



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

MCPB
Item # 14
Date: 09/10/09

MEMORANDUM:

DATE: August 24, 2009

TO: Montgomery County Board of Appeals

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

FROM: Carlton W. Gilbert, Planner Coordinator (301) 495-4576 *CW*

SUBJECT: **Board of Appeals Petition No. SE-09-04 (Special Exception):**
Esther C. Shaffer, applicant, requests approval of a special
exception for a Group Day Care facility for up to 12 children located
at 19227 Golden Meadow Drive, Germantown, R-90 Zone
(Cluster).

MASTER PLAN 1989 Germantown Master Plan
FILING DATE: April 1, 2009
PUBLIC HEARING: September 18, 2009

STAFF RECOMMENDATION: APPROVAL of a special exception for a group day care facility for up to 12 children, with the following conditions:

1. All evidence, testimony and exhibits of record are binding on the applicant.
2. The child day care use must be limited to 12 children no older than five years of age, and 2 non-resident employees.
3. Permitted hours of operation are Monday thru Friday only, 6:30 a.m. to 5:30 p.m.
4. The arrival and pick-up times for children must be staggered between 6:30 a.m. and 9:00 a.m. during the morning drop-off and between 3:30 p.m. to 5:30 p.m. in the evening.

5. Must comply with Maryland State and Montgomery County standards for the operation of a child day care facility.

The child day care use at the proposed location satisfies the specific special exception requirements of 59-G-2.13.1. With the recommended conditions, the proposed use will not constitute a nuisance because of traffic or physical activity and will not adversely affect the residential character of the surrounding properties. Furthermore, the proposed use is consistent with the recommendations of the 1989 Germantown Master Plan.

Project Summary

The applicant, Esther Shaffer, originally requested a special exception to permit a child day care center for up to 15 children at 19227 Golden Meadow Drive in Germantown. However, in response to concerns expressed by staff and the Seneca Park North Home Owners Association, the applicant has amended the petition to reduce the maximum number of children from 15 to 12. By reducing the number of children, the proposed use would be categorized as a group day care home instead of a child day care center. Furthermore, the category change provides for less restrictive parking requirements than those associated with a child care center. A licensed child care business for up to 8 children for which a special exception is not required has been operating on the site since 2006. The applicant would like to increase the number of children cared for from 8 to 12 children.

The child day care business will operate in the existing two-story single-family dwelling owned by the applicant who is the provider and resident. The day care will be conducted on the lower level (basement) and main floor of the home. The entire basement and one room on the main floor will be dedicated to the business. The day care will have two full time non-resident employees. There are no changes proposed to the exterior of the existing dwelling. All of the activities associated with the business will be conducted within the home or in the rear yard, which is enclosed with a 6-foot high wooden privacy fence and will include various play equipment for the children to use.

Site Description

The subject property is located on the east side of Golden Meadow Drive between Winding Brook Lane and Flanagan Lane. The property's legal description is Lot 66, Block C in the Seneca Park North subdivision and contains 6,279 square feet of land. The property is zoned R-90 and the standard lot size for a lot located in the R-90 zone is 9,000 square feet. However, this subdivision is a cluster development that allows for variations in lot sizes in order to preserve open space, tree cover, and recreational areas within the subdivision. The property has approximately 63 feet of street frontage along Golden Meadow Drive. The property is improved with a two-story frame dwelling

with a basement, constructed in 1995. The dwelling is setback approximately 30 feet from Golden Meadow Drive. The dwelling has a left side yard of approximately 10.5 feet, a right side yard of approximately 14 feet and a rear yard of approximately 30 feet.

The property is accessed via a concrete driveway from Golden Meadow Drive. The 30-foot long driveway provides access to the two-car attached garage. The driveway provides parking for at least 4 vehicles (stacked). The applicant intends to use the garage for parking two cars associated with the residence. Access to the day care home is through the front entrance. The applicant has indicated that children will be dropped off and picked up from the driveway and from the on-street parking area in front of the house. There is adequate on-street parking that can be used to park up to two cars for the non-resident employees. The applicant has also indicated that the employees can park in the driveway during the off-peak hours.

The property is relatively flat in the front yard and slopes gently downward in the rear yard. Both the front and rear yards are landscaped with mature trees, shrubs and flowers. The rear yard of the property is fenced and contains a wooden deck, a swing set, and a play area for use by the children.

A site inspection by staff revealed that the property was properly posted at the time of inspection.

Neighborhood Description

The neighborhood in which the subject property is located is defined by Wheatfield Drive to the north and east, Great Seneca Park to the south, and Moonridge Drive to the west. The neighborhood is zoned R-90 (cluster) for single-family residences. There are no other special exceptions within the neighborhood.

Elements of Proposal

The applicant is proposing to expand the existing child care facility by increasing the number of children cared for from 8 to 12. The day care will be located on the basement level and first floor of the existing home. The applicants propose to limit the children to a maximum age of five years. According to the applicant, there are 4 rooms (total square footage of 1,100 square feet) that are used for activities and play area for the children. The rooms are shown in the attached photographs. The front entrance of the dwelling will be used by parents when picking up and dropping off their children. None of the daycare business will be conducted on the second floor of the dwelling.

The hours of operation will be between 6:30 a.m. and 5:30 p.m., Monday through Friday. Child care will not be provided on weekends or overnight, at any time. Pick-up and drop-offs will occur on the driveway in front of the home, which provides adequate room for two vehicles during morning drop-off and afternoon pick-ups. There is also adequate space for drop-off and pick-up on the street directly in front of the home. The applicant indicates that she will stagger arrival times for children between 6:30 a.m. and 9:00 a.m. during the morning drop-off and between 3:30 p.m. and 5:30 p.m. during the

afternoon pick-up. Staff recommends that the applicant go a step further and include the staggered arrival times in the enrollment contract to be signed by parents.

There will be two non-resident employees, who will begin working at the site when the special exception is granted and a license is issued to increase the number of children from 8 to 12. The employees will work from 6:30 a.m. to 5:30 p.m. The employees will be instructed to park on the street in front of the home and in the driveway during off-peak hours.

Parking

By definition of a child day care facility in 59-E-3.7, a group day care home must provide one space for every non-resident staff member in addition to the parking required for the residence. The required number of spaces for employees may be provided on the street abutting the site. In this case, a total of four parking spaces (2 for the residential use and 2 for the day care) are required for a group day care home. As previously noted, the property contains a two-car garage to accommodate the resident's vehicles. There is a large driveway that can park at least 2 additional vehicles during off-peak periods and that will be used by the parents for morning drop-off and afternoon pick-up. Additionally, there is adequate on-street parking on the public street in front of the dwelling. This area can accommodate two parallel parked vehicles.

Master Plan

The site is situated within Analysis Area MI-5 of the Approved and Adopted 1989 Germantown Master Plan. The inclusion of a daycare center is addressed in the context of acceptable community facilities (p. 75, para. 3). While the Plan does not specifically address child day care centers in any other portion of the Analysis Area MI-5 narrative, the proposed use is an allowed special exception use in the R-90 zone.

Staff has concluded that the proposed use is compatible with the neighborhood, in part, for the following reasons: (1) The applicant property will retain its residential appearance – no external changes will be made; (2) Only the lower level and one room on the main level of the home will be used for the operation of the business; and (3) The rear yard of the property will be used as a play area and will be fully enclosed by a six-foot wood fence. The play area will have recreational equipment for children (see attached photographs).

An issue that could adversely impact the immediate community deals with parking, specifically regarding the narrowness of Golden Meadow Drive in relation to the picking up and dropping off of children enrolled in the day care. However, only four additional children will be accepted and the driveway will be used for drop-off and pick-up.

Staff finds that the proposed use to be appropriate for the location and approval is recommended.

Transportation

Transportation Planning staff has reviewed the applicant’s proposal to increase the number of children from 8 to 12 and finds that the proposed increase in children would not have an adverse impact on the nearby road system. The site is located off Golden Meadow Drive which was built as a tertiary residential street with 50-foot-wide right-of-way and 20-foot-wide pavement width. The existing vehicular access point and pedestrian circulation system on the nearby road system would not be affected by the proposal. The site would generate less than 30 peak-hour trips (and less than 3 new peak-hour) with granting the subject special exception application. Therefore, the subject special exception application is not subject to the Local Area Transportation Review (LATR) or the Policy Area Mobility Review (PAMR).

Transportation staff concludes that the approval of the subject special exception petition will not adversely affect the surrounding roadway system.

Environment

The proposal is not subject to the Forest Conservation Law as defined in Chapter 22A of the Montgomery County Code. No forest conservation issues are associated with the site.

Development Standards

The subject property is located in the R-90 zone, which permits the proposed use by special exception. However, the property was developed under the R-90 cluster standards. The proposal conforms to all applicable development standards of the R-90 zone and the standards of the cluster method as specifically modified. The following table standards are applicable to single-family detached dwelling units:

Development Standard	Standard	Proposed/Existing
Minimum Lot Area	5,000 sq. ft.	6,279 sq. ft.
Minimum Lot width:		
▪ at front building line	N/A	66 ft.
▪ at street line	25 ft.	63 ft.
Minimum Building Setback:		
Front Yards	25 ft.	30 ft.
Side Yards		
▪ One side	Zero ft.	10.5 ft.
▪ Sum of both sides	Zero ft.	24 ft. Approx.
Rear Yard	25 ft.	30 ft.
Maximum Building Height	2 ½ stories or 35 ft	Approx. 25 ft.
Maximum Building Coverage	30%	23% Approx.

Landscape and Lighting

The attached Landscape and Lighting Plan show a total of 5 lights mounted on the front and rear of the dwelling. There are no external lighting changes proposed. There is a motion sensor flood light at the rear door access and a (100W) hooded residential fixture located above the rear deck patio door. There is no glare onto adjoining properties. The existing landscaping on the site consists of several trees including dogwoods, maples, crepe myrtles, pine, and magnolia. The property is well landscaped with shrubbery and flowers in both the front and rear yards.

Sign: The display of a sign must comply with Article 59-F.

Currently, there is no sign displayed on the property.

Community Concerns

Several letters were submitted in support of the child day care facility by parents who have used the facility in the past and present. Additionally, the Board of Directors of the Seneca Park North Homeowners Association submitted a letter that cited general concerns about possible negative impacts related to noise, parking and safety. Staff believes that those concerns were addressed when the applicant agreed to reduce the number of children. (see attached letters)

Inherent and Non-Inherent Adverse Effects

The Zoning Ordinance specifies a standard of review for evaluating compliance with general and specific conditions that requires an analysis of inherent and non-inherent adverse effects.

The first step in analyzing the inherent and non-inherent adverse effects of a special exception or modification is to define the boundaries of the surrounding neighborhood.

Analysis of inherent and non-inherent adverse effects considers size, scale, scope, light, noise, traffic and environment. Every special exception has some or all of these effects in varying degrees. What must be determined during the course of review is whether these effects are acceptable or would create adverse impacts sufficient to result in denial. To that end, inherent adverse effects associated with the use must be determined. In addition, non-inherent effects must be determined as these effects may, by themselves, or in conjunction with inherent effects, form a sufficient basis to deny a special exception.

Applying the above analysis to this case, the staff finds:

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

The child care use in this application is approximately 1,100 square feet and is located in the basement and first floor of the existing two-story single-family dwelling. There are no significant traffic impacts that would result from the proposed special exception. The plan provides adequate parking to serve the use. The large driveway serves as drop-off and pick-up area for children. Existing lighting on the property is adequate and consistent with the residential character of the neighborhood. No new lighting will be added. There will be no changes to the existing dwelling, driveway, parking area in front of the dwelling, or play area in the rear yard. The front and rear yards are well landscaped with mature trees. Flowers and shrubbery are located in the front, side and rear of the dwelling. There are no non-inherent effects of the use.

General and Specific Special Exception Provisions

The application, as conditioned by staff, satisfies all of the general and specific requirements for an accessory apartment found in Sections 59-G-1.21 and 59-G-2.00 of the Zoning Ordinance.

59-G-1.21. General conditions.

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

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

The subject property is zoned R-90. A group day care home for up to 12 children is an allowed special exception in the R-90 Zone.

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

Staff finds that the requested use satisfies the standards and requirements prescribed in Section 59-G-2.13.1 of the Zoning Ordinance.

(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.

As previously discussed, staff finds that the use will be consistent with the recommendations of the 1989 Approved and Adopted Germantown Master Plan.

- (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 use will be in harmony with the general character of the surrounding residential neighborhood. The use will be located on the basement and first floor levels of the existing dwelling and will not require construction of an addition to provide additional floor space. There is adequate parking. Traffic conditions will not be affected adversely. Staff does not find an excess of similar uses in the defined neighborhood.

- (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.

There is no evidence to support a finding that the use will be detrimental to the use, peaceful enjoyment, economic value or development of surrounding properties or the general neighborhood.

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

Due to the nature of the proposed use, it is not expected to cause any objectionable noise, vibrations, fumes, odors, dust, illumination, glare, or physical or activity at the site.

- (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 finds the special exception will not increase the number, intensity or scope of special exception uses sufficiently to affect the area adversely or to alter the predominantly single-family residential character of the area. Since no new construction is proposed, the residential character of the neighborhood will not be altered.

- (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.

There is no evidence to support a finding that the child care use would have an adverse effect on residents, visitors, or workers in the area.

- (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.

- (i) If the special exception use requires approval of a preliminary plan of subdivision the adequacy of public facilities must be determined by the Planning Board at the time of subdivision review. In that case, subdivision approval must be included as a condition of the special exception. If the special exception does not require approval of a preliminary plan of subdivision, the adequacy of public facilities must be determined by the Board of Appeals when the special exception is considered. The adequacy of public facilities review must include the Local Area Transportation Review and the Policy Area Transportation Review, as required in the applicable Annual Growth Policy.

The subject site is already subdivided and will continue to be adequately served by public facilities. As previously indicated, staff also finds that the requested use satisfies the transportation-related requirements of the APF test.

- (ii) With regard to findings relating to public roads, the Board, the Hearing Examiner, or the District Council, as the case may be, must further determine that the proposal will not reduce the safety of vehicular or pedestrian traffic.

Staff finds that the application satisfies transportation related requirements and will not reduce the safety of vehicular or pedestrian traffic because the existing driveway is large enough to

accommodate the drop-off and pick-up of children. The applicant will also stagger arrivals and departures.

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

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

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

The applicant has submitted site and landscape plans that satisfy these requirements.

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

(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;

Because the proposed daycare use is in a residential dwelling, the number of spaces required by Section 59-E-3.7 is four (2 for the home and 2 for the non-resident employees. The property contains a two-car garage to accommodate the resident's vehicles. There is a large driveway that can park at least 4 additional vehicles during off-peak periods and that will be used by the parents for morning drop-off and afternoon pick-up. Additionally, there is adequate space in front of the dwelling to accommodate two parallel parked vehicles. Therefore, staff finds that the subject property provides adequate parking for the proposed use.

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

The existing driveway provides adequate area for the discharge and pick-up of children.

(4) the petitioner submits an 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.

This is a condition of approval and the applicant has submitted such an affidavit, dated January 20, 2009, stating compliance with the above-cited requirements.

(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 from any adverse impacts resulting from the use.

With the recommended conditions, the use will be compatible with surrounding uses and will not result in nuisances due to traffic, parking, noise or any type of physical activity.

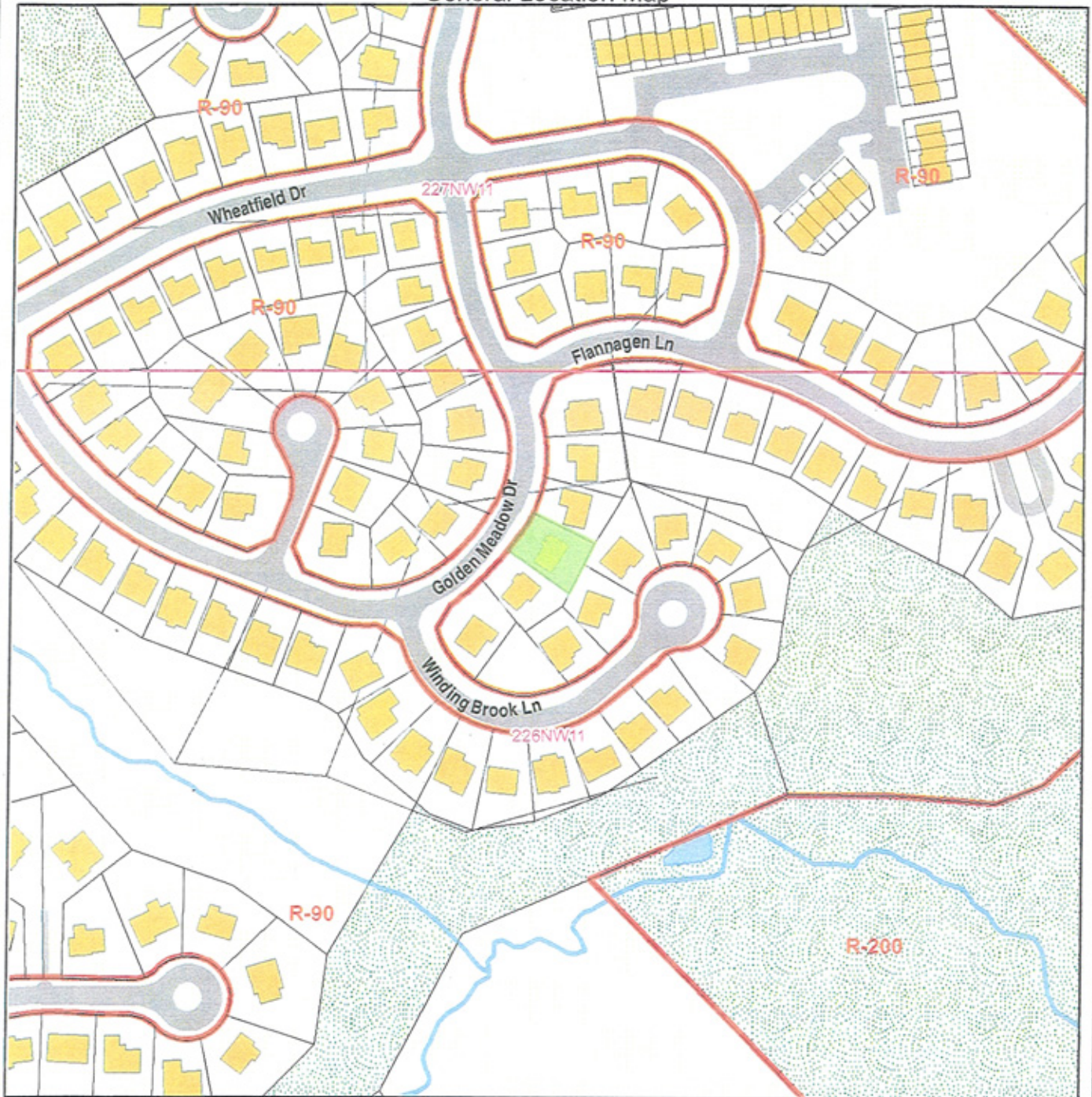
Conclusion

Based on the foregoing analysis, staff recommends approval of the application subject to the conditions found at the beginning of the technical staff report.

LIST OF ATTACHMENTS

1. Location Map
2. Surrounding Area Map
3. Survey Plat
4. Site Plan
5. Landscape and Lighting Plan
6. Photographs
7. Certificate of Registration
8. Affidavit of Compliance
9. Vision Division Memo
10. Transportation Planning Memo
11. Environmental Planning Statement
12. Letters in Support
13. Letter from Homeowners Association

General Location Map



LEGEND

-  Subject Site
-  Building
-  Paved Area
-  Lake and Pond

1 inch = 200 feet
Address: 19227 Golden Meadow Dr, Germantown

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.

Key Map
NTS

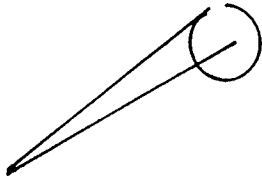


ATTACHMENT 2

Surrounding Area Map

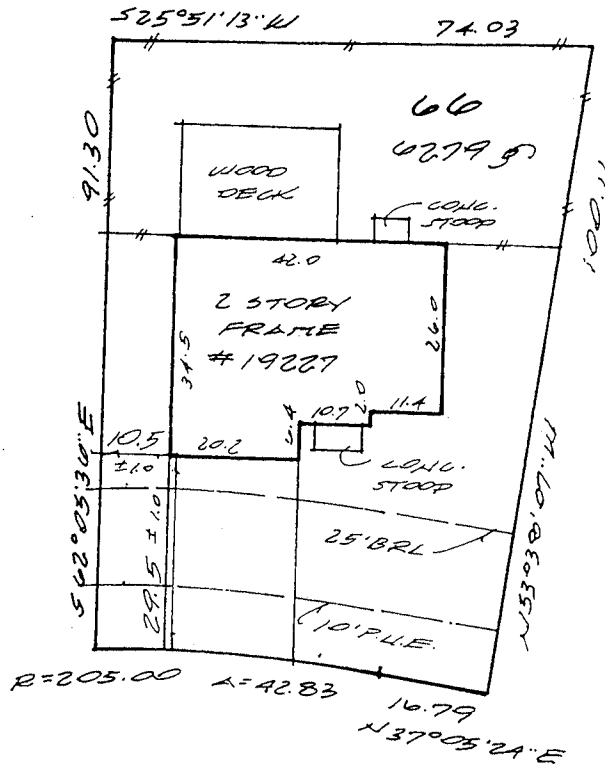


Exhibit A

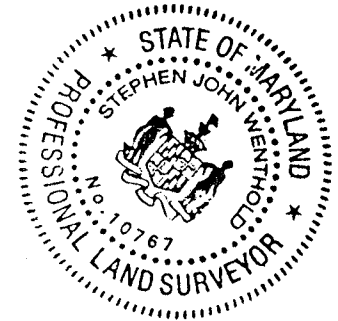


60

61



65



GOLDEN MEADOW DRIVE

Date: 5-7-04 Scale: 1" = 30' Drn: BD.

Plat Book: 173

Plat No.: 19398

Work Order: 04-2596

Address: 19227 GOLDEN MEADOW DRIVE

District: 9

Jurisdiction: MONTGOMERY COUNTY, MD

LOCATION DRAWING
LOT 66
BLOCK C
SENECA PARK NORTH

NO TITLE REPORT FURNISHED

Surveyor's Certification

I hereby certify that the survey shown hereon is correct to the best of my knowledge and that, unless noted otherwise, it has been prepared utilizing description of record. This survey is not a boundary survey and the location or existence of property corners is neither guaranteed nor implied. Fence lines, if shown, are approximate in location. This property does not lie within a 100-year flood plain according to FEMA insurance maps as interpreted by the originator unless otherwise shown hereon. Building restriction lines shown are as per available information and are subject to the interpretation of the originator.

Stephen J. Wenthold

NOTE: This plat is of benefit to a consumer only insofar as it is required by a lender or a title insurance company or its agent in connection with contemplated transfer, financing or refinancing. This plat is not to be relied upon for the establishment or location of fences, garages, buildings, or other existing or future improvements. This plat does not provide for the accurate identification of property boundary lines, but such identification may not be required for the transfer of title or securing financing or refinancing.



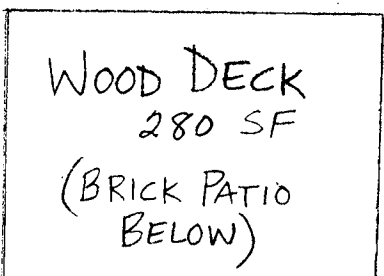
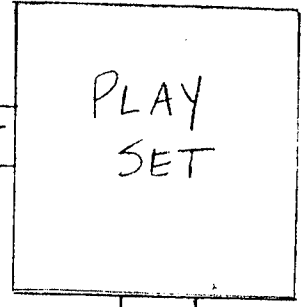
Meridian Surveys, Inc.
811 Russell Avenue
Suite #303
Gaithersburg, MD 20879
(301) 721-9400

SITE PLAN

LOT 66
6,279 SF

91.3

100.11



BACK YARD
PLAY AREA
2080 SF

GATE

CONC. STOOP

GATE

42.0'

2 STORY BRICK AND
VINYL SIDING
19227
2,312 SF

34.5'

26.0'

2 CAR
GARAGE
20.2'

10.7' 3.0' 11.4'

10.5'

CONC. STOOP

ASPHALT
DRIVEWAY
DROP-OFF
AREA
595 SF

CONC. WALK

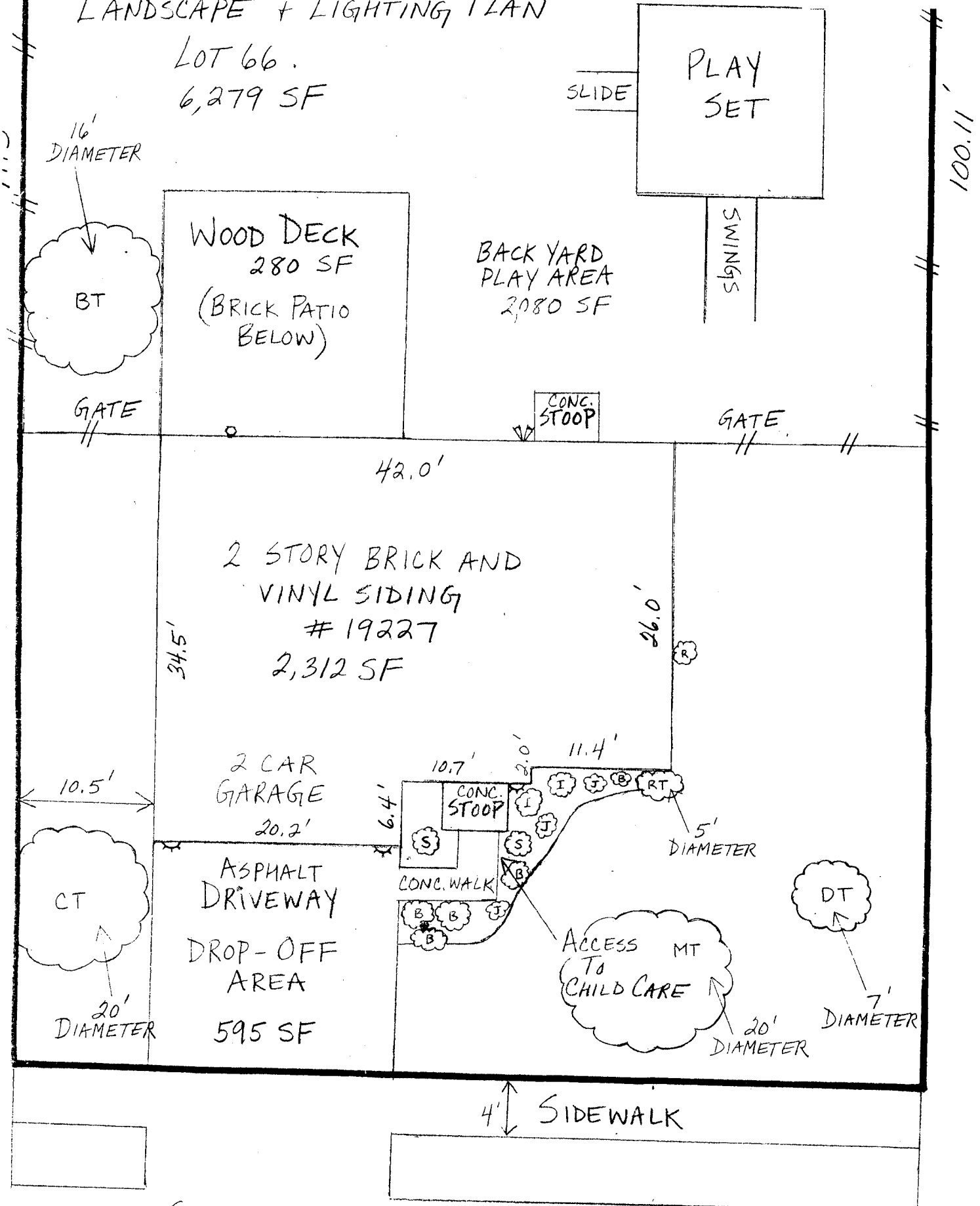
ACCESS
TO
CHILD CARE

4' SIDEWALK

GOLDEN MEADOW DRIVE DROP-OFF AREA

LANDSCAPE + LIGHTING PLAN

LOT 66.
6,279 SF



GOLDEN MEADOW DRIVE DROP-OFF AREA

LEGEND

Exhibit C



FRONT VIEW OF HOUSE SHOWING DRIVEWAY DROP-OFF/PICK-UP AREA.

Exhibit D



REAR YARD PLAY AREA SHOWING FENCING, PATIO, AND GRASSY AREA.

Exhibit E



REAR YARD PLAY AREA SHOWING FENCING, PLAY SET, AND GRASSY AREA.

Exhibit H



STREET PARKING: VIEW FROM FRONT OF HOUSE FACING GOLDEN MEADOW DR.

Exhibit I



STREET PARKING: VIEW FROM FRONT OF HOUSE TURNING RIGHT DOWN
GOLDEN MEADOW DR.

Exhibit R



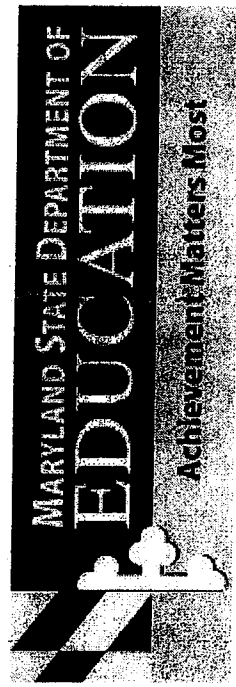
Exhibit S



Exhibit T



POST IN CONSPICUOUS PLACE - This Certificate of Registration is not transferable to another person, address, or location.



State of Maryland - Department of Education
Office of Child Care

CERTIFICATE OF REGISTRATION

Region: 5
County: MONTGOMERY
Registration Number: 139825
Registered Provider since:
05/15/2006

This certifies that **Esther Shaffer** is registered to operate a Family Day Care Home
at: **19227 Golden Meadow Drive, Germantown, MD 20876**

The Office of Child Care issues this Certificate of Registration pursuant to Family Law Article, Sections 5-550 through 5-558, and COMAR 13A.14.01.

Current Status of Registration:		Approved Hours of Operation:		Accreditation:	
Issued on:	08/03/2008	Days:	YES	Accredited:	NO
Revised on:		Evenings:	YES	Accrediting Agency:	
Status:	Continuing - Full	Overnight:	NO		
		Weekends:	NO		

Maximum number of family day care children approved for care at one time: **7**

This Certificate of Registration is issued to the provider named above on condition that the provider agrees to comply with all applicable family day care laws and regulations. Failure to comply with applicable laws and regulations may result in an enforcement action against the Certificate of Registration, including but not limited to suspension or revocation of the Certificate or denial of a new Certificate. The provider must surrender this Certificate to the Office of Child Care upon suspension, revocation, voluntary closure, or denial of a new Certificate.

* No more than two children under the age of two, including the provider's own children, may be in care at any time unless approved in advance by OCC.

RESTRICTIONS/COMMENTS: GARAGE, SECOND FLOOR AND UTILITY ROOM ARE OFF LIMITS TO CHILD CARE. THE FIRST FLOOR FAMILY ROOM, DINING ROOM, BASEMENT MAIN ROOM AND BACK BEDROOM ARE APPROVED FOR NAPPING. PROVIDER MAY ENROLL CHILDREN UP TO EIGHT YEARS OF AGE DUE TO CPR.

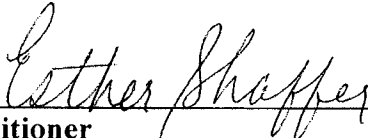
Nancy S. Grasmick
State Superintendent of Schools
Maryland State Department of Education

Exhibit M

AFFIDAVIT OF COMPLIANCE

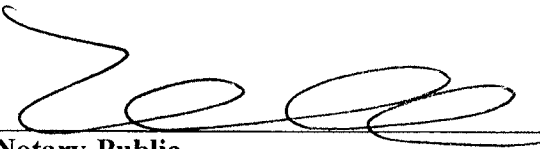
I HEREBY CERTIFY that I will comply with and satisfy all applicable State and County requirements, correct any deficiencies found in any government inspection, and be bound by this affidavit as a condition of approval for the special exception.

I understand that if I fail to meet State or County requirements, this special exception may be declared invalid.



Petitioner

Subscribed and sworn to me, a Notary Public for Montgomery County, Maryland, this 20 day of Jan., 2009.



Notary Public

ZAHRA GHORBANPOOR
NOTARY PUBLIC
MONTGOMERY COUNTY
MARYLAND
MY COMMISSION EXPIRES 05-01-2010

My Commission Expires: 05-01-2010



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

MEMORANDUM

DATE: August 3, 2009

TO: Carlton Gilbert, Planner Coordinator, Zoning Office -
Development Review/Build Division

VIA: Sue Edwards, Team Leader, North Central Transit Team,
Community-Based Planning/Vision Division

FROM: Vanessa N. Francis, Senior Planner, North Central Transit Team,
Community-Based Planning/Vision Division

SUBJECT: Board of Appeals Petition No. SE-09-4

Master Plan Conformance

The referenced application is a request for a child day care center. The property is located at 19227 Golden Meadow Drive in the Germantown Planning area. The subject site is located in the Seneca Park North subdivision and consists of 6,279 square feet of land. The site is zoned R-90 and consists of a single family detached dwelling unit. The applicant is requesting to establish a child day care center responsible for up to 12 children. The applicant has operated a child day care facility from the subject property for approximately the past three (3) years and currently holds a license to operate the facility for up to eight (8) non-resident children.

The site is situated within Analysis Area MI-5 of the Adopted and Approved 1989 Germantown Master Plan. The inclusion of a daycare center is addressed in the context of acceptable community facilities (p. 75, para. 3). While the Plan does not specifically address child day care centers in any other portion of the Analysis Area MI-5 narrative, the proposed use is allowed in accordance with the Special Exception uses of the Montgomery County Zoning Ordinance (§59-C-1.31).

Staff has been determined that the proposed use is compatible with the neighborhood due to the following: (1) The applicant has stated in the application that the subject property will retain its residential appearance – no external changes will be made to the property or the subject site; (2) Only the entire lower level and one room on the main level of the home would be used for the operation of the facility; and (3) The rear yard of the property will be used as a play area and will be fully enclosed by a six-foot wood fence. The play area will have recreational equipment for children (see Figures 1-3).

An issue that could adversely impact the immediate community deals with parking,

specifically regarding the narrowness of Golden Meadow Drive in relation to the picking up and dropping off of children enrolled in the day care. Other community concerns will be addressed by a community resident in an upcoming meeting (8/5/2009) with Planning Department staff.

Recommendation

Staff finds that the proposed use to be appropriate for the location and approval is recommended provided the parking issues and forthcoming community concerns are addressed.

Figure 1: Front View of Subject Property



Figure 2: Rear Yard of Subject Property/Recreation Equipment



Figure 3: Street View in front of Subject Property





August 25, 2009

MEMORANDUM

TO: Carlton Gilbert
Development Review Division

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

SUBJECT: Child Day Care Facility for up to 12 Children, Germantown
Special Exception Case Number: S.E.- 09-4

This memorandum represents Transportation Planning staff's review and recommendations on the subject special exception application of the Child Day Care Facility located at 19227 Golden Meadow Drive in the Germantown area.

Transportation Planning staff has reviewed the existing child day care facility's proposal to increase the number of students up to 12 from the currently approved 8 and finds that the proposed increase of the children would not have an adverse effect on the nearby road system. The site is located off Golden Meadow Drive which was built as a tertiary residential street with 50-foot-wide right-of-way and 20-foot-wide pavement width. The existing vehicular access point and pedestrian circulation system on the nearby road system would not be affected by the proposal. The site would generate less than 30 peak-hour trips (and less than 3 new peak-hour) with granting the subject special exception application. Therefore, the subject special exception application is not subject to the Local Area Transportation Review (LATR) or the Policy Area Mobility Review (PAMR).

Gilbert, Carlton

From: Johnsen, Douglas
Sent: Thursday, August 06, 2009 2:00 PM
To: Gilbert, Carlton
Subject: SE200904; 19227 Golden Meadow Dr.

Carlton,

I've reviewed the special exemption request for 19227 Golden Meadow Drive, Germantown, MD. The project site is not subject to the Forest Conservation Law as defined in Chapter 22A of the Montgomery County Code.

Mahalo,

Doug Johnsen, RLA
Environmental Planning Dept.
M-NCPPC
8787 Georgia Ave.
Silver Spring, MD 20910
301-495-4712 (off)
301-495-1303 (fax)
<http://www.mncppc-mc.org>

Exhibit Q

March 1, 2007

To Whom It May Concern:

I have known Esther Shaffer since July 2006 and she has been my son's daycare provider since January 2007. Although I have only known Esther for a short period of time, I do know what a loving, caring and trustworthy provider she is.

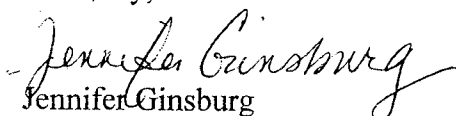
Esther's Five Star Daycare is exceptional. She has a strong belief in education and is always looking for new ways to help the children learn, whether it is through a class or from another parent. She provides educational materials throughout her daycare and has even implemented a Pre-K Music Program for the children.

Esther's demeanor with the children is incredible. I have never seen or heard her raise her voice to another child. What I have seen is a provider who calmly talks to the child to explain why their behavior is unacceptable. Esther is very attentive to all of their needs and does not show favoritism to any of the children. She is also a very effective communicator with the parents. She keeps them abreast on their child's day through daily reports, which are given at the end of the day, and takes the time to discuss any problems, issues or discoveries that she experienced throughout the day.

Esther is a very organized and extremely competent daycare provider. I highly recommend her for any endeavor that she may seek to pursue.

If you have any questions, please do not hesitate to contact me.

Sincerely,



Jennifer Ginsburg
21217 Owls Nest Circle
Germantown, MD 20876
301-916-9181

Exhibit O

Saturday March 3rd, 2007

Re: Mrs. Esther Shaffer's proposal

To whom it may concern,

It is with a great pleasure that I am providing this letter of reference to support Mrs. Esther Shaffer's proposal to the Montgomery County.

My son Marc was one of the first children to join Mrs. Shaffer's Five Stars day care in August 2006. Before this time, we have been struggling finding a day care where my 2 year old son would enjoy going every day without any fuss and complaint, not to say cries. Marc is starting his 8th month at the Five Stars day care and he is simply enjoying every single days there.

We have been impressed by Mrs. Esther Shaffer's professionalism from the beginning. Her previous experience working with children was clearly put immediately into action after opening her own day care as it was also clear that she was here for the social and scholar development of our son. It is refreshing to see such attitude since we encountered so many so called day care providers using this activity only for a living without the dearest interest of the children personal development at heart. Mrs. Shaffer's day care is clearly not a "children parking lot" where your drop your child in the morning and pick her up in the evening.

Marc is enjoying going to Mrs. Esther Shaffer's day care. He is the single child in a household where English is not the primary language and his progresses speaking this language have been impressive. We are even learning through Marc some children's songs specific to the American's culture. We truly feel Marc is being well prepared for going to school in a couple of years. He is learning the fundamental principles to be with other kids, and interact with them like in society.

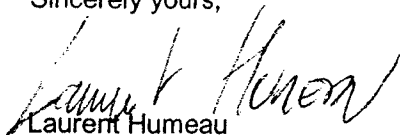
The activities provided to the children at the Five Stars day care are varied and I am also impressed by the daily cleanliness of Mrs. Esther Shaffer's day care when at the same time we know the children are proposed to do some activities that are "messy" by nature (such as painting), at least when they are performed by happy toddlers full of energy.

I also really appreciate the diversity of the food proposed to my son, and again here, Mrs. Shaffer is not taken the easy way out by offering some unhealthy type of fast food.

In summary, my wife and I have been extremely lucky to find Mrs. Shaffer and enrolled our son to her day care and we intend to use her services until Marc is older enough to go to school.

If you need more details, please do not hesitate to contact me, it will be always a pleasure to answer any of your questions if this can help Mrs. Shaffer's application.

Sincerely yours,



Laurent Humeau
19220 Wheatfield Drive
Germantown, MD 20876
Tel: (301) 528 0213
Cell: (240) 271 1792
lm_humeau@yahoo.com
yajinni@verizon.net

Exhibit N

To Whom It May Concern

March 3, 2007

I am pleased to provide this letter of reference for Ms. Esther Shaffer. I have known Ms. Shaffer since June 2006 when my wife and I visited her Five Star Daycare in our quest to find a better child care alternative for our toddler. We were not happy with the child care services being provided by a large national-network childcare center, where my son had been enrolled for more than a year.

Like all parents, we were looking for a place that has rigorous standards for quality, safety, and educational excellence. After carefully evaluating several alternatives against our criteria of safety, cleanliness, and hygiene; structured program to promote physical, mental and social development; professional and experienced staff; and location, we enrolled our son at Ms. Shaffer's Five Star Daycare. We are very pleased with the exemplary care being provided and the fact that Ms. Shaffer has consistently exceeded our expectations on all fronts.

Ms. Shaffer's commitment to create and maintain highest standards for safety and early childhood education were clear from our first meeting with her. At all times, we have noticed Five Star Daycare as clean and welcoming as it was on day it started.

Our son enjoys the fun and age-appropriate learning projects and activities that Ms. Shaffer organizes. I have noticed Ms. Esther organizing activities that provide hands-on experience that helps young minds to develop social skills and understand "teamwork". At the same time, Ms. Shaffer provides active support to each child at the individual level. A recent example of such individualized attention is with my son, who is trying to cope with changes in his environment with a new baby at home and as well as the day care.

Besides being a friendly, witty, sincere, and caring human being, Ms. Shaffer brings a great balance of administrative and management skills. Her ability to address the details required by the job while maintaining full control over the "big-picture" is truly remarkable – especially, when planning ahead and executing on new initiatives. As an experienced management executive, I find such hands-on leadership capabilities that combine both planning and execution in one package quite rare. In addition, Ms. Shaffer is sensitive, flexible, respected and admired by both parents and the children in her care. Her communication with both parents and children in her care is both clear and effective. She promptly responds to any questions that I have had and provides adequate feedback and information regarding daily and long-term progress my son is making.

My son looks forward to going to the day care everyday and I am confident and completely assured leaving my child in Ms. Shaffer's care.

Sincerely,



Kashyap Mehta
19121 Wheatfield Drive
Germantown, MD 20876

My name is Hei Jung Kim and I am a music teacher for MCPS. I am also the mother of three, Samuel, Elissa and Jacob. My son Jacob is currently enrolled at the Five Star Daycare, which is run by Mrs. Esther Shaffer. Jacob has been attending daycare at Mrs. Shaffer's home since the end of the summer of 2006.

Before enrolling my son, I had a chance to meet and talk with Mrs. Shaffer. As I read about Mrs. Shaffer in her brochure, it was clear to me that she had background and training that included impressive educational experiences. I was very impressed with the fact that Mrs. Shaffer had made the decision to make a change in her pursuits in the research and science field, for which she is obviously highly qualified, in order to put her family first. This is the kind of dedication that made Mrs. Shaffer clearly the person that I could place my trust in to care for my child.

One of the qualities that I noticed from the start of the school year was Mrs. Shaffer's professionalism. Although this was a new endeavor for Mrs. Shaffer, it was clear that she had thoroughly researched and prepared beforehand every detail of the daycare before it began. This included making sure of state and county policies that needed to be followed.

The thoroughness of Mrs. Shaffer is displayed in every aspect of her daycare and is very impressive. For example, Mrs. Shaffer is very good at communicating information, either by e-mail or by phone. The processes for communication are made clear in her policy. At the end of the day as I pick up my son, Mrs. Shaffer has a report with the details of what took place in my son's day. This is something that I look forward to each afternoon. Mrs. Shaffer's thoroughness to detail and professionalism tell me that she is truly looking out for the interest of the children in her care, putting their safety and needs as the utmost priority.

Another aspect of the Five Star Daycare that is impressive is the emphasis on education. Mrs. Shaffer is incorporating daily lessons, including curriculum from the county, suited for pre-schoolers. Mrs. Shaffer is very aware of the importance of early education and includes many opportunities to learn during the day for the children. Mrs. Shaffer attends workshops and meetings for early childhood educators and is open to learning new ideas and ways in which to improve and enrich the quality of the daycare program.

Exhibit P

Nutrition and overall health and well-being of her students are very important to Mrs. Shaffer. There is a daily schedule of snacks and lunch. About once a week Mrs. Shaffer provides lunch for all of her students. Eating healthy foods and guiding the diets of the children toward fruits and vegetables are important to Mrs. Shaffer as well. Very often she provides fresh fruit during their snack time. My son has learned to appreciate fruit and asks for it at home. I believe his request is a direct result of Mrs. Shaffer's work. The children take a daily nap and I've been able to see for myself the quiet, soothing environment that is provided during this time. But when it is not naptime, I've also observed and heard the happy sounds of laughter from children who are free to play and enjoy each other's company. Mrs. Shaffer sets clear rules and sets boundaries. She is very good at communicating to the children what those boundaries are.

I believe that Mrs. Shaffer has an outstanding program that is centered around the children in her care. The dedication and commitment that she displays on a daily basis is very apparent. I am confident that any parent fortunate enough to have their child enroll in the Five Star Daycare has made an excellent decision.

Hei Jung Kim 3-27-07

Board of Directors Seneca Park North Home Owners Association



August 19, 2009

Carlton Gilbert – Planning Coordinator
8787 Georgia Avenue
Silver Spring, MD 20910
Re: Case #09-4

Dear Mr. Gilbert;

The Board of Directors of the Seneca Park North Homeowners Association (Board) would like to take this opportunity to advise the Commission on its strong opposition to the zoning exemption requested by one of the Association's homeowners. A request for exemption has been filed by Esther C. Shaffer, residing at 19227 Golden Meadow Drive (Petitioner), who wishes to establish a child care site for up to 13 children at her residence. The Petitioner currently maintains a small in-home child care site with 5 children.

The Board surveyed many of the residents on the Petitioner's block and the surrounding blocks, our residents are vehemently against the exemption and have expressed to the Board the following concerns:

Noise – Currently with only 5 children attending daycare at the Petitioner's residents there have been complaints about the noise. Parents begin arriving at the home as early as 6:30 and their car doors slam and car alarms beep continuously from that time onwards. Additionally, when the children are outside in the yard there is an excessive amount of noise. Our yards are quite small and the Petitioner's neighbors are being driven inside by the noise from 5 active children. The Petitioner's neighbors are concerned that an almost tripling of the number of children will significantly infringe on their ability to enjoy their own back yards.

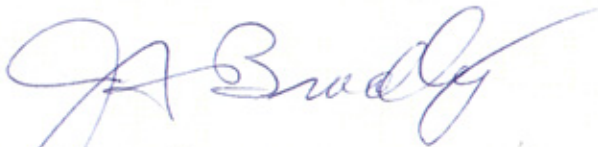
Parking – This is one of the areas in which the Board heard the most concerns. The community has very limited parking as it stands today. The parking spaces identified by the Petitioner in her application are not available to her customers as they are routinely occupied by the homeowners adjacent to those spaces. The Petitioner has failed to speak to any of her neighbors regarding her use of parking spaces adjacent to their homes. The only parking spaces available to the Petitioner for the use of her customers are the Petitioner's driveway and the two spaces on the street directly adjacent to the Petitioner's property.

Safety – The additional traffic that will result from the Petitioners request being granted will put the children of that street at risk. The traffic will coincide with the time of day that many children will be walking to or from the school bus. Additionally, the community has already fielded complaints from the County School District regarding the bus' inability to navigate Golden Meadow with the current curbside parking congestion. If the busses are unable to navigate the street, we believe that fire, ambulance and other emergency services vehicles will have similar difficulties.

Home Value – Given the current state of the economy, many of our community's homeowners purchased their homes above the current market value. The concerns expressed above of noise, parking and safety would only further reduce the value of the homes in the immediate area of the Petitioner's home. While some buyers may like the ideal of a neighborhood child care option, most would not want to purchase a home adjacent to such a child care facility.

Finally, the Petitioner's application suggests that she sought and received support for her application from the Board. Nothing could be further from the truth. The Board does not support this application and strongly recommends the Commission not grant the Petitioner's request.

Sincerely,

A handwritten signature in blue ink, appearing to read "J. Bradley", with a large, stylized flourish extending from the end of the name.

Judith S. Bradley,
Vice President