



**Special Exception SE-14-02: International Children’s Center**

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Staff Report Date: 11/01/13

**Description**

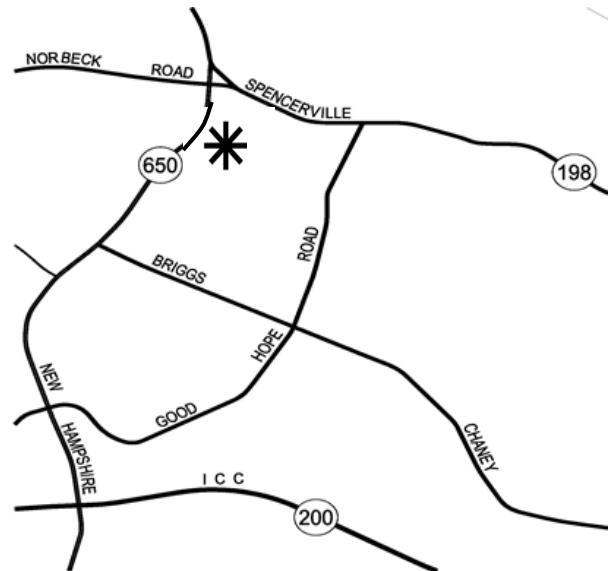
**Special Exception No. 14-02: International Children’s Center**

Request for a special exception for up to 30 children for an existing child day care facility, 15901 New Hampshire Avenue, 2.31 acres in RE-1 Zone, 1997 Cloverly Master Plan.

**Staff Recommendation:** *Approval with Conditions*

(Action Required for Hearing by the Hearing Examiner on December 20, 2013)

**Applicant:** Ellie N. Salour  
**Date Submitted:** August 22, 2013



**Summary**

The applicant requests permission to expand an existing daycare facility from twelve children to thirty children within an existing single family home located at 15901 New Hampshire Avenue. The proposed child day care use at this location satisfies the specific special exception general conditions and standards for granting the use. The application does not conflict with any land use recommendations of the 1997 Cloverly Master Plan, alter the residential character of the area, and will not result in unacceptable noise, traffic, or environmental impacts on surrounding properties.

## RECOMMENDATION

Staff recommends APPROVAL with the following conditions:

1. The Special Exception for a Child Daycare Facility should be limited to the following:
  - Maximum of 30 children
  - Maximum of five employees
  - Maximum of 15 children outside at one time except for special events such as a holiday or end of school year events.
  - Hours of operation are Monday through Friday, 6:30 a.m. to 6:30 p.m.
  - Arrival and departure for children must be staggered between 6:30 a.m. and 10:30 a.m. and between 4:30 p.m. to 6:30 p.m.
2. Comply with Maryland State and Montgomery County standards for the operation of a child day care facility.
3. Provide a three foot high evergreen hedge to screen the six parking spaces from Harding Lane.
4. Obtain a permit for any signs if MCDPS determines that a variance is required or adjust the design of the signs to conform to all applicable regulations. A copy of the approved sign permit must be submitted to the Hearing Examiner.

## DISCUSSION

### Property Description

The Property is a 2.31 acre recorded lot (Lot 1, Block A in Bernhard Acres) owned by Ellie Nariman Salour, located at 15901 New Hampshire Avenue, Silver Spring, and located in the RE-1 Zone. The corner lot is shaped like a square and abutting New Hampshire Avenue and other single-family residences along Harding Lane. Access to the site is from Harding Lane. The Property consists of one, one-story single-family home with a basement. The entire main floor is currently used for child care for twelve children which is allowed in the RE-1 Zone. The basement is the living space for a daycare provider.



There is a 4,000 square foot enclosed children’s playground on the north side and rear of the house. Existing lights consist of one pole mounted light, two spot lights on the garage, solar foot candles, and residential style fixtures mounted on the front and rear entrance doorways, and garage entrance.

The Property is landscaped in the front of the facility with lawn and large shade trees along Harding Lane. The house has well-trimmed plants along the front and sides, with a shaded backyard. The rear lot line is planted with a thick buffer of Eastern Pine trees.

Site Aerial View



## The Neighborhood

The neighborhood is bounded in red (see map below) following Property lines. The neighborhood is bounded by New Hampshire Avenue, Spotswood Drive, and Harding Lane to Palmer Drive. Spencerville Road (MD 198) is located to the north of this site and the Cloverly commercial center is located to the south. The site is surrounded by low-density residential uses in the RE-1, RE-2C, and RC Zones.

One special exception has been approved by the Board of Appeals in the area: S-284 for a Home Occupation (for a one-chair, beauty shop in the basement) approved 11/15/73.

## Neighborhood Map



## Project Description

The Applicant, Ms. Ellie N. Salour, proposes to expand the existing licensed childcare facility by increasing the number of children permitted from 12 to a maximum of 30. The International Children's Center provides infant care as well as pre-school and before and after school care for the children who attend the local elementary school. The 1,400 square foot daycare use will be

located on the main level of the existing single-family structure<sup>1</sup>. Access to the daycare will continue to be from the front of the home with an asphalt pathway leading from the circular driveway with parking at the entrance of the Center. The parents will continue to use the path when picking-up and dropping-off their children. All of the daycare business will be conducted on the main floor of the dwelling.



The hours of operation will be from 6:30 a.m. to 6:30 p.m., Monday through Friday. Childcare will not be provided on weekends or overnight, at any time. Pick-up and drop-off will occur on-site at staggered times in front of the home, which provides adequate room for 12 vehicles during morning drop-off and afternoon pick-ups. Children will be dropped-off between 6:30 a.m. and 10:30 a.m. and picked-up between 4:30 p.m. and 6:30 p.m.

<sup>1</sup> See attached Statement of Operations

Children attending before-and-after-school childcare, attend Cloverly Elementary School and will be transported by school bus to a bus stop on New Hampshire Avenue near the Center. A staff member will meet them as they exit the school bus and walk them to the facility.



The Applicant proposes to have five employees (four full-time employees and one part-time employee who will arrive and leave during off-peak hours). One of the four full-time employees resides at the daycare center.

The Property provides 12 parking spaces, including one handicapped space for staff and clients. The long, circular driveway includes six pull-in parking spaces located on both sides of the drive isle for a total of 12 spaces.

The children’s play area is 4,000 square feet in size and is located immediately on the northern side of the house. The play area is surrounded with a four foot tall fence. The Applicant proposes to allow small groups of children, no more than fifteen children at one time, to play outside between the hours of 10:00 a.m. and 11:30 a.m. and 3:30 p.m. and 4:30 p.m. in order to minimize noise. Occasionally when there are special events, such as holiday or end of school year parties, all enrolled children may be outside for a limited time.



## **ANALYSIS**

### **Master Plan and Community Compatibility**

The Property is located within the Residential Wedge community in the 1997 Cloverly Master Plan. The Residential Wedge, located in the central and northwestern portion of Cloverly, consists of large-lot subdivisions (p. 15).

The Master Plan does not have a specific recommendation for this Property, however as described in the Special Exceptions section, Plan focuses on “the retention of residential character.” When the Hearing Examiner considers any application for a special exception in the Cloverly Master Plan Area, it should consider the following factors in order to maintain, to the greatest extent feasible, the residential character of the area:

- Maintenance of a residential appearance, where feasible;
- Compatibility with the scale and architecture of adjoining neighborhood, consistent with the proposed use;
- The impacts of signs, lighting, and other physical features on surrounding residential communities;
- Location of parking, loading, and other service areas to maintain residential appearances to the extent feasible;
- Options for landscaping that minimizes the non-residential appearance of the site and the view from surrounding properties and roads. It is preferable for landscaping to reinforce Cloverly’s rural character and be consistent with the streetscape standards of the Mater Plan and the landscaping standards for special exception; and
- Any special exception application that exceeds the recommended imperviousness level for a particular watershed in a SPA must be reviewed to determine compliance with the appropriate laws. (p.37)

*The proposed special exception conforms to the recommendations of the 1997 Cloverly Master Plan. The Subject Property is well landscaped and maintains its rural, residential appearance. The special exception proposes no exterior changes and will retain its residential appearance. The house is compatible with the scale and architecture of its adjoining neighborhood as it retains the original structure, and setback on a two acre lot. The residential lighting and non-illuminated sign will not be changed and does not provide a negative impact on the surrounding residential community. The location of parking will be maintained within the circular driveway and will retain its residential appearance. The Property is not located in the Upper Paint Branch Special Protection Area (SPA) and this special exception does not propose any land disturbance and therefore does not require a review of a water quality plan, storm water, or sediment control plan.*

### **Subdivision**

No subdivision is required since the existing residence is located on a recorded lot.

## **Transportation and Parking**

The Applicant's proposal to increase the number of children from 12 to 30 will not have an adverse impact on the nearby road system. The Property is located off Harding Lane, which is a primary residential street and accessed via a 12 foot wide, one-way driveway. The existing vehicular access point and pedestrian circulation system on the nearby road system will not be affected by the proposal. Based on the projected traffic volumes using the child daycare center trip generation rates contained in the LATR and TPAR Guidelines, the site would generate less than 30 peak-hour trips (and less than three new peak-hour trips) 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 Transportation Policy Area Review (TPAR).

The proposal confirms a total of 12 parking spaces, including, one client handicapped parking space. Staff and clients have staggered arrival and departure times. The proposed parking is sufficient for clients and staff.

## **Environment**

The Property is not located in the Upper Paint Branch SPA, this special exception does not propose any land disturbance therefore; it is not subject to a SPA, or review of a water quality plan, storm water, or sediment control plan. 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.

## **Landscape and Lighting**

The Lighting Plan shows a total of six landscape lights at approximately 18 inches high around the parking lot and the child center entrance walkway, and in the child center play area. There are nine building mounted lights on the front and back of the residence. There are no external lighting changes proposed. The attached Landscape Plan shows a tree line buffer along the rear of the site. The Property is landscaped with shrubbery and flowers in both the front and side yards in a manner that is consistent with the landscaping treatment found on other properties in the neighborhood.

## **ZONING ORDINANCE**

### **Conditions for Granting**

Following is the Standard for Evaluation provided by §59-G-1.2.1:

A special exception must not be granted without the findings required by this Article. In making these findings, the Board of Appeals, Hearing Examiner, or District Council, as the case may be, must consider the inherent and non-inherent adverse effects of the use on nearby properties and the general neighborhood at the proposed location, irrespective of adverse effects the use might have if established elsewhere in the zone. Inherent adverse effects are the physical and operational characteristics necessarily



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

*The **inherent**, generic physical and operational characteristics associated with a child day care center include the following:*

- (1) the dwelling and related outdoor child care equipment,*
- (2) parking areas,*
- (3) lighting,*
- (4) noise generated by children,*
- (5) drop-off and pick-up areas,*
- (6) outdoor play areas,*
- (7) hours of operation,*
- (8) employees of the child care facility, and*
- (9) and vehicular trips to and from the site.*

*The relevant characteristics of the proposed use are consistent with the inherent characteristics identified for child day care.*

- (1) The child day care use proposed by this application will occupy approximately 1,400 square feet of the main floor of the existing one-story, single-family dwelling. The **building and its outdoor child care equipment** is not of an unusual size or design, but rather is an existing one-family residence in a residential area.*
- (2) Adequate **parking** will be available for parents and employees under the special exception proposal.*
- (3) The residential **lighting** will not be changed and does not provide a negative impact on the surrounding residential community.*
- (4) Regarding **noise generated by children**, the existing outdoor play area is fenced, and screened with a 115' setback from the adjacent home. The number of children using the play area at one time would be limited to 15.*
- (5) **Drop-off and pick-up areas** are located within the circular driveway and will retain the residential appearance.*
- (6) The **existing outdoor play area** is fenced with a white fence and screened with trees.*
- (7) **The hours of operation** will be consistent with other child day care (between 6:30 a.m. and 6:30 p.m., Monday through Friday). No childcare will be provided on weekends or overnight.*
- (8) **Five employees** will work at the center, including one day care operator who resides at the dwelling.*
- (9) The **amount of vehicular trips to and from** the Property would not be unusual or sufficient to generate a traffic study. Staff concludes that no significant traffic impacts would result from the proposed special exception.*

*The expanded child daycare does not have any non-inherent adverse effects sufficient to form a basis for denial. The house size does not increase as a result of the Special Exception, the parking is located away from adjacent neighbors, and the headlight glare is blocked by a required evergreen screen. The traffic impact is within acceptable limits. In addition, the play area is located 115 feet away from the closest adjacent home.*

**§59-G-1.21. General conditions.**

- (a) A special exception may be granted when the Board or the Hearing Examiner 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 RE-1. A child day care center for up to 30 children is an allowed special exception in the RE-1 Zone.*

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

*The proposed use complies with the specific regulations set forth in §59-G-2.13.1 for a child day care facility for a maximum of 30 children.*

- (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 discussed in the above section, the proposed child day care facility is consistent with the 1997 Cloverly 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 neighborhood is characterized by single-family residential uses. The use will be located in the main floor of the existing dwelling, and it will not require construction of an addition to provide additional floor space. The intensity and character of activity, traffic, and parking will be in harmony with the neighborhood. 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.

*The proposed use will not cause objectionable noise, vibrations, fumes, odors, dust, illumination, glare, or physical activity at the subject site. The use will be adequately screened from the views of neighboring properties, will generate minimal noise, and have minimal lighting and glare. There will be no significant traffic impact from the proposed use. The proposed outdoor play area is located 115 feet from the nearest residential property, and it is screened with a combination of a fence, trees and scrubs. The Applicant proposes to allow small groups of children, no more than fifteen children at one time, to play outside between the hours of 10:00 a.m. and 11:30 a.m. and 3:30 p.m. and 4:30 p.m. in order to minimize noise. Trash will be gathered in the interior of the building, and they will be collected by residential services.*

- (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 identified one special exception within the staff-defined neighborhood. The addition of the proposed special exception will not result in an excessive concentration of special exception uses in general, or daycare uses in particular, and will not adversely affect the area or alter its residential character. 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.

*The proposed daycare use will cause only a marginal increase in activity in the neighborhood, and therefore will not have any adverse effects 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.
  - (A) If the special exception use requires approval of a preliminary plan of subdivision, the Planning Board must determine the adequacy of public facilities in its subdivision review. In that case, approval of a preliminary plan of subdivision must be a condition of granting the special exception.
  - (B) If the special exception:
    - (i) does not require approval of a new preliminary plan of subdivision; and
    - (ii) the determination of adequate public facilities for the site is not currently valid for an impact that is the same as or greater than the special exception's impact;then the Board of Appeals must determine the adequacy of public facilities when it considers the special exception application. The Board of Appeals or the Hearing Examiner must consider whether the available public facilities and services will be adequate to serve the proposed development under the Growth 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.

*The proposal will not require approval of a preliminary plan of subdivision. The available public facilities are adequate to serve the proposed use. The Property is currently served by public water and septic. Local sewer lines abut the Property and are available with a category change should the septic system become inadequate. The proposal will not reduce the safety of vehicular or pedestrian traffic.*

- (b) Nothing in this Article relieves an Applicant from complying with all requirements to obtain a building permit or any other approval required by law. The Board's finding of any facts regarding public facilities does not bind any other agency or department which approves or licenses the project.

*Applicant understands and will comply with this requirement.*

- (c) The Applicant for a special exception has the burden of proof to show that the proposed use satisfies all applicable general and specific standards under this Article. This burden

includes the burden of going forward with the evidence, and the burden of persuasion on all questions of fact.

*The Applicant has signed an affidavit that states that they will comply with, and satisfy all requirements.*

**§59-G-1.23. General Development Standards**

This application conforms to the general development standards for the RE-1 zone as follows:

- (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 §59- G-1.23 or in Section G-2.

<b>RE-1 Development Standards</b>	<b>Required/Permitted</b>	<b>Proposed</b>	<b>Ordinance</b>
Minimum net lot area	40,000 square feet	100,624 square feet	59- C-1.322(a)
Minimum lot width:			
- Along front building line	125 feet	140 feet	59- C-1.322(b)
- Along front street line	25 feet	140 feet	
Building setbacks:			
Minimum setback from a street	50 feet	84 feet min.	59- C-1.323(a)
Minimum side yard			
- One side	50 feet	115' and 96 feet	59- C-1.323(b)(1)
- Sum of both sides	35 feet	211 feet	59- C-1.323(b)(1)
Minimum rear yard	35 feet	90 feet*	59- C-1.323(b)(2)
Maximum building:			
- Height	50 feet	19 feet in front	59-C-1.327
Coverage of lot	15%		59C-1.328
Off-street parking requirement			
- Home (garage spaces)	2 parking spaces	2 parking spaces	59-E-3.7
- Child Day Care Facility:			
▪ Staff (non-resident)	1 parking space per staff person	4 parking spaces	59-E-3.7
▪ Parent Drop Off/Pick Up	1 parking space per 6 children	5 parking spaces	59-E-3.7
- Total parking	11 parking spaces	12 parking spaces	59-E-3.7

- (b) **Parking requirements.** Special exceptions are subject to all relevant requirements of §59-E.

*The Property provides twelve parking spaces. Eleven spaces, including one handicapped parking space are required. The Applicant has agreed to staggered arrival and departure times. The proposed parking is sufficient for clients, staff, and residents. The circular driveway and parking spaces provide adequate space for drop-off, pick-up parking, and stacking.*

(c) **Minimum frontage.** In the following special exceptions the Board may waive the requirement for a minimum frontage at the street line if the Board finds that the facilities for ingress and egress of vehicular traffic are adequate to meet the requirements of §59-G-1.21:

- (1) Rifle, pistol and skeet-shooting range, outdoor.
- (2) Sand, gravel or clay pits, rock or stone quarries.
- (3) Sawmill.
- (4) Cemetery, animal.
- (5) Public utility buildings and public utility structures, including radio and T.V. broadcasting stations and telecommunication facilities.
- (6) Equestrian facility.
- (7) Heliport and helistop.

*No waiver required or 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.

*As noted above, this Property is not subject to the Forest Conservation Law as defined in Chapter 22A.*

(e) **Water quality plan.** If a special exception, approved by the Board, is inconsistent with an approved preliminary water quality plan, the Applicant, before engaging in any land disturbance activities, must submit and secure approval of a revised water quality plan that the Planning Board and department find is consistent with the approved special exception. Any revised water quality plan must be filed as part of an application for the next development authorization review to be considered by the Planning Board, unless the Planning Department and the department find that the required revisions can be evaluated as part of the final water quality plan review.

*A water quality plan is not required for this proposal as it is not in a designated special protection area.*

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

*The Applicants meets the permanent sign standards as described in and required by §59-F-4.2.*

(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.

*No new building is proposed. The existing residential building remains unchanged.*

(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) Luminaires 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.

*No new lighting is proposed. The existing lighting consists of one pole mounted light, approximately six feet tall located in the front yard. There are 6 capped landscape lights that are approximately 18 inches high around the parking lot, along the child care center entrance walkway, and in the child center play area. The existing exterior residential style fixtures are mounted on the front and rear entrance doorways and garage entrance. Based on the information provided by the Applicant and a site visit, no direct light would intrude into any adjacent residential property.*

#### **§59-G-2.13.1. Child daycare 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 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;

*The number of spaces required by §59-E-3.7 is eleven as discussed in the parking section. The Applicant has provided 12 spaces which provides adequate parking on-site and has met the parking requirements.*

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

*There is adequate space for drop-off and pick-up of children on-site. The drop-off and pick-up times of children are staggered and the circular driveway provides adequate circulation and stacking space.*

- (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.

*The Applicant has submitted and signed an affidavit agreeing to comply with all State and County requirements, correct any deficiencies, and be bound by the affidavit.<sup>2</sup>*

- (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.

*The proposed use is compatible with the neighborhood as stated in the above sections as the use is proposed inside an existing dwelling, and the play area is setback 115 feet from the closest neighbor. A mature tree line buffer exists around the property which provides a visual and noise buffer. The Property is landscaped with shrubbery and flowers in both the front and side yards in a manner that is consistent with the landscaping treatment found on other properties in the neighborhood. Adequate parking and well- defined circulation signs will provide safe movement on the site. The use will not result in a nuisance because of traffic, parking, noise or type of physical activity.*

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<sup>2</sup> See the attached affidavit.



## §59-F-4.2. Permanent Sign by Zone

This application conforms to the permanent sign standards as follows:

In addition to the general design elements and limitations, the following requirements apply in the zones specified. Any permanent sign not listed in this Section or which does not conform to the requirements listed in this Section must obtain a variance from the Department of Permitting Services.

(a) Residential Zone. The total area of all permanent signs on a lot or parcel in a residential zone must not exceed two square feet, unless additional area is permitted pursuant to this ordinance.

- (1) Freestanding Sign.
  - (A) Number. One is allowed.
  - (B) Area. The sign must not exceed two square feet per sign.
  - (C) Placement.
    1. Location. The sign must be set back at least five feet from the Property line.
    2. Height. A sign must not exceed five feet in height.
  - (D) Illumination. No illumination is allowed.

*The Applicant's existing sign is located in the front yard of the Property. According to the applicant, the existing sign has been reviewed by the Cloverly Civic Association. The permanent sign is setback over 10 feet from the Property line. The sign does not exceed five feet in height and is not illuminated. A sign permit must be obtained for any signs if MCDPS determines that a variance is required or the signs must be adjusted to conform to all applicable regulations. A copy of the approved sign permit must be submitted to the Hearing Examiner.*



### **§59-E. Off-Street Parking and Loading.**

This application conforms to the parking standards as follows:

#### **§59-E-2.83. Parking and Loading facilities for special exception uses in residential zones.**

This Section applies to an off-street parking facility for a special exception use that is located in a one-family residential zone if three or more parking spaces are provided. These standards are intended to mitigate potential adverse visual, noise, and environmental impacts of parking facilities on adjacent properties. In addition, these requirements improve the compatibility and attractiveness of parking facilities, promote pedestrian-friendly streets, and provide relief from un-shaded paved areas.

- (a) **Location.** Parking facilities must be located to maintain a residential character and a pedestrian-friendly street orientation.

*An existing shaded, paved parking lot is located in the front of the residence and the parking lot is not visible from the roadway.*

- (b) **Setbacks.** Each parking and loading facility, including each entrance and exit driveway, must be set back a distance not less than the applicable building front and rear yard and twice the building side yard requirement in the zone. The following additional setbacks must be provided for each parking facility:

*The Property is in conformance with the parking and side-yard setbacks.*

- (c) **Screening.** Each parking and loading facility, including driveway and dumpster areas, must be effectively screened from all abutting lots. Screening must be at least six feet high, and must consist of evergreen landscaping, a solid wood fence, a masonry wall, a berm, or a combination of them. Along all street right-of-ways screening of any parking and loading facility must be at least three feet high and consist of evergreen landscaping, a solid wood fence, or masonry wall.

*There are no dumpster areas proposed with this application. A three foot high evergreen hedge is required to screen the six, newly created parking spaces facing Harding Lane. (Since the parking area sits 16 feet above New Hampshire Avenue no screening is required for the six parking spaces facing the 120' wide major highway. Screening along the property line is not necessary as the front and side yards of the Applicant's Property are landscaped with mature trees, including a buffer of mature Eastern Pine trees, Tulip Polar, and Black Cherry trees.*

- (d) **Shading of paved areas.** Trees must be planted and maintained throughout the parking facility to assure that at least 30 percent of the paved areas, including

driveways, are shaded. Shading must be calculated by using the area of the tree crown at 15 years after the parking facility is built.

*The Property has a significant number of mature trees around the driveway and parking area, including a 10" Eastern Pine, 6" Apple, and 11" Cedar. Nine Green Ash trees line Harding Lane along the site ranging from 24" to 44" in diameter. Staff estimates that the total canopy cover from all trees currently exceeds 30 percent of the driveway.*

- (e) **Compliance Requirement.** For any cumulative enlargement of a surface parking facility that is greater than 50% of the total parking area approved before May 6, 2002, the entire off-street parking facility must be brought into conformance with this Section. An existing surface parking facility included as part of a special exception granted before May 6, 2002, is a conforming use.

*Under §59-E-2.83(e), the front-yard setback of 40 feet and side-yard setback of 26 feet with this application are in conformance with the Zoning Ordinance. The Property's existing circular driveway and parking will remain (with the required addition of three foot high evergreens planted along the six spaces facing Harding Lane). The parking added to the residential driveway expands the parking facility (but no more than 50 percent of the total paved area). There is adequate paved area shading and screening at the property line.*

#### **§59-E-3.7. Schedule of requirements**

Off-street parking space must be provided as follows:

**Child day care facility.** For a family day care home or group day care home, one space for every non-resident staff member in addition to the residential parking requirement. The required number of spaces may be allowed on the street abutting the site. For a child day care center, one space for every non-resident staff member in addition to the residential parking requirement if applicable and adequate parking for discharge and pick up of children. In this instance, the average drop-off and pick-up space required is one space for every six children.

**Dwelling, one-family.** Two parking spaces for each dwelling unit; except, that when the slope between the standard street sidewalk elevation at the front lot line and side lot line adjacent to a street, established in accordance with the county road construction code, and the finally graded lot elevation at the nearest building line exceeds, at every point along the front lot line, a grade of three inches per foot, such space shall not be required.

*The child day care facility will consist of 30 children with five employees. One of the full-time employees will reside at the child day care facility. Based on the above requirements, five spaces are required for drop-off and pick-up space of children (one space for 6 children), four non-resident staff member spaces, and two residential spaces for a total of eleven spaces. The Applicants have met this requirement by providing 12 spaces.*

## **COMMUNITY CONCERNS**

At the time of writing the staff report, one letter was received from the Cloverly Civic Association. The letter questioned the previous petition by the Applicant for a proposed school on the site. The Applicant dropped that request several years ago and is currently pursuing the current request for a child care facility within the existing house. See the attached letter and response from the Hearing Examiner's Office. No other letters from the community have been received to date.

## **CONCLUSION**

Based on review of the application and all information of record, staff concludes that the application, with the conditions imposed by staff, satisfies all relevant standards for granting a child daycare center special exception. For these reasons, staff recommends that application SE-14-02 for a child care facility special exception at 15901 New Hampshire Avenue be approved, with conditions.

## **ATTACHMENTS**

- A. Statement of Operations
- B. Site Plan
- C. Transportation Memo
- D. Applicant's Affidavit of Compliance
- E. Forest Conservation Application and Waiver
- F. Cloverly Civic Association Letter
- G. Response from Hearing Examiner's Office

International Children’s Center

15901 New Hampshire Ave, Silverspring, MD 20905

Office of Zoning and  
AUG 22 2013  
Administrative Hearings

Statement of Operation

My name is Ellie Salour, petitioner. I am currently operating the International Children’s Center’s child care program located at 15901 New Hampshire Ave, Silver spring, MD 20905 with the enrollment capacity of 12 children. Because of the quality of the care that ICC offers, the children and their parents share their satisfaction of the care they receive with their friends and the families. Therefore, my child care program is in high demand and is fully enrolled. Sadly I have to turn down many neighborhood families due to limitations in capacity. On average, families have to wait at least one year until the opening becomes available. The program provides infant care as well as pre-school and before and after school care for the children who attend the elementary schools in the area.

In order to meet the high demand, I, the petitioner would like to apply for a special exception to expand the enrollment capacity of my program from 12 to 30 children. My program is licensed by Maryland State Department of Education to operate a small child care center at my house located at 15901 New Hampshire Ave, Silver spring, MD 20905. I have been in the child care business since 1986 in Montgomery County, Maryland. I have been operating a childcare program at this site since 2005, and previously at 15963 New Hampshire Ave, Silver Spring, MD 20905. Our diverse program emphasizes multi-culturalism and many languages are spoken at the center. The program offers a research based curriculum in which the children can learn and develop intellectually, cognitively, physically, socially and emotionally to their fullest potentials.

According to research data published by Montgomery County’s Planning Department ( April 2009) , the countywide population of 0-4 year – old children is 64,261 in 2010, an estimated 69,455 in 2015, and projected 73,770 in 2020. However, based on the information from the Maryland Department of Education website, the current total capacity of registered centers in Montgomery County is only 27,405. This number meets only 42.6% of the demand for childcare service.

I received a Master’s degree from Loyola Marymount University, Los angles, CA in School Counseling. I have more than twenty years of experience in working with children in the field of early childhood Education. I am also a part-time faculty at Montgomery College, Early Childhood Education Department. Please see attached resume for additional background information. I also served on the Montgomery County Collaboration Council for children, Youth and Families for seven years as a Board member and during my service I was the Co-Chair of the child wellbeing committee of Montgomery County Collaboration Council for children youth and families.

My education and experience in this field enables me to provide a unique child care program. When the special exception is approved, I commit to participate in Maryland State Department of Education

EXHIBIT NO. 5  
REFERRAL NO. S.E. 14-02

(MSDE) and National Association for the Education of Young Children (NAEYC) accreditation programs; offering a high-quality learning environment to Silver Spring families.

Based on my research there are no other special exception of a similar nature in the neighborhood.

**Property Description:**

**See Exhibit # 1**

**Hours of Operation**

The center’s operating hours are from 6:30 AM to 6:30 PM, Monday to Friday. The center will be closed on most Federal holidays. There will be a holiday program during Christmas and an orientation night during the evening hours twice a year. Also, there will be open houses held occasionally for prospective families, usually on Saturdays.

Parent drop off time is between 6:30 AM and 10:30 AM. Departure time falls between 4:30- 6:30 PM. Parent will arrive in staggered time slots. Parents must part their car and bring their child(ren) into the classroom. For departure, they need to come inside the classroom to pick up their child(ren) . No child will be allowed to be outside alone without adult supervision. The students who attend the program for before and after school child care, are from Cloverly elementary school and they will arrive by the school bus at the bus stop on New Hampshire avenue on the school regular drop off time and the child will be walked to the center by a staff member.

	<b>Arrival Time</b>	<b>Departure Time</b>
<b>Group One</b>	<b>6:30- 8:30</b>	<b>4:30 or 5:00-5:30</b>
<b>Group two</b>	<b>8:30- 9:30</b>	<b>3:30 PM or between 5:30- 6:00 PM</b>
<b>Group three</b>	<b>9:30- 10:30</b>	<b>6:00 – 6:30 PM</b>

**Outdoor Activities**

On the back of the building, there is a 4000 square-foot fenced playground. In order to minimize noise and maintain safety, the children will be divided into groups. Each group will have a different schedule for outdoors playtime both in the morning and in the afternoon. Toddlers and 2 year-olds willing outside first, then three year olds and lastly the four year olds. Each group will have about 45 minutes in the mornings and 45 minutes in the afternoon. The maximum number of children playing outside at one time will be exceeding 15. Occasionally when there are special events, such as holiday or end of school year party, all enrolled children may be outside for a limited time.

**Staffing:**

The proposed child day care center will have five employees: one resident staff (full-time), three non-resident staff (full time) and one non-resident staff (part-time). Part time staff will come in during peak hours and will leave for off-peak hours.

**Non- Resident Staff's Working Schedule**

	<b>Arrival</b>	<b>Departure</b>
<b>Staff 1</b>	<b>6:30 AM</b>	<b>6:30 PM</b>
<b>Staff 2</b>	<b>8:00 AM</b>	<b>6:30 PM</b>
<b>Staff 3</b>	<b>9:00 AM</b>	<b>6:00 PM</b>
<b>Staff 4</b>	<b>9:30</b>	<b>3:30</b>

**Parking**

There is a circular driveway in the front of the house off of Harding lane. According to Zoning ordinance 59-E-3, total space for 6 staff and 30 children should be 11 spaces: 6 space for six staff and 5 spaces for 30 children. However, because one staff member will arrive at 9:30 AM and depart at 3:30 PM, this staff member will not require a parking space. Therefore, the total parking space should be 10. The property provides 12 parking spaces.

Furthermore, some families live in the neighborhood and frequently walk to and from the center. Multiple families have two siblings attending the center, further reduces the traffic.

**Off- Street Parking Space**

	<b>Ordinance Standard</b>	<b>Ordinance requirement</b>	<b>Petitioner provided</b>
		<b>For 5 staff and 30 children</b>	
<b>Resident Staff</b>	<b>1 per staff</b>	<b>1</b>	<b>1</b>
<b>Non-resident staff</b>	<b>1 space per staff</b>	<b>4</b>	<b>4</b>
<b>Parents</b>	<b>1 space per 6 children</b>	<b>5</b>	
<b>Total</b>		<b>10</b>	<b>12</b>





**Oconnor, Kristin**

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**Subject:** FW: Special Exception Application 14-02

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**From:** Kim, Ki  
**Sent:** Tuesday, September 10, 2013 12:37 PM  
**To:** Oconnor, Kristin  
**Subject:** Special Exception Application 14-02

I have reviewed the existing child day care facility's proposal to increase the number of students up to 30 from the currently approved 12 and find that the proposed increase of the children would not have an adverse effect on the nearby road system. The existing vehicular access point on Harding Lane and pedestrian circulation system on the nearby road system would not be affected by the proposal. Based on the projected traffic volumes using the Child Daycare Center trip generation rates contained in the LATR and TPAR Guidelines, 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 Transportation Policy Area Review (TPAR).

Ki Kim, Transportation Planner  
Area 3

Office of Zoning and  
AUG 22 2013  
Administrative Hearings

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.

Ellie Salour  
Petitioner

Subscribed and sworn to me, a Notary Public for Montgomery County, Maryland, this 12<sup>th</sup> day of July, 20 13.

Swati Sawhney  
Notary Public

My Commission Expires: \_\_\_\_\_

**SWATI SAWHNEY**  
Notary Public  
Montgomery County  
Maryland

My Commission Expires Aug 12, 2015

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EXHIBIT NO. 7

REFERRAL NO. S.E. 14-02

AUG 22 2013

Environmental Planning Division

Administrative Hearings

Effective 1/08

Montgomery County Park & Planning Dept. ♦ 8787 Georgia Ave., Silver Spring, MD 20910 ♦ 301-495-4540, fax: 301-495-1303

APPLICATION

Forest Conservation Applicability\* for Special Exceptions

PROPERTY LOCATION

Street Address: 15901 New Hampshire Ave, Silver Spring, MD 20905

Subdivision: Plat 2916 Parcel(s) # Lot #(s): 1 Block(s): A "Bernhard Acres"

Property Tax Identification Number:

Applicant (Owner or Contract Purchaser):

ELLIE N. SALOUR
Name
15901 New Hampshire Ave
Street Address
Silver Spring MD 20905
City State Zip Code
(301) 602-0227 (301) 421-1037
Phone No. Fax No.

TOTAL AREA OF PROPERTY: 2.31 acres square feet

APPLICANT ATTESTS THAT THE FOLLOWING STATEMENTS APPLY TO THE SUBJECT SPECIAL EXCEPTION APPLICATION:

- The application applies to a special exception on a property of less than 40,000 square feet. X 2.31 acres
No forest or individual trees will be disturbed. No land disturbance is proposed.
The property is not subject to a previously approved Forest Conservation Plan.
The special exception proposal will not impact any champion tree as defined by the Montgomery County Forestry Advisory Board. No land disturbance is proposed.

Signature of applicant (Owner or Contract Purchaser):

Ellie Salour
Signature Date 7/30/2013

Previous spec. exception S-2722 was not approved. Associated FCP not active.

M-NCPPC acknowledges that the special exception for the above property is not subject to the Forest Conservation Law as defined in Chapter 22A of the Montgomery County Code. No land disturbance activity is proposed.

Signature of M-NCPPC Environmental Planning staff reviewer:

Candy Bunnag
Signature Date 8/22/13

\*This form may be used only if the property is less than 40,000 square feet in total area.

EXHIBIT NO. 18
REFERRAL NO. S.E. 14-02

# Cloverly Civic Association and

P.O. Box 233  
Spencerville, MD 20868  
Email: cloverly@verizon.net

SEP 24 2013  
Administrative Hearings

September 24, 2013

Ellen Forbes  
Office of Zoning and Administrative Hearings for  
Montgomery County Maryland  
Stella B. Werner Council Office Building  
100 Maryland Avenue, Room 200  
Rockville, Maryland 20850

RE: Special Exception 14-02: Petition of Ellie N. Salour

Per your request I am submitting a written request for our questions.

The applicant is known to our community for operating a day care facility since 2008 at 15901 New Hampshire Avenue, Silver Spring, Maryland 20905. Our understanding was that there was already a Special Exception for a child day care facility at this address. Could you tell me the number of that special exception? Secondly if they already have a special exception why would they be filing a new special exception and not amending the existing special exception.

Thank you,



Quentin Remein  
President  
Cloverly Civic Association

EXHIBIT NO. 24  
REFERRAL NO. 14-02

**Forbes, Ellen**

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**From:** Forbes, Ellen  
**Sent:** Tuesday, September 24, 2013 5:34 PM  
**To:** 'cloverly@verizon.net'  
**Subject:** SE 14-02, International Children's Center

Dear Mr. Remein:

Thank you for your inquiry regarding Special Exception Application SE-14-02.

To answer your questions, a special exception is not required to run a "Group Day Care Home" (*i.e.*, child care for up to 12 children) in the RE-1 Zone, per Zoning Ordinance §59-C-1.31(d). A special exception is required to exceed that number, which is why Ms. Salour has filed for a special exception now. A child care facility exceeding 12 children is defined in the Zoning Ordinance as a "Child Day Care Center."

About five years ago, Ms. Salour had filed an application with the Board of Appeals to start a Montessori School (S-2722), but she withdrew that application in 2011. We are not currently aware of any other special exception that is active at her address.

Ellen Forbes  
Office Services Coordinator  
Office of Zoning and Administrative Hearings  
100 Maryland Avenue, Room 200  
Rockville, Maryland 20850  
P: 240-777-6663  
F: 240-777-6665  
[ellen.forbes@montgomerycountymd.gov](mailto:ellen.forbes@montgomerycountymd.gov)

EXHIBIT NO. 24(a)  
REFERRAL NO. 14-02