



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

MCPB
Item #

MEMORANDUM

DATE: June 23, 2008

TO: Montgomery County Board of Appeals

FROM: Renée M. Miller, AICP, Senior Planner *RM*
Development Review Division (301-495-4723)

VIA: Rose Krasnow, Chief, Development Review Division
Ralph Wilson, Zoning Supervisor *RK*

SUBJECT: A. Preliminary Forest Conservation Plan
B. Special Exception Modification Request (S-2453-A: Child Day
Care Facility)
C. Special Exception Request (S-2726- Private Educational
Institution)

MASTER PLAN: Shady Grove Master Plan

FILING DATE: February 7, 2008

PLANNING BOARD: July 3, 2008

PUBLIC HEARING: July 11, 2008

STAFF RECOMMENDATION:

- A. Staff recommends **APPROVAL** of the preliminary forest conservation plan (PFCP) for the above referenced special exceptions subject to the PFCP being revised to:
1. Show the proposed limit-of-disturbance (LOD) on the plan and with a corresponding symbol in the legend.
 2. Add to the specimen tree table a separate column with the disposition of each tree at post-development, and show the critical root zone (CRZ) for each tree.
 3. Include the signature of the qualified professional who prepared and revised the plan, and the date signed
- B. Staff recommends **APPROVAL** of the Special Exception request S-2453-A for a Child Day Care Facility modification, with the following conditions:
1. The applicant is bound by all submitted statements and plans.

2. Before the issuance of a building permit, the applicant must apply for Preliminary Plan review and recordation of a plat, per Chapter 50 of the Montgomery County Code.
3. A combined maximum enrollment (day care & educational institution) of 130 students and 31 employees is permitted at any one time.
4. Regular weekday hours are restricted to between 6:30 A.M. and 6:30 P.M., Monday through Friday, 12 months a year.
5. Training of parents and employees may occur after hours and on weekends; however, these activities may occur no later than 9:30 P.M. on weeknights and between the hours of 9:00 A.M. and 2:30 P.M., Saturdays.

C. Staff recommends **APPROVAL** of Special Exception request S-2726 for a Private Educational Institution, with the following conditions:

1. The applicant is bound by all submitted statements and plans.
2. Before the issuance of a building permit, the applicant must apply for Preliminary Plan review and recordation of a plat, per Chapter 50 of the Montgomery County Code.
3. A combined maximum enrollment (day care & educational institution) of 130 students and 31 employees is permitted at any one time.
4. Regular weekday hours are restricted to between 6:30 A.M. and 6:30 P.M., Monday through Friday, 12 months a year.
5. Training of parents and employees may occur after hours and on weekends; however, these activities may occur no later than 9:30 P.M. on weeknights and between the hours of 9:00 A.M. and 2:30 P.M., Saturdays.
6. The applicant is subject to §59-G-2.19(d)(2), regarding no special exception, building permit or certificate of occupancy shall be granted or issued except in accordance with a site plan of development.

Staff is not recommending approval of the applicant's request to remove the "left turn out" restriction. Removal of the left turn out restriction is not within the Planning Board's or Board of Appeals' jurisdiction at the time of special exception. This issue is better addressed in cooperation with DPWT at time of preliminary plan.

I) **APPLICATION SUMMARY**

Site Size and Location:

Site size is approximately 1.5 acres (65,470 square feet) and described as Lot 1, Block A, "Travilah Heights" together with Parcel 60. The site is located on the north side of Darnestown Road, between Good Earth Court and Travilah Road. The area surrounding the subject site contains single- and multi- family residential, a PEPCO substation, a dance studio/residence and the Montgomery County Public Services Training School. **(See Attachment 1.)**

Zone and Proposed Use: The site is classified in the R-90 Zone. The property currently contains a single-family home and day care facility, including outdoor play areas and parking. The applicant is seeking approval to modify the existing special exception for the day care facility to include Parcel 60 and to address violations received in December 2006. In addition, the applicant is requesting a new special exception to operate a private educational institution and other ancillary uses that will allow 1st and 2nd grades to be taught on the property. The total number of students for both special exception uses is proposed to be no more than 130 students.

Scope of Operations: The number of staff members would increase from 19 to 31. There will be up to 130 students from infant to second grade. Fifty-five (55) standard parking spaces (52 standard and 3 handicapped) are being provided. Hours of operation will be from 6:30 A.M. until 6:30 P.M, Monday – Friday, and there is no change to the existing trash pick-up and/or delivery schedules.

Master Plan Consistency: The use is consistent with the recommendations of the Approved and Adopted 1990 Shady Grove Study Area Master Plan.

Applicant: RLL & C Corporation/Academy Child Development Center, LLC

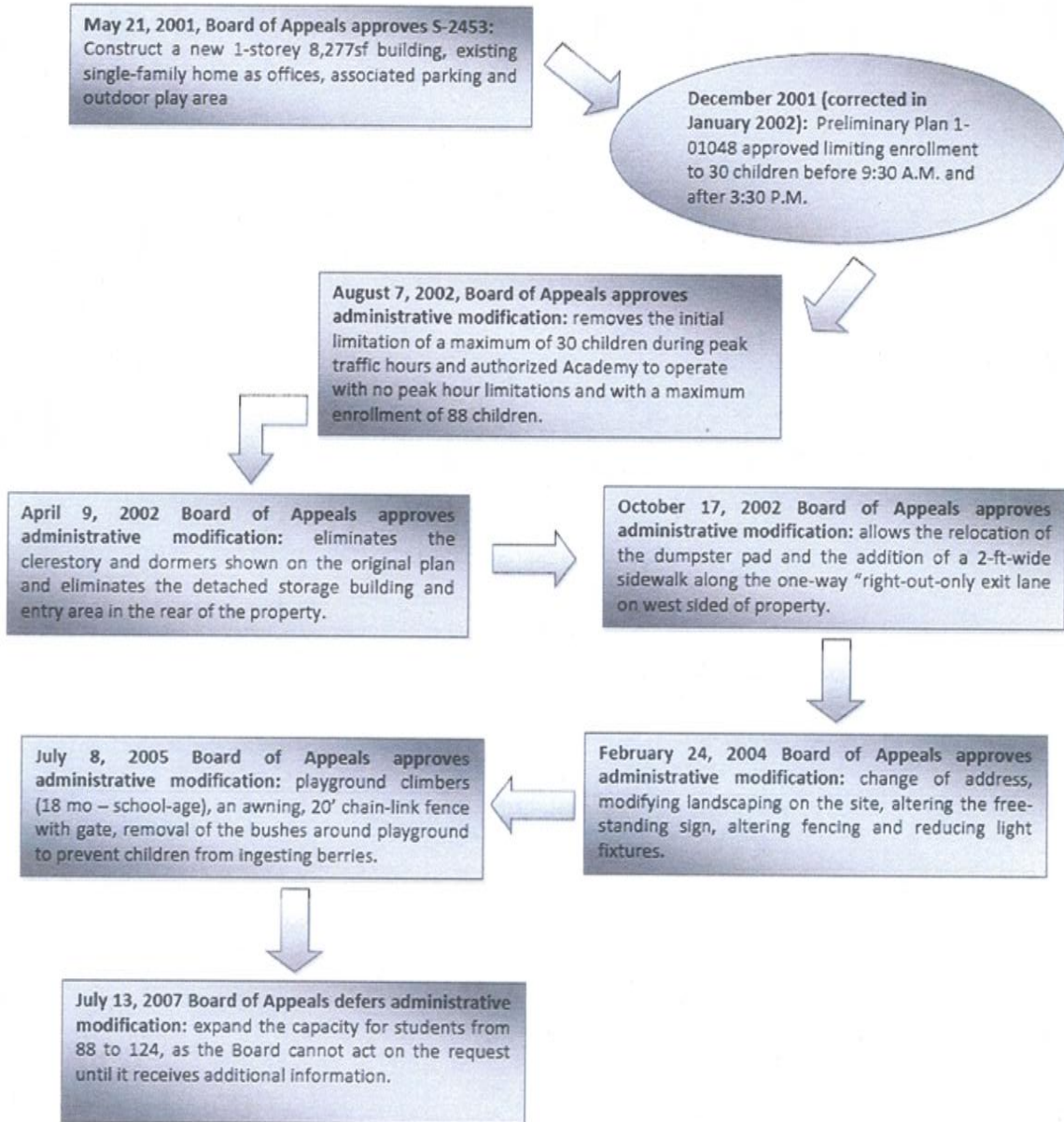
II) **BACKGROUND INFORMATION**

Special exception application S-2453-A is a request by the Academy Child Development Care Center (Academy) to modify its existing special exception to increase the number of children it cares for from 88 to 130 and to increase its staff from 19 to 31. Special exception application S-2726 is a request by the Academy Child Development Care Center to expand its operations to include a private educational institution for first and second grade students. The Academy has been in operation at 10109 Darnestown Road since 2001 and provides a full range of year round child-care services. Currently, the center includes a single-family residence, which is used as both an administrative office and as a residence for the president, and an 8,277 square foot single-story building, containing classrooms, play rooms, and supporting facilities.

Since the initial special exception approval by the Board of Appeals in May 2001, four administrative modifications were approved. The most significant modification removed the limitation of a maximum of 30 students during peak traffic hours and allowed the Academy to operate with a maximum of 88 children. In 2007, a request for an administrative modification to expand the number of children from 88 to 124 was,

according to records, deferred for lack of information. See Figure 1 below, which depicts the approval history of the Academy.

Figure 1: Approval History of Academy Child Day Care



III STATEMENT OF CASE

Special exception applications S-2453-A and S-2726 were filed, in part, to correct citations for non-compliance with certain conditions of the special exception grant, and to allow the child day care services of the Academy to grow to meet the child care needs of the surrounding community. Under the applications, the following is requested:

- (1) Addition of the adjacent parcel, known as Parcel 60, to the gross lot area of the special exception;

- (2) Demolition of the existing house on Parcel 60;
- (3) A maximum of 130 children for the combined uses of Child Daycare and Private Educational Institution;
- (4) Construction of a pavilion (covered play area), parking and stormwater management facilities on Parcel 60;
- (5) A maximum of 31 employees working on various schedules;
- (6) Hours of operation: year round 6:30 A.M. to 6:30 P.M, Monday - Friday;
- (7) Parking: 55 spaces (52 standard, 3 handicapped spaces)
- (8) Signs: One (1) free-standing signs, 5.6-feet in height and containing 13.194 square feet in area; and one (1) wall-mounted sign on the existing facility;
- (9) An internal vehicular connection between Parcel 60 and Lot 1;
- (10) Revision of the "right-out only" exit lane to exempt trucks and buses (west side of property);
- (11) Provision of a full-turn main entrance, removing the right turn only restriction at this entrance; and
- (12) Provide a sign depicting "no parking-loading area."

Neighborhood and Site Conditions

The neighborhood as defined by staff is generally described as Route 28/Key West Avenue to the north and west, Great Seneca Highway to the east, and the Travilah Crest and Huntington Hills Woods subdivisions to the south. (See Attachment 3A.) Properties within the neighborhood are zoned R-90 (Residential, one-family), R-200/TDR (Residential, transferable development rights), RT-10 (Residential, townhouse), C-4 (Limited commercial), LSC (Life Sciences Center), O-M (Office building, moderate intensity) and MXN (Mixed use neighborhood). There are multiple special exceptions within the neighborhood. (See Attachment 3B.)

The property immediately north of the site is the Montgomery County Public Training Service, zoned R-90/TDR. The property immediately west operates under a dance studio special exception and also serves as a residence for the owner of the studio. Across the street, south of the site, are the Travilah Crest and Huntington Hills Woods Subdivisions, consisting of townhouse and single-family, detached residences, respectively. To the east of the special exceptions is a PEPCO substation, zoned R-90.

The subject site contains an existing single-family house, an 8,277 square foot school building, a play area for the children and parking for staff. The single-family home is used as an office and residence for the president of Academy Child Development, LLC. The topography of the site is relatively flat with the lowest elevation nearest to Darnestown Road. Lot 1 of the site is well landscaped with evergreens, low shrubs and maple trees throughout. A six-foot solid board fence is constructed along the perimeter of the lot, with a 4-foot solid board fence towards the front, and adjacent to the dance studio's parking area along the exit-only driveway. Parcel 60 contains a vacant single-family house, which is used to park the school's bus and to store miscellaneous supplies for the Academy. (See Attachment 2.)

Master Plan Conformance

This site is located in the 1990 approved and adopted Shady Grove Study Area Master Plan area. The Shady Grove Study Area Master Plan is silent with regards to special exceptions for the subject properties; however, in general the Master Plan makes the following statements with respect to day care facilities:

- Recommends the provision of child day care facilities and housing for the elderly at appropriate locations in the Study Area (p. 6);
- Day care facilities, available in the residential neighborhoods as well as employment centers, to attract young families with children (p 20);
- Encourage the provision of child day care facilities at appropriate locations in the Shady Grove Study Area (p. 120).

Community-Based staff notes that this site is located in the 1990 Master Plan's "gateway" for the R & D Village and the twenty-three acres of privately owned land, which includes these parcels, is crucial to the coordinated development of the Darnestown Road frontage as public use/facilities.

Community-Based Planning staff states that the subject special exceptions will be within the boundaries of the "Gaithersburg West Master Plan," which is currently in the development process. (See Attachment 4.) According to their memorandum, this master plan is anticipated to go before the Montgomery County Planning Board in the fall of 2008, and before the County Council in the winter of 2009.

Transportation Planning Review

Transportation Planning staff, in their memorandum dated June 16, 2008, identified three intersection as critical intersections that would be affected by the proposed expansion of the existing child care center. The intersections are Darnestown Road and Key West Avenue, Darnestown Road and Travilah Road, and Darnestown Road and Great Seneca Highway. The child care site is located within the R & D Village Policy Area, which has no mitigation requirement for PAMR, according to the Adopted 2007 – 2009 Growth Policy.

Table 1 below identifies the calculated critical lane volumes for the studied intersections. As shown, all intersections are currently operating at an acceptable level and they are anticipated to continue to operate at acceptable levels of volumes at the total future development condition (background traffic plus special exception traffic) and therefore, the special exception requests meet the LATR requirements of the APF review. (See Attachment 5.)

Table 1: Calculated Critical Lane Volume Values at Studied Intersections

Intersection	Weekday Peak Hour	Traffic Condition		
		Existing	Background	Total
Darnestown Road & Key West Avenue	Morning	1,036	1,126	1,131
	Evening	1,014	1,098	1,100
Darnestown Road & Travilah Road	Morning	961	1,034	1,036
	Evening	1,023	1,098	1,214
Darnestown Road & Great Seneca Highway	Morning	1,084	1,115	1,174
	Evening	1,117	1,248	1,265

Additionally, Transportation Planning staff reviewed the site plan provided with respect to site access and finds that that it is inappropriate to grant the applicant's request to remove restrictions on the left turn movements out of the two site access points at the time of special exception. Further, Transportation staff is concerned that once the left-turn restriction for buses and trucks are removed, it will be difficult to enforce the restriction for passenger vehicles, and there is not sufficient sight distance to make a safe left turn. Observations of traffic movements at the main driveway show that cars currently turn left onto Darnestown Road in violation of the left turn restriction. Transportation staff stated that if additional information is provided that shows the left hand turn restriction is not needed or if an effective enforcement mechanism for passenger vehicles could be installed, then the condition of left turn access can be reviewed at time of preliminary plan. The internal queuing circulation system is safe and adequate as well. (See Attachment 5.)

Environmental Planning Review

The application has an approved Natural Resources Inventory/Forest Stand Delineation (NRI/FSD), 42008036. Lot 1 has a previously approved forest conservation plan exemption # 4-2000075E issued when the existing child day care center underwent development review in 2000. The conditions for approval of the exemption are no longer met with this application: thus, a preliminary forest conservation plan (PFCP) must be approved concurrently with the two pending special exceptions. The site has no areas of environmental buffer, streams, 100-year floodplain or wetlands. The site is not within a Special Protection Area. (See Attachment 6.)

Stormwater Management

Conceptual stormwater management approval was granted by DPS in a letter dated April 17, 2008. (See Attachment 7A.) The site drains from the southwest to the northeast. Along most of the site's eastern-most property line, a proposed stormwater management quality biofiltration facility is shown. On-site channel protection volume (quantity control) is not required, as the site's peak discharge is less than 2 cfs. The runoff will be conveyed by pipe to the property line that separates Lot 1 and Parcel 60 with an outfall at the northeast end of Lot 1. These combined controls provide on-site water quality and on-site recharge via the proposed biofiltration facility. (See Attachment 7B.)

Community Comments/Concerns

As of this writing, staff has received two letters from one community member objecting to the special exception; the letters are attached as Attachments 8.

III) ANALYSIS

Inherent and Non-Inherent Effects

The standard for evaluation under 59-G-1.21 requires consideration of the inherent and non-inherent effects of the proposed use at the proposed location. 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 the physical and operational effects 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 inherent effects, are a sufficient basis to deny a special exception.

The inherent characteristics of both the child care center and the private educational institution include: (1) buildings and structures, as well as outdoor areas for the children to play; (2) early and long hours of operation; (3) traffic to and from the site by the staff and parents; (4) deliveries of supplies and trash pick-up; (5) drop-off and pick-up areas for the students who attend field trips during summer camp; (6) noise from the children playing in the play areas.

In reviewing the two applications, staff has identified only one non-inherent effect, which in staff's opinion would not cause any unacceptable impacts. The Academy provides parent and teacher training at this site both after-hours and on weekends, which is beyond the standard operating procedure of most day care centers and private educational institutions. As stated by the Academy, the staff training is open to all child care workers, not just those employed at the Academy. The frequency of the staff training varies, but is not offered more than two nights per week and includes an occasional Saturday morning. Staff finds that this secondary use is unique to the application, but that it does not rise to the level of affecting the neighborhood so adversely that it would warrant denial. Staff finds that the size, scale and scope of the proposed expansion are minimal and are not likely to result in any unacceptable noise, traffic disruption or environmental impacts.

Adequate parking is available for the resident, parents, and employees under the two special exception applications. No exterior modifications to the existing structure are proposed and ample landscaping of the proposed parking area along Darnestown Road is proposed to retain the residential character of the street.

§59-G-1.2.1 General Conditions.

The following includes an analysis of the child day care and private educational education special exception:

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

- (1) Is a permissible special exception in the zone.

Staff Analysis: A child day care center and a private educational institution is permitted by special exception under §59-C-1.31 of the Montgomery County Zoning Ordinance.

- (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.

Staff Analysis: The proposed applications for a child day care facility and private educational institution have been reviewed under the applicable requirements of §59-G1.23, §59-G-2.13, Child Day Care Facility, and §59-G-2.19, Educational Institution, Private. Staff has found that the the two applications substantially comply with the applicable standards under these sections.

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

Staff Analysis: The applications are within the approved and adopted 1990 Shady Grove Study Area Master Plan. Community-Based Planning staff in their memorandum dated May 23, 2008, state that the Master Plan provides no special exception guidance for the subject properties; however, it recognizes the need for child day care facilities at appropriate locations. Staff finds that both applications are consistent with the recommendations contained in the Master Plan for community facilities. (See Attachment 4.)

- (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 Board or Hearing Examiner must consider whether the public facilities and services will be adequate to serve the proposed development under the Growth Policy standards in effect when the special exception application was submitted.

Staff Analysis: The special exception applications 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. As proposed, no new buildings will be constructed and all modifications to accommodate the first and second graders will be internal to the existing school building. A pavilion is being built in order to provide a new play area for the children; however, it will be located on the side of the building where no residential dwelling units are located. The zoning code requires that densities of students be no more than one student per 500 square feet and eighty-seven students per acre, respectively. The Academy is requesting a total of 130 students for the combined child day care center and private educational institution uses, which is the maximum density allowed on the site for both special exceptions when the most restrictive standard is applied. (See Table 1, "Development Standards" below in §59-G-1.23 for further calculations.) Adequate space is being provided for the students, both indoors and out and the character of the activities is inherent to the day care and private educational uses.

Staff finds that the proposed parking area to be adequately screened given the nature of the area. Although the area is zoned predominately residential, the adjacent properties have non-residential uses, two of which contain special exceptions.

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

Staff Analysis: Staff finds the applications will not be detrimental to the use, peaceful enjoyment, economic value or development of surrounding properties or the general neighborhood. Staff notes that this property is adjacent to a PEPCO substation, dance studio (with residence), and the Montgomery County Public Training Academy and that the primary functions of the day care will occur, according to the applicant's justification statement, Monday through Friday, between 8:30 A.M. and 2:45 P.M., with accessory functions, such as teacher and parent training on weekend days and week evenings.

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

Staff Analysis: Staff finds that, based on the provided information, neither application individually or in combination will cause any unacceptable noise, vibrations, fumes, odors, dust, illumination, glare or physical activity at the subject site regardless of any adverse effects the use might have if established elsewhere in the zone. Environmental Planning staff, in their memorandum dated June 6, 2008, states, "Noise from children playing outdoors in these areas is anticipated to be minimal, episodic in duration and overall not objectionable given the existing adjacent land uses. It should be noted, the proposed ages of the children at the day care center and private educational institution range from infants, toddlers, pre-school, and kindergarten-age children at the child day care center, and first and second graders at the private school. It is anticipated that the proposed uses will result in increased fumes from vehicles that will transport the children to and from the day care center and private school; however, this is an aspect that is inherent to the proposed uses." (See Attachment 6.) Additionally, the center will be used primarily during the day-time hours, Monday through Friday, and the majority of activity will be within the building and in play areas located along the eastern side of the existing building.

The proposed lighting will have 0.1 foot-candles along the property line, which is in compliance with §59-1.23(h). The proposed lighting is proposed to have lighting shields with adjustable fixtures to minimize glare. (See Attachment 9C.)

- (7) Will not, when evaluated in conjunction with existing and approved special exceptions in any neighboring one-family residential area, increase the number, intensity, or scope of special exception uses sufficiently to affect the area adversely or alter the predominantly residential nature of the area. Special exception uses that are consistent with the recommendations of a master or sector plan do not alter the nature of an area.

Staff Analysis: As stated earlier, the area is zoned residential; however, the primary uses in the neighborhood are professional/service in character. The area is identified as a "research and development" area within the Shady Grove Study Area Master Plan, regardless of the area's zoning designations and this special exception request is consistent with the identified vision of the effective Master Plan. Staff finds that the entire area (outside of the identified boundaries) contain office, retail and other mixed (non-residential) uses which makes this use compatible to the larger area, as well.

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

Staff Analysis: The child care and private educational institution special exception applications will not adversely affect the health, safety, security morals or general welfare of the residents and the visitors at the subject site.

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

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

(B.) If the special exception does not require approval of a preliminary plan of subdivision, the Board of Appeals must determine the adequacy of public facilities when it considers the special exception application. The Board must consider whether the available public facilities and services will be adequate to serve the proposed development under the Growth Management Policy standards in effect when the application was submitted.

(C.) With regard to public roads, the Board or the Hearing Examiner must further find that the proposed development will not reduce the safety of vehicular or pedestrian traffic.

Staff Analysis: These applications are subject to approval of a preliminary plan of subdivision. (See Attachment 10.) Adequate public facilities will be determined by the Planning Board at the time of subdivision review. With respect to findings related to the public roads, the applicant has submitted a traffic study, which has been reviewed by Transportation Planning staff. In their memorandum, dated June 16, 2008, staff has determined that all intersections impacted by these special exception requests are currently operating at an acceptable level and are anticipated to continue for the background (existing traffic plus approved/unbuilt developments) and the total future development condition (background traffic plus traffic of these special exception requests). (See Attachment 5.) Transportation Planning staff concludes that the grant of these special exceptions satisfies the LATR/PAMR requirements of the APF review and would not have an adverse effect on the nearby roadway system.

§59-G-1.23 General Development Standards (applicable subsections only)

The following includes an analysis of the child day care and private educational education special exception:

(a) **Development Standards.** Special exceptions are subject to the development standards of the applicable zone where the special exception is located, except when the standard is specified in Section G-1.21 or in Section G-2.

Staff Analysis: This site is located in the R-90 zone. As such, the development standards, for example, lot area and setbacks are defined in Table 1 below. After review of the proposed site plan, staff finds that the proposed special exception applications meet the required development standards of the zone. (See Attachment 9A.)

Table 1: Development Standards, R-90 Zone.

Development Standards	Requirement	Provided	
Minimum Tract Area (§59-C-1.321(a))	Not applicable	62,117 sq. ft.	
Lot Area (§59-C-1.322(a))	9,000 sq. ft.	62,117 sq. ft.	
Lot Width (§59-C-1.322(b)): @ Front of Bldg Line @ Street	75-feet 25-feet	±214 ft. ±214.6 ft.	
Yard Requirements (main building): From Street (§59-C-1.323(a)) From Adjoining Lot Side Yards (§59-G-2.37(b)(3)) Rear Yard (§59-C-1.323(b))	30-feet 8-feet (one side) 25-feet (both sides) 25-feet	S-F house 24.62 ft. 20.49 ft. 185.49 ft. 271.04 ft.	School 146.63 ft. 8.94 ft. 27.25 ft. 60.03 ft.
Yard Requirements (accessory building) (§59-C-1.326) ¹ : From Street From Rear Lot Line From Side Lot Line	60-feet 5-feet 5-feet	Shed 195.81 ft. 34.44 ft. 58.41 ft.	Pavilion 201.76 ft. 24.5 ft. 25.74 ft.
Building Height (maximum) (§59-C-1.237)	35 ft.	S-F house ± 27 ft.	School ±18 ft/
Coverage (maximum net lot area) (§59-C-1.328)	30%	20 %	
Parking Facility Setbacks (§ 59-E-2.83) Front Yard Side Yard Rear Yard	30-feet 16-feet 25-feet	30 ft. 8 ft ² ./19 ft (left/right) 25 ft.	
Density Requirements (total students per acre and sq. ft.) §59-G-2.13.1(a) §59-G-2.19(a)(4)5	1 student per 500 sq. ft.		

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

Staff Analysis: The proposed special exception request was analyzed under “child day care facility” and “educational institution, private.” The required parking for this special exception, when analyzed in combination is as follows:

¹ An accessory building or structure must be located in a rear yard and must not occupy more than 20% of the rear yard.

² The applicant is exempt from §59-E-2.83(e), as this site was approved prior to May 6, 2002, and the proposed parking area is 50% less than the total parking area; therefore, the applicant meets the applicable setbacks for the side yard.

Employees:	31 parking spaces
Students:	22 parking spaces (130 students/6 parking spaces)
<u>Residents:</u>	<u>2 parking spaces</u>
Total:	55 spaces (required)

The applications demonstrate compliance with the parking requirements. The provided site plan indicates that fifty-five parking spaces (three handicapped, fifty-two standard spaces) will be provided. The applicant is also providing parking for bicycles and motorcycles, as defined in the code.

With regards to parking and loading facilities for special exception uses in residential zones, staff has found that the proposed special exceptions substantially comply with the development standards set forth. Appropriate screening is being provided by the applicant, utilizing pin oak and red maple trees along the eastern, northeastern and southeastern property lines, where the proposed parking area is located. An existing six (6)- foot solid board fence is along the western parking area and the proposed fence for the new parking area will be of similar construction and material type. A four (4)-foot solid wood fence provides separation between the exit only drive and the dance studio/single-family residence parking area. (See Attachment 11) The applicant meets §59-G-2.83(d), Shading of Paved Areas. (See Attachment 9D.)

(c) **Minimum Frontage.** *Not Applicable.*

(d) **Forest conservation.** If a special exception is subject to Chapter 22A, the Board must consider the preliminary forest conservation plan required by that Chapter when approving the special exception application and must not approve a special exception that conflicts with the preliminary forest conservation plan.

Staff Analysis: This property is subject to Chapter 22A Montgomery County Forest Conservation Law. A Preliminary Forest Conservation Plan (PFCP) for the entire site has been submitted for approval.

The PFCP has a total of 0.07 acres of existing forest and an afforestation and reforestation requirement of 0.29 acres. The PFCP proposes the clearing of all of the existing forest. The worksheet shows the site's afforestation and reforestation requirement to be met with 0.29 acres of fee-in-lieu payment.

Lot 1 has a previously approved forest conservation plan exemption # 4-2000075E issued when the existing child day care center underwent development review in 2000. The conditions for approval of the exemption are no longer met with this application: thus, a preliminary forest conservation plan (PFCP) must be approved concurrently with the two pending special exceptions.

On June 5, 2008, the Environmental Planning Section received a revised PFCP (Attachment 12B) and Landscape Plan (Attachment 9B). These plans were reviewed and both plans do not have a symbol for the proposed limit-of-disturbance (LOD) with a corresponding symbol in the legend. The worksheet indicates that all of the existing

forest will be removed. Therefore, it appears the proposed LOD will be at the adjacent common lines at most areas of the site, including the northwest portion of the site where existing large and specimen trees are located. Some of these trees are off-site on adjacent properties; however, the PFCP does not contain information in the table regarding how the large and specimen trees will be preserved and protected, nor does it include the critical root zone delineation (CRZ) for each tree. The PFCP must be revised to address how the specimen trees on and off-site will be preserved and protected and to show each tree's CRZ. For further information regarding the PFCP, please refer to Attachment 12A.

(e) **Water quality plan.** *Not Applicable.*

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

Staff Analysis: The applicant is proposing two signs on the subject site, one (1) free-standing sign and one (1) wall-mounted sign. §59-F-4.2(a) requires that only one free-standing and one wall-mounted sign be permitted and the area for each sign may not exceed two square feet. The applicant does not meet the requirements with regards to the sign area allowed in the zone.

The applicant needs to request a waiver of the area and height of the signs allowed under §59-f-2.4(a).

(g) **Building compatibility in residential zones.** Any structure that is constructed, reconstructed or altered under a special exception in a residential zone must be well related to the surrounding area in its siting, landscaping, scale, bulk height, materials and textures, and must have a residential appearance where appropriate. Large building elevations must be divided into distinct planes by wall offsets or architectural articulation to achieve compatible scale and massing.

Staff Analysis: The applicant is not proposing any new or reconstructed building under the special exception requests and therefore, this standard does not apply.

(h) **Lighting in residential zones.** All outdoor lighting must be located, shielded, landscaped or otherwise buffered so that no direct light intrudes into an adjacent residential property. The following lighting standards must be met unless the Board requires different standards for a recreational facility or to improve public safety:

- (1) Luminaries must incorporate a glare and spill light control device to minimize glare and light trespass.
- (2) Lighting levels along the side and rear lot lines must not exceed 0.1 foot-candles.

Staff Analysis: The applicants are proposing six new single-light fixtures and two double-light fixtures in the new parking area. Staff notes that the proposed light fixtures will match the existing lights. These lights are "boxed" fixtures that have a height of twelve feet, from grade to the base of the "box" light. (See Attachment 9C.) The light fixtures can be adjusted on an angle to minimize the glare. The lighting levels along the

side and rear lot lines do not exceed 0.1 foot-candles; therefore, the proposed lighting and photometrics are in compliance with §59-G-1.23(h).

An analysis of the specific standards for grant of a special exception for a child day care facility and a private educational institution follows:

§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;

Staff Analysis: The applicant has submitted a site plan depicting all existing structures and parking areas, in addition to describing the proposed parking areas and play area that can accommodate a larger staff and number of students. (See Attachment 9A.) Staff has reviewed the submitted materials and has found that the submission meets the development standards of the zone, in addition to any requirements provided in §59-G-2.13.1 and §59-G-2.19.

- (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-E2.37 is not necessary because

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

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

Staff Analysis: The applicant has demonstrated compliance with the required parking standards. Please see analysis in §59-1.23(b) above for further comment.

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

Staff Analysis: In order to determine if the site has “adequate area” for discharge and pick-up of students, staff utilized the parking and loading requirements for “educational institution, private” which requires one (1) space per six (6) students. Based on this equation, staff calculated that the number of spaces needed to fulfill this requirement is twenty-two (22). The plans submitted for this application depicts 55 standard parking space, two of which are dedicated “5-minute parking” spaces. Staff finds that adequate area for the discharge and pick-up of children is provided.

- (4) The petitioner submits and affidavit that the petitioner will

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

- (B) Correct any deficiencies found in any government inspection; and
- (C) Be bound by the affidavit as a condition of approval for this special exception; and

Staff Analysis: The applicant has submitted such documentation, which is shown in Attachment 13.

- (5) The use is compatible with surrounding uses and will not result in a nuisance because of traffic, parking, noise or type of physical activity. The Hearing Examiner may require landscaping and screening and the submission of a plan showing the location, height, caliper, species, and other characteristics, in order to provide a physical and aesthetic barrier to protect surrounding properties for any adverse impacts resulting from the use.

Staff Analysis: The proposed application is compatible with the surrounding neighborhood. Please see §59-G-1.2.1(3) through §59-G-1.2.1(6) and §59-G-1.23(g) for further staff discussion with regards to compatibility with the surrounding uses.

- (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) and the following additional requirements:
 - (1) A landscaping plan must be submitted showing the location, height or caliper, and species of all plant materials;

Staff Analysis: The applicant has submitted a landscape plan depicting the location, height and species of plant material. Per this submitted plan, Oak, Red Maple, Hackberry and Flowering Dogwood trees will be planted along the periphery of the parking area, which will provide good shade for the parking areas. The applicant also proposes to install Satsuki Azalea, Japanese Holly and other shrubs as groundcover. (See Attachment 9B.)

- (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 Board may reduce the area requirement to less than 500 square feet, but not less than 250 square feet, per child if it finds that:
 - (A) The facility will predominately serve children of an age range that require limited outdoor activity space;
 - (B) The additional density will not adversely affect adjacent properties;
 - (C) Additional traffic generated by the additional density will not adversely affect the surrounding street; and
 - (D) Adequate provision for drop-off and pick-up of students will be provided.

The Board may limit the number of students outside at any one time.

Staff Analysis: The applicant is proposing a combined maximum student enrollment of 130. Staff has calculated the proposed density and finds that the number of proposed students complies with the density provision of 500 square feet per child.

Section 59-G-2.19 Educational Institution, Private

(a) Generally. A lot, tract or parcel of land may be allowed to be used for a private educational institution if the board finds that:

- (1) The private educational institutional use will not constitute a nuisance because of traffic, number of students, noise, type of physical activity, or any other element which is incompatible with the environment and character of the surrounding neighborhood;

Staff Analysis: The proposed application will not constitute a nuisance to the surrounding neighborhood. Please see §59-G-1.2.1 (3) through §59-G-1.2.1(6) and §59-G-1.23(g) for further staff discussion with respect to compatibility with the surrounding uses.

- (2) Except for buildings and additions completed, or for which a building permit has been obtained before (date of adoption [April 2, 2002]), the private educational institution must be in a building architecturally compatible with other buildings in the surrounding neighborhood, and, if the private educational institution will be located on a lot, tract, or parcel of land of 2 acres or less, in either an undeveloped area or an area substantially developed with single-family homes, the exterior architecture of the building must be similar to a single-family home design, and at least comparable to any existing homes in the immediate neighborhood;

Staff Analysis: There are no proposed alterations to the exterior of the building, as indicated by the applicant. Modifications, if any, to the building will be interior. The existing school building is well designed single-story building. Its exterior is vinyl siding with stone base and has a red metal roof. The existing structure is lower in height than the single-family home on-site as well as the adjacent home to the west. (See Attachment 11.) Staff finds that the exterior architecture of the building is similar to a single-family home design and is comparable to the existing homes in the immediate neighborhood.

- (3) The private educational institution will not, in and of itself or in combination with other existing uses, affect adversely or change the present character or future development of the surrounding residential community; and

Staff Analysis: As stated in §59-G-1.21(a)(7), the private educational institution will not adversely alter the present character or future development of the surrounding residential community. Community-Base Planning staff, in their

memorandum, has indicated that this proposal is consistent with the Shady Grove Master Plan and the vision for the “research and development” core.

(4) The private educational institution must conform with the following standards in addition to the general development standards as specified in Section G.1-23:

a. Density – The allowable number of pupils per acre permitted to occupy the premises at any one time must be specified by the Board considering the following factors:

1) Traffic patterns, including:

a) Impact of increased traffic on residential streets;

b) Proximity to arterial roads and major highways;

c) Provision of measures for Transportation Demand Management as defined in Section 42A-21 of the Montgomery County Code;

d) Adequacy of drop-off and pick-up areas for all programs and events, including on-site stacking space and traffic control to effectively deter queues of waiting vehicles for spilling over onto adjacent streets; and

Staff Analysis: A queuing analysis was submitted along with the traffic study. The analysis indicates that, even with the addition of students and staff to the site, the site is able to contain all new traffic. Transportation Planning staff has reviewed the existing and proposed internal traffic/pedestrian circulation system and finds them safe and adequate. Transportation Planning staff finds the internal queuing circulation system adequate as well. (See Attachment 5.)

2) Noise or type of physical activity;

Staff Analysis: The proposed private educational institution is for first and second grades only; as such the noise and type of physical activity would be limited primarily between 8:30 A.M. – 2:45 P.M. In addition, outdoor activities will be on the east side of the existing building.

3) Character, percentage, and density of existing development and zoning in the community;

Staff Analysis: The character and land use percentage of the community is an evenly distributed mix of residential, health-related uses, and retail, with multiple zoning classifications. The community is zoned R-90/TDR, R-90, RT-10, C-4, MXN, LSC and O-M. There are no undeveloped parcels of land immediately surrounding of the subject site.

There are multiple special exceptions in the community, including a PEPCO substation, day care, dance studio and gas station. (See Attachment 3.) Staff finds that the proposed special exceptions uses are in character with the existing development and zoning within the community.

- 4) Topography of the land to be used for the special exception;

Staff Analysis: The topography of the land is such that there is a four-foot difference in slope between Lot 1 and Parcel 60. Lot 1 is relatively flat, except in the rear of the property. A 4-foot change in elevation occurs along the eastern boundary between Lot 1 and Parcel 60. Staff notes that the children do not have access to this area, as it is fenced and children remain on the flat portion of Lot 1.

- 5) Density greater than 87 pupils per acre may be permitted only if the Board finds that (i) the program of instruction, special characteristics of students, or other circumstances justify reduced space and facility requirements; (ii) the additional density will not adversely affect adjacent properties; (ii) additional traffic generated by the additional density will not adversely affect the surrounding streets.

Staff Analysis: The applicant is proposing 130 students for the combined proposed special exceptions. As such, the applicant meets the density provisions of this code section, as the density requested is 86.67 students per acre.

- b. Buffer – All outdoor sports and recreation facilities must be located, landscaped or otherwise buffered so that the activities associated with the facilities will not constitute an intrusion into adjacent residential properties. The facility must be designed and sited to protect adjacent properties from noise, spill light, stray balls and other objectionable impacts by providing appropriate screening measures, such as sufficient setbacks, evergreen landscaping, solid fences and walls.

Staff Analysis: There are no outdoor sports and recreation facilities proposed with the request as typical with larger private educational institution applications (e.g., football or soccer fields). The majority of the play areas already exist from the previous day care special exception and the applicant is adding a pavilion area for the students to have an outdoor meeting place. The pavilion is located on the eastern side of the existing building, which will provide a barrier to potential noise caused by the gathering of children. The front of this pavilion area will be fenced and landscaped with both trees and shrubbery according to the provided landscape plan.

- (b) If a Private Educational Institution operates or allows its facilities by lease or other arrangement to be used for: (i) tutoring and college entrance exam preparatory courses, (ii) art education programs, (iii) artistic performances, (iv) indoor and outdoor recreation programs, or (v) summer day camps; the Board must find, in addition to the other required findings for the grant of a Private Education Institution special exception, that the activities, in combination with other activities of the institution, will not have an adverse effect on the surrounding neighborhood due to traffic, noise, lighting, or parking, or the intensity, frequency, or duration of activities. In evaluating traffic impacts on the community, the Board must take into consideration the total cumulative number of expected car trips generated by the regular academic program and the after school or summer programs, whether or not the traffic exceeds the capacity of the road. A transportation management plan that identifies measures for reducing demand for road capacity must be approved by the Board.

Staff Analysis: The information submitted with this application indicates that none of the above, with the exception of the summer day camp, will be performed on-site. The applicant does state that on-site training of teachers and parents will occur and that this use is ancillary to the private educational use. These special exceptions have been evaluated by Transportation Planning staff for the traffic impacts associated with the combined uses, in addition to the “background” traffic, and have found that they satisfy the LATR/PAMR requirements of the APF review and would not have an adverse effect on the nearby road system. (See Attachment 5.)

- (c) Programs Existing before April 22, 2002.

- (1) Where previously approved by the Board, a private educational institution may continue the operation of (i) tutoring and college entrance exam preparatory courses, (ii) art education programs, (iii) artistic performances, (iv) indoor and outdoor recreation programs, or (v) summer day camps, whether such programs include students or non-students of the school, if the number of participants and frequency of events for programs authorized in 59-G-2.19(b) are established in the Board’s approval.
- (2) Where not previously approved by the Board, such programs may continue until April 22, 2004. Before April 22, 2004, the underlying special exception must be modified to operate such programs, whether such programs include students or non-students of the school.

Staff Analysis: Not applicable, as this private education institution has not been previously established.

- (d) Site Plan.

- (1) In addition to submitting such other information as may be required, an applicant shall submit with his application a site plan of proposed development. Such plan shall show the size and shape of the subject property, the location thereon of all

buildings and structures, the area devoted to parking and recreation facilities, all access roads and drives, the topography and existing major vegetation features, the proposed grading, landscaping and screening plans and such other features necessary for the evaluation of the plan.

Staff Analysis: The applicant has provided a site plan of development (Attachment 9A) along with the special exceptions requests. As such, staff has reviewed the site plan in accordance with applicable development review standards of §59-C-1.32 and has found that the proposed special exceptions comply with said standards. Please refer to §59-G-1.23 above for further discussion.

- (2) No special exception, building permit or certificate of occupancy shall be granted or issued except in accordance with a site plan of development approved by the board. In reviewing a proposed site plan of development the Board may condition its approval thereof on such amendments to the plan as shall be determined necessary by the Board to assure a compatible development which will have no adverse effect on the surrounding community, and which will meet all requirements of this chapter. Any departure from a site plan of development as finally approved by the Board shall be cause for revocation of the special exception, building permit or certificate of occupancy, in the manner provided by law.

Staff Analysis: The applicant has been made aware of this provision.

Conclusion

With the exception of the applicant's request to remove the "left turn out" option of both access points, staff concludes that the application, with the operational limitations and site improvements imposed by staff, satisfies all relevant standards for grant of a child care center and a private educational institution special exception at the proposed site. Staff is not recommending approval of the applicant's request to remove the "left turn out" restriction. Removal of the left turn out restriction is not within the Planning Board's or Board of Appeals' jurisdiction at the time of special exception. This issue is better addressed in cooperation with DPWT at time of preliminary plan. For these reasons, staff recommends that application S-2453-A and S-2726 for a child care center and private educational institution special exceptions on the north side of Darnestown Road, between Travilah Road and Good Earth Court, Rockville, MD, be approved with conditions.

ATTACHMENTS

- Attachment 1-** Generalized Location Map
- Attachment 2-** Existing Conditions Aerial
- Attachment 3-** A. Neighborhood Map/Zone Designations
B. List of Special Exceptions in the Area
- Attachment 4-** Memorandum from Kathleen A. Riley, AICP, Community-Based Planning Division, to Renée M. Miller, AICP, Development Review Division, May 23, 2008
- Attachment 5-** Memorandum from Ki Kim, Transportation Planning Division, to Renée M. Miller, Development Review Division, June 16, 2008
- Attachment 6-** Memorandum from Lori Shirley, Community-wide Planning Division, to Renée M. Miller, AICP, June 6, 2008
- Attachment 7-** A. Concept Stormwater Management Plan, as submitted by applicant
B. Correspondence from Montgomery County Department of Permitting Services, to Norman Haines, Haines Land Design, LLC, April 17, 2008
- Attachment 8-** Correspondence from Schain Lolatchy to Montgomery County Board of Appeals, April 23, 2008
- Attachment 9-** Proposed Special Exception Plans, as provided by applicant
A. Site Plan
B. Landscape Plan
C. Photometric (lighting) Plan
D. Shading of Pave Areas
- Attachment 10-** Memorandum from Patrick Butler, Planner, Development Review Division to Renée M. Miller, AICP, Development Review Division, February 22, 2008
- Attachment 11-** Site Photographs
- Attachment 12-** A. Memorandum from Lori Shirley, Community-wide Planning Division, to Renée M. Miller, AICP, June 6, 2008
B. Preliminary Forest Conservation Plan, as submitted by applicant
- Attachment 13-** Petitioner Affidavit of Compliance

ATTACHMENT 1

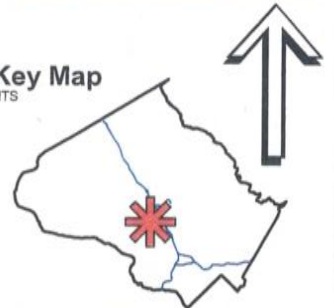
Generalized Location Map



1 inch = 600-feet
Address: 10107 Darnestown Rd, Rockville

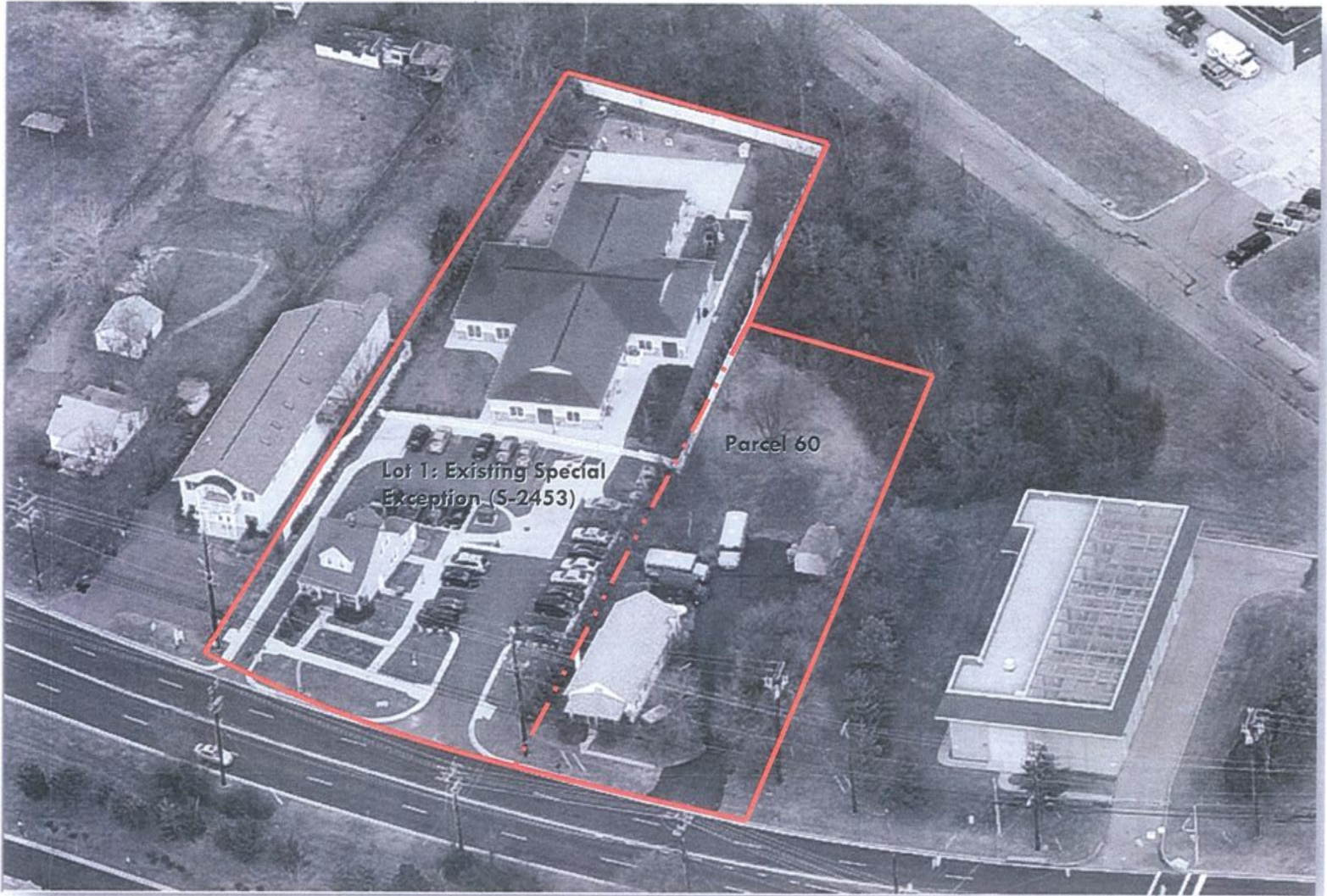
LEGEND
 Subject Site

Key Map
NTS



ATTACHMENT 2

Existing Site Conditions



ATTACHMENT 3A

Neighborhood and Special Exception Map



LEGEND

- S-2726 and S-2453-A
- Paved Area
- Parcel
- Lake and Pond
- Building
- Stream and River

NOTICE:

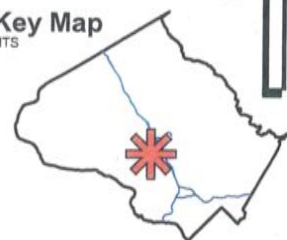
The planimetric, property, and topographic information shown on this map is based on copyrighted Map Products from the Montgomery County Department of Park and Planning of the Maryland-National Capital Park and Planning Commission, and may not be copied or reproduced without written permission from M-NPPC.

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.

1 inch = 600-feet
Address: 10107 Darnestown Rd, Rockville

Key Map



ATTACHMENT 3B

Special Exceptions (see Attachment 3A):

S-2381: Major Home Occupation (dance studio)

Address: 10111 Darnestown Road, Rockville
Parcel ID: 00775896
Approved: 06/02/1999 (effective date)

S-2090: Public Utility Building and structure (telecommunications)

Address: 10025 Darnestown Road, Rockville
Parcel ID: 02357408
Approved: 08/05/1994 (effective date)

S-2095: Trade, Artist or Technical School

Address: 10025 Darnestown Road, Rockville
Parcel ID: 02357408
Approved: 08/25/1994 (effective date)

S-2407: Co-location with existing telecommunication facility (see S-2090)

Address: 10025 Darnestown Road, Rockville
Parcel ID: 02357408
Approved: 11/22/1999 (effective date)

S-555: Horticultural Nursery & Commercial Greenhouse

Address: not available
Parcel ID: 00390606
Approved: 05/25/1997 (effective date)

S-825: Child Day Care Center

Address: 14330 Travilah Road, Rockville
Parcel ID: 00394318
Approved: 07/21/1982 (effective date)

CBA-2372: Automobile Filing Station

Address: 10010 Darnestown Road, Rockville
Parcel ID: 00052220
Approved: 05/14/1968

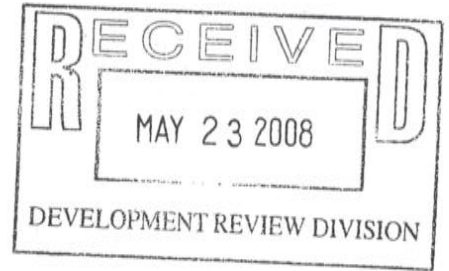
CBA-2372-A: Automobile Filing Station (modification)

Address: 10010 Darnestown Road, Rockville
Parcel ID: 00052220
Approved: 01/15/1987



ATTACHMENT 4

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



MEMORANDUM

DATE: May 23, 2008
TO: Renee Miller, Development Review Division
VIA: Sue Edwards, I-270 Corridor Team Leader, *Sue*
Community Based Planning Division
Nancy Sturgeon, I-270 Team, Community Based Planning Division
FROM: Kathleen A. Reilly, AICP I-270 Team, Community Based Planning Division *KAR*
SUBJECT: S- 2453 A, Academy Child Care Development
S-2726, Academy Child Care Development, Private Educational Institution

The subject special exception applications are: a request to modify an existing special exception (S-2453-A), for a day care center, a request to operate a private educational institution (S-2726) at 10107 Darnestown Road. The proposed private educational institution use will be for only first and second grades. The applications consist of two properties for a total of 1.41 acres.

MASTER PLAN

The subject applications are located in the *Approved and Adopted Shady Grove Study Area Master Plan (1990)* which placed both properties in the R-90 zone. The master plan is silent on special exceptions for the subject properties. However, the master plan states the following with respect to day care facilities:

- *Recommends the provision of child day care facilities and housing for the elderly at appropriate locations in the Study Area (p.6)*
- *Day care facilities, available in the residential neighborhoods as well as employment centers, to attract young families with children (p. 20).*
- *Encourage the provision of child daycare facilities at appropriate locations in the Shady Grove Study Area (p 120)*

The governing plan for the subject properties is the *Approved and Adopted Shady Grove Study Area Master Plan 1990*. The *Gaithersburg West Master Plan* is currently underway and the subject properties will fall within the boundaries of this master plan in the future. The *Gaithersburg West Master Plan* is currently scheduled to go to the Montgomery County Planning Board in Fall 2008 and to the County Council in Winter 2009.

The subject properties are located in a triangular shaped area bounded by Darnestown Road (MD 28) on the south, Great Seneca Highway (MD 119) on the east and Key West Avenue on the north. This triangular shaped area comprises approximately 75 acres which includes the 52-acre Public Service Training Academy, and 23 acres of residential and employment uses. The subject special exception applications are within a portion of these 23-acres. The Shady Grove Study Area Master Plan, 1990, offers the following land use recommendations for the PSTA and the adjacent privately owned properties.

This property (PSTA) is a critical element in the R&D employment "mainstreet" concept. Along with the Johns Hopkins University property, County-owned land at this locale will form the western "gateway" into the R&D Village.

In terms of the County-owned property, this Plan envisions the continued operation of the Public Service Training Academy (PSTA) for the foreseeable future. No change to the existing use is proposed for this area. However, any expansion of facilities at the PSTA should take into account this site's important gateway location.

In terms of the 23 acres that are privately owned in this area, the entire frontage along MD 28 is divided into numerous parcels – all of which have driveway access to Darnestown Road, a four-lane, undivided highway.

The challenge this Plan must address is how to promote the coordinated development of the Darnestown Road frontage in light of the fragmented ownership pattern. The Plan proposes the following strategy:

- *Encourage the joint redevelopment of parcels fronting MD 28 by designating the area as suitable for 8 units/acre. (RT-8 residential townhouse floating zone).*
- *Even if redevelopment of the parcels along MD28 does not occur, the possibility of providing a service road for access to these lots should be explored.*
- *Acquisition of the frontage lots for public use should be considered due to the proximity of the lots to the Public Service Training Academy, the potential need for public facilities in this area, and the opportunity for unified redevelopment of the area in public ownership.*

Proposed Development Guidelines

For the frontage along Darnestown Road, assemblage of properties is encouraged to allow comprehensive redevelopment, served by a frontage road, in accord with the land use recommendations." (p. 67)

In late 2007, the County Executive's office initiated the County Property & Use Study which is intended to determine the feasibility of continued use and investment in several County facilities versus the potential benefits of relocation and consolidation. The PSTA

is located between the core Life Sciences Center (LSC) area with Shady Grove Adventist Hospital and the undeveloped Belward property owned by Johns Hopkins University (JHU). The PSTA, which has been at its current location since 1973, is among the properties being considered for relocation. The Planning Board and staff support the proposed relocation of the PSTA and the opportunity to redevelop the site with uses that complement the long range vision for the LSC. As part of the *Gaithersburg West Master Plan* staff will be analyzing alternatives for the PSTA site.

As part of the *Gaithersburg West Master Plan*, JHU envisions the LSC as a world-class "science city" that advances education and applied research. Their vision embraces smart growth principles and the creation of a mixed-use living and work environment. Staff is currently evaluating land use scenarios of varying use and intensity to determine the appropriate future density as well as the alignment and station locations for the Corridor Cities Transitway (CCT).

Staff offers the previously cited summaries on the PSTA and JHU-Belward site as information to the applicants and any current property owners seeking to develop properties in this area. Any and all future recommendations for these properties will be addressed more fully in the *Gaithersburg West Master Plan* draft.

RECOMMENDATION

With respect to the subject applications, staff finds that both applications are consistent with the recommendations contained in the *Approved and Adopted 1990 Shady Grove Study Area Master Plan* for community facilities.



ATTACHMENT 5

MONTGOMERY COUNTY PLANNING DEPARTMENT

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

June 16, 2008

MEMORANDUM

TO: Renee Miller
Development Review Division

VIA: Shahriar Etemadi, Supervisor
Transportation Planning

FROM: *for* Ki H. Kim, Planner/Coordinator
Transportation Planning

SUBJECT: Academy Child Development Center
Special Exception Case No. S-2453-A and S-2726



This memorandum represents Transportation Planning staff's Adequate Public Facilities (APF) review and recommendations on the subject special exception applications for the proposed expansion of the existing educational childcare facility located on the north side of Darnestown Road, west of Travilah Road in the Darnestown area.

RECOMMENDATION

Based on our review of the site plan and the traffic analysis submitted by the applicant, staff recommends the following conditions as part of the APF test related to approval of the subject special exception application.

1. Total development under this special exception is limited to 132 students and 30 staff.
2. Staff recommends denial of the applicant's request to lift the sight distance restriction for the left-turn egress from the site's two access points.

DISCUSSION

Local Area Transportation Review (LATR)

Three intersections were identified as critical intersections affected by the proposed expansion of the existing childcare facility and were examined in the traffic study to determine

whether they met the applicable congestion standard. The congestion standards in the R and D Village Policy Area is 1,450 Critical Lane Volumes (CLV). The result of the CLV analysis is summarized in Table 1.

Table 1: Calculated Critical Lane Volume Values at Studied Intersections

Intersection	Weekday Peak Hour	Traffic Condition		
		Existing	Background	Total
Darnestown Road & Key West Avenue	Morning	1,036	1,126	1,131
	Evening	1,014	1,098	1,100
Darnestown Road & Travilah Road	Morning	961	1,034	1,036
	Evening	1,023	1,098	1,214
Darnestown Road & Great Seneca Highway	Morning	1,084	1,155	1,174
	Evening	1,117	1,248	1,265

As shown in the above table, all intersections are currently operating at an acceptable CLVs level of 1,450 and they are expected to continue for the background (the existing traffic plus traffic from the approved/unbuilt developments) and the total future development condition (the background traffic plus traffic from the site) during the weekday AM and PM peak hours. Therefore, this special exception application meets the LATR requirements of the APF review.

Policy Area Mobility Review (PAMR)

The site is located within the R&D Village Policy Area where there is no mitigation requirement for PAMR according to the Adopted 2007 – 2009 Growth Policy. Therefore, this special exception application meets the PAMR requirements of the APF review.

Site Access and Vehicular/Pedestrian Circulation

Two existing site access points from Darnestown Road will remain unchanged. Staff believes that it is inappropriate to grant the applicant’s request to remove restrictions of the left turn movements out of the two site access points at the time of special exception. This condition was imposed on the applicant at the time of granting them access permits. We have reviewed applicant’s submitted sight distance analysis and their request from MC-DPWT to remove the restriction of left turn movements for buses and trucks only. We are concerned that once the left-turn restriction for buses and trucks are removed, it would be difficult to enforce the restriction for passenger vehicles that do not have sufficient sight distance to make a safe left turn. If additional information is provided that shows restriction is not needed or an effective enforcement for passenger vehicles could be in place, then we will consider it at the time of preliminary plan. We strongly recommend against removing the left-turn restriction at the time of this special exception. Observations of traffic movements at the driveways show that cars currently turn left onto Darnestown Road in violation of

the left turn restriction. This is a safety concern that merits further analysis to determine appropriate course of action.

Staff reviewed proposed internal traffic/pedestrian circulation system shown on the site plan and finds them to be adequate. Staff also finds that the internal queuing area will adequately accommodate the additional traffic.

Summary

Transportation Planning staff concludes that the granting of the Special Exception for expansion of the existing childcare facility satisfies the LATR/PAMR requirements of the APF review.

KK:tc





ATTACHMENT 6

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

MEMORANDUM

TO: Renee Miller, Senior Planner, Development Review Division

VIA: Stephen D. Federline, Supervisor, Environmental Planning 

FROM: Lori Shirley, Planner Coordinator, Environmental Planning 

DATE: June 6, 2008

SUBJECT: Special Exceptions S-2453-A modification and consolidation of existing child day care center and S-2726 – private educational institution
10107 and 10109 Darnestown Road, Rockville

RECOMMENDATION

Environmental Planning staff has reviewed the above two special exception applications and recommends **approval** of S-2453-A and S-2726 in accordance with required finding 6 of Section 59-G-1.21 (a) (6) of the Montgomery County Zoning Ordinance. In addition, the applicant should give consideration to the use of green building materials and design techniques consistent with the County Council's Green Building legislation.

BACKGROUND

The site is located on the north side of Darnestown Road, approximately 300 feet northwest of the Darnestown/Travilah Road intersection and is in the Gaithersburg Vicinity Master Planning Area. These are two related special exception requests undergoing concurrent review for the Academy Child Development Center, Inc., site in Rockville. The S-2453-A request is for an amendment to the existing special exception to modify and consolidate the existing child care development center at 10107 Darnestown Road (Lot 1) and to include Parcel 60 into the overall site with a new building for the day care and private educational institution. The initial request in S-2453 was approved in 2000. The S-2726 request is for a private institutional use at 10109 Darnestown Road (Parcel 60) for proposed off-street parking, an outdoor play area and picnic pavilion; all of which are associated with the modified day care center and private education institutional use.

A revised Preliminary Forest Conservation Plan (PFCP) and Landscape Plan were stamped as received in the Environmental Planning Section on June 5, 2008. Please see the June 5, 2008 memo to the Montgomery County Planning Board for PFCP No. S-2453-A and S-2726.

DISCUSSION

Environmental Guidelines

The application has an approved Natural Resources Inventory/Forest Stand Delineation (NRI/FSD), 42008036. Lot 1 has a previously approved forest conservation plan exemption # 4-2000075E issued when the existing child day care center underwent development review in 2000. The conditions for approval of the exemption are no longer met with this application: thus, a preliminary forest conservation plan (PFCP) must be approved concurrently with the two pending special exceptions. The site has no areas of environmental buffer, streams, 100-year floodplain or wetlands. The site is not within a Special Protection Area.

Forest Conservation

This property is subject to Chapter 22A Montgomery County Forest Conservation Law. A Preliminary Forest Conservation Plan (PFCP) was submitted for approval.

The PFCP has a total of 0.07 acres of existing forest and an afforestation and reforestation requirement of 0.29 acres. The PFCP proposes the clearing of all of the existing forest. The worksheet shows the site's afforestation and reforestation requirement to be met with 0.29 acres of fee-in-lieu payment.

Special Exception Required Findings

Section 59-G-1.21 (a) (6) of the Montgomery County Zoning Ordinance reads as follows:

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

Staff has reviewed all information in support of the proposed modification and consolidation to the existing child day care center and the proposed private educational institution requests. Three separate outdoor play areas are proposed adjacent to three areas of the proposed new 7,916 square foot building on Lot 1. Noise from children playing outdoors in these areas is anticipated to be minimal, episodic in duration and overall not objectionable given the existing adjacent land uses. It should be noted, the proposed ages of the children at the day care center and private educational institution range from infants, toddlers, pre-school, and kindergarten-age children at the child day care center, and first and second graders at the private school. It is anticipated that the proposed uses will result in increased fumes from vehicles that will transport the children to and from the day care center and private school; however, this is an aspect that is inherent to the proposed uses. The requests in S-2453-A and S-2726 are supported based on inherent aspects associated with these proposed uses, the existing zoning and the adjacent land uses as these relate to finding 6.

Noise

Darnestown Road is an existing four-lane, arterial road. Traffic generated noise impacts from it are not anticipated because the proposed new building is set back approximately 100 feet, and activities conducted in outdoor play areas are not generally considered noise sensitive.

Stormwater Management

Conceptual stormwater management approval was granted by DPS in a letter dated April 17, 2008. The site drains from the southwest to the northeast. Along most of the site's eastern-most property line, a proposed stormwater management quality biofiltration facility is shown. Onsite channel protection volume (quantity control) is not required, as the site's peak discharge is less than 2 cfs. The runoff will be conveyed by pipe to the property line that separates Lot 1 and Parcel 60 with an outfall at the northeast end of Lot 1. These combined controls provide on-site water quality and on-site recharge via the proposed biofiltration facility.

Water Quality

The site is in the Muddy Branch watershed, a Use I-P category identified for water contact recreation, protection of aquatic life and public water supply uses.

Memo for S-2453-A and S-2726; 10107 and 10109 Darnestown Road, Rockville

Green Building

This proposal does not include information to address Montgomery County green building requirements. The applicant is encouraged to consider to the use of green building materials and design techniques consistent with the County Council's Green Building legislation.

If you have any questions regarding these comments, please contact me at 301-495-4551 or electronically at lori.shirley@mncppc-mc.org.

SDF:LS

G:/DEVREV/se_zon_mr/S_2453_A_10107DarnestownRd_Rockville_for_2_SEs_ls_docx



DEPARTMENT OF PERMITTING SERVICES

Isiah Loggett
County Executive

April 17, 2008

Carla Reid Joyner
Director

Mr. Norman Haines
Haines Land Design LLC
811 Russell Avenue, Suite 303
Gaithersburg, MD 20879

Re: Stormwater Management **CONCEPT** Request
for Academy Child Development Center
SM File #: 232461
Tract Size/Zone: 0.5 acres/R-90
Total Concept Area: 0.5 acres
Parcel(s): P60
Watershed: Muddy Branch

Dear Mr. Haines.

Based on a review by the Department of Permitting Services Review Staff, the stormwater management concept for the above mentioned site is acceptable. The stormwater management concept consists of on-site water quality control and onsite recharge via a biofiltration facility. Channel protection volume is not required because the one-year post development peak discharge is less than or equal to 2.0 cfs.

The following items will need to be addressed during the detailed sediment control/stormwater management plan stage:

1. Prior to permanent vegetative stabilization, all disturbed areas must be topsoiled per the latest Montgomery County Standards and Specifications for Topsoiling.
2. A detailed review of the stormwater management computations will occur at the time of detailed plan review.
3. An engineered sediment control plan must be submitted for this development.
4. The proposed biofilter retaining wall will need to be reviewed and approved by the Department of Permitting Services, Division of Building Construction.

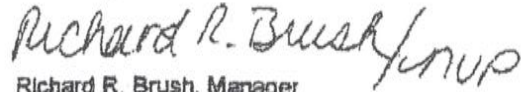
This list may not be all-inclusive and may change based on available information at the time.

Payment of a stormwater management contribution in accordance with Section 2 of the Stormwater Management Regulation 4-90 is not required.

This letter must appear on the sediment control/stormwater management plan at its initial submittal. The concept approval is based on all stormwater management structures being located outside of the Public Utility Easement, the Public Improvement Easement, and the Public Right of Way unless specifically approved on the concept plan. Any divergence from the information provided to this office; or additional information received during the development process; or a change in an applicable Executive Regulation may constitute grounds to rescind or amend any approval actions taken, and to reevaluate the site for additional or amended stormwater management requirements. If there are subsequent additions or modifications to the development, a separate concept request shall be required.

If you have any questions regarding these actions, please feel free to contact Nadine Vurdelja Pionika at 240-777-6334.

Sincerely,



Richard R. Brush, Manager
Water Resources Section
Division of Land Development Services

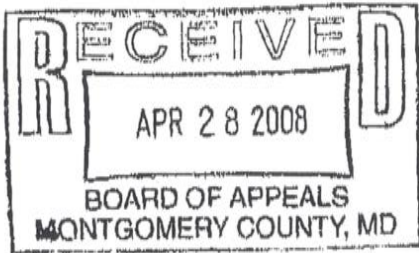
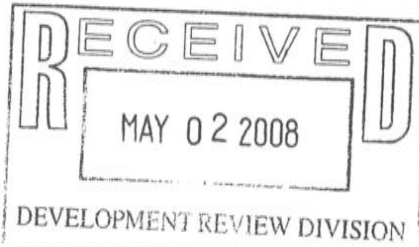
RRB:dm CN232461

cc: C. Conlon
S. Federline
SM File # 232461

QN - onsite; Acres: 0.5
QL - onsite; Acres: 0.5
Recharge is provided

ATTACHMENT 8

H.S.



April 23, 2008
10111 Darnestown Road
Rockville MD. 20850
(301) 424-0007
Re: Case No: S-2726

Board Of Appeals for ~~Montgomery County~~
Office of zoning and Administrative Hearings
Stella B. Werner Council Office Building
100 Maryland Avenue, Room 200
Rockville, Maryland 20850

To whom it may concern,

This letter is to serve as my opposition to a petition filed by Academy Child Development Center, Inc.

My opposition is specifically to requests number 3, 5, 6.

The request for a maximum of 130 children will create a situation where the noise level will become intolerable. The request for a private educational institution paves the way for this facility to not be a day-care only and eventually becoming a private school. This request also adds to the amount of trash which will be produced by this facility and trash pick up which will also add to the noise factor. Additionally, this will also create a problem with parking and traffic. All of which I have an issue with.

The number of faculty requested will take up over half of the proposed parking spaces leaving less for parents dropping off their children. That exacerbates an already difficult situation as there already is a problem with their patrons parking on my property.

The hours of operation becoming 6:30 a. m. to 6:30 p. m. year round becomes an impossible situation with regards to noise level and parking and traffic as I live next door and this will interfere with my life. This would also mean that trash pick up and lawn maintenance would have to take place prior to 6:30 a. m. and none of this is acceptable.

I don't understand, if this area is considered residential,

EXHIBIT NO. 22
REFERRAL NO. S-2726

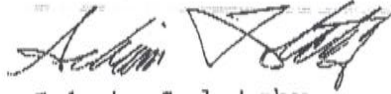
April 3, 2008
Page two

how come these changes which are being requested don't make this area commercial?

I specially have issues with the fact that Ms. Fleetwood writes me to tell me of the changes she is requesting the board and leaving out most of what is actually in the proposal. I don't find that to be completely forthcoming.

I respectfully request to be permitted to voice my opposition at the hearing in July.

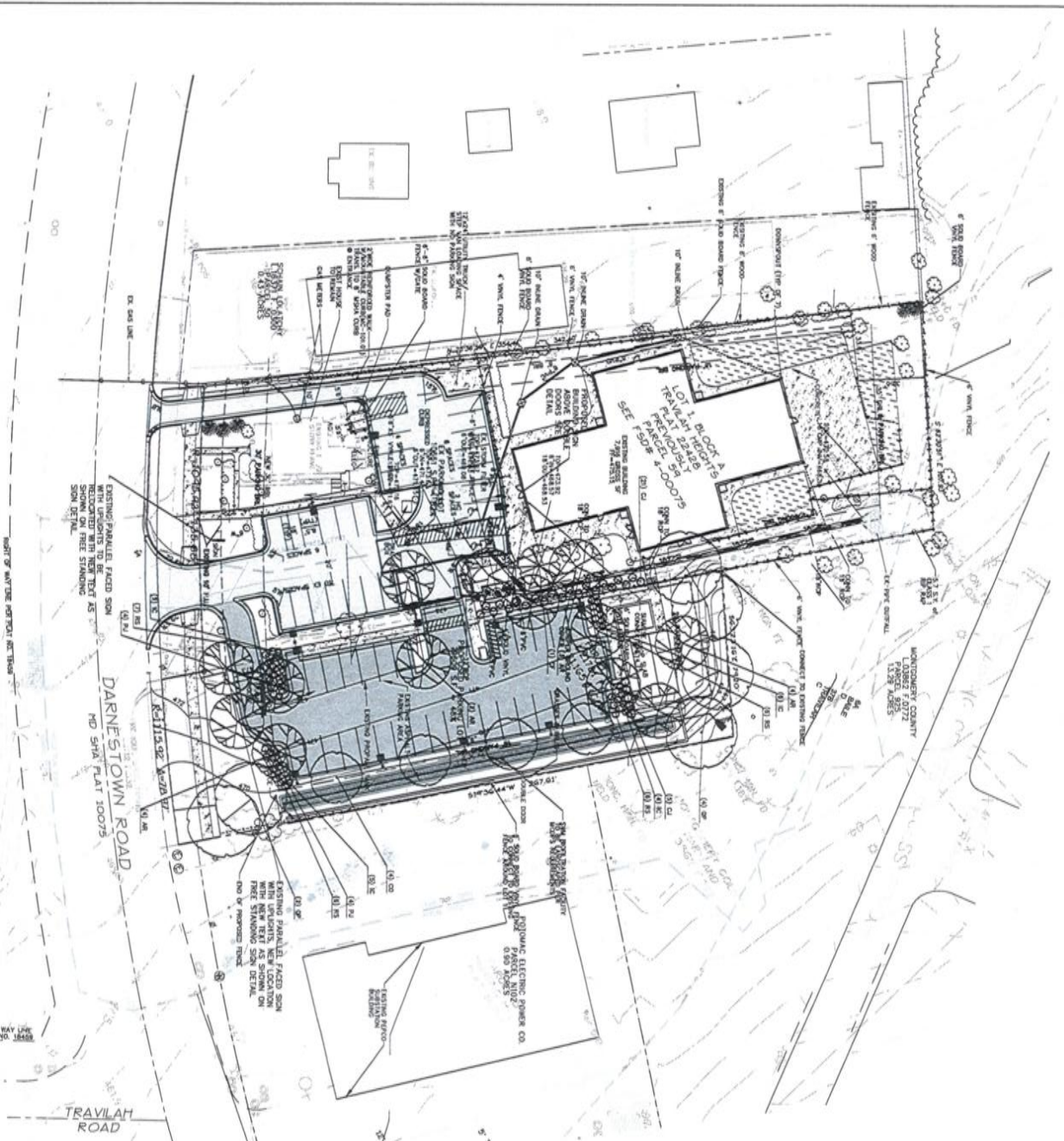
Respectfully submitted,



Schain Lolatchy

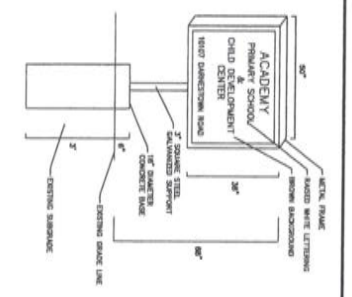
ex. 22
S-2126

ATTACHMENT 9B



- LEGEND**
- EX WATER LINE
 - EX ELECTRICAL LINE
 - EX SEWER LINE
 - PARKING & DRIVE PAVEMENT
 - EXISTING CONCRETE WALKS
 - PROPOSED CONCRETE WALKS
 - MULCHED PLAY AREAS
 - FIELD NON TPO BOUNDARY
 - PROPERTY LINE
 - STORMWATER MANAGEMENT PPS
 - 5' SOLID BOARD TRUNK
 - PROPOSED CONTING LINE
 - EXISTING PARKING LOT
 - PARKING BAY
 - PROPOSED DRIVE DEDICATION
 - PROPOSED DRIVE INLET
 - X 4'10.5' SPOT ELEVATION

- WILLOW OAK
- RED MAPLE
- HAWBERRY
- DOGWOOD
- JAPANESE HOLLY
- FALSESPRICE
- SATSUMI AZALEAS
- JAPANESE PEENGS
- PROPOSED SINGLE LIGHT
- PROPOSED DOUBLE LIGHT



GENERAL DESIGN APPROVAL

C/O M. S. S. COMPANY
 10109 DARNESTOWN ROAD
 ROCKVILLE, MD 20850
 PHONE (301) 424-6282

GRAPHIC SCALE

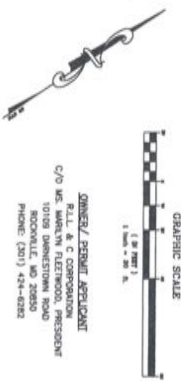
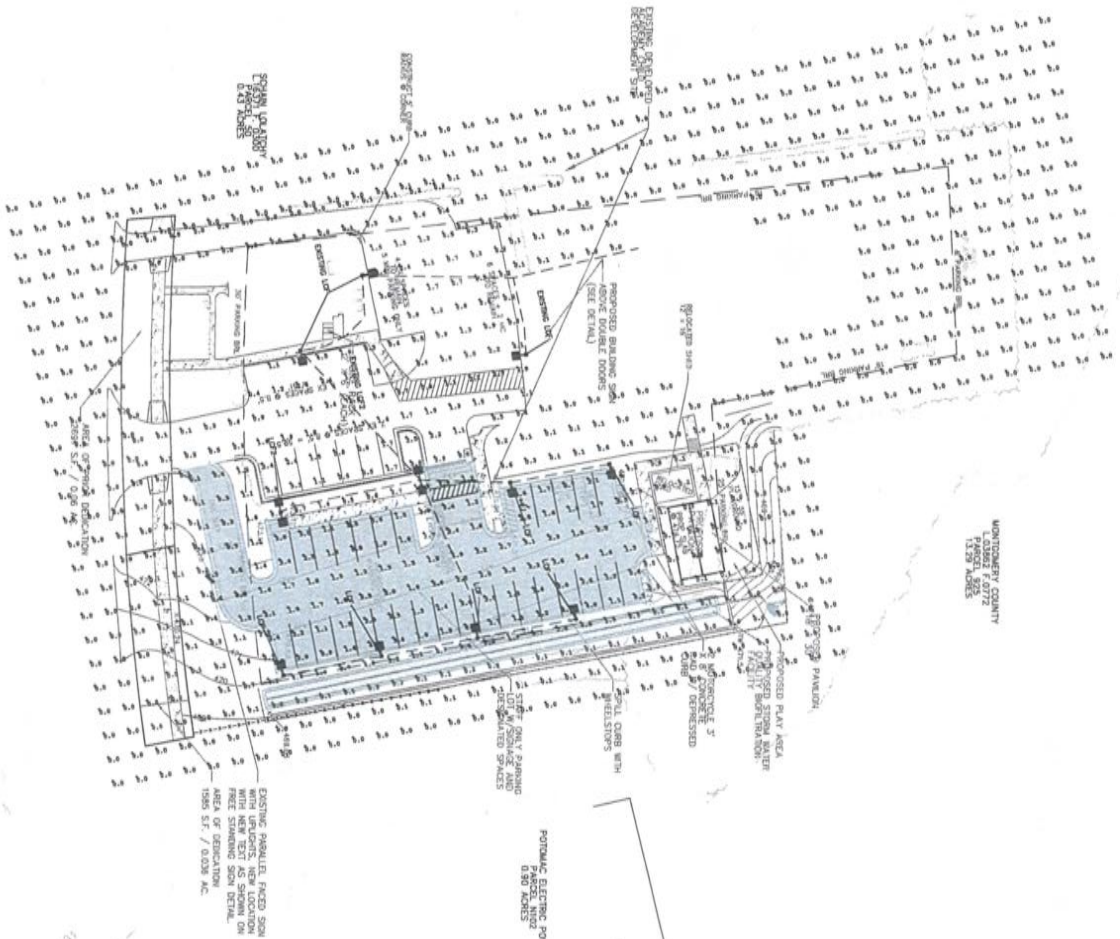
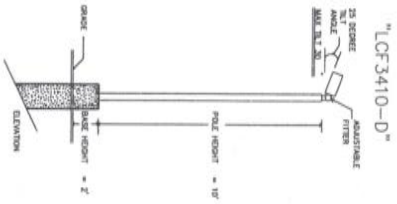
1" = 10' 0"

<p>HAINES LAND DESIGN</p> <p>10109 DARNESTOWN ROAD ROCKVILLE, MD 20850 PHONE (301) 424-6282</p>		<p>PROJECT: LANDSCAPE & SIGNAGE PLAN FOR SPECIAL EXCEPTION</p> <p>CLIENT: ACADAMY CHILD DEVELOPMENT CENTER</p> <p>DATE: OCT. 2007</p>
<p>DESIGNED BY: M. S. S. COMPANY</p> <p>DATE: OCT. 2007</p>	<p>APPROVED BY: M. S. S. COMPANY</p> <p>DATE: OCT. 2007</p>	<p>DATE: OCT. 2007</p>

ATTACHMENT 9C

PROPOSED POLES MEET 120MM SUSPENDED WMS
OF MOUNTAIN HEIGHT: 17' AFD. N.E. 25 DEGREES ABOVE HORIZONTAL

Category	Code	Label	Arrangement	Location	U/F	Description
Structure	1	LCP	DOUBLE	8100	0.75	120MM SUSPENDED WMS
			DOUBLE	8100	0.75	120MM SUSPENDED WMS
Hardware	2	PSS-100	DOUBLE	1000	0.75	120MM SUSPENDED WMS
			DOUBLE	1000	0.75	120MM SUSPENDED WMS
Material	3	PSS-100	DOUBLE	1000	0.75	120MM SUSPENDED WMS
			DOUBLE	1000	0.75	120MM SUSPENDED WMS
Finish	4	PSS-100	DOUBLE	1000	0.75	120MM SUSPENDED WMS
			DOUBLE	1000	0.75	120MM SUSPENDED WMS



LEGEND

	EXISTING & PROPOSED PARKING & DRIVE
	WATER LINE
	ELECTRIC LINE
	SEWER LINE
	EXISTING & PROPOSED CONCRETE WALLS & PLAY AREAS
	MATTED PLAY AREAS
	PROPERTY LINE
	FIELD RUN TOP BOUNDARY
	BUILDING RESTRICTION LINE
	SUBDIVISION MANAGEMENT NOTES
	EXISTING CONTOUR LINE
	PROPOSED CONTOUR LINE
	3M PAVING BUFFER
	50' ROAD DEDICATION
	PROPOSED MAIN MEET
	PROPOSED DOUBLE LIGHT
	PROPOSED SINGLE LIGHT
	PROPOSED ELECTRIC CONDUIT
	LIGHTING SUPPLY
	PROPOSED CABLE FOOT POWER

LIGHTING AND PHOTOMETRIC DATA PLAN FOR SPECIAL EXCEPTION

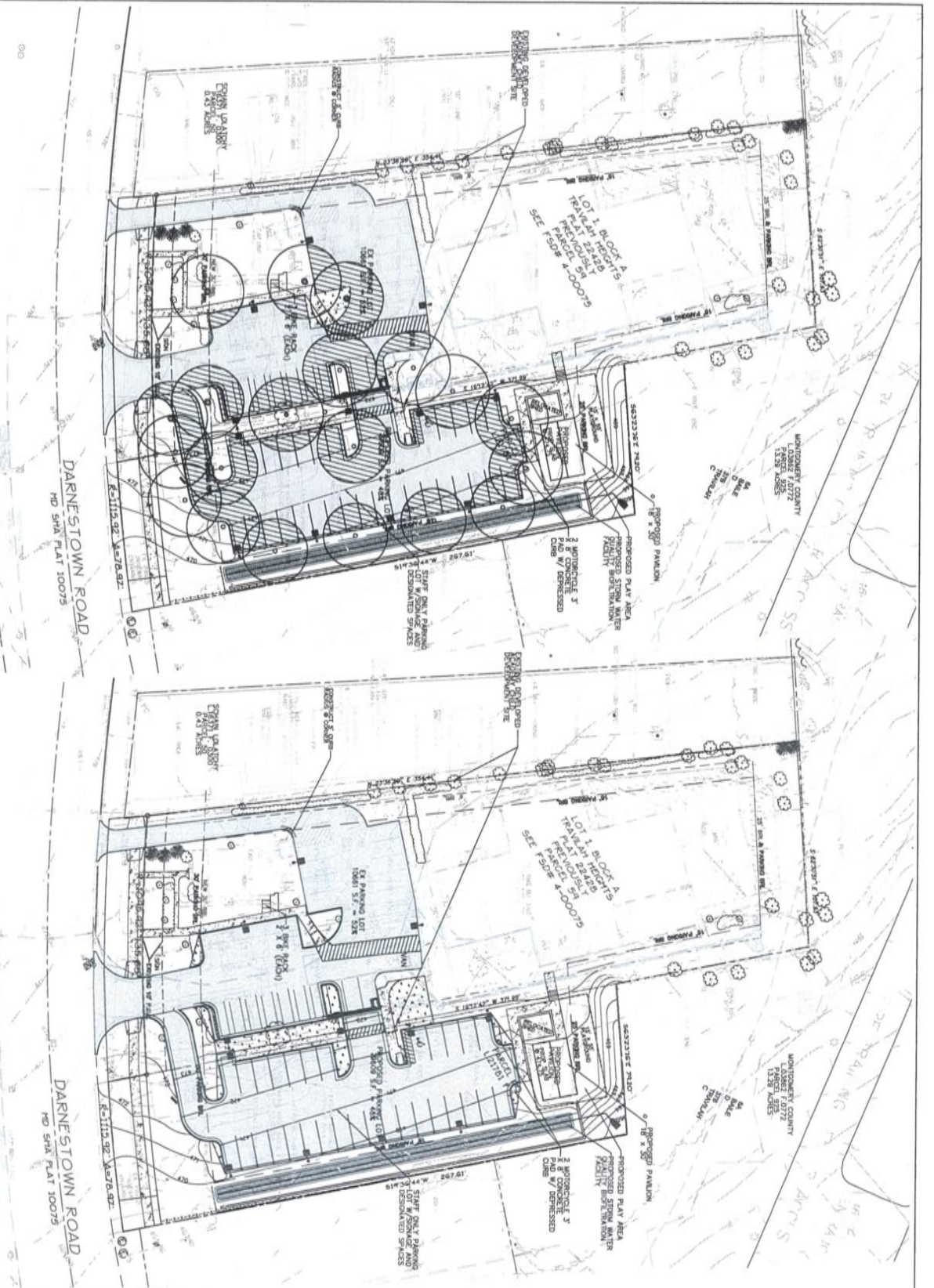
PROJECT: PROPOSED AMPLIFICATION TO SPECIAL EXCEPTION
 5-2425 AND PROPOSED PERMANENT RESIDENTIAL
 ACADAMY CHILD DEVELOPMENT CENTER
 1700 W. MOUNTAIN HEIGHTS RD
 ROCKVILLE, MD 20850
 MONITORING CENTER: 1700 W. MOUNTAIN HEIGHTS RD
 ROCKVILLE, MD 20850

DESIGNED BY: HAINES LAND DESIGN
 1111 HAINES AVENUE
 SUITE 200
 ROCKVILLE, MD 20850
 PHONE: (301) 424-4282



DATE: 11/11/2011	PROJECT: 5-2425 AND PROPOSED PERMANENT RESIDENTIAL ACADAMY CHILD DEVELOPMENT CENTER
DRAWN BY: J. HAINES	CHECKED BY: J. HAINES
SCALE: AS SHOWN	DATE: 11/11/2011

ATTACHMENT 9D



Tree Canopy Coverage Calculations

Common Name	Quantity	Canopy Coverage	Key
15 year Dia. (40" yr x 0.80)	10	1,600 sq. ft.	AR
20 year Dia. (45" yr x 0.75)	4	1,200 sq. ft.	OC
Total	14	2,800 sq. ft.	

Academy Child Development Center Canopy Tree Plant List

Common Name	Quantity	Size	Plant	Remarks
Academy Child Development Center Canopy Tree Plant List	10	3 1/2" Caliper	8.1.8	Single stem
Academy Child Development Center Canopy Tree Plant List	4	3 1/2" Caliper	8.1.8	Single stem

Greenspace Calculations

Category	Value	Percentage
Square Footage of Parking Lot	20,070 sq. ft.	5%
Greenspace Area Required	1,004 sq. ft.	
Greenspace Area Provided	1,600 sq. ft.	8.00%

NOTE

1. GREENSPACE AREA MUST BE PROVIDED ON THE DEVELOPMENT CENTER LOT.

2. GREENSPACE AREA MUST BE PROVIDED ON THE DEVELOPMENT CENTER LOT.

3. GREENSPACE AREA MUST BE PROVIDED ON THE DEVELOPMENT CENTER LOT.

4. GREENSPACE AREA MUST BE PROVIDED ON THE DEVELOPMENT CENTER LOT.

LEGEND

- PROPOSED PLAY AREA
- PROPOSED STORM WATER FACILITY
- PROPOSED PAVEMENT
- PROPOSED DRIVE
- PROPOSED SIDEWALK
- PROPOSED BIKEWAY
- PROPOSED LIGHT FIXTURE
- PROPOSED SIGNAGE
- PROPOSED UTILITY
- PROPOSED TREE
- PROPOSED SHADING

GRAPHIC SCALE

1" = 10' (1:120)

1" = 20' (1:240)

1" = 40' (1:480)

1" = 80' (1:960)

1" = 160' (1:1920)

OWNER: HAINES LAND DESIGN, INC.

DESIGNER: HAINES LAND DESIGN, INC.

DATE: 10/15/2024

PROJECT: CANOPY COVERAGE AREA PLAN FOR SPECIAL EXCEPTION

LOCATION: 10100 DARNESTOWN ROAD, ROCKVILLE, MD 20850

PHONE: (301) 424-6282



ATTACHMENT 10

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

MEMORANDUM

Date: February 22, 2008

To: Renee Miller,
Development Review Division

From: Patrick Butler, Planner *PB.*
Development Review Division

Subject: Board of Appeals Petition No. S-2453-A & S-2726



The subject property consists of one recorded lot and one unrecorded parcel in the R-90 zone. The recorded lot, Lot 1, was reviewed, approved, and recorded as outlined in Preliminary Plan 120010480 and Board of Appeals Case No. S-2453.

The total development of preliminary plan 120010480 was limited to a child day care facility with a maximum enrollment of 88 children, while the proposed modification would establish a maximum enrollment of 130 children. Several of the modifications proposed by the Board of Appeals Petition No. S-2453-A & S-2726 occur on Parcel 60, which was not included in the original preliminary plan application.

Therefore, Parcel 60 and Lot 1, as identified in Board of Appeals Petition No. S-2453-A & S-2726, will be subject to preliminary plan review and subsequent recording of a plat in the Montgomery County Land Records Office in compliance with Chapter 50 of the Montgomery County Code.

Preliminary plan review and plat recordation are required prior to issuance of a building permit relating to Case No. S-2453-A & S-2726.

ATTACHMENT 11

Lot 1, existing conditions



Figure 1: Site looking from Darnestown Road, north. Existing buildings.

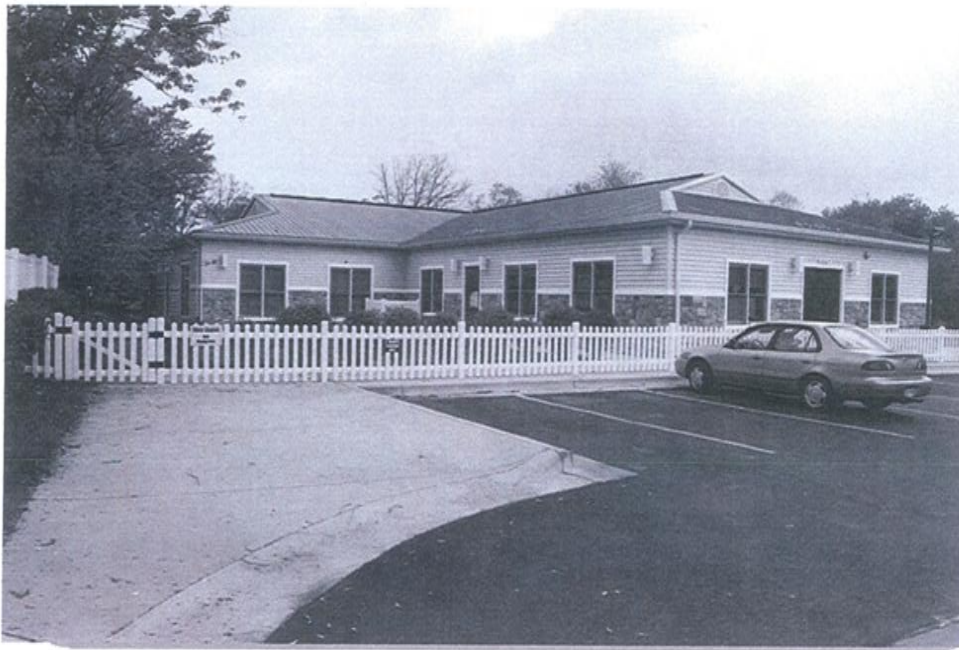


Figure 2: Existing day care center, 8,277 sq. ft. of building. Looking north from western driveway.

Parcel 60, existing conditions



Figure 3: Looking northwest from Darnestown Road



Figure 4: Existing house (vacant, used for storage)



Figure 5: Existing House (to be demolished)



Figure 6: Rear of existing single-family house/administrative offices (to remain)




ATTACHMENT 12A


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


MCPB
Item #
July , 2008

MEMORANDUM

TO: Montgomery County Planning Board

VIA: Gwen Wright, Chief
Countywide Planning Division 

Stephen D. Federline, Supervisor
Environmental Planning, Countywide Planning Division 

FROM: Lori Shirley, Planner Coordinator 
Environmental Planning, Countywide Planning Division

DATE: June 5, 2008

REVIEW TYPE: Preliminary Forest Conservation Plan No.
S-2453-A- modification and consolidation to an existing child day care, and
S-2726 – private educational institution

LOCATION: 10107 and 10109 Darnestown Road, Rockville

APPLICANT: R.L.L. and C Corporation, c/o Ms. Marilyn Fleetwood

Staff recommends **approval** of the preliminary forest conservation plan (PFCP) for the above referenced special exceptions subject to conditions which include, but are not limited to the following:

1. Revise the PFCP to include the following:
 - a. Show the proposed limit-of-disturbance (LOD) on the plan and with a corresponding symbol in the legend.
 - b. Add to the large and specimen tree table a separate column with the disposition of each tree at post-development, and show the critical root zone (CRZ) for each tree.
 - c. The qualified professional who prepared and revised the plan must sign and date it in non-black ink.

DISCUSSION

These are two related special exception requests undergoing concurrent review for the Academy Child Development Center, Inc., site in Rockville. The S-2453-A request is for an amendment to the existing special exception to modify and consolidate the existing child care development center at 10107 Darnestown Road (Lot 1) and to include Parcel 60 into the overall site with a new building for the day care and private educational institution. The initial request in S-2453 was approved in 2000. The S-2726 request is for a private institutional use at 10109 Darnsestown Road (Parcel 60) for proposed off-street parking, an outdoor play area and picnic pavilion all

Memo for Preliminary Forest Conservation Plan No. S-2453-A and S-2726; 10107 and 10109 Darnestown Road, Rockville

associated with the day care center and private education institutional use. The site is located on the north side of Darnestown Road, approximately 300 feet northwest of the Darnestown/Travilah Road intersection and is in the Gaithersburg Vicinity Master Planning Area.

There are 0.07 acres of existing forest on-site including 11 large and specimen trees both on and off-site. There are no streams, wetlands, 100-year floodplain, steep slopes associated with highly erodible soils, severe slopes and associated environmental buffers. There are steep slopes in the northwest portion of the site at the common property lines with adjacent lots. The site is located within the Muddy Branch watershed.

The Planning Board's action on the Preliminary Forest Conservation Plan is regulatory and binding. The Planning Board must act on the Forest Conservation Plan before it finalizes its recommendation on the two special exception applications.

Environmental Guidelines

The applicant has an approved Natural Resources Inventories/Forest Stand Delineations (NRI/FSD), 42008036, associated with it. Lot 1 has a previously reviewed exemption in 4-2000075E. When the PFCP is approved, the exemption will become invalid. The site has no areas of environmental buffer, 100-year floodplain or wetlands. The site is not within a Special Protection Area.

Forest Conservation

This property is subject to Chapter 22A Montgomery County Forest Conservation Law. A Preliminary Forest Conservation Plan (PFCP) has been submitted for approval.

The PFCP has a total of 0.07 acres of existing forest and an afforestation and reforestation requirement of 0.29 acres. The PFCP proposes the clearing of all of the existing forest. The worksheet shows the site's afforestation and reforestation requirement to be met with 0.29 acres of fee-in-lieu payment.

Lot 1 has a previously approved forest conservation plan exemption # 4-2000075E issued when the existing child day care center underwent development review in 2000. The conditions for approval of the exemption are no longer met with this application: thus, a preliminary forest conservation plan (PFCP) must be approved concurrently with the two pending special exceptions.

On June 5, 2008, the Environmental Planning Section received a revised PFCP and Landscape Plan. These plans were reviewed and both plans do not have a symbol for the proposed limit-of-disturbance (LOD) with a corresponding symbol in the legend. The worksheet indicates that all of the existing forest will be removed. Therefore, it appears the proposed LOD will be at the adjacent common lines at most areas of the site, including the northwest portion of the site where existing large and specimen trees are located. Some of these trees are off-site on adjacent properties; however, the PFCP does not contain information in the table regarding how the large and specimen trees will be preserved and protected, nor does it include the critical root zone delineation (CRZ) for each tree. The PFCP must be revised to address how the specimen trees on and off-site will be preserved and protected and show each tree's CRZ.

Memo for Preliminary Forest Conservation Plan No. S-2453-A and S-2726; 10107 and 10109 Darnestown Road, Rockville

Stormwater Management

The site drains from the southwest to the northeast. Along most of the site's eastern-most property line is where a proposed stormwater management quality biofiltration facility is shown. The remainder of the site's stormwater will be piped to the property line that separates Lot 1 and Parcel 60 with an outfall at the northeast end of Lot 1. These combined controls provide on-site water quality and on-site recharge via the proposed biofiltration facility. Concept Plan approval was issued by DPS in a letter dated April 17, 2008.

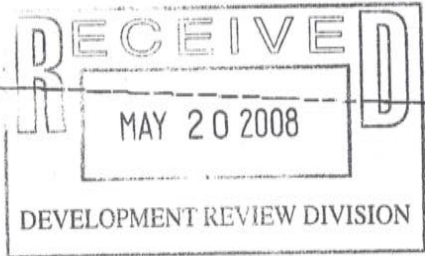
RECOMMENDATION

Environmental Planning staff recommends approval of the Preliminary Forest Conservation Plan No. S-2453-A and S-2726 with conditions.

If you have any questions regarding these comments, please contact me at 301-495-4551 or electronically at: lori.shirley@mncppc-mc.org.

SDF:LS

G:/DEVREV/se/zon/mr/S-2453_A_10107DarnestownRd_Rockville_pfcpl_ls_docx



AFFIDAVIT OF MARILYN FLEETWOOD
PRESIDENT, ACADEMY CHILD DEVELOPMENT, INC.

Pursuant to Section 59-G-2.131(a)(4) of the Montgomery County Code, the Petitioner states that it will:

- a) Comply with all applicable state and county requirements;
- b) Correct any deficiencies found in any government inspection; and
- c) Be bound by the Affidavit as a condition of the approval for this special exception.

I solemnly affirm under the penalties of perjury that the contents of the foregoing paper are true to the best of my knowledge, information, and belief.

MARILYN FLEETWOOD, PRESIDENT
ACADEMY CHILD DEVELOPMENT, INC.

Marilyn C. Fleetwood
President

STATE OF MARYLAND:
COUNTY OF ~~MONTGOMERY~~: ss *Kent*

SUBSCRIBED, ACKNOWLEDGED AND SWORN to before me this 10th
day of August 2000.

Delira A. Rapone

Notary Public

My commission expires: April 1, 2004

JMANAGE: 207208 v.1 03930.0001
Orig. Typ.PFG Ed. 8-10-00pfr