



## Lily Pads Child Day Care Center, Conditional Use No. CU 15-02

---

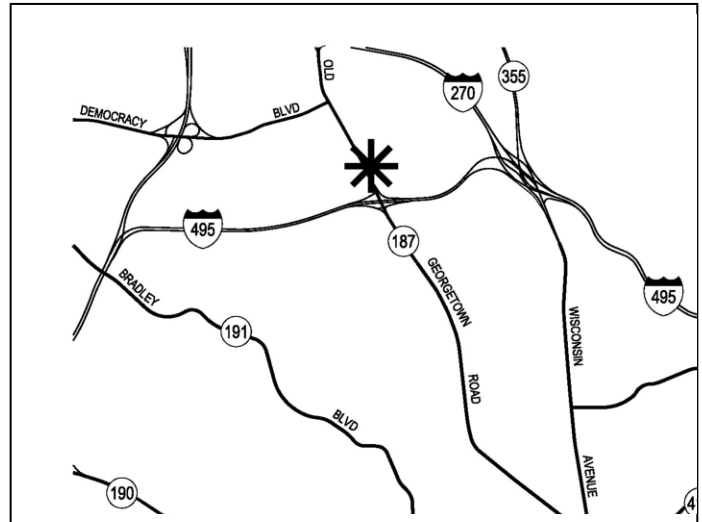
- CM* Crystal Myers, Senior Planner, Area 2 Division, Crystal.Myers@montgomeryplanning.org, 301-495-2192
- KA* Khalid Afzal, Planner Supervisor, East County Team, Area 2 Division, Khalid.Afzal@montgomeryplanning.org, 301-495-4650
- GK* Glenn Kreger, Chief, Area 2 Division, Glenn.Kreger@montgomeryplanning.org, 301-495-4653

Completed: 6/11/15

---

### Description

- Request for a conditional use to expand an existing family day care of eight children to a day care center of up to 20 children;
- Approximately 9,787-square-foot lot, zoned R-60 Zone, located at 9913 Old Georgetown Road, Bethesda;
- 1992 *North Bethesda/Garrett Park Master Plan*;
- The public hearing by the Hearing Examiner is scheduled for August 10, 2015;
- Applicant: Leah Hanlon;
- Filing Date: January 20, 2015.



### Summary

- Staff recommends approval with conditions.

## Conditions of Approval

Staff recommends the following conditions of approval:

1. The proposed group day care must be limited to 20 children ranging in age from 6 weeks to 5 years, and 5 non-resident employees.
2. The property must be enclosed with a four-foot tall board-on-board privacy fence in the front of and a six-foot tall fence on all other sides, except to allow vehicular entry.
3. Physical improvements are limited to those shown on the site plan and landscape plan submitted with the application (Attachments 1 and 2).
4. The hours of operation are limited to Monday through Friday, 7:30 A.M. to 6:30 P.M.
5. The number of children playing outside at any one time must not exceed 10.
6. The Applicant must replace the pavement in the public right-of-way along Old Georgetown Road with vegetation planted to re-stabilize the disturbed area, subject to State Highway Administration approval.
7. The Applicant must seek approval from the Hearing Examiner under the Alternative Compliance section in Section 6.8.1. for the minimum required parking facility side yard setback, and the perimeter planting area requirement in Section 6.2.5.
8. The Applicant must provide parental agreements for all children to the Hearing Examiner indicating that the drop-off and pick-ups will be limited to no more than six per hour (not including children walked to the facility).
9. Outside play time may not start prior to 9:00 a.m.
10. Staff is prohibited from parking on-site between 7:30 A.M to 10:00 A.M and between 3:30 P.M. to 6:30 P.M.
11. The residents of the Subject Site are prohibited from using the four day care center parking spaces during the proposed day care center's hours of operation.

## Site and Neighborhood Description

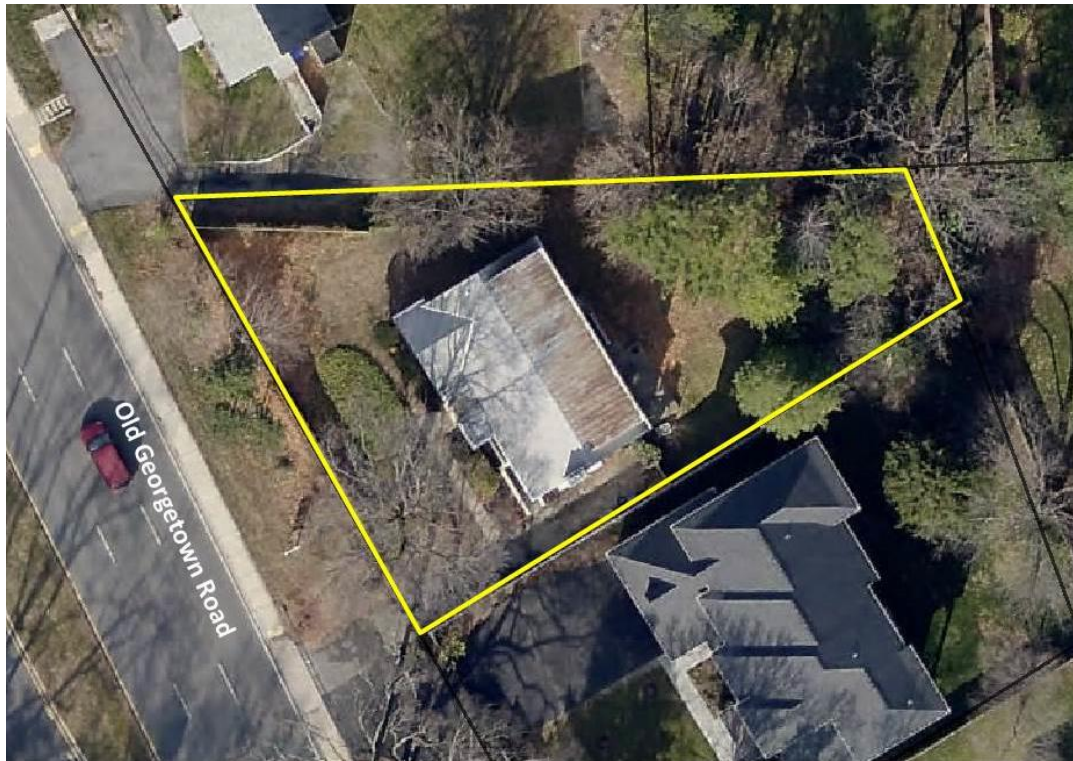
### Site Description

The Subject Site is Lot 6, Block D of the Alta Vista Subdivision, located at 9913 Old Georgetown Road. It contains a one and one-half-story house, which serves as both a residence and the location for Lily Pads Child Care (figure 1). The Subject Site has a large parking area with a paved driveway on the southeastern side of the house that extends into the front yard and into the Old Georgetown Road public right-of-way. A 6-foot tall fence surrounds the Subject Site on all sides except in the front. The rear yard is fully enclosed and has play equipment for the existing day care. Pedestrian access to the house is by a concrete sidewalk that leads to the front entrance.

The Subject Site is well-landscaped; trees and shrubs line the side and rear property lines of the Subject Site. Small bushes border the house and a large red maple tree sits near the center of the front yard besides the parking area.

The Subject Site is well-lit; there is residential lighting by each basement entrance, the front door, the rear of the house to illuminate the back yard, and on the south side of the house by the driveway.

**Figure 1: Aerial Photo of Subject Site**



Neighborhood Description

The Staff-defined neighborhood is generally bounded by Greenlawn Drive to the north; Jarvis Lane to the south; the houses across from the Subject Site on Old Georgetown Road to the west; and Dickerson Avenue to the east (figure 2). The neighborhood is composed of R-60 zoned single-family residential properties and includes the Ratner Museum. There are no other conditional uses or special exceptions in the neighborhood, but in 1973, a special exception case for a private educational institution (S-270) was denied.

Figure 2: Staff-Defined Neighborhood

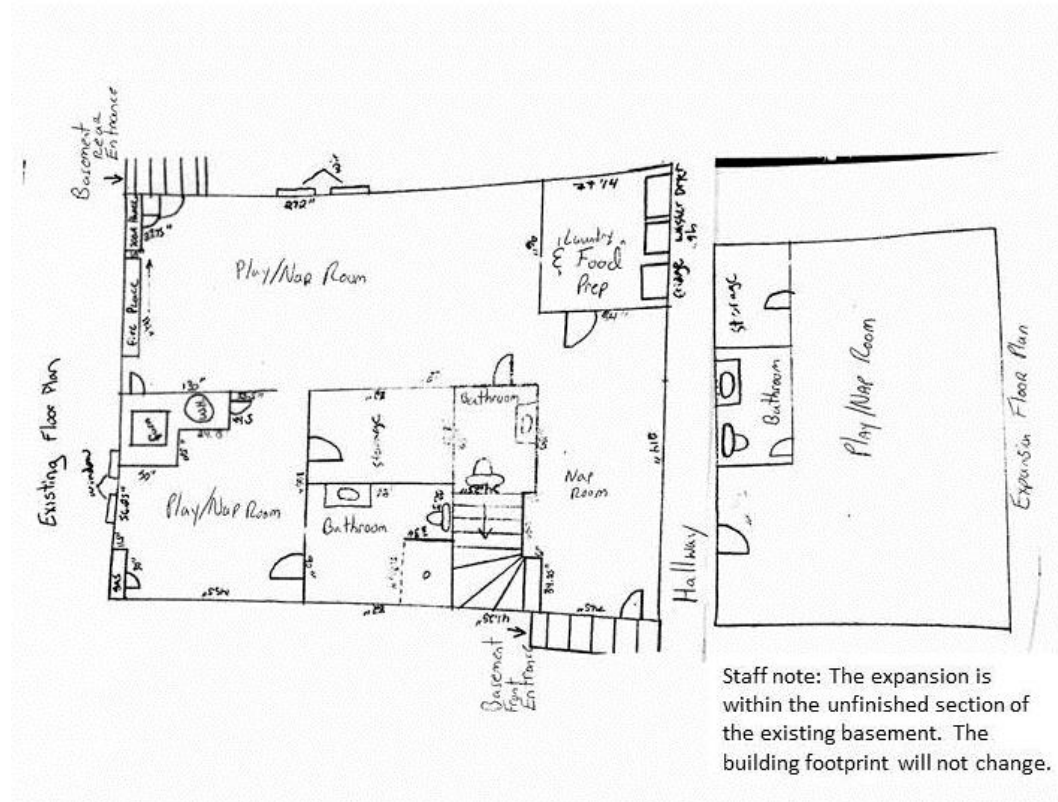


### Project Description

The Applicant, Leah Hanlon, is requesting to expand her existing child day care facility into a day care center, in operation since 2010, from a family day care for eight children to a day care center for 20 children ranging from six weeks to five years of age. Twelve children are enrolled but there are only eight children on-site. Some of the children attend part-time.

The proposed day care center will be located in the basement of the house, where the existing day care is located (figure 3). In order to serve more children, the Applicant will increase the floor area of the existing basement from 800 square feet to 1,250 square feet by finishing a portion of the unfinished section of the basement, so the footprint of the house will not change. Currently, the existing day care contains a large and a small playroom/nap area, two bathrooms, a nap room, a storage area, and a food preparation room. The 450-square foot expansion will allow for an additional play/nap room, a storage room, and another bathroom. There are two existing entrances to the basement from outside: one is from the front yard and leads to the front of the large play/nap room; the other is from the rear yard and leads to the rear of the large play/nap room. These will continue to serve as the entrances to the center.

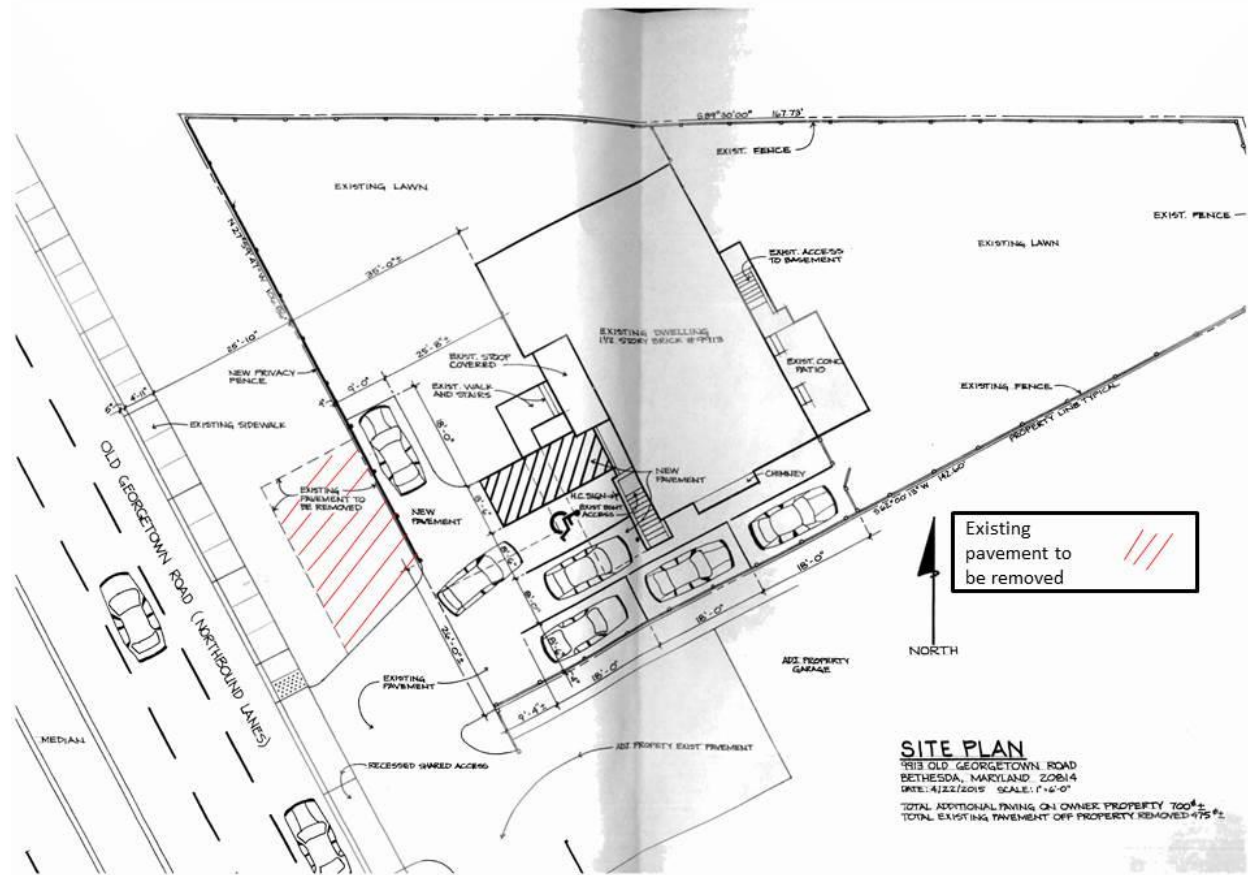
Figure 3: Day Care Center Floor Plan



The proposed day care center will operate Monday through Friday from 7:30 A.M. to 6:30 P.M. Parent drop-off and pick-up times will be staggered from 7:30 A.M. to 9:45 A.M. and from 3:30 P.M. to 6:15 P.M. There will be five staff members besides the Applicant, who lives on-site. The staff will either park on the side streets, Lone Oak Drive and Kirkwood Road, or use public transportation. There is a Metro bus stop near the Subject Site for the J2 and J3 buses, which provide service to the Bethesda and Silver Spring Metro stations.

The proposal includes removing the large Red Maple tree in the front yard to expand the parking facility from three spaces to six spaces (an additional 700 square feet) (figure 4). The tree will be replaced with a smaller tree that will be located near the expanded parking facility. In order to reduce the impact of the increased parking, the proposal includes installing a four-foot tall board-on-board privacy fence at the front boundary and thus completely enclosing the property (the side and rear lot lines already have a fence). The proposal also includes removal of the existing 450 square feet of pavement in the public right of way. Subject to Maryland State Highway Administration's approval, vegetation will be installed to stabilize the soil after the pavement is removed.

**Figure 3: Site Proposal**



**Analysis**

**Transportation Planning**

Site Location and Vehicular Site Access Point

The vehicular access point is the existing shared driveway from Old Georgetown Road between the Subject Site and the adjacent neighbor at 9911 Old Georgetown Road. The Maryland State Highway Administration does not typically review existing commercial curb cuts where the proposed changes in land use will not significantly increase the site-generated traffic.

Vehicles entering and leaving the site’s driveway should have adequate site distance because it is located on a straight segment of Old Georgetown Road and the distance between the edge of the paved travel way and right-of-way line is approximately 35 feet even if a parking lot buffer is provided along the property. This 35 feet may be reduced in the future but there are no current project plans to improve Old Georgetown Road along the property frontage that is already built to its master-planned six lane divided cross-section. In addition, the County Code for suburban major highways with bike lanes, Standard No. 2008.02, recommends a two-foot maintenance offset, 5-foot wide sidewalks, and a 19-foot buffer width -- that is the closest standard even though shared use path, not bike lanes, is along Old Georgetown Road.

There are signalized intersections along Old Georgetown Road to the north of the Subject Site, at Lone Oak Drive (west leg) at Manor Oak Way intersection, and to the south of the Subject Site, at the T-intersection with Kingswood Road. These traffic signals allow for gaps in traffic flow for parents to safely enter and exit the Subject Site's driveway.

The segment of Old Georgetown Road in front of the Subject Site has a raised median that prohibits direct access from the southbound lanes. Motorists arriving from the north along Old Georgetown Road must travel southbound past the site and make a safe U-turn at the signalized intersection at Kingswood Road, and then drive north to the site. Likewise, motorists leaving the site to travel south along Old Georgetown Road must travel north and make a safe U-turn at the signalized intersection at Lone Oak Drive–Manor Oak Way to head south. Adequate left-turn storage lanes exist on these signalized intersections to the north and south of the site's driveway.

#### Master-Planned Roadways and Bikeway

In accordance with the 1992 *North Bethesda/Garrett Park Master Plan* and the 2005 *Countywide Bikeways Functional Master Plan*, the master-planned roadways and bikeway designations are as follows:

1. Old Georgetown Road (MD 187) is designated as a six-lane divided major highway, M-4, with a recommended 120-foot right-of-way and a Class III bikeway. According to the *Countywide Bikeways Functional Master Plan*, a shared use path, SP-1, is designated along Old Georgetown Road between Democracy Boulevard and Cheshire Lane.
2. The Capital Beltway (I-495) is designated as a six-lane divided freeway, F-8, with a recommended 300-foot wide right-of-way.
3. The segment of Lone Oak Drive west of Old Georgetown Road (and extending to Fernwood Road) is designated as a primary residential street, P-4, with a 70-foot wide right-of-way.

Located to the north and south of the Subject Site along Old Georgetown Road, Lone Oak Drive (east of Old Georgetown Road) and Kingswood Road are residential streets that are not listed in the Master Plan. Lone Oak Drive is a secondary residential street with a 60-foot wide right-of-way and Kingswood Road is a tertiary residential street with a 50-foot wide right-of-way.

#### Traffic Mitigation Requirements

Since the Subject Site is located outside the Transportation Management District's (TMD) boundary, the Applicant is not required to participate in the North Bethesda Transportation Management District.

#### Available Transit Service

Transit service is available along Old Georgetown Road via following bus routes:

1. Ride On route 70 operates with 20-minute headways between the Milestone Park & Ride Lot in Germantown and the Bethesda Metrorail Station.
2. Metrobus routes J2 and J3 operate with 20-minute headways between the Montgomery Mall Transit Center and the Silver Spring Metrorail Station.

The nearest bus stops are located at the Old Georgetown Road intersections with Lone Oak Drive (east leg) and Kingswood Road.

Pedestrian Facilities

This segment of Old Georgetown Road has seven-foot wide sidewalks and no green panel (between the sidewalk and curb) on both sides. There are no sidewalks on the nearby residential streets of Lone Oak Drive and Kingswood Road where employees are proposed to park their vehicles.

On-Site Parking

Four parent drop-off/pick-up spaces and two residential parking spaces are proposed on the Subject Site in accordance with the Zoning Ordinance. The residents living on the Subject Site must use the two interior parking spaces of the proposed three stacked parking spaces; the outer-most space must be used for parents. Three other non-stacked spaces (including one handicapped space) will also be used for parental drop-offs and pick-ups. For safe egress from the site, motorists can use the public right-of-way in front of the adjacent neighbor’s shared curb cut at 9911 Old Georgetown Road to safely turn around and leave the Subject Site without backing onto Old Georgetown Road.

Local Area Transportation Review

The existing day care serves the local community where nine of the 12 children enrolled in the existing day care live within a mile of the Subject Site. Plus, two sets of parents with children currently enrolled would send their younger siblings to the subject child care and thus will be carpooling, if the conditional use is approved.

The Applicant submitted a traffic statement describing the proposed operation for 20 children. The non-residential employees who drive are proposed to park their vehicles on Lone Oak Drive or Kingswood Road. It is anticipated that three non-residential employees will commute by bus, although as a worst case scenario, all non-residential employees are assumed to drive their own vehicles. The tables below show the traffic projections generated by the expanded day care center during the weekday morning peak-period (6:30 to 9:30 a.m.) and the evening peak-period (4:00 P.M. to 7:00 P.M.):

AM Time/ Type of Trip	7:15	7:30	7:45	8:00	8:15	8:30	8:45	9:00	9:15	9:30	9:45
Staff	1	1	0	0	0	0	1	1	0	1	0
Parents	0	4	6	6	4	6	4	4	2	2	2
Both	1	5	6	6	4	6	5	5	2	3	2
Highest AM Peak-Hour	22					Total Vehicle Trips					

PM Time/ Type of Trip	3:45	4:00	4:15	4:30	4:45	5:00	5:15	5:30	5:45	6:00	6:15	6:30
Staff	0	0	1	0	0	0	0	1	1	1	0	1
Parents	4	0	0	4	6	4	6	2	4	2	2	0
Both	4	0	1	4	6	4	6	3	5	3	2	1
Highest PM Peak-Hour	20					Total Vehicle Trips						



A traffic study was not required to satisfy the LATR test because the proposed expansion generates fewer than 30 total peak-hour trips within the weekday morning and evening peak periods.

### **Environmental Planning**

The Subject Site contains no forest, streams or their buffers, wetlands or their buffers, 100-year floodplains, steep slopes, or known habitats of rare, threatened or endangered species. This Conditional Use is not subject to the Forest Conservation Law as defined in Chapter 22A of the Montgomery County Code. Outdoor play areas are situated behind the existing structure on the property, shielding the play areas from road noise generated by traffic on Old Georgetown Road. Staff finds that the Conditional Use complies with all applicable environmental guidelines and regulations.

### **Community Comment**

Staff has not received any comments from the surrounding community, but the Applicant has informed Staff that her neighbor at 9911 Old Georgetown Road is supportive of the proposed use. The Applicant also submitted six letters from parents in support of the proposal.

### **Conditions for Granting a Conditional Use**

#### **Section 7.3.1.E. Necessary Findings**

1. *To approve a conditional use application, the Hearing Examiner must find that the proposed development:*

a. *satisfies any applicable previous approval on the subject site or, if not, that the previous approval must be amended.*

There are no applicable previous approvals on the Subject Site. The existing 8-child facility is allowed by right.

b. *satisfies the requirements of the zone, use standards under Article 59-3, and applicable general requirements under Article 59-6;*

The proposal satisfies the requirements of the R-60 Zone and Child Day Care Center Use Standards as follows:

#### **Zone Requirement**

*B. R-60 Zone, Standard Method Development Standards (Section 4.4.9)*

<b>Development Standards</b>	<b>Required/Permitted</b>	<b>Proposed</b>
Minimum Lot Area: (Section 59.4.4.9.B.1)	6,000 sq. ft.	9,787 sq. ft.
Minimum Lot Width at Front Building Line (59-C-1.322)	60 feet	±88 feet
Minimum Lot Width at Front Lot Line (Section 59.4.4.9.B.1)	25 feet	±106.86 feet
Maximum Density (Section 59.4.4.9.B.1, 7.26 units/acre)	1.63 units (7.26 dwelling units/acre)	1 unit
Maximum Lot Coverage (Section 59.4.4.9.B.1)	35 percent	±22.7%
Minimum Front Setback (Section 59.4.4.9.B.2)	25 feet	±30 feet
Minimum Side Street Setback (Section 59.4.4.9.B.2)	15 feet	NA
Minimum Side Setback (Section 59.4.4.9.B.2)	8 feet	8 feet
Minimum Sum of Side Setbacks (Section 59.4.4.9.B.2)	18 feet	±21 feet
Minimum Rear Setbacks	20 feet	±80 feet
Maximum Height	30 feet	±18 feet
Parking Requirement (Section 59.6.2.4)	Day care: 4 (3/1000 sq. ft.) Dwelling: 2	Day care: 4 Dwelling: 2
<b>Minimum Parking Setbacks</b>		
Minimum Parking Side Setback (Section 59.6.2.5.K.2)	16 feet	0*
Minimum Sum of Parking Side Setback (Section 59.6.2.5.K.2)	36 feet	±55 feet
Minimum Rear Setback (Section 59.4.4.9.B.2)	8 feet	±80 feet
Minimum Parking Front Setback (Section 59.6.2.9)	8 feet	0*
Minimum Planting Area around Parking Perimeter (Section 59.6.2.9)	8 feet	0*

\*The Applicant is requesting to be reviewed under the Alternative Compliance section of the Zoning Ordinance

*Alternative compliance for setback (Section 6.8.1)*

The Applicant is requesting for the proposed parking facility's front and side setbacks to be reviewed under Section 6.8.1, the Alternative compliance section of the Zoning Ordinance:

*The Applicable deciding body may approve an alternative method of compliance with any requirement of Division 6.1 through Division 6.6 if it determines there are unique site or development constraints, such as grade, visibility, an existing building or structure, an easement, a utility line, or use restrictions that preclude safe or efficient development under the requirements of the applicable Division and the alternative design will:*

- A. satisfy the intent of the applicable Division*
- B. modify the applicable functional results or performance standards the minimal amount necessary to accommodate the constraints;*
- C. provide necessary mitigation alleviating any adverse impacts; and*
- D. be in the public interest.*

The proposed parking facility is an expansion of an existing parking area. The Applicant is requesting that it be reviewed under the Alternative Compliance section because it does not comply with Section 6.2.5, parking setback requirement, and Section 6.2.9 parking setback and landscaping requirements. According to Section 6.2.5, the minimum required side setback for a conditional use parking facility is 16 feet. The existing parking area was built up to the property line on the south side, so it is within the side setback. Section 6.2.9 requires an 8-foot wide minimum setback along the perimeter of the parking area. The existing parking area does not have a front setback as it extends past the front yard property line and into the public right-of-way along Old Georgetown Road. Without a setback in the front and sides, the proposal is unable to comply with the Section 6.2.9 requirement for a setback along its perimeter.

Staff finds that the proposed facility will address the four criteria of this section as follows:

- A. It will meet the intent of Sections 6.2.5 and 6.2.9 (to reduce the impact of a commercial parking facility on the surrounding residential neighbors) by removing existing pavement at the front of the property, and providing a new fence and plantings along the property's frontage to enhance its appearance and screen the new parking facility from the surrounding properties
- B. It will modify the existing parking facility (constructed prior to the Applicant's ownership of the Subject Site) in the minimal amount necessary to achieve the required parking spaces for the proposed day care center. The Applicant is expanding the existing parking facility by 700 square feet rather than removing it entirely and reconstructing it to comply with Section 6.2.5 and Section 6.2.9 requirements.

- C. It will provide necessary mitigation to alleviate the adverse impacts it may cause to surrounding neighbors by removing the existing pavement in the public right of way, and installing a four-foot tall fence, along the Subject Site's front boundary, which will screen the proposed parking facility. The Applicant already has a 6-foot tall board-on-board privacy fence along the side property line that screens the parking facility from the neighboring property.
- D. The proposed facility will be in the public interest by providing a desired use supported by the Master Plan and by providing a service which is in demand in the area.

Staff finds that, with the proposed improvements, the parking facility complies with the Alternative Compliance section.

Use Standards

Day Care Center (13-30) (Section 3.4.4.E)

2. *Use Standards.*

*Where a Day Care Center (13-30 Persons) is allowed as a conditional use, it may be permitted by the Hearing Examiner under Section 7.3.1, Conditional Use, and the following standards:*

- a. *The facility must not be located in a townhouse or duplex building type.*

This proposal is for a day care center in a single-family detached house.

- b. *An adequate area for the discharge and pick up of children is provided.*

As conditioned with staggered pick-up and drop-off times, the proposed four-space parking area is adequate for the discharge and pick-up of up to 20 children.

- c. *The number of parking spaces under Division 6.2 may be reduced if the applicant demonstrates that the full number of spaces is not necessary because:*
  - i. *existing parking spaces are available on abutting property or on the street abutting the site that will satisfy the number of spaces required; or*
  - ii. *a reduced number of spaces would be sufficient to accommodate the proposed use without adversely affecting the surrounding area or creating safety problems.*

Not Applicable. The proposal does not request a parking reduction.

- d. *For a Family Day Care where the provider is not a resident and cannot meet the non-resident provider requirement, screening under Division 6.5 is not required.*

Not Applicable. The proposal is for a day care center.

- e. *In the AR zone this use may be prohibited under Section 3.1.5, Transferable Development Rights.*

Not Applicable. The proposal is in the R-60 Zone.

- c. *substantially conforms with the recommendations of the applicable master plan;*

The Subject Site falls within the 1992 *Approved and Adopted North Bethesda/Garrett Park Master Plan*. The Master Plan does not specifically discuss the Subject Site but it expresses support for more child day care centers in the area. "In general, the Plan endorses provision of child day care, group homes, elder day care, and nursing homes," (p.38). The Plan also recommends that child day cares should be provided in appropriate locations, "The Plan supports the provision of day care centers at Metro stations in the planning area and encourages the provision of child day care facilities at other appropriate locations" (p.245). The area is appropriate for a day care center because there are no other child day care centers in the area and the Subject Site can accommodate the use.

The Master Plan has recommendations against allowing front yard parking for special exception uses. "Front yard parking should be avoided because of its commercial appearance; however, in situations where side or rear yard parking is not available, front yard parking should be allowed only if it can be comprehensively landscaped and screened," (p.38). The proposed parking facility will be expanded in the front yard by approximately 700 square feet because the existing parking facility on the south side of the Subject Site is not large enough to accommodate the additional three spaces needed to meet the day care center's needs. Parking on the north side of the Subject Site would require more extensive paving and a second access would need to be created on Old Georgetown Road. The rear yard is the location of the day care's play area. On-street parking is prohibited on Old Georgetown Road.

The proposal is for a minimal expansion of an existing parking area to allow the day care center adequate parking spaces and safe circulation for turnaround movement to enter and exit the Subject Site. A vehicle exiting the Subject Site will be able to back out of the site and turnaround using the driveway apron that the Subject Site shares with the adjacent 9911 Old Georgetown Road neighbor. The driveway apron is located in the public right-of-way in front of the two properties.

The Master Plan requires landscaping and screening for a front yard parking facility. The landscape plan for the project shows that there will be grass and a small tree located on the parking facility's north side and a board-on-board fencing on the south and front sides. The proposal includes measures to reduce the impact of having a front yard parking facility and requests review under the Alternative Compliance section to excuse not having a landscaping perimeter around the parking facility. The proposal also includes removing the 450 square feet of paving being used as parking area in the public right-of-way.

Staff is satisfied that this improvement and screening will allow for the proposal to be in conformance with the Master Plan.

- d. *is harmonious with and will not alter the character of the surrounding neighborhood in a manner inconsistent with the plan;*

The proposal is harmonious with, and will not alter the character of, the surrounding neighborhood in a manner inconsistent with the Master Plan, which supports having a day care use in the area. As discussed above, the Master Plan permits front yard parking as long as it is properly screened and landscaped. The proposal includes adequate screening and landscaping if the parking perimeter requirement is reviewed under the Alternative Compliance section of the Zoning Ordinance.

- e. *will not, when evaluated in conjunction with existing and approved conditional uses in any neighboring Residential Detached zone, increase the number, intensity or scope of conditional uses sufficiently to affect the area adversely or alter the predominantly residential nature of the area; a conditional use application that substantially conforms with the recommendations of a master plan does not alter the nature of an area;*

There are no other approved conditional uses in the Staff-defined neighborhood.

- f. *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. If an approved adequate public facilities test is currently valid and the impact of the conditional use is equal to or less than what was approved, a new adequate public facilities test is not required. If an adequate public facilities test is required and:*

- i. *if a preliminary subdivision plan is not filed concurrently or required subsequently, the Hearing Examiner must find that the proposed development will be served by adequate public services and facilities, including schools, police and fire protection, water, sanitary sewer, public roads, and storm drainage, or*
- ii. *if a preliminary subdivision plan is filed concurrently or required subsequently, the Planning Board must find that the proposed development will be served by adequate public services and facilities including schools,*

*police and fire protection, water, sanitary sewer, public roads, and storm drainage, and*

There are adequate public services and facilities on the site. A Preliminary Plan of subdivision is not required.

- g. will not cause undue harm to the neighborhood as a result of a non-inherent adverse effect alone or the combination of an inherent and a non-inherent adverse effect in any of the following categories:*
- i. the use, peaceful enjoyment, economic value or development potential of abutting and confronting properties or the general neighborhood;*
  - ii. traffic, noise, odors, dust, illumination, or a lack of parking; or*
  - iii. the health, safety, or welfare of neighboring residents, residents, visitors, or employees*

The first step in analyzing the inherent and non-inherent adverse effects of a special exception is to define the boundaries of the surrounding neighborhood, which is outlined in Neighborhood Description section above for this application.

An analysis of inherent and non-inherent adverse effects considers size, scale, scope, light, noise, traffic and environment. Every special exception (or conditional use) 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 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.

Staff has identified the following inherent impacts of the proposal:

The inherent physical and operational characteristics necessarily associated with a child day care facility 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 proposed conditional use will generate fewer than thirty new trips so it will not significantly impact traffic. The Applicant proposes to continue using the rear yard as an outdoor play area but will add more equipment to it. The play area is adequate and the Applicant will limit the amount of children outside to no more than ten at a time. The infant group will be outside between 9:00 A.M. to 10:00 A.M. and again from 12:00 P.M. to 1:00 P.M. The older children will be outside between 10:00 A.M. to 11:00 A.M. and again between 4:00 P.M. to 5:00 P.M. The scheduled play times are during hours when many in the neighborhood will likely not be in their residences so the noise generated from the ten children playing outside will have little negative impact on nearby neighbors. The drop-off and pick-up area will be the expanded parking lot but it will be screened with a four-foot tall fence.

Lighting and landscaping on the property are adequate. The lighting for the day care center is the existing lighting on the Subject Site. The lighting is located besides the front entrance to the house, the front entrance to the basement, and the rear entrance to the day care. All are 60 watts and do not intrude on neighboring properties.

A large red maple tree will be removed and an alternative compliance is being requested to be excused from not having a planting area around the parking facility's perimeter. However, the four-foot fence will provide screening.

Staff has determined that the proposal will not have any non-inherent effects at this location.

2. *Any structure to be constructed, reconstructed, or altered under a conditional use in a Residential Detached zone must be compatible with the character of the residential neighborhood.*

The proposal is for a day care center in an existing house; it will not construct, reconstruct, or alter the outside appearance of the house. The expansion of the basement for the day care center will not change the building footprint of the house.

The proposal includes a four-foot tall board-on-board privacy fence to screen the parking facility. The fence will be a residential privacy fence compatible with the neighborhood. A similar board-on-board privacy fence is on the neighboring property next to the Subject Site.

3. *The fact that a proposed use satisfies all specific requirements to approve a conditional use does not create a presumption that the use is compatible with nearby properties and, in itself, is not sufficient to require conditional use approval.*

The proposed use satisfies all specific requirements with the proposed Alternative Compliance procedures for parking and is deemed compatible with nearby properties. Staff has not identified any other issues associated with the proposal.

4. *In evaluating the compatibility of an agricultural conditional use with surrounding Agricultural or Rural Residential zoned land, the Hearing Examiner must consider that the impact does not necessarily need to be controlled as stringently as if it were abutting a Residential Zone.*

Not Applicable. The proposal is not for an agricultural use.

5. *The following conditional uses may only be approved when the Hearing Examiner finds from a preponderance of the evidence of record that a need exists for the proposed use to serve the population in the general neighborhood, considering the present availability of identical or similar uses to that neighborhood:*
  - a. *Filling Station*
  - b. *Light Vehicle Sales and Rental (Outdoor)*
  - c. *Swimming Pool (Community); and*



- d. *the following Recreation and Entertainment Facility use: swimming pool, commercial*

Not Applicable. The proposal is for a day care center.

- 6. *The following conditional uses may only be approved when the Hearing Examiner finds from a preponderance of the evidence of record that a need exists for the proposed use due to an insufficient number of similar uses presently serving existing population concentrations in the County, and the uses at the location proposed will not result in a multiplicity or saturation of similar uses in the same general neighborhood:*

- a. *Funeral Home; Undertaker*
- b. *Hotel, Motel*
- c. *Shooting Range (Outdoor)*
- d. *Drive-Thru*
- e. *Landfill, Incinerator, or Transfer Station; and*
- f. *A Public Use Helipad, Heliport or a Public Use Helistop*

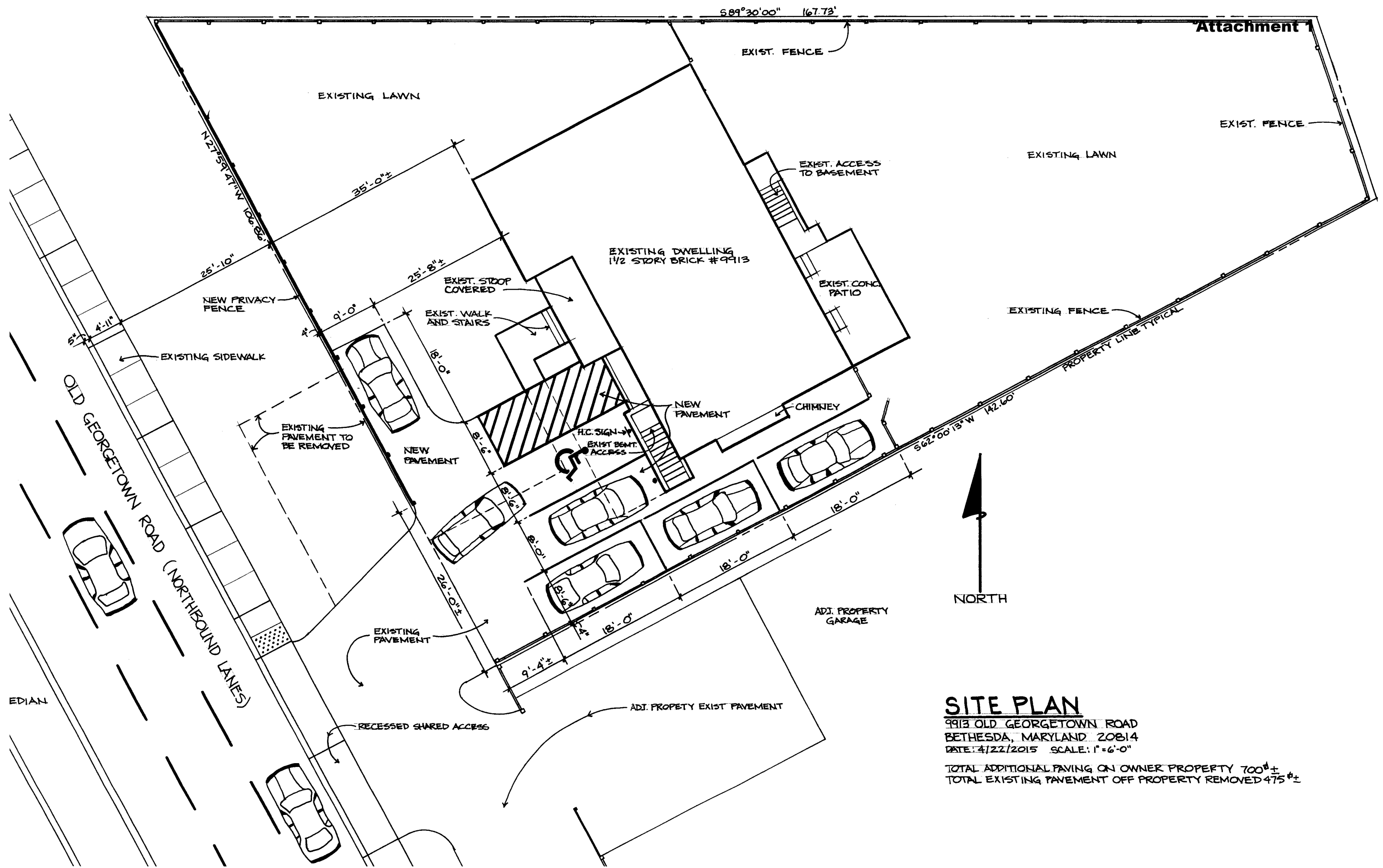
Not Applicable. The proposal is for a day care center.

## **Conclusion**

The proposed conditional use complies with the general conditions and standards of a conditional use day care center, subject to approval of the parking facility complying with the Alternative Compliance section of the Zoning Ordinance. The proposed use is consistent with the goals and recommendations of the Master Plan, will not alter the residential character of the surrounding neighborhood, and will not result in any unacceptable noise, traffic, or environmental impacts on surrounding properties. Staff recommends approval with conditions.

## **Attachments**

- Attachment 1: Site Plan
- Attachment 2: Landscape and Lighting Plan
- Attachment 3: General Location Map/Zoning
- Attachment 4: Floor Plan Sketch
- Attachment 5: General Site Photographs
- Attachment 6: Transportation Memorandum
- Attachment 7: State Highway Administration Email
- Attachment 8: Forest Conservation Applicability for Special Exceptions
- Attachment 9: Applicant's Alternative Compliance Review Request
- Attachment 10: Letters from Parents



### SITE PLAN

9913 OLD GEORGETOWN ROAD  
 BETHESDA, MARYLAND 20814  
 DATE: 4/22/2015 SCALE: 1"=6'-0"

TOTAL ADDITIONAL PAVING ON OWNER PROPERTY 700<sup>±</sup>  
 TOTAL EXISTING PAVEMENT OFF PROPERTY REMOVED 475<sup>±</sup>



**LANDSCAPE PLAN**

9913 OLD GEORGETOWN ROAD  
BETHESDA, MARYLAND 20814  
DATE: 4/22/2015 SCALE: 1"=6'-0"



EXHIBIT 9  
DATE: 11/9/15  
CU 15-08

Account #	00678788
Address	9913 OLD GEORGETOWN RD BETHESDA, 20814
Zone	R-60
Overlay Zone	N/A
TDR Overlay Zone	N/A
Landuse	Single Family Detached
Parcel, Lot, Block	N/A, 9, D

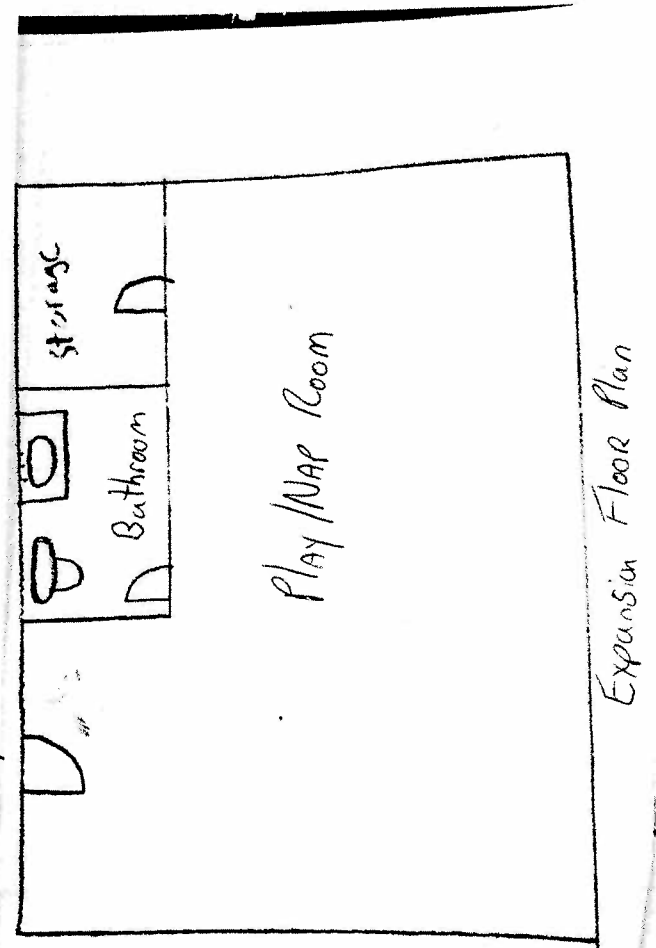
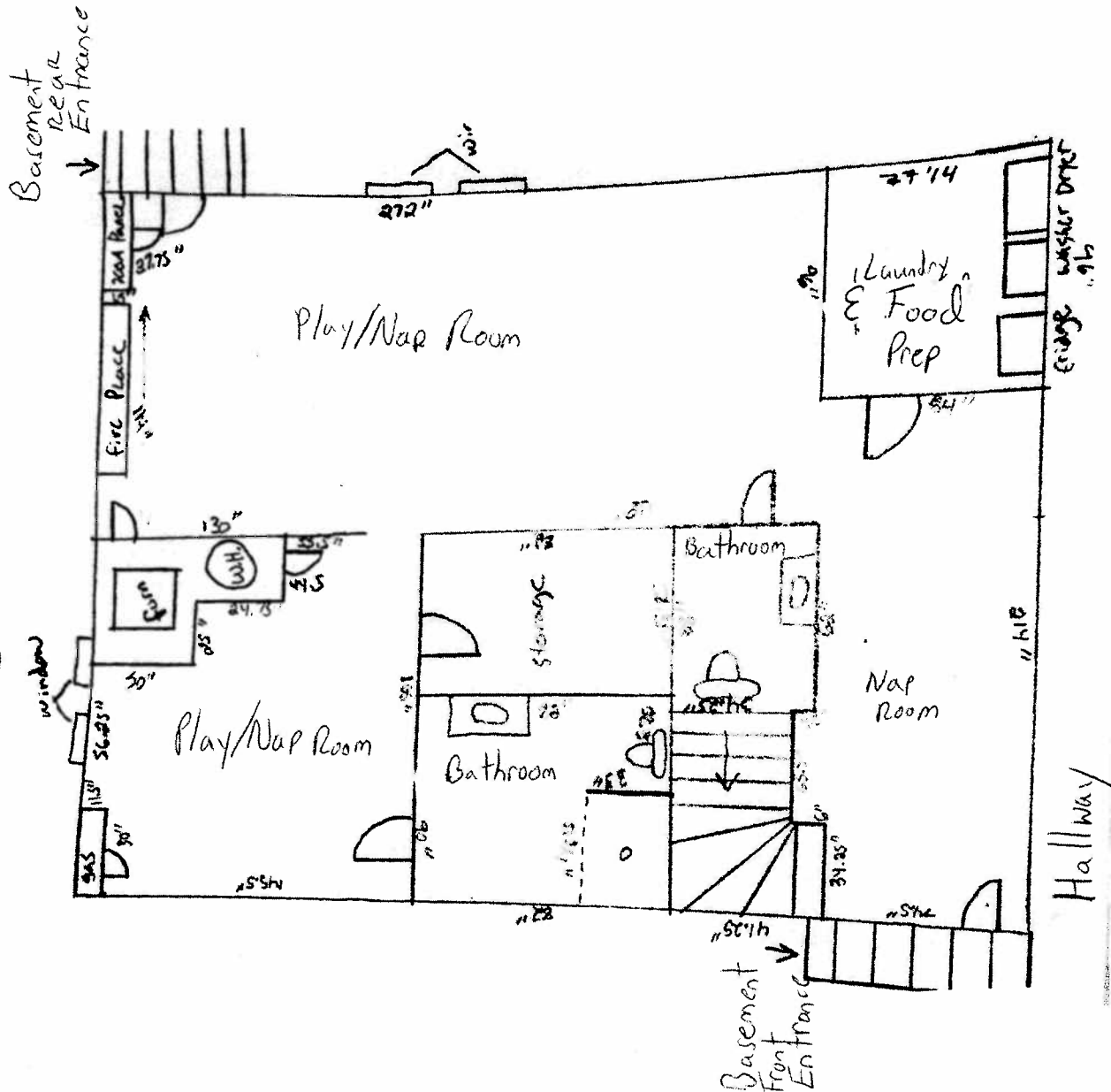
Parking District	N/A
CBD	N/A
Special Protection Area	N/A
Urban District	N/A
Enterprise Zone	N/A
Arts & Ent. District	N/A
Special Tax District	N/A
Legal Description	ALTA VISTA GARDENS

Bike/Ped Priority Area	N/A
Urban Renewal Area	N/A
Metro Station Policy Area	N/A
Priority Funding Area	Yes
Septic Tier	1
Municipality	N/A
Master Plan	NORTH BETHESDA GARRETT PARK MASTER PLAN
Historic Site/District	N/A



1 inch = 167 feet

Existing Floor Plan



Expansion Floor Plan

staff Note:  
The expansion is within the existing basement. It will be within the unfinished section of the basement

**Attachment 5**



**Attachment 5**





June 2, 2015

**MEMORANDUM**

**TO:** Crystal Myers, Senior Planner  
Area 2 Division

**VIA:** Khalid Afzal, Supervisor  
Area 2 Planning Division

**FROM:** Ed Axler, Planner Coordinator  
Area 2 Planning Division

**SUBJECT:** Leah Hanlon Child Daycare Center  
9913 Old Georgetown Road  
Condition Use No. 15-02  
North Bethesda Policy Area

---

This memorandum is Area 2 transportation planning staff's review of the subject Conditional Use to expand the existing Family Day Care Center from 8 to 20 children located in the existing single-family detached residential unit.

**RECOMMENDATION**

Area 2 transportation planning staff recommends the following conditions related to the transportation requirements for the subject Conditional Use:

1. The Conditional Use must be limited to an increase of up to 20 children and 5 non-residential staff plus the owner who live on the site in the existing single-family detached unit.
2. The Applicant must schedule staggered drop-off and pick-up of the children every 15 minutes to distribute the vehicular trips to/from the site for safety and keep the maximum number of weekday peak-hour trips below 30 (i.e., not triggering the requirement to submit a traffic study to satisfy the Local Area Transportation Review.)
3. The Applicant, as the resident living in the existing single-family detached unit, must use the two interior parking spaces of the proposed three stacked parking spaces and the outer-most space must be used for parents.

**DISCUSSION**

Site Location and Vehicular Site Access Point

The subject site is located on the east side of Old Georgetown Road (MD 187) between the Capital Beltway (I-495) and Lone Oak Drive.



## Attachment 6

The vehicular access point is the existing shared driveway from Old Georgetown Road with the subject site and the adjacent neighbor at 9911 Old Georgetown Road. The Maryland State Highway Administration (SHA) does not typically review existing commercial curb cuts where the proposed changes in land use will that not significantly increase the site-generated traffic.

Vehicle entering and leaving the site's driveway should have adequate site distance because it is located on a straight segment of Old Georgetown Road and the distance between the edge of the paved travel way and right-of-way line is approximately 35 feet even if a parking lot buffer is provided along the property. This 35 feet may be reduced in the future but there are no current project plans to improve Old Georgetown Road along the property frontage that is already built to its master-planned six lane divided cross-section. In addition, the County Code for suburban major highways with bike lanes, Standard No. 2008.02, recommends a two-foot maintenance offset, 5-foot wide sidewalks, and a 19-foot buffer width -- that is the closest standard even though shared use path, not bike lanes, is along Old Georgetown Road.

Signalized intersections along Old Georgetown Road exist to the north of the site's driveway at the intersection with Lone Oak Drive (west leg)-Manor Oak Way and to the south at the T-intersection with Kingswood Road. These two traffic signals allow for gaps in traffic flow for parents to be able to safely enter and leave the site's driveway.

The segment of Old Georgetown Road in front of the site has a raised median that prohibits direct access from the southbound lanes. Motorists arriving from the north along Old Georgetown Road must travel southbound past the site and a make a safe U-turn at the signalized intersection at Kingswood Road and then drive north to the site. Likewise, motorists leaving the site to travel south along Old Georgetown Road must drive travel north and a make a safe U-turn at the signalized intersection at Lone Oak Drive–Manor Oak Way to head south. Adequate left-turn storage lanes exist on these signalized intersections to the north and south of the site's driveway.

### Master-Planned Roadways, Bikeway

In accordance with the 1992 *North Bethesda/Garrett Park Master Plan* and the 2005 *Countywide Bikeways Functional Master Plan*, the master-planned roadways and bikeway designations are as follows:

1. Old Georgetown Road (MD 187) is designated as a six-lane divided major highway, M-4, with a recommended 120-foot right-of-way and a Class III bikeway. According to the *Countywide Bikeways Functional Master Plan*, a shared use path, SP-1, is designated along Old Georgetown Road between Democracy Boulevard and Cheshire Lane.
2. The Capital Beltway (I-495) is designated as a six-lane divided freeway, F-8, with a recommended 300-foot wide right-of-way.
3. The segment of Lone Oak Drive west of Old Georgetown Road (and extending to Fernwood Road) is designated as a primary residential street, P-4, with a 70-foot wide right-of-way.

To the north and south of the subject site along Old Georgetown Road, Lone Oak Drive (east of Old Georgetown Road) and Kingswood Drive are residential streets that are not listed in the Master Plan.

## **Attachment 6**

Lone Oak Drive is a secondary residential street with a 60-foot wide right-of-way and Kingswood Drive is a tertiary residential street with a 50-foot wide right-of-way.

### Traffic Mitigation Requirements

The Applicant does not have to enter into a Traffic Mitigation Agreement with the Montgomery County Department of Transportation (MCDOT) and the Planning Board to participate in the North Bethesda Transportation Management District (TMD) because the subject site is located outside the TMD's boundary.

### Available Transit Service

Transit service is available along Old Georgetown Road via following bus routes:

1. Ride-On route 70 operates with 20-minute headways between the Milestone Park & Ride Lot in Germantown and the Bethesda Metrorail Station.
2. Metrobus routes J2 and J3 operate with 20-minute headways between the Montgomery Mall Transit Center and the Silver Spring Metrorail Station.

The nearest bus stops are located at the Old Georgetown Road intersections with Lone Oak Drive (east leg) and Kingswood Road.

### Pedestrian Facilities

The segment of Old Georgetown Road has seven-foot wide sidewalks and no green panel (between the sidewalk and curb) on both sides. There are no sidewalks on the nearby perpendicular residential streets of Lone Oak Drive and Kingswood Road where employees are proposed to park their vehicles.

### On-Site Parking

Four parent drop-off/pick-up spaces and two residential parking spaces are proposed on the site in accordance with the Zoning Ordinance. The residents living on the site must use the two interior parking spaces of the proposed three stacked parking spaces; and the outer-most space must be used for parents. Three other non-stacked spaces (including one handicapped space) will be also be used for parental drop offs and pick-ups. For safe egress from the site, the motorists can use the public right-of-way in front of the adjacent neighbor's shared driveway at 9911 Old Georgetown Road to safely turn around and leave the site without backing-up onto Old Georgetown Road.

### Local Area Transportation Review

The existing day care center serves the local community where nine of the 12 children enrolled in the existing day care center live within a mile of the site. Plus, two sets of parents with children currently enrolled would send their younger siblings to the subject child care and be carpooling, if the conditional use is approved.

## Attachment 6

The Applicant submitted a traffic statement describing the proposed operation for 20 children. The non-residential employees who drive are proposed to park their vehicles on Lone Oak Drive or Kingswood Road. It is anticipated that three non-residential employees commute by bus, although as a worst case scenario, all non-residential employees are assumed to drive their own vehicles. The tables below show the traffic projections generated by the expanded day care center during the weekday morning peak-period (6:30 to 9:30 a.m.) and the evening peak-period (4:00 to 7:00 p.m.):

AM Time/ Type of Trip	7:15	7:30	7:45	8:00	8:15	8:30	8:45	9:00	9:15	9:30	9:45
Staff	1	1	0	0	0	0	1	1	0	1	0
Parents	0	4	6	6	4	6	4	4	2	2	2
Both	1	5	6	6	4	6	5	5	2	3	2
Highest AM Peak-Hour			22				Total Vehicle Trips				

PM Time/ Type of Trip	3:45	4:00	4:15	4:30	4:45	5:00	5:15	5:30	5:45	6:00	6:15	6:30
Staff	0	0	1	0	0	0	0	1	1	1	0	1
Parents	4	0	0	4	6	4	6	2	4	2	2	0
Both	4	0	1	4	6	4	6	3	5	3	2	1
Highest PM Peak-Hour			20				Total Vehicle Trips					

A traffic study was not required to satisfy the LATR test because the proposed child day care center expansion generates fewer than 30 total peak-hour trips within the weekday morning and evening peak periods.

### Transportation Policy Area Review

The Transportation Policy Area Review (TPAR) test would typically be satisfied by paying 25% of the transportation impact tax for the square footage located in the North Bethesda Policy Area. For the current TPAR test, the roadway test for this policy area is adequate, and the transit test is inadequate. However, a TPAR payment of the transportation impact tax will not be required because the square footage of the existing single-family residential unit will not be expanded to accommodate the increase in the number of children in the child care center.

EA

## Attachment 7

SHA Approval

From: Pranoy Choudhury <PChoudhury@sha.state.md.us>  
Sent: Wednesday, June 03, 2015 1:31 PM  
To: Myers, Crystal  
Cc: snewill  
Subject: RE: 9913 Old Georgetown Road Conditional Use case

Ms. Myers,  
The entrance to the property looks fine to me. The sidewalk along the frontage looks great as well. As mentioned by you below – the property owner is proposing to alter her existing parking facility, which is currently in the SHA right-of-way by removing the pavement in the ROW and building three new spaces on her property. SHA fully concurs with her approach, parking should not be in SHA right of way at the first place. If the applicant removes the asphalt in order to alter the current parking, the area where the asphalt is removed in SHA right of way needs to be stabilized with turf grass. Other than that SHA has no comments on this project.  
Pranoy

From: Myers, Crystal [mailto:crystal.myers@montgomeryplanning.org]  
Sent: Tuesday, June 02, 2015 12:45 PM  
To: Pranoy Choudhury  
Cc: Scott Newill  
Subject: 9913 Old Georgetown Road Conditional Use case

Hello Pranoy,

I am reviewing a Conditional Use case for a 20 child day care center at 9913 Old Georgetown Road. The Applicant is proposing to alter her existing parking facility, which is currently in the right-of-way by removing the pavement in the ROW and building three new spaces on her property. She intends to build a privacy fence on her front property line. Please let me know your thoughts on her proposal. I would greatly appreciate hearing from you in the next day or two. We are coming to conclusion on the review of this case.

Thank you!  
Crystal

Crystal Myers, AICP  
Area 2, Senior Planner  
8787 Georgia Ave. Silver Spring, MD 20910  
[301] 495.2192  
mailto:crystal.myers@mncppc-mc.org  
www.montgomeryplanning.org

? Please consider the environment before printing this e-mail. Thank you

Maryland now features 511 traveler information!  
Call 511 or visit: [www.md511.org](http://www.md511.org)

??Please consider the environment before printing this email  
LEGAL DISCLAIMER - The information contained in this communication (including any

Attachment 8

Effective 9/30/2013

Development Applications and Regulatory Coordination

M-NCPPC • 8787 Georgia Avenue, Silver Spring, MD 20910 • 301-495-4550, fax: 301-495-1306

APPLICATION

Forest Conservation Law Applicability for Special Exceptions

PROPERTY LOCATION

Street Address: 1627 Old Georgetown Rd

Subdivision: 122 Parcel(s) #: - Lot #(s): 9 Block(s): D

Property Tax Identification Number: 00678788

Applicant (Owner or Contract Purchaser):

Name: Leah Hunter
Address: 912 Old Georgetown Rd
Bethesda MD 20811
City: Bethesda State: MD Zip Code: 20811
Phone No: 301-743-4067 Fax No.

Total Area of Property: 22 acres 9787 square feet

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

Applicant attests that the following statements apply to the subject special exception:

- The application does not propose any clearing or grading activities on or near the special exception site.

OR, all of the following:

- The application applies to a property of less than 40,000 square feet.
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 Board.

Signature of applicant (Owner or Contract Purchaser): Leah Hunter

Signature: [Handwritten Signature] Date: 1/9/2015

FOR STAFF USE ONLY

M-NCPPC acknowledges that the special exception for the above property:

- [X] is not subject to the Forest Conservation Law as defined in Chapter 22A of the Montgomery County Code
[ ] is exempt from the Forest Conservation Plan requirements under Section 22A-5 (a)(1) of the Forest Conservation Law

Signature of M-NCPPC Environmental Planning staff reviewer:

Signature: [Handwritten Signature] Date: 1/9/2015

EX. NO. 11
REFERRAL NO. CU 15-02

**ABRAMS & WEST, P.C.**

STANLEY D. ABRAMS  
KENNETH R. WEST  
KEITH J. ROSA

ATTORNEYS AT LAW  
SUITE 760N  
4550 MONTGOMERY AVENUE  
BETHESDA, MARYLAND 20814-3304  
(301) 951-1550  
FAX: (301) 951-1543

WRITER'S DIRECT NUMBER  
301-951-1540  
EMAIL: [sabrams@ewsdjlaw.com](mailto:sabrams@ewsdjlaw.com)

[www.abramsandwest.com](http://www.abramsandwest.com)

May 7, 2015

**VIA HAND DELIVERY**

Crystal Myers, AICP  
Area 2, Senior Planner  
8787 Georgia Avenue  
Silver Spring, Maryland 20910

**RE: Leah Hanlon; Conditional Use #15-02;  
Child Care Center**

Dear Ms. Myers,

This law firm represents Leah Hanlon with regard to her Application for a Conditional Use ("Application") for a proposed Day Care Center (#15-02). The purpose of this letter is to supplement Ms. Hanlon's existing Application filed in January of 2015. Since that time, Ms. Hanlon has submitted additional documentation to Park and Planning staff, including a March 13, 2015 letter detailing how the Day Care Center will operate, the location of the parking spaces needed for the Day Care Center, the surrounding traffic on Old Georgetown Road, and other pertinent information requested by the Park and Planning staff. The Application, the March 13, 2015 letter and any other documentation submitted by Ms. Hanlon are incorporated herein.

Proposed Conditional Use Application

Ms. Hanlon lives at 9913 Old Georgetown Road in Bethesda, Maryland. Her home is located in the R-60 zone. She currently operates a fully licensed Family Day Care in the basement of her home. In accordance with Section 3.4.4(C) of the Montgomery County Zoning Ordinance, there are no more than 8 children at a time within the Family Day Care. A Family Day Care is a permitted use within the R-60 zone.

Ms. Hanlon has a filed an Application for a Conditional Use to expand her Family Day Care into a Child Care Center. Section 3.4.4(E) of the Montgomery County Zoning Ordinance defines a Child Care Center as "a Day Care Facility for 13-30 people where staffing, operations, and structures satisfy State and local regulation." In her Application, Ms. Hanlon states that she wants to expand the number of children in her daycare from 8 to 20. There will be a total of 1250 square feet in the Child Care Center, all on one level of the home. There will not be an expansion of the home and the increase in the number of children in the Child Care Center will not result in an increase in the existing building square footage. A Child Care Center is a conditional use within the R-60 zone.

In accordance with the requirements of Section 7.3.1(B) of the Montgomery County Zoning Ordinance titled "Conditional Use," Ms. Hanlon has already submitted (1) an application and the requisite fees, (2) proof of ownership of the property, (3) an initial statement of how the proposed development satisfies the criteria to grant the application (4) a certified copy of the zoning vicinity map, (5) a list of abutting and confronting property owners, (6) a list of nearby civic associations and HOAs, (7) an initial traffic statement, (8) a survey showing the location of the house and all surrounding natural features, and (9) an initial statement of operations.

Ms. Hanlon's prior submissions also satisfy the requirements of Section 3.4.4(E)(2) of the Montgomery County Zoning Ordinance, in that the Day Care Center is not located in a townhouse or duplex, and there will be an adequate area for the discharge and pick up of children at the Center. The remaining Use Standards in Section 3.4.4(E)(2) are not applicable to Ms. Hanlon's Application.

The purpose of this letter is to supplement Ms. Hanlon's submissions with regard to (1) how the proposed development satisfies the conditions of the zoning ordinance, with a specific focus on the parking spaces needed for the Child Care Center, (2) the statement of operations and the (3) traffic impact of the Child Care Center.

Parking, Pavement & Screening

Pursuant to the parking tables located in Section 6.2.4(B) of the Montgomery County Zoning Ordinance, the proposed Day Care Center must have a minimum of four parking spaces (including a handicapped space, *see* Section 6.2.3(A)). Ms. Hanlon plans on having 4 parking spaces to be used for her Child Care Center, one of which is already existing. Attached hereto is a Site Plan (Exhibit "A") and Landscape Plan (Exhibit "B") depicting the proposed additional 192 square feet of pavement for three additional parking spaces.

The Site Plan depicts a total of 6 spaces, but two of the spaces are tandem parking spaces along the side of the house to be used solely by Ms. Hanlon and her husband for their personal vehicles. New pavement will be installed for two new regular parking spaces and one handicapped parking space for use by the Child Care Center. (Exhibit "A"). The last tandem parking spot closest to Old Georgetown Road will serve as the fourth and final parking spot for the Center. As can be seen from the Landscape Plan, there is still a large amount of grass and green space in the front of Ms. Hanlon's home. The entirety of her front yard will not be taken up by pavement. (Exhibit "B").

As can also be seen on the Site Plan, there is pavement leading from the existing driveway towards the front of the property. That pavement exists on a Maryland State Highway right-of-way area. From the road, the pavement looks to be part of Ms. Hanlon's driveway. If necessary, and with the permission of the State, Ms. Hanlon can remove that paved area in order to decrease the total perceived area of pavement in the front of her home. If the pavement in the right-of-way is removed, and new pavement is installed for the three new parking spaces closer to the house, the perceived amount of pavement in front of Ms. Hanlon's home will look no

different that it currently looks right now.

Most importantly, Ms. Hanlon is proposing to build a fence along the front of her property, abutting Old Georgetown Road, in order to help shield the proposed new parking spaces from public view. The fence would be similar in nature to her neighbor's fence at 9911 Old Georgetown Road, which shields the paved driveway of that property from public view. (Exhibit "C" – pictures of Ms. Hanlon's home and her neighbor's home at 9911 Old Georgetown). This fence at the front of her property, as well as the existing fences on both sides of Ms. Hanlon's property (abutting both neighbors' properties), would satisfy the screening requirements contained in Section 6.2.9(B)(1)(b) of the Montgomery County Zoning Ordinance.

While the new parking spaces may not meet "the minimum specified parking setback under Article 59-4," as required by Section 6.2.9(B)(1)(a), we request that the Hearing Examiner allow an Alternate Method of Compliance for the setback issues in accordance with Section 6.8.1 of the Zoning Ordinance. Section 6.8.1 states that,

" the applicable deciding body may approve an alternative method of compliance with any requirement of Division 6.1 through Division 6.6 if it determines there are unique site or development constraints, such as grade, visibility, an existing building or structure, an easement, a utility line, or use restrictions that preclude safe or efficient development under the requirements of the applicable Division and the alternative design will:

- A. satisfy the intent of the applicable Division;
- B. modify the applicable functional results or performance standards the minimal amount necessary to accommodate the constraints;
- C. provide necessary mitigation alleviating any adverse impacts; and
- D. be in the public interest."

In this case, Ms. Hanlon's driveway is already existing, and the new parking spaces will be toward the middle of her property and do not in any way reduce the setback (or lack thereof) that exists between her property and her neighbors' properties. Her existing driveway cannot be moved and the new design, as shown in the Site Plan, satisfies the parking requirements in Section 6.2.4(B). The new design also modifies the look of the current driveway in the minimal amount necessary to accommodate the constraints. Further, the installation of the new fence at the front of her property and the two existing fences on the sides of her property provide mitigation to alleviate any adverse impacts from the new parking spaces. Lastly, as will be discussed below, the allowance of Child Care Centers is encouraged by the Master Plan and is within the public interest.

Also attached hereto are pictures of the fronts of other homes along Old Georgetown Road that are in close proximity to Ms. Hanlon's home. (Exhibit "D"). These pictures show



homes and some at-home businesses that have just as much, if not more, pavement in the front of the home than what Ms. Hanlon is proposing for her three additional parking spaces. (Exhibit “D”). The addition of these three spaces and 192 square feet of pavement will not alter the character of the surrounding neighborhood in a manner inconsistent with the Master Plan.

The Master Plan

With regard to special exceptions (now termed “conditional uses”), Chapter 3.1(E)(3)(b) of the Land Use and Zoning Plan for North Bethesda states that,

“[f]ront yard parking should be avoided because of its commercial appearance; **however, in situations where side or rear yard parking is not available, front yard parking should be allowed only if it can be comprehensively landscaped and screened.**” (emphasis added).

In this case, it is clear that additional side and rear parking is not available on Ms. Hanlon’s lot. The rear of her lot is currently used as “outdoor play space” for the daycare, a necessity for daycare facilities. One side of the home already has limited side parking. The other side of the home would require a second entrance to Old Georgetown Road, or even more pavement in the front of the home, in order to allow additional side parking. Since additional side and rear parking is not available, front yard parking should be allowed “if it can be comprehensively landscaped and screened.” As can be seen from the attached Site and Landscape Plans, Ms. Hanlon will be installing a fence in the front of the yard to screen the additional front yard parking. Further, two fences and some landscaping already exist on both sides of her property to screen the additional parking from her neighbors. The new parking spaces will be “comprehensively landscaped and screened.”

Most importantly, Chapter 3.1(E)(5) of the Land Use and Zoning Plan for North Bethesda states “[i]n general the Plan endorses provision of child day care, group homes, elder day care and nursing homes,” in this area of North Bethesda.

Traffic Impact

Ms. Hanlon has already submitted a traffic statement in her March 13, 2015 letter. By way of supplementation, it should be pointed out that cars leaving the Child Care Center may only turn right onto Old Georgetown Road, traveling north. Should someone wish to travel south on Georgetown Road after leaving the Child Care Center, there is a turn lane with adequate length for cars at the light located at Lone Oak Drive. This turn lane can be used to make a u-turn on Old Georgetown Road in order to travel south.

In her prior submission, Ms. Hanlon included a Table showing drop offs, picks ups, staff arrivals and departures in her March 13, 2015 letter. That Table is amended as follows:

The chart below shows drop offs and staff arrivals.\*\*

Time	7:15	7:30	7:45	8:00	8:15	8:30	8:45	9:00	9:15	9:30	9:45
Staff Arriving	1	1	0	0	0	0	1	1	0	1	0
Parents	0	2	3	3	2	3	2	2	1	1	1
# Total Parked Cars	0	2	3	3	3	3	3	2	1	1	1
# Trips	0	5	6	6	4	6	5	5	2	3	2

This chart shows pickups and staff departures.\*\*

Time	3:30	3:45	4:00	4:15	4:30	4:45	5:00	5:15	5:30	5:45	6:00	6:15	6:30
Staff leaving	0	0	0	1	0	0	0	0	1	1	1	0	1
Parents	2	2	0	0	2	3	2	3	1	2	2	1	0
# Total Parked Cars	2	2	0	0	2	3	2	3	1	2	2	1	0
#Trips	4	4	0	1	4	6	4	6	3	5	5	2	1


\*\*Staff will not be parking at the residence, but will be parking on side streets near the residence or will be taking public transportation to and from the Child Care Center.

Letters of Support

Last but not least, parents whose children attend the current daycare have submitted letters of support for the expansion of the daycare. Those letters are attached as Exhibit "E".

Thank you for your time and attention to this matter, and please feel free to contact this law firm if you have any questions or concerns.

Sincerely,



Stanley D. Abrams, Esq.  
Keith J. Rosa, Esq.

Encl.

STANLEY D. ABRAMS  
KENNETH R. WEST

**ABRAMS & WEST, P.C.**

ATTORNEYS AT LAW  
SUITE 760N  
4550 MONTGOMERY AVENUE  
BETHESDA, MARYLAND 20814-3304  
(301) 951-1550  
FAX: (301) 951-1543

WRITERS DIRECT NUMBER  
301-951-1540  
EMAIL: sabrams@awsdlaw.com

June 3, 2015

Crystal Myers, AICP  
Area 2 Senior Planner  
Montgomery County Planning Board  
8787 Georgia Avenue  
Silver Spring, Maryland 20910

**Re: Leah Hanlon: Conditional Use  
# 15-02  
Child Care Center**

Dear Ms. Myers:

This letter will supplement the correspondence to you dated May 7, 2015 from Keith Rosa, Esq. formerly of this firm. On behalf of the Petitioner we requested relief from the minimum parking setback perimeter planting as required by 6.2.9(B)(1)(a) by the Hearing Examiner by allowing an Alternate Method of Compliance for setback issues in accordance with Section 6.8.1 of the Zoning Ordinance. In addition we similarly request relief from Section 6.2.5 K.2.b of the Zoning Ordinance which requires minimum side parking setback equal to 2 times the minimum setback for the detached house. The minimum setback is 8' and therefore the required parking setback is 16'. We request that the 16' be exempted or waived since the driveway is pre-existing and for the reasons previously stated in our May 7, 2015 letter in pertinent part which states:

“In this case, Ms. Hanlon’s driveway is already existing, and the new parking spaces will be toward the middle of her property and do not in any way reduce the setback (or lack thereof) that exists between her property and her neighbors’ properties. Her existing driveway cannot be moved and the new design, as shown in the Site Plan, satisfies the parking requirements in Section 6.2.4(B). The new design also modifies the look of the current driveway in the minimal amount necessary to accommodate the constraints. Further, the installation of the new fence at the front of her property and the two existing fences on the sides of her property provide mitigation to alleviate any adverse impacts from the new parking spaces. Lastly, as will be discussed below, the allowance of Child Care Centers is encouraged by the Master Plan and is within the public interest.”


In addition this house was constructed over 62 years ago (1953) when these particular parking setback requirements were not part of the special exception or other development requirements. Also it should be noted that the driveway apron is shared with the home to the south and they have a similar driveway setback situation as the Petitioner.

## Attachment 9

Finally it should be noted that the number recited in the May 7, 2015 of 192 square feet of additional pavement for the three additional parking spaces is in error (page 2, paragraph 4). The correct number of square feet is 225 which correlates to the notes on the site plan.

I hope this explanation will allow the relief requested.

Very Truly Yours



---

Stanley D. Abrams, Esq.

cc: Martin Grossman, Esq.  
Administrative Hearing Examiner

Leah Hanlon

## Attachment 10

April 3, 2015  
Re: Case CU-15-02

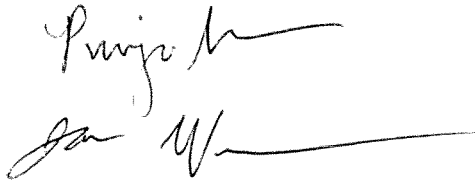
To Whom It May Concern:

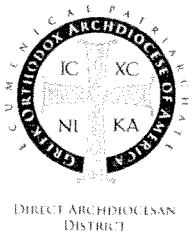
We are writing to give our support for the expansion of Lilypads Child Care in Bethesda, MD under the management of Ms. Leah Hanlon. Our daughter has been with Lilypads for over a year, and we have been more than pleased with the quality of care and the genuine loving nature of the caregivers.

Communication with the parents is excellent, as is the attention to detail and personal treatment of each child as special. Ms. Hanlon is an exceptional manager with great communication skills and knowledge of childcare. Our daughter has blossomed at Lilypads, and we support offering more children a space in this great environment and expanding to older ages and a pre-school curriculum.

Sincerely,

Priya Santhanam & Jason Weaver

The image shows two handwritten signatures in black ink. The first signature is for Priya Santhanam, written in a cursive style. The second signature is for Jason Weaver, also in cursive, positioned below the first.



**Attachment 10**

# SAINT SOPHIA GREEK ORTHODOX CATHEDRAL

REVEREND DR. STEVEN P. ZORZOS, PRESIDING PRIEST    REVEREND DIMITRIOS J. LEE, ASSISTANT PRIEST  
REVEREND DR. JOHN T. TAVLARIDES, PRESIDING PRIEST EMERITUS



CHRIST, THE HOLY  
WISDOM OF GOD

April 3, 2015

To whom it may concern,

I would like to give Lily Pads Daycare the highest recommendation possible. They have been professional and pleasant to work with on many levels. I have been taking my now three-year-old to this daycare program for almost two years. He looks forward to going everyday and comes home in a fantastic mood. He has made so many friends, and just adores Leah, Brenda, and all the staff.

I support the expansion of this project, because I believe they are offering an excellent service to parents that need care for their children. I have the utmost faith in the leadership to expand the program yet still keep the personal and intimate nature of their program. They have become part of the family, and I am happy that my son has been exposed to the education and fun which Lily Pads offers every day.

Best Wishes,

Rev. Dimitrios J. Lee  
Presbyter

## Attachment 10

To Whom It May Concern:

My name is Melissa Warren, and I am writing a letter of support regarding the expansion of Lily Pads Child Care. As a member of the community, I believe this expansion will provide the day care with the opportunity to serve a greater number of families in this neighborhood. This is a concern of mine as our neighborhood continues to grow at a rapid rate.

Leah has provided exceptional care to our daughter, Sophia, since the summer of 2013. It has been a relief as a parent to know that my child is provided with such developmentally appropriate care in an atmosphere where she feels genuinely loved. We have thoroughly enjoyed our experience with all of the staff at Lily Pads and whole-heartedly support the decision to make the facility bigger to allow the center to provide care to children of multiple ages.

I fully support the proposed expansion both as a member of this community and as a parent who relies on this center for my growing daughter.

Thank you,

A handwritten signature in black ink, appearing to be the name 'Melissa Warren' written in a cursive style.

Melissa Warren

## Attachment 10

April 15, 2015

Dear Ms. Ellen Forbes:

I'm writing to express my support for the expansion of Lily Pads Childcare, operated by Leah Hanlon (case # CU-15-02).

After two years of witnessing her care for our son and his friends, my wife & I have grown to appreciate and treasure her warmth, professionalism, and detailed attention to the well-being of her charges. She is unfailingly inventive and hard-working, and we wish her practice, and her colleagues and curricula, to succeed and to flourish.

Please extend her every courtesy in her new initiative.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Sunil Iyengar". The signature is fluid and cursive, with the first name "Sunil" being the most prominent part.

Sunil Iyengar  
Chevy Chase, Maryland



## Attachment 10

To: Ellen Forbes  
100 Maryland Avenue, Room 200  
Rockville, MD 20850

Subject: Case# CU-15-02

Dear Ms. Forbes,

This letter is in reference to the expansion of Lily Pads Child Care located on 9913 Old Georgetown Rd, Bethesda, MD 20814. My daughter, Isabel (Bella), is currently attending the daycare and I would like to take this opportunity to provide our experience and support of the proposed expansion.

Bella was under the care of an in-home nanny for the first 18-months of her life. The nanny we had hired was truly adored by the whole family but after we moved to Maryland from DC the commute was becoming an issue for her. When she notified us of her departure we decided it was time to look into daycares because we wanted Bella to start socializing. I searched for several daycares in the area and found Lily Pads on a parenting forum. What initially attracted us to Lily Pads was the location-it is ~5 minutes from where we currently leave. The day I called to gather more information Leah Hanlon was able to meet with us that evening. At that time Bella was shy and didn't go to people she wasn't familiar with. When we came to meet Leah she was kind and warm towards Bella who took to her immediately. As first time parents we were nervous about daycare and the thoughts of what could happen while our child is not within our view. After talking to Leah we had a sense of comfort. We asked to be put on the waitlist. A month later Leah contacted us stating she had a part time opening for Bella. We immediately jumped on it. From that point on Bella has enjoyed going to "school" with her Dora lunchbox. Soon after Bella turned 2 we were able to put her in full time.

Looking back at the last year and a half of Bella's attendance at Lily Pads we have seen her develop into a social, bright, and confident 3-year old. It is sad to say but we do not think this would have occurred without the help of Leah and her staff. Bella is comfortable with all the staff that is part of Lily Pad. She has learned a lot and made some really good friends. When we pick Bella up in the afternoon she has so much to say about her day. She loves everyone at daycare and gets upset when children start leaving to attend school. In addition, since Bella is around younger children, it has helped her become a caring and helpful big sister to her little sister Sophia.

In terms of the staff they always keep the parents updated with pictures and videos of the kids throughout the day. It is reassuring (and fun) to see what the kids are doing and that they are in good hands while at work. Leah sends out weekly emails with up-to-date on events or things that will be approaching in the future. This is helpful for us to make arrangements related to personal activities. All the staff members have been great to be around and make the children truly enjoy each of them.

At the beginning of 2015 we began looking for schools for Bella to join. The transition to a new facility was daunting but we felt at 3 years of age Bella needed to be challenged a little more. When Leah had mentioned the possible expansion of Lily Pads we stopped searching. We want the expansion to go through so Bella could stay somewhere she is familiar with and happy at.

## Attachment 10

Given the wonderful experience we have had with Lilly Pads and the impressive development we have seen with Bella, we plan on enrolling our youngest daughter, Sophia, who will be turning 1 next month at Lily Pads. The expansion would allow our family to get the best of worlds, school and daycare. Moreover, it will be an opportunity for sisters to be with each other on a daily basis, instead of only seeing each other when everyone gets home in the evenings.

The proposed expansion is something my husband and I support 100%. Based on the above there are benefits to our family but I believe these apply to others as well. The expansion will allow more children in the area to enroll and enjoy Lily Pads as much as we do. We ask that you move forward with approving the proposed expansion submitted for Lily Pads daycare. If you would like to contact me please feel free to at the number below.

Sincerely,

A handwritten signature in black ink, appearing to read 'Seena Ninan', written in a cursive style.

Seena Ninan

832-549-8889

Ellen Forbes  
100 Maryland Avenue Room 200  
Rockville, MD 20850  
Fax: 240-777-6665  
ellen.forbes@montgomerycountymd.gov

## Attachment 10

Dear Ms. Forbes,

I am writing this letter in support of the expansion for Leah Hanlon's daycare, Lily Pads. Our son, Max has attended Lily Pads for over a year now and we couldn't be happier with the professionalism and care they provide for him. Leah and her assistant Brenda keep their daycare very clean and are very attentive to my son's personal needs. He has been with them since he was three months old and I trust them fully. Leah provides a variety of fun games and activities which have helped Max develop into a very social, curious, clever toddler.

We also live in the Fernwood neighborhood, less than a 5 minute drive to Lily Pads so we are grateful for the short commute when we need to drop off and pick up our son. If we are ever in a bind, we can also count on Leah to help us. She is a kind, giving person who cares deeply about the children who attend her daycare as well as her personal business that she created. We hope the expansion is successful and are looking forward to an even more extensive program for our son.

Sincerely,

  
Erin Friedman