



**MONTGOMERY COUNTY PLANNING BOARD**

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB No. 09-133  
Site Plan No. 82006034A  
Project Name: Children's Manor Montessori School  
Hearing Date: October 8, 2009

**MONTGOMERY COUNTY PLANNING BOARD**

**RESOLUTION**

WHEREAS, pursuant to Montgomery County Code Division 59-D-3, the Montgomery County Planning Board ("Planning Board") is required to review amendments to approved site plans; and

WHEREAS, on December 6, 2007, the Planning Board approved Site Plan No. 820060340 for a 12,000 square foot day care center, final water quality plan and a waiver of 14 parking spaces; and

WHEREAS, on September 1, 2009, Children's Manor Montessori School ("Applicant"), filed a site plan amendment application designated No. 82006034A, Children's Manor Montessori School (the "Amendment") for approval of the following modification:

1. Change of use to include both a day care facility and private educational institution; and

WHEREAS, following review and analysis of the Amendment by Planning Board staff ("Staff") and the staff of other applicable governmental agencies, Staff issued a memorandum to the Planning Board dated September 28, 2009, setting forth its analysis and recommendation for denial of the Amendment ("Staff Report"); and

WHEREAS, on October 8, 2009, Staff presented the Amendment to the Planning Board at a public hearing on the Amendment (the "Hearing") where the Planning Board

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Approved as to  
Legal Sufficiency: *Amalia M. 10/16/09*  
M-NCPPC Legal Department

heard testimony and received evidence submitted for the record on the Amendment;  
and

WHEREAS, on October 8, 2009, the Planning Board denied the Amendment on the motion of Commissioner Presley, seconded by Commissioner Cryor, with a vote of 5-0, Commissioners Alfandre, Cryor, Hanson, Presley, and Wells-Harley voting in favor of the denial.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to the relevant provisions of Montgomery County Code Chapter 59, the Planning Board hereby adopts the Staff's recommendation and analysis as set forth in the Staff Report and hereby denies the Site Plan No. 82006034A; and

NOW, THEREFORE, BE IT RESOLVED, that pursuant to the relevant provisions of Montgomery County Code Chapter 59, the Montgomery County Planning Board hereby denies the Amendment.

BE IT FURTHER RESOLVED, that the Planning Board adopts the Staff's recommendation and analysis as set forth in the Staff Report and FINDS that the Amendment is not consistent with the provisions of § 59-D-3.7 of the Zoning Ordinance and that the Amendment alters the intent, objectives, or requirements expressed or imposed by the Planning Board in connection with the originally approved site plan. This recommendation is based on a review of the rezoning that occurred on this property through Local Map Amendment (LMA) No. G-718 and the corresponding diagrammatic plan, which specified the land uses allowed on the property and included textual stipulations that were binding on the applicant and all subsequent property owners. In 1996, the subject property, along with many others in the Traville tract, was rezoned by the County Council from the R200 and R200/TDR to the MXN zone. Rezoning to the MXN zone requires that the local map amendment application include a diagrammatic plan that has associated findings and conditions of approval. One specific limitation set forth in the diagrammatic plan was that non-residential uses in those areas zoned R&D are "limited to those allowed in the R&D zone." The R&D zone does not allow private educational institutions, either as a permitted or a special exception use. Therefore, the Board finds that the only recourse for obtaining a use and occupancy permit for a private education institution is to amend the diagrammatic plan via the development plan amendment process prescribed by section D-1.7 of the zoning ordinance; and

BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board and incorporates by reference all evidence of record, including maps, drawings, memoranda, correspondence, and other information; and

BE IT FURTHER RESOLVED, that this Amendment shall remain valid as provided in Montgomery County Code § 59-D-3.8; and

BE IT FURTHER RESOLVED, that the date of this written resolution is OCT 26 2009 (which is the date that this resolution is mailed to all parties of record); and

BE IT FURTHER RESOLVED, that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this written opinion, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

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**CERTIFICATION**

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission on motion of Commissioner Wells-Harley, seconded by Commissioner Alfandre, with Chairman Hanson, Commissioners Wells-Harley and Alfandre present and voting in favor of the motion, and Commissioners Cryor and Presley absent at its regular meeting held on Thursday, October 22, 2009, in Silver Spring, Maryland.

  
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Royce Hanson, Chairman  
Montgomery County Planning Board