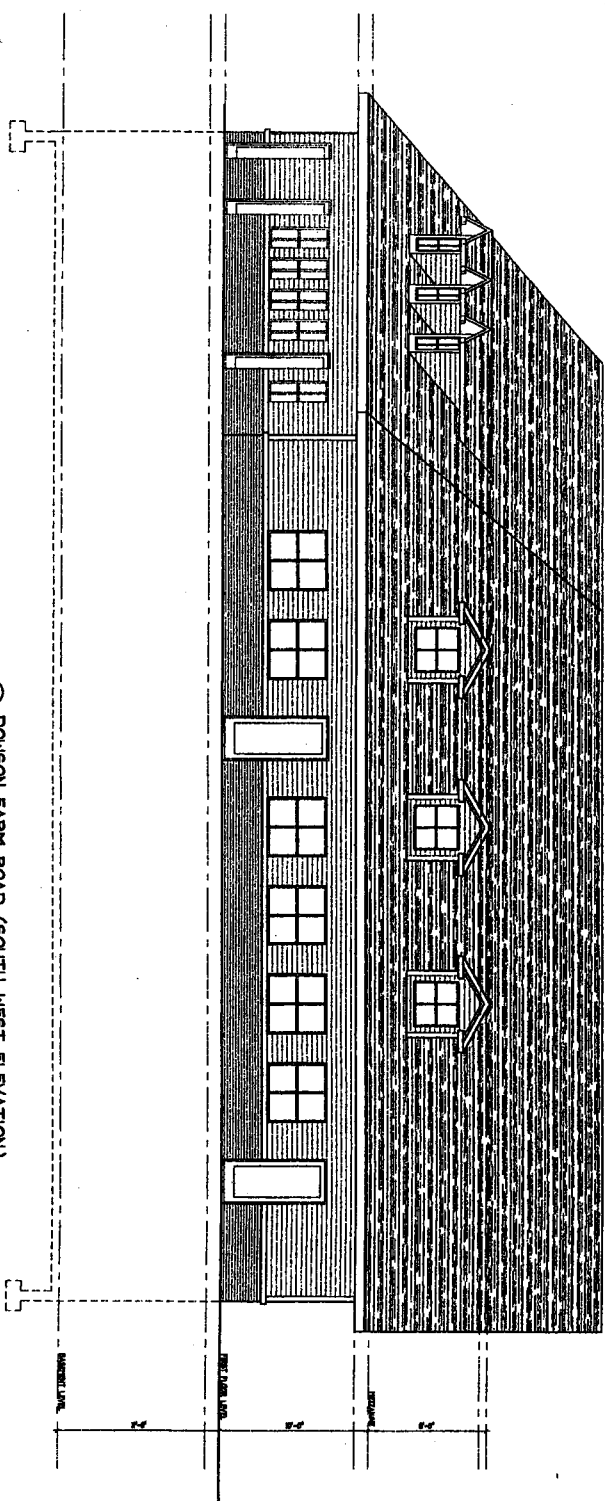


ARCON, Ltd.
 5272 RIVER ROAD, SUITE 600, BETHESDA, MD 20816
 TEL. 301.654.9299 FAX. 301.654.7870

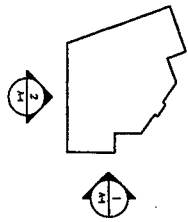




⊕ SOUTH-EAST ELEVATION

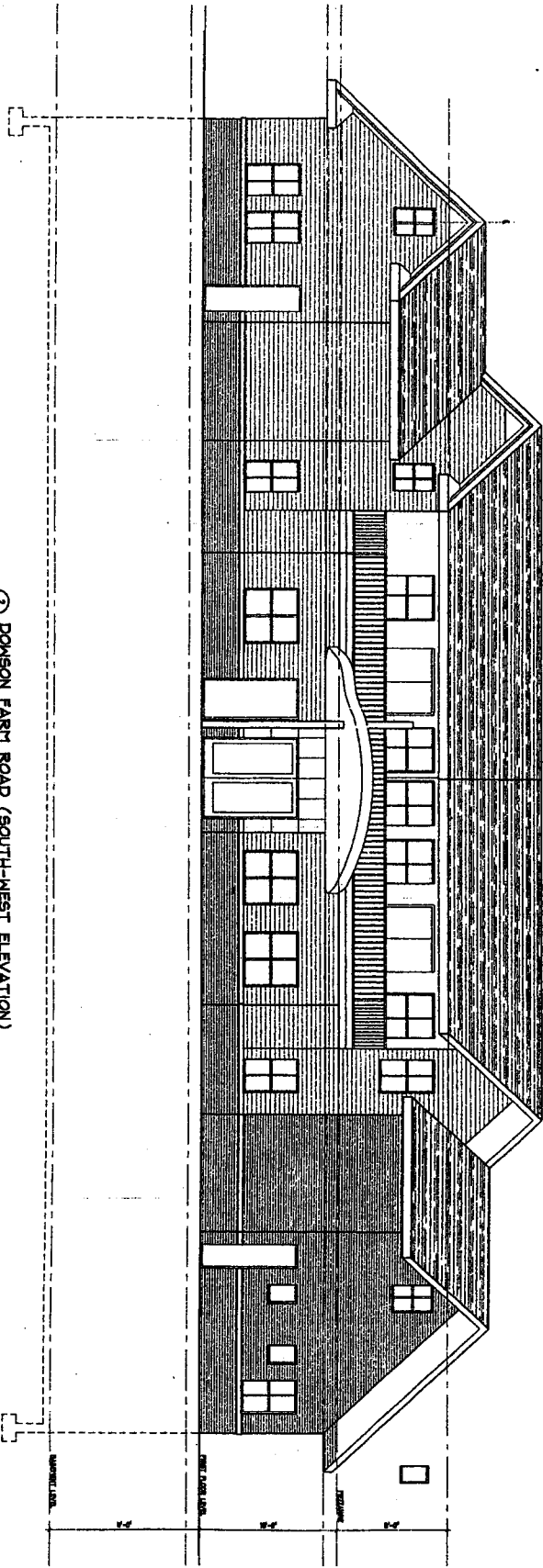


⊕ SOUTH-WEST ELEVATION

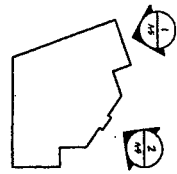
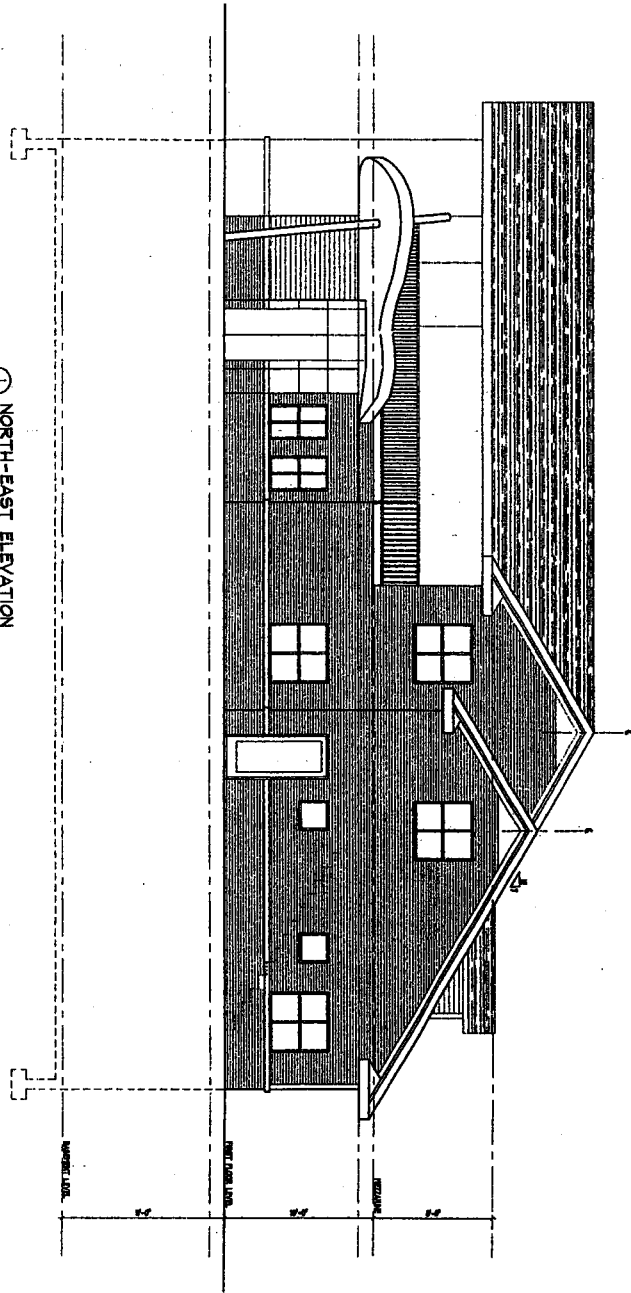


A-4	BUILDING ELEVATIONS	NO.	REVISION	DATE		ARCON Ltd. 5272 RIVER ROAD, SUITE 600, BETHESDA, MD 20816 TEL. 301.654.9299 FAX. 301.654.7870
	PROJECT NO. _____ DATE: 07/07/07 SCALE: 1/8" = 1'-0"	MATENY DAYCARE CENTER 9002 MATENY HILL RD. GERMANTOWN, MARYLAND	_____ _____ _____ _____	_____ _____ _____ _____		

⊕ DOWSON FARM ROAD (SOUTH-WEST ELEVATION)



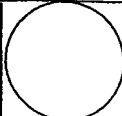
⊕ NORTH-EAST ELEVATION



A-5

BUILDING ELEVATIONS
 MATENY DAYCARE CENTER
 9002 MATENY HILL RD.
 GERMANTOWN, MARYLAND

NO.	REVISION	DATE



ARCON Ltd.
 5272 RIVER ROAD, SUITE 600, BETHESDA, MD 20816
 TEL. 301.654.9299 FAX. 301.654.7870





September 6, 2001

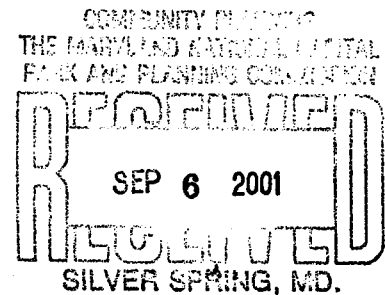
MEMORANDUM:

TO: Nkosi Yearwood, Planner
Community-Based Planning Division

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

FROM: Ki H. Kim, Planner *KHK*
Transportation Planning

SUBJECT: Special Exception Application No. S-2471
Day-Care Center at 19002 Mateney Hill Road
Germantown



This memorandum represents Transportation Planning staff's review and comments on the revised site plan and additional traffic information submitted for the subject special exception application.

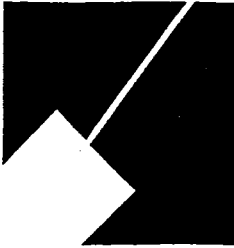
Staff's review indicates that the traffic issues, raised in our June 7, 2001 memorandum, related to the internal traffic circulation associated with the parking facility are now addressed on the revised site plan. The revised site plan also includes widening Mateney Hill Road to 20 feet of pavement in accordance with our recommendation.

Staff has also reviewed the additional traffic information submitted by the applicant and confirms that there are no traffic capacity issues related to the development of this site as a day-care center. The current traffic count indicates that there is sufficient traffic capacity available on Mateney Hill Road and Dawson Farm Road as well as at the intersection of Mateney Hill Road and Dawson Farm Road. Mateney Hill Road carries 650 vehicles daily on a 2-lane road and Dawson Farm Road carries 5,000 vehicles daily on a 4-lane divided roadway. These volumes are significantly lower than the capacity of the 2-lane and 4-lane facilities. Also, the critical lane volume (CLV) at the intersection of Dawson Farm Road and Mateney Hill Road is less than 200, which is far below the congestion standard (1,500 CLV) in the Germantown West Policy Area.

Based on our review of the revised site plan and additional traffic information submitted, staff concludes that the granting of the requested Special Exception to allow the proposed day-care center up to 45 children would not have an adverse effect on the nearby road system. Therefore, staff supports approval of the subject special exception application.

KHK:cmd

Day Care Center S-2471 SPEX memo.doc



June 7, 2001

MEMORANDUM

TO: Nkosi Yearwood, Planner
Community-Based Planning Division

VIA: Daniel K. Hardy, Coordinator *for KHK*
Transportation Planning

FROM: Ki H. Kim, Planner *KHK*
Transportation Planning

SUBJECT: Special Exception Application No. S-2471
Day-Care Center at 19002 Mateney Hill Road
Germantown

This memorandum represents Transportation Planning staff's review and recommendations on the subject special exception application for the proposed child day-care center for up to 47 children on a site located in the northeast quadrant of the intersection of Dawson Farm Road and Mateney Hill Road in the Germantown area.

RECOMMENDATION

Based on our review of the submitted traffic analysis, Transportation Planning staff recommends approval of the subject special exception application with the following conditions:

1. Limit the maximum enrollment to 47 children.
2. Designate three parking spaces in the southern section and one parallel parking space next to the building for employee parking only, leaving eight spaces located away from the building for drop-off and pick-up activities.
3. Widen Mateney Hill Road to a minimum of 20 feet across the site frontage.
4. Provide three parking spaces using 8.5-foot minimum width in the southern section by removing one space from the four spaces using 7-foot width as shown on the site plan.

TRAFFIC IMPLICATION OF PROPOSED DEVELOPMENT UNDER APF REVIEW

For Local Area Transportation Review (LATR), the proposed day-care facility for 47 children would generate 36 trips and 14 trips during the AM and PM peak hours, respectively. Thus, the proposed development would not require a traffic study.

For Policy Area Transportation Review, the current FY01 AGP indicates that the Germantown West Policy Area has employment staging ceiling capacity available (1,566 jobs as of May 31, 2001) to accommodate the proposed development.

DISCUSSION ON SITE ACCESS AND PARKING

Access to the site is proposed from Mateney Hill Road, a public street linking Dawson Farm Road to the south to the Germantown MARC Commuter Rail station to the north. The proposed access point and traffic circulation system shown on the site plan are adequate with the following comments.

The area residents raised issues related to the adequacy of the parking facility associated with the drop-off and pick-up activity at the beginning and end of the day. An inadequate number of parking spaces for these activities could result in over-flow parking and/or developing a queue along Mateney Hill Road which may cause safety issues since Mateney Hill Road is narrow (approximately an 18-foot width of pavement without shoulder) with a sub-standard horizontal curve in the vicinity of the site.

Based on the applicant's traffic survey of the parking activity during the drop-off and pick-up periods on a comparable facility, the proposed day-care center for 47 children will need 12 parking spaces for these activities. The site plan includes 15 parking spaces including one space for handicapped persons. Staff recommends that the site plan be revised to reduce the four parking spaces to three in the southern section since the proposed 7x19-foot space is not acceptable. A seven-foot-wide parking space is too narrow to park vehicles safely. Staff recommends that these three spaces and one parallel parking space be reserved for employee parking only, leaving eight parking spaces located across from the building for the drop-off and pick-up activities. This will reduce potential traffic conflicts during the drop-off and pick-up activities. It is staff's opinion that designating eight parking spaces away from the building for the use of drop-off and pick-up activities and employee parking spaces provides acceptable on-site traffic circulation, although the maneuver area, i.e., pulling out of parking spaces, is somewhat restricted on site.

Staff further recommends that Mateney Hill Road along the site frontage be widened to 20 feet of pavement from the 18 feet as shown on the site plan to provide a minimum two-lane roadway standard.

CONCLUSIONS

Staff concludes that the granting of the requested Special Exception to allow the proposed 47-children day-care facility with the recommended conditions would not have an adverse effect on the nearby road system. Therefore, staff supports approval of the subject special exception application with conditions as recommended.

KHK:kcw

mno to yearwood re S 2471.doc

Scott P. Rosenberg, AIA
 8 Summit Ridge Court
 Germantown, Maryland 20874-1502
 (240) 386-0140 Office (240) 632-8350 Fax

A-9

September 5, 2001

Mr. Nkosi Yearwood, Community Based Planning
 Maryland-National Capitol Park and Planning Comm.
 8787 Georgia Avenue
 Silver Spring, Maryland 20910
 (Via Fax 301-495-1304)

Mr. Donald H. Spence, Jr., Chairman
 The Montgomery County Board of Appeals
 100 Maryland Avenue
 Rockville, Maryland 20850
 (Via Hand Delivery)

Re: Special Exception Case No. S-2471 and Variance Case A-5671, Child Care Center, Germantown, MD

Dear Mr. Yearwood, Mr. Spence, and respective Boards,

Please consider the following points in your review of the Petitioner's latest submission:

- **Variations for reducing setbacks shall be denied** because it allows extra parking spaces, extra children, a larger building and creates a denser project than would normally be allowed by right for this site.
- **The project's size and scale is inconsistent** with the size and scale of nearby homes.
- **The Master Plan implies a child care center be part of something larger and not stand alone.** Per Land Uses, "child day-care centers be developed in conjunction with recreational facilities in residential communities" and "specifically recommends that child day-care centers be included in community centers within subdivisions and at employment centers."
- **The cellar is excessive in size**, requires a second means of egress, and implies that the cellar might be used for child activities. A "condition" on an approval shall limit the cellar to mechanical and storage only, prevent the cellar from being used for child related activities and require the cellar have 2 means of egress.
- **The 2nd floor is large** and implies use by others. A "condition" on an approval shall limit the 2nd floor to use by the director or child care staff, and prevent other business uses or child related activities on the 2nd floor.
- **A drop-off plan is not addressed.** Do the parents park and take the children into the center? Does a staff member assist the children into the building? How long does each drop off take? With 30-40 pass-by trips per hour at peak, do cars back up on Mateny Hill Road, the 2-lane main access for about 75 homes? Should there be drop off lane? Should there be a Transportation Management Plan [TMP] that is common for special exceptions? A "condition" on an approval shall require Petitioner to provide a **Transportation Management Plan [TMP]** for the life of the special exception, that includes meetings with the community members and a mediator, 3-4 times a year to mitigate and cure problems that are caused by the Petitioner's use.
- **Driving site lines are made worse** as the building is closer to Mateny Hill Road than previous versions of the submission. A "condition" on an approval shall limit fencing from creating a blind curve along Mateny Hill Road and the building shall be setback to the required 40' setback.
- **Noise.** A "condition" of an approval shall require screening the playground towards the north and west.
- **Lighting.** A "condition" on an approval shall limit lighting to 7 feet high maximum along the parking area, drives, walks and playground, with lights on the building only at the entrances. All light fixtures shall be residential style.
- **Life of Plantings.** A "condition" on an approval shall require Petitioner to guarantee the successful life of the trees and plantings and to maintain the grass at regular intervals normally associated with a residence.
- **Need.** About 30 day care centers have been identified in the case file within about 5 miles of this parcel, and there are numerous nearby open commercial sites that are available to purchase for this use if it is needed.
- **Plans submitted.** A "condition" on an approval shall require the plans/elevations submitted to the Dept. of Permitting Services match the plans/elevations submitted in this special exception application. A change in the plans/elevations requires a modification to the special exception.

I request to speak at the Sept. 13, 2001 and Sept. 20, 2001 hearing dates. I am still looking for a project which meets the requirements of the zoning ordinance and for a special exception. The building needs to be reduced in scope and size. Please feel free to call me at (240) 386-0140, Extension 223, if you have any questions. Thank you for your consideration.

Sincerely,



Scott P. Rosenberg, AIA

MONTGOMERY COUNTY CODE
ZONING ORDINANCE
Chapter 59

Article 59-G

A-10

DIVISION 59-G-3. VARIANCES.

Sec. 59-G-3.1. Authority—Board of Appeals.

The board of appeals may grant petitions for variances as authorized in section 59-A-4.11(b) upon proof by a preponderance of the evidence that:

- (a) By reason of exceptional narrowness, shallowness, shape, topographical conditions, or other extraordinary situations or conditions peculiar to a specific parcel of property, the strict application of these regulations would result in peculiar or unusual practical difficulties to, or exceptional or undue hardship upon, the owner of such property;
- (b) Such variance is the minimum reasonably necessary to overcome the aforesaid exceptional conditions;
- (c) Such variance can be granted without substantial impairment to the intent, purpose and integrity of the general plan or any duly adopted and approved area master plan affecting the subject property; and
- (d) Such variance will not be detrimental to the use and enjoyment of adjoining or neighboring properties. These provisions, however, shall not permit the board to grant any variance to any setback or yard requirements for property zoned for commercial or industrial purposes when such property abuts or immediately adjoins any property zoned for residential purposes unless such residential property is proposed for commercial or industrial use on an adopted master plan. These provisions shall not be construed to permit the board, under the guise of a variance, to authorize a use of land not otherwise permitted.
- (e) Any allegation of error or any appeal from any action, inaction, order or decisions pertaining to calculation of building height or approved floor area ratio (FAR) standard shall be considered according to the provisions governing appeals for a variance (section 59-G-3.1), rather than as an administrative appeal (section 59-A-4.11(c)).

An appellant seeking a variance will be subject to the requirements for filing and notice in section 59-A-4.2 and section 59-A-4.46. The Board may request technical advice from the Planning Board or technical staff. Upon request, the Planning Board or its technical staff must respond by submitting a written report making a recommendation. If there is an issue of public interest, the Planning Board or its technical staff