



A Happy Childcare Nest, Conditional Use No. CU 17-14

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Completed: 6/19/17

Description

- Request to increase the maximum number of children at an existing eight-child day care facility to a Day Care Center with up to thirty children;
- Located at 17505 Park Mill Drive;
- 1990 *Gaithersburg Vicinity Master Plan*;
- 15,000-square-foot lot in the R-200 Zone;
- Applicant: Robin Rice;
- Application acceptance date: 3/16/17;
- Public hearing by Hearing Examiner scheduled for July 21, 2017.



Summary

- Staff recommends Denial.
- Staff does not support the Applicant's request for a waiver of 22 feet of the 24-foot side parking setback required under Section 6.2.5.K.2.b.
- Day care for up to 12 children is allowed as a limited use in the R-200 Zone, and Staff believes this would be the appropriate size day care for this Site.

## **STAFF RECOMMENDATION**

Staff recommends denial of CU 17-14 because of the incompatibility of the use with the surrounding neighborhood; non-inherent adverse impacts resulting from the location of the use on a substandard residential street; the intensity of the proposed daycare on a relatively small property; and the Applicant's failure to demonstrate that vehicle and pedestrian circulation in the proposed driveway will be safe and efficient. Further, the proposed driveway does not have a perimeter planting area that satisfies Section 6.2.9.B.

The surrounding neighborhood is primarily residential with detached homes in the R-200 Zone. A Day Care Center with 30 children will generate excessive traffic that would not be appropriate for a narrow street in a residential neighborhood. This portion of Park Mill Drive adjacent to the Site does not have sidewalks; pedestrians typically walk in the street. The proposed increase in traffic would result in increased vehicular/pedestrian conflicts.

The proposed semi-circular driveway with 10 parking spaces would not permit vehicles parked in 8 of the 10 spaces to maneuver within the driveway to enter, park, and leave without being blocked by other vehicles. Staff does not recommend allowing any on-street parking, because cars would have to park on the grass in the right-of-way. The proposed 10 minute windows to drop off children during the busiest part of the peak periods is unrealistic and would be difficult to enforce on a day-to-day basis. The Applicant has recently expressed a willingness to modify the drop-off/ pick-up schedule, but this will not mitigate the issues with the substandard road or inadequate parking.

Staff has met with the Applicant several times since the spring of 2016, and consistently advised her that this Site is not appropriate for a day care facility of this intensity and Planning Staff would be unlikely to support her application. Staff believes that a day care for 12 children, which is allowed as a limited use in the R-200 Zone, is the appropriate intensity for this Property given the size and layout of the Site, the residential nature of the neighborhood, and the substandard condition of Park Mill Drive.

## **PROJECT DESCRIPTION**

### **Site Description**

The 15,000-square-foot Site is described as Lot 8, Block G of the Mill Creek Towne Subdivision and is classified in the R-200 Zone. It is located at 17505 Park Mill Drive and improved with a two-story detached house (Figure 1). The Applicant owns the property, but does not reside there. Angela Prior, who works at the existing daycare, currently resides in the house with her husband and two teenage children.

The Site is a through lot that fronts on both Park Mill Drive and Shady Grove Road, although vehicle access is only available from Park Mill Drive. There are no public sidewalks along this portion of Park Mill Drive. The existing driveway is approximately 62 feet long and between 12 and 16 feet wide with space

available to tandem park 4 cars. According to the Maryland Department of Assessments and Taxation, the house has an above grade living area of 2,390 square feet and a 660-square-foot finished basement area. The entrance to the existing daycare is through the double doors on the south side of the house, accessed from the end of the driveway. Two wall-mounted lamps are located on either side of the entrance to the daycare, and one wall mounted lamp is located adjacent to the front door. A yellow sign with the name and contact information for the daycare, measuring 2.5 feet high by 3 feet wide, is located adjacent to the daycare entrance.

The rear yard is enclosed by various types of wooden fencing<sup>1</sup>. Along the south and east sides of the rear yard, there is a six-foot board on board fence with a gate that leads to Shady Grove Road. During Staff's Site visit, the gate to Shady Grove Road appeared to be broken, with a large rock partially blocking access. A split rail fence, approximately four feet in height and lined with chicken wire is located between the Site's rear yard and the yard of the neighboring lot to the north. A 3.5-foot-tall board on board fence encloses the front portion of the rear yard. This section of fencing is interrupted by a shed, which serves as a barrier between the front and rear yards. Various types of play equipment are located in the rear yard. The landscape plan indicates that outdoor lighting would be added to the shed. The rear (east side) of the property has a 25-foot-wide slope and drainage easement.



Figure 1: Aerial photo of the Subject Site

<sup>1</sup> As a through lot, the Site technically has two front setbacks, but this report refers to the rear yard as the portion of the yard between the Shady Grove right-of-way and the rear of the house.



Figure 2: Staff defined Neighborhood (outlined in yellow)

### Neighborhood Description

The Staff-defined Neighborhood is generally circumscribed by the Mid County Highway to the south, Shady Grove Road to the east, and Miller Fall Road to the west. The rear lot lines of properties on the north side of Park Mill Drive and Mill Towne Elementary School form the northern boundary of the Neighborhood. Except for Mill Creek Towne Elementary School, the Staff-defined neighborhood is completely residential, with detached homes in the R-200 Zone.

Staff did not identify any existing, approved conditional uses in the defined Neighborhood.

### Project Description

According to the Applicant, the Site has been operating as a day care (with up to 8 children) since July 2016. The Applicant has obtained a use and occupancy permit for a day care with up to 12 children, which is allowed as a limited use in the R-200 Zone. This Application proposes an expansion of the day care to allow up to 30 children.

The day care would accept children of all ages, but the facility would be designed primarily to care for children age five and under. The Applicant proposes to remove part of the patio in the rear yard and construct a 468-square-foot addition to the house to increase the space for the day care. After the addition, the expanded day care would comprise an estimated 1,120 square feet of space on the first floor of the house.

The current day care facility operates Monday through Friday, from 7:00 a.m. to 6:30 p.m., and the same hours of operation are proposed for the 30-child day care. The Applicant prefers that the children go outside on a staggered schedule in three different groups, with each group going out once in the morning and once in the afternoon. Total outdoor play time would be 40 minutes each morning and afternoon (weather pending). For 20 minutes each morning and the afternoon, all of the children would be outside at the same time.

The Applicant indicates that up to seven employees would be needed to staff the day care facility at any one time. The Applicant's traffic statement shows two residents staffing the day care between 7:00 and 7:50 am. Between 7:50 and 8:45 am, five non-resident staff would arrive at staggered 10- to 20-minute intervals. One of the resident employees would also leave during this time. Non-resident employees would depart one at a time at the following times: 3:30pm, 4:30pm, 5:00pm, 5:50 p.m., 6:00pm (Attachment 1).

The Applicant proposes to install a semi-circular driveway in the Site's front yard (Figure 3). The Department of Permitting Services (DPS) approved an additional curb cut for the proposed driveway on November 29, 2016 (Attachment 2). The parking plan shows off-street parking for ten cars. However, if all ten of the proposed spaces are occupied by vehicles, eight cars would be blocked in by the cars parked in space #1 and space #6, and the walkway to the front door of the house would be blocked by car #7. The applicant proposes installing pervious pavers for the two spaces required for the residents to park between the house and the adjacent property to the south. These parking spaces would be set back less than two feet from the lot line, and the Applicant requests a parking waiver for relief from the 24-foot parking setback required under Section 6.2.5.K.2.b. The Applicant indicates that she would construct a 6-foot fence after the driveway is installed to shield parking spaces #9 and #10 from view of the adjacent neighbor to the south. In addition, the side yard would be graded to slope away from the adjacent yard to the south.

The Applicant proposes to have contracts with parents to allow a maximum of six vehicles to drop-off or pick-up children during a ten-minute period at peak morning and evening hours (Attachment 1). The Applicant states that it takes five minutes to drop-off, sign-in and give a second hug to each child, and this time can be further reduced to one to three minutes if the drivers stay in their cars, and staff escorts children to and from the cars.

The Applicant indicates a high probability that only three non-resident staff members will need parking, while the rest will take the bus or get dropped off and picked up. In the submitted application materials, the Applicant offers several alternatives to the onsite parking proposed in Figure 3 including:

1. Allowing cars to use on-street parking;
2. Require that all cars associated with the proposed daycare use on-street parking on the same (east) side of the street where the daycare is located;
3. Require day care staff to park 200 feet from the Site;

4. Require residents of the subject Site to park their cars on street at certain times while the day care is open; or
5. Require staff and/or residents of the subject Site to park where the south end of Mill Run Drive dead ends at the Midcounty Highway, approximately ¼ mile away from the Site (Figure 4).

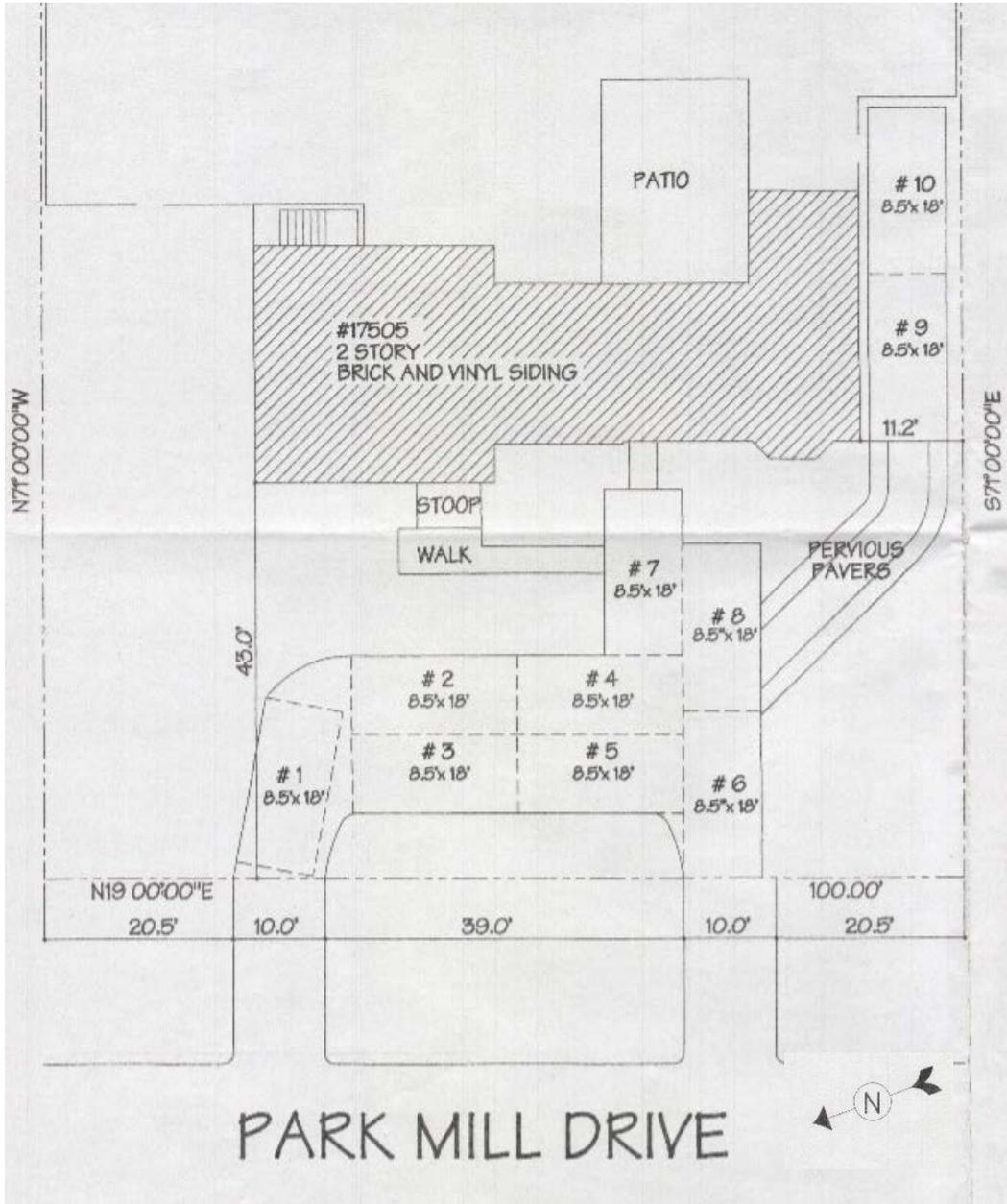
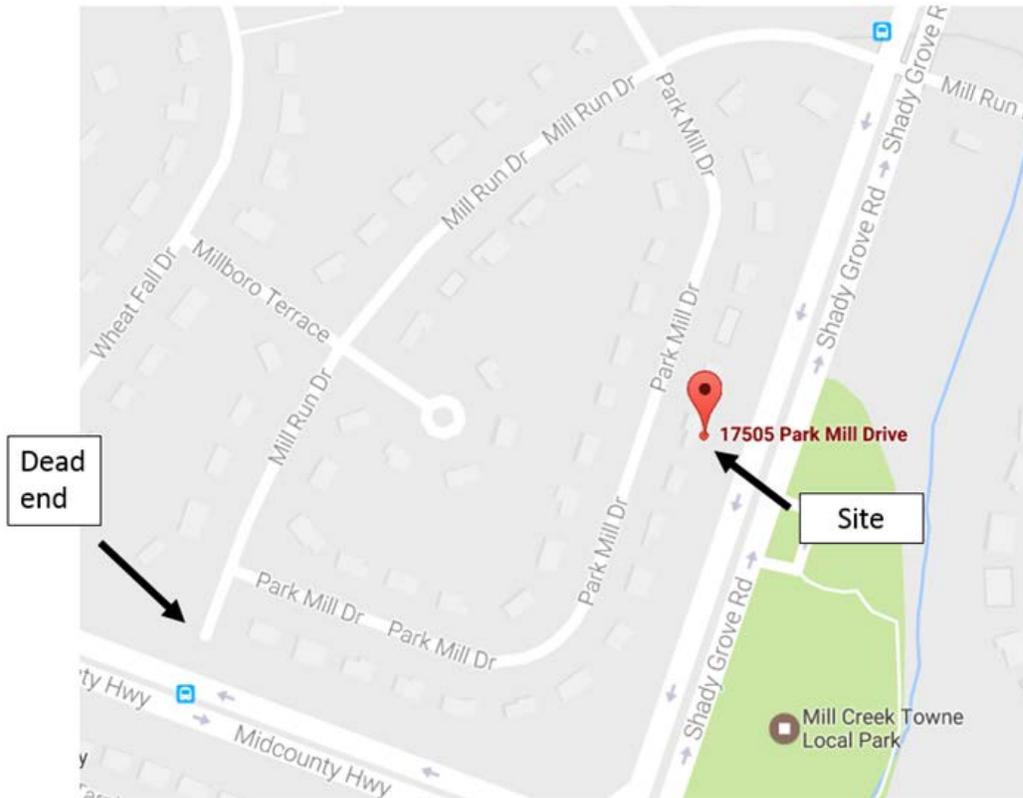


Figure 3: Proposed Parking Plan



**Figure 4: Location of proposed parking at the dead end of Mill Run Drive.**

A landscape plan is shown in Figure 5, but the plan does not show the proposed expanded parking area in the front/side of the existing house. The Applicant plans to replace the existing split rail fence along the northern property line with a six-foot board-on-board fence. The existing six-foot board-on-board fence along the northern property line would also be extended to screen vehicles #9 and #10 from the adjacent property.

Three evergreen shrubs are proposed between the driveway and the property to the south, and one ornamental tree is proposed in the middle of the Site close to the Park Mill Drive right-of-way. The proposed semi-circular driveway is not shown on the landscape plan, but presumably the ornamental tree would be located between the proposed driveway and the right-of-way.

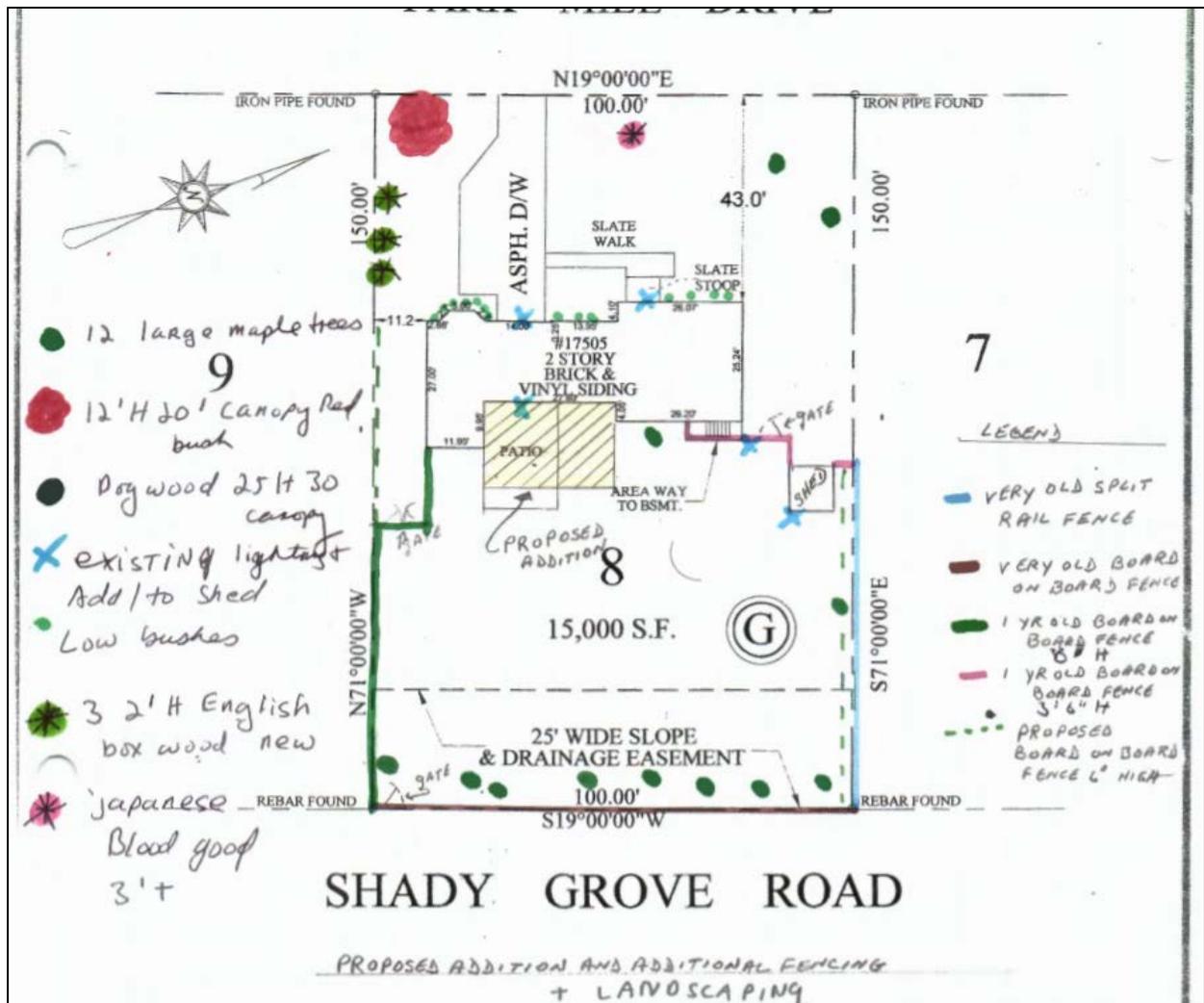


Figure 5: Proposed Addition and Landscape Plan

## ANALYSIS

### Zoning History

The Mill Creek Towne subdivision, in which the Site is located, was approved as a density control development under the Rural Residential (R-R) zone in 1964. In 1973, Zoning Text Amendment No. 73013 changed the name of the R-R zone to R-200.

### Master Plan

The Site is located within the *Gaithersburg Vicinity Master Plan*, originally adopted in 1985 and amended in 1988 and again in 1990. The Master Plan does not discuss the Site, nor does it include language about day cares, special exceptions, or residential areas in general. Although the master plan does not have any recommendations for the Site or the staff defined neighborhood, the proposed extensive paving in the front yard to accommodate 10 cars will turn the front yard into a parking lot, which will give a non-residential appearance to the property with or without all the cars parked there. This is a detached

residential zone and the proposed changes are not consistent with the inherent character of the existing single-family detached housing neighborhood.

## **Transportation**

### Master-Planned Roadways and Bikeways

Park Mill Drive is a secondary residential street with a 60-foot wide right-of-way that is not listed in the *Gaithersburg Vicinity Master Plan*. The Master Plan designates the following:

- Shady Grove Road is designated as a six-lane major highway, M-42, with a 150-foot wide right-of-way.
- Nearby Midcounty Highway is designated as a four- to six-lane major highway, M-83, with a 120-foot wide right-of-way.
- Nearby Mill Run Drive is designated as a primary residential street, P-14, with a 70-foot wide right-of-way.

The 2005 *Countywide Bikeways Functional Master Plan* recommends bike lanes, BL-30, along Shady Grove Road and a shared use path, SP-70, along Midcounty Highway.

### Pedestrian Facilities

No sidewalks exist along Park Mill Drive, nearby Mill Run Drive, or the west side of Shady Grove Road adjacent to the Site. Along the opposite/east side of Shady Grove Road, there is a 5-foot wide sidewalk with a small 2-foot wide green panel. There is no lead-in sidewalk from Park Mill Drive to the main entrance of the house.

### Transit Service

Ride On routes 58 and 90 operate along Shady Grove Road and Ride On route 57 operates along nearby Midcounty Highway.

1. Ride On route 57 operates with 30-minute headways between the Shady Grove Metrorail Station and the Lakeforest Mall Transit Center on weekdays and weekends.
2. Ride On route 58 operates with 30-minute headways between the Shady Grove Metrorail Station and the Lakeforest Mall Transit Center on weekdays and weekends.
3. Ride On route 90 operates with 30-minute headways between the Shady Grove Metrorail Station and Damascus on weekdays only.

The nearest bus stops to the Site are located at the intersection of the Shady Grove Road/Mill Run Drive 1,100 feet north of the Site and the Shady Grove Road/Midcounty Highway intersection approximately 2,000 feet south of the Site.

### Drop-Off/Pick-Up and Parking

The drop-off/pick-up and parking is inadequate as shown in the Applicant's submission and described below:

- The proposed driveway reconfiguration to park 10 vehicles would not permit 8 of the 10 vehicles to maneuver within the driveway to enter, park, and leave without being blocked by other vehicles.
- The travelway on Park Mill Drive is substandard with a 20-foot wide pavement that only permits enough room for two-way through movement with no room for cars to park on the street. A Montgomery County Department of Transportation (MCDOT) representative commented that vehicles on this type of road typically park half-on and half-off the road which kills the grass and causes rutting (Attachment 3). Staff does not support the Applicant's proposal for on-street parking.
- Park Mill Drive has no sidewalks or shoulder, so pedestrians walk in the street. The proposed increase in traffic could result in significant vehicular/pedestrian conflicts.
- The proposed employee parking at the end of Mill Run Drive's dead end at Midcounty Highway is not a reasonable alternative. MC DOT commented that parking in dead ends is typically restricted because they are used by garbage trucks, utility trucks, etc. that need to make a U-turn.
- The 10-minute windows to drop off children during the busiest part of the morning peak period (7:50-8:10) would be difficult to enforce on a day-to-day basis. Variability in traffic and the unpredictable nature of young children can easily disrupt morning schedules. The Applicant has recently expressed a willingness to modify the drop-off/ pick-up schedule, but this will not mitigate the issues with the substandard road or inadequate parking.



**Figure 5: View of the right-of-way in front of the Property (facing west) taken by Staff during a site visit on 5/10/17. The truck is struggling to drive between two parked vehicles on Park Mill Drive.**

Local Area Transportation Review

The Applicant submitted a traffic statement that included the projected number of vehicles arriving and departing between 6:00-9:45 a.m. and 1:00-6:10 p.m. by residents, staff, and parents (Attachment 1). Based on the Applicant’s traffic statement, Staff calculated that the proposed daycare would generate 32 vehicle trips during the weekday morning and evening peak hour.

Staff also calculated the number of weekday peak hour trips using the 2016-2020 Subdivision Staging Policy methodology for a day care center with seven employees. The following table demonstrates that the proposed daycare would generate fewer than 50 weekday peak hour person trips, therefore no further analysis is required.

	Peak Hour	Type of Trips				
		Person	Auto Driver	Auto Passenger	Transit	Bike & Ped.
For the Adjacent Intersections <sup>1</sup>	Morning	47	30	13	1	3
	Evening	45	29	13	1	3
For a Child Daycare Center	Morning	49	31	14	1	3
	Evening	49	31	14	1	3

<sup>1</sup>The 2016-2020 Subdivision Staging Policy transportation test is based on traffic generated during the highest weekday peak hour on the adjacent street to analyze the worst-case traffic scenario even though the peak hour of the daycare may be higher while the adjacent street is lower.

Policy Area Review

Because the application was filed after January 1, 2017, it is subject to the 2016-2020 Subdivision Staging Policy. There is no longer a Transportation Policy Area Review (TPAR) test, but applicants must pay a General District Transportation Impact Tax. If the conditional use is approved, an Impact Tax by the Department of Permitting Services may be required because of the proposed addition of floor area to the existing structure to accommodate the expanded daycare.

**Environment**

The site contains no streams or stream buffers, wetlands or wetland buffers, hydraulically adjacent steep slopes, 100-year floodplains, forest land, or known habitats of rare, threatened or endangered species. Because this is a conditional use application that applies to a property of less than 40,000 square feet, with no previously approved forest conservation plan, and the conditional use will not impact any champion tree, the application is not subject to Chapter 22A, Forest Conservation. This application is therefore in conformance with the *Environmental Guidelines*, and the Forest Conservation Law does not apply here (Attachment 4).

## Community Correspondence

The Office of Zoning and Administrative Hearings has forwarded Staff over 30 letters from neighbors opposed to this application (Attachment 5). The letters express concerns about:

- increased traffic;
- the proposed circular driveway in the front yard;
- decreased property values;
- parking issues along Park Mill Drive;
- noise from children playing outside; and
- the lack of sidewalks on Park Mill Drive and associated safety issues.

Staff recommends denial of the application based on the potential for increased pedestrian/vehicle conflicts on substandard Park Mill Drive, and insufficient space to accommodate the required parking on-site.

## Conditions for Granting a Conditional Use

### Section 7.3.1.E. Necessary Findings<sup>2</sup>

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

**Section 7.3.1.E.1.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 Site. Family Day Care (up to 8 persons) and Group Day Care (Up to 12 Persons) are allowed as limited uses in the R-200 Zone.

**Section 7.3.1.E.1.b:** *satisfies the requirements of the zone, use standards under Article 59-3, and to the extent the Hearing Examiner finds necessary to ensure compatibility, meets applicable general requirements under Article 59-6;*

#### Requirements of the Zone

The existing house and shed do not satisfy the minimum 12-foot side setback requirement in the R-200 Zone.

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<sup>2</sup> The findings in Section 7.3.1.E.4 thru Section 7.3.1.e.6 are not applicable to this application and not included in this report.

**R-200 Standard Method Development Standards for a Detached House**

Development Standard	Required/Permitted	Existing
Minimum Lot Area (Section 4.4.7.B.1)	20,000 sq. ft.	15,000 sq. feet <sup>1</sup>
Minimum Lot Width at Front Building Line (Section 4.4.7.B.1)	100 feet	±100 feet
Minimum Lot Width at Front Lot Line (Section 4.4.7.B.1)	25 feet	±100 feet
Maximum Lot Coverage (Section 4.4.7.B.1)	25%	±10%
Minimum Front Setback; also applies to Shady Grove Road frontage (Section 4.4.7.B.2)	40 feet	± 43 feet
Minimum Side Setback (Section 4.4.7.B.2)	12 feet <sup>2</sup>	±11 feet <sup>2</sup> (south)
Minimum Sum of Side Setbacks (Section 4.4.7.B.2)	25 feet	±34 feet
Minimum Rear Setback (Section 4.4.7.B.2)	30 feet	Not applicable for through lots
Maximum Height (Section 4.4.7.B.3)	40 feet	< 40 feet

<sup>1</sup> Pursuant to the Density Control Development standards of the R-200 Zone under Section C-1.431(a) of the 2004 Zoning Ordinance (in effect prior to October 30, 2014), the minimum lot size is 15,000 square feet (Attachment 6). As such, the lot size of the existing house is conforming under Section 7.7.1.A.1 of the 2014 Zoning Ordinance.

<sup>2</sup> The boundary and location survey indicates that the house is setback 11.2 feet from the southern lot line (Attachment 7).

### R-200 Development Standards for an Accessory Structure

Development Standard	Required/Permitted	Existing
Minimum Front Setback; also applies to Shady Grove Road frontage (Section 4.4.7.B.2)	65 feet; must also be located behind the rear building line of the principal building	± 60 feet <sup>1</sup> (Shady Grove Road frontage); behind rear building line
Minimum Side Setback (Section 4.4.7.B.2)	12 feet	±5 feet (north side)
Minimum Rear Setback (Section 4.4.7.B.2)	7 feet	Not applicable for through lots
Maximum Height (Section 4.4.7.B.3)	35 feet	< 35 feet

<sup>1</sup> Pursuant to the Density Control Standards of the R-200 Zone in the 2004 Zoning Ordinance, the setback for an accessory building from the front lot line or proposed street line is 60 feet.

#### Applicable General Development Standards under Division 59-6

### **Parking: Division 6.2**

#### *Section 6.2.4. Parking Requirements*

	Required	Proposed
Vehicle Parking Requirement (Section 59.6.2.4.B)	<i>Day care center:</i> 4 spaces (3 spaces per 1,000 sf of GFA)  <i>Residence:</i> 2 spaces per dwelling unit	10 spaces
Bicycle Parking Requirement (Section 59.6.2.4.C)	1 long term space	1 (in the shed)

*Section 6.2.5.K Facilities for Conditional Uses in Residential Detached Zones*

*Any off-street parking facility for a conditional use that is located in a Residential Detached zone where 3 or more parking spaces are provided must satisfy the following standards:*

*1. Location*

*Each parking facility must be located to maintain a residential character and a pedestrian-friendly street.*

The proposed parking for the day care in front of the house would accommodate up to eight cars, in addition to the two spaces for the residents. Section 6.2.5.M allows the Applicant to pave a driveway of this size in the front yard, but as proposed, the driveway will not be residential in character because of its large size in relation to the size of the property. The design does not include space for the extensive landscaping between the street and the driveway that is typical of semi-circular driveways in residential neighborhoods, so the large driveway will be highly visible from the street. The proposed driveway would have a commercial, rather than residential, appearance.

*2. Setbacks*

*a. The minimum rear parking setback equals the minimum rear setback required for the detached house.*

The minimum setback required from the Shady Grove Road right-of-way is 40 feet and no parking is proposed within that setback area.

*b. The minimum side parking setback equals 2 times the minimum side setback required for the detached house.*

The minimum side setback is 12 feet, so the minimum side parking setback is 24 feet. The Applicant requests a parking waiver to allow cars to park two feet from the southern lot line. Staff does not support this waiver because it would further detract from the residential character of the neighborhood by allowing cars to park very close to the neighboring house. Even if the waiver were granted, it does not resolve the issues with inadequate parking and circulation on the Site.

*Section 6.2.9.B Parking Lot Requirements for Conditional Uses Requiring 5 to 9 Spaces*

*If a property with a conditional use requiring 5 to 9 parking spaces is abutting Agricultural, Rural Residential, or Residential Detached zoned property that is vacant or improved with an agricultural or residential use, the parking lot must have a perimeter planting area that:*

- 1. satisfies the minimum specified parking setback under Article 59-4 or, if not specified, is a minimum of 8 feet wide;*
- 2. contains a hedge, fence, or wall a minimum of 4 feet high; and*
- 3. has a minimum of 1 understory or evergreen tree planted every 30 feet on center.*

No minimum parking setback is specified in Article 59-4, so the proposed circular driveway is required to have a perimeter planting area that is a minimum of eight feet

wide. As submitted, the proposed landscape plan does not demonstrate compliance with this requirement.

**Signage: Section 6.7.8.A**

In a Residential Detached Zone, the maximum sign area allowed is two square feet unless a larger sign area is approved by the County Sign Review Board. The Applicant has already received approval from the Sign Review Board for a 3-square-foot non-illuminated wall sign to be installed on the front wall of the dwelling at a height not to exceed five feet. The Applicant also requested to erect a 9.5-foot-high freestanding sign along the Site's Shady Grove frontage, but the request was denied (Attachment 8).

**Section 7.3.1.E.1.c** *substantially conforms with the recommendations of the applicable master plan;*

As discussed on page 8, the Site is located within the *Gaithersburg Vicinity Master Plan*. Although the master plan does not have any recommendations for the Site or the Staff Defined Neighborhood, the proposed extensive paving in the front yard to accommodate 10 cars will turn the front yard into a parking lot, which will give a non-residential appearance to the property with or without all the cars parked there. The proposed changes are not consistent with the inherent character of the existing single-family detached housing neighborhood.

**Section 7.3.1.E.1.d** *is harmonious with and will not alter the character of the surrounding neighborhood in a manner inconsistent with the plan;*

The location and intensity of the proposed daycare is not harmonious with the surrounding neighborhood. The proposed use will adversely impact the residential neighborhood by introducing more noise and activity, and substantially increasing vehicle trips on a substandard residential street without sidewalks, leading to unsafe conditions for pedestrians.

**Section 7.3.1.E.1.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;*

The intensity of the proposed use will adversely affect the surrounding neighborhood and alter the residential nature of the area. The volume of traffic generated by the proposed use during the morning and evening rush hour will exacerbate pedestrian/vehicle conflicts on the substandard residential streets.

**Section 7.3.1.E.1.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*

A Preliminary Plan of Subdivision is not required, so the Hearing Examiner must find that the proposed development will be served by adequate public services and facilities. Park Mill Drive is inadequate to serve the increase in vehicle traffic generated by the proposed use. The travelway on Park Mill Drive is substandard, with a 20-foot wide pavement that only permits enough room for two-way through movement with no room for parking on the street. Park Mill Drive lacks sidewalks and pedestrians must walk in the street. The increase in traffic volume generated by the proposed use will exacerbate pedestrian/vehicle conflicts. All other public facilities are adequate to serve the proposed use.

**Section 7.3.1.E.1.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, visitors, or employees*

The first step in analyzing the inherent and non-inherent adverse effects of a conditional use is to define the boundaries of the surrounding neighborhood, which is outlined in the Neighborhood Description section of this report. An analysis of inherent and non-inherent adverse effects considers size, scale, scope, light, noise, traffic and environment. Every 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 need to be determined. Inherent effects are created by physical operational characteristics of a conditional use necessarily associated with a use, regardless of its physical size or scale of operations. 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 conditional use. Non-inherent adverse effects are created by physical or operational characteristics of a conditional use not necessarily associated with the use or created by an unusual characteristic of the site.

The inherent physical and operational characteristics necessarily associated with a 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; (5) lighting; and (6) onsite parking for employees.

Staff also identified non-inherent physical aspects of the proposed use including the location of the proposed facility on a substandard secondary residential street, and the intensity of the proposed daycare facility on a relatively small lot. As described in the Transportation section, Park Mill Drive lacks sidewalks, and pedestrians on Park Mill Drive must walk on the street. The increased vehicle traffic resulting from the proposed use, combined with the location of the Site along a substandard road without sidewalks will create adverse safety conditions for pedestrians and for other vehicles travelling along the relatively narrow road. Further, the intensity of the proposed use on a relatively small lot does not allow space for safe and efficient on-site vehicle circulation and parking, even with the addition of a very large driveway to the front yard. The intensity of the use also generates the need for a parking waiver. If on-street parking were allowed, cars would need to park on the grass in the right-of-way, which would eventually kill the grass and cause rutting.

**Section 7.3.1.E.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 proposed addition is in the rear of the house and will be in conformance with the development standards of the R-200 Zone. However, the Applicant did not provide sufficient details about the proposed addition for Staff to make a judgement about architectural compatibility.

**Section 7.3.1.E.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 is not sufficient to require conditional use approval.*

The proposed use is not compatible with the surrounding neighborhood and Staff recommends denial of the application.

## **CONCLUSION**

Staff recommends denial of conditional use CU 17-14 due to the incompatibility of the use with the surrounding neighborhood, non-inherent adverse impacts resulting from the location of the use on a substandard residential street and the intensity of the proposed daycare, and the Applicant's failure to demonstrate that vehicular circulation in the proposed driveway will be safe and efficient.

## **ATTACHMENTS**

Attachment 1: Applicant's Traffic Statement

Attachment 2: DPS Permit for Additional Driveway

Attachment 3: Montgomery County DOT Correspondence

Attachment 4: Forest Conservation Applicability for Conditional Uses/Special Exceptions

Attachment 5: Community Correspondence

Attachment 6: Mill Creek Towne Subdivision Plat

Attachment 7: Boundary and Location Survey

Attachment 8: Sign Variance Approval

# ATTACHMENT 1

## TRAFFIC STATEMENT

Am Time/type of trip	6:00	7:00	7:30	7:50	8:00	8:10	8:30	8:45	9:00	9:15	9:30	9:45	Total
Resident staff	2	2	2	2	2	2	1	1	1	1	1	1	1 in
Resident staff leaving													varies
non-resident staff arrive bus/walk		0	0	0	0	1	0	0	0	0	0	0	
non-resident staff arrive ride no park				1		0							
non-resident staff arrive and park					1		1	1					3
non-resident staff IN													5
<b>CARS WITH CHILDREN</b>		1	1	3	6	2	2	2	2	1	1	0	21
Children in cars or vacancy		2	2	3	10	2	2	3	4	1	1	0	30

<b>HIGHEST AM PEAK HOUR CARS drop-off</b>	0	1	1	4	6	2	2	2	2	1	1	0
---	---	---	---	---	---	---	---	---	---	---	---	---

Staff cars parked	0	0	0	0	1	0	2	3	3	3	3	3
Resident cars parked	2	2	2	2	2	2	1	1	1	1	1	1
<b>Total cars parked</b>	2	2	2	2	3	2	3	4	4	4	4	4

Maximum peak hours 12 cars  
7:50 - 8:10

## TRAFFIC STATEMENT

PM Time/type of trip	1:00	1:30	3:15	3:30	4:00	4:30	5:00	5:30	5:50	6:00	6:10	Total
Resident staff	1	2	1	1	1	1	1	1	1	1	1	1 in/out
Resident staff returning												varies
teenage resident staff in bus/walk			1									1
non-resident staff leave bus walk						-1				-1		
non-resident staff with cars out	0	0	0	-1	0	0	-1	0	-1	0	0	-3
non-resident staff out												-5
<b>CARS WITH CHILDREN</b>	1	0	0	1	1	1	2	4	3	6	2	21
Children for after school bus/walk				1								1
Children in cars or vacancy	-1			-1	-2	-1	-4	-5	-4	-10	-3	-31

<b>HIGHEST PM PEAK HOUR</b>	1	0	0	0	1	1	1	4	2	6	2
-----------------------------	---	---	---	---	---	---	---	---	---	---	---

Staff cars parked	4	4	4	3	3	3	2	1	0	0	0
Resident cars parked	1	2	1	1	1	1	1	2	2	2	2
<b>Total cars parked</b>	5	6	5	4	4	4	3	3	2	2	2

maximum peak hours 12 cars  
5:50 TO 6:10

# ATTACHMENT 2



Department of Permitting Services  
255 Rockville Pike, 2nd Floor  
Rockville, MD 20850-4166  
Phone: 311 in Montgomery County or (240)-777-0311  
<http://www.montgomerycountymd.gov/permittingservices/>



## Work in Public Right of Way Permit Application

Use Permit # \_\_\_\_\_

Building Permit # \_\_\_\_\_

### A. Applicant Information

Name Robin Rice  
Property Owner or Contractor Name

If Contractor: MHIC# \_\_\_\_\_ or MARYLAND BUILDERS LICENSE # \_\_\_\_\_

Mailing Address ~~2 V BOOKS @ gmail.com~~ 5913 Wildflower Ct  
City State Zip Code  
Derwood, MD 20835

Cell Telephone \_\_\_\_\_ Work Telephone 301 963 790 Email 2VBOOKS@gmail.com

### B. Location of Work

Address 17505 PARK MILL DR. Derwood MD 20835  
City State Zip Code

Lot(s): 8 Block(s): 9 Parcel(s): \_\_\_\_\_ Plat Number: 4

Subdivision Name: MILL CREEK TOWN

### C. Type of Work (Check Only One)

- |  |   |  |
|--|---|--|
| <input type="checkbox"/> Grading                 | <input type="checkbox"/> Storm Drain            | <input type="checkbox"/> Paving                        |
| <input type="checkbox"/> Grading and Storm Drain | <input type="checkbox"/> Storm Drain and Paving | <input type="checkbox"/> Grading, Storm Drain & Paving |

### D. Other Type of Work (Check All That Apply)

- |   |  |   |
|---|--|---|
| <input type="checkbox"/> Commercial Entrance  | <input checked="" type="checkbox"/> Residential Driveway | <input type="checkbox"/> Restoration/Repair of ROW  |
| <input type="checkbox"/> Utility Connections  | <input type="checkbox"/> Mobile Crane                    | <input type="checkbox"/> Outdoor Café Seating       |
| <input type="checkbox"/> Covered Walkway  | <input type="checkbox"/> Dumpster                        | <input type="checkbox"/> Portable Storage Container |
| <input type="checkbox"/> Temporary Construction Entrance                                |  |   |
| <input type="checkbox"/> Construction Work that Impedes Vehicular or Pedestrian Traffic |  |   |
| <input checked="" type="checkbox"/> Other <u>curb cut</u>                               |  | (describe)  |

**E. Additional Information**

1. Do you have a Maryland National Capital Park and Planning Commission (MNCPPC) approved Preliminary Plan or Certified Site Plan?  Yes  No

If yes, the plan(s) is required to be submitted with this application.

2. Do you have tree(s) within the county ROW to be removed/impacted/replanted?  Yes  No

If yes, submit a copy of Maryland State Department of Natural Resources (DNR) Permit. In addition, tree protection plan is required to be attached to this permit application prior to approval.

3. Do you have building permit connected to this permit application?  Yes  No

If yes, list Building Permit Number(s) \_\_\_\_\_

**F. Required Submittals**

- Two (2) copies of the plans showing the Right-of-Way
- or
- Three (3) copies of the plans showing the Right-of-Way if street trees are involved
- Declaration of Covenants for maintenance and liability
- Recorded Plat (Deed for Dedication for easements; e.g. stormdrain, egress/ingress, public utility, public improvement, etc.)
- Filing Fee

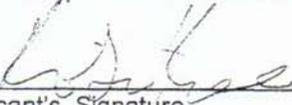
**G. Conditions of the Permit**

1. The permittee agrees to save harmless the County from all liability arising from the construction associated with this permit.
2. On site, the copy of permit(s), plans and specifications shall be available at all times for inspection by duly authorized officials of Montgomery County.
3. Unless otherwise noted, this permit automatically expires 18 months from the date of its issuance unless extended in writing by the Director of the Department of Permitting Services. An extension is granted after a request is made in writing and the appropriate fees are paid prior to the expiration date of the permit.
4. All work performed under this permit shall comply with written requirements or directions which may be issued by the Director of the Department of Permitting Services relating to the particular project. If the conditions of this permit are being violated, this permit is subject to revocation by the Director of the Department of Permitting Services.
5. Driveway apron(s) constructed under this permit are for the purpose of providing access to lots adjacent to the right of way. Maintenance of driveway aprons will be the responsibility of the property owner.
6. No permit shall be issued for construction unless the right of way has been acquired by the County or has been dedicated to public use and such acquisition or dedication has been recorded among the land records of Montgomery County.

(u) iii 2 of 3

7. If the Director of the Department of Permitting Services finds that the original plans, standards and specifications under which this permit is issued are inadequate or inappropriate for the particular project, he may require different or additional plans, standards and specifications and they shall thereafter, or modification thereof, become a part and condition of this permit.
8. A permit from the State of Maryland Department of Natural Resources (DNR), 301-854-6060 is required for the removal, and/or planting of any trees on improved public rights of way in addition to the tree plan approval from DPS.
9. Notify "Miss Utility" at 811 or 1-800-257-7777 prior to any excavation in the public right-of way. The relocation and/or adjustment of any public or private utility shall be the responsibility of the permittee prior to any construction authorized by this permit.
10. Coordinate the relocation and issues with any traffic control signs, parking meters or signalization devices with the MC DOT Division of Traffic and Parking Services, 311 or 240-777-0311.
11. Construction materials and equipment must not be stored or parked on the public right of way, unless otherwise noted as a condition of this permit. Proper precautions must be taken to keep existing roadways free of mud, debris and other obstructions.
12. Prior to the release of this permit, complete repair (restoration of right of way) shall be made of any and all damages done to the existing improvements in the public right of way caused by construction operations on this site. All disturbed areas shall be fine graded and sodded.
13. The final inspection shall be performed upon the permittee's request to close the permit.

Applicant agrees that the proposed construction will be performed in accordance with the conditions, which will be made a part of this permit when issued.


ROBIN RICE
Date  
 Applicant's Signature Print Name

\*\*\*\*\*  
**FOR FIELD STAFF USE ONLY**  
 \*\*\*\*\*

- New house driveway
- Additional driveway
- Existing driveway replacement/repair at the same location
- Remove existing driveway and install new driveway at different location
- Utility House Connection(s)
- Restoration for construction activity in property
- Street tree removal/protection/replanting

MC DOT Std. No.: 301.05 Pipe Size: N/A No. of Driveway(s): 1

Sight Distance:  Checked  Engineer's Certificate required

Additional Work Required: \_\_\_\_\_

Other: Adding driveway - 30' min. separation from st. apron

Bond Amount: \$ 2500 - Permit Fee: \$ \_\_\_\_\_

Inspector: Urban Date: 11/29/10

(11) iii 3 of 3

# ATTACHMENT 3

**Tettelbaum, Emily**

---

**Subject:** FW: Question about dead ends

**From:** Terry, Mark [mailto:Mark.Terry@montgomerycountymd.gov]

**Sent:** Thursday, June 01, 2017 8:22 AM

**To:** Tettelbaum, Emily <Emily.Tettelbaum@montgomeryplanning.org>; deepak.somarajan <deepak.somarajan@montgomerycountymd.gov>; Bilgrami, Khursheed <Khursheed.Bilgrami@montgomerycountymd.gov>; Kerse, Seifu <Seifu.Kerse@montgomerycountymd.gov>; Liang, Kyle <Kyle.Liang@montgomerycountymd.gov>; marie.labaw <marie.labaw@montgomerycountymd.gov>

**Subject:** RE: Question about dead ends

Hi Emily,

This location is in my area and I would have to say that allowing parking at this location would be problematic at best. Typically, we will restrict parking at the end of cul-de-sacs like this because they are used by garbage trucks, utility trucks, etc. that need to make a U-turn. If vehicles park at this location these vehicles will be using private driveways to make their U-turns. Another issue is that the approaching roadway is narrow and in cases such as this, vehicles will park half on and half off the road which kills the grass, causes rutting, E&S issues, etc. Finally, if we allow this resident to use this as a designated parking area, what's to stop other residents who have spare cars, boats, RV's, etc. from using the area. I think in this case, it's not a good idea.

Mark

Mark Terry, Area Engineer  
Division of Traffic Engineering and Operations  
Traffic Engineering Studies Section

Montgomery County Department of Transportation  
100 Edison Park Dr. 4th Floor, Gaithersburg MD 20878  
Phone 240.777.2190 / fax 240.777.2080

[mark.terry@montgomerycountymd.gov](mailto:mark.terry@montgomerycountymd.gov) †

**From:** Tettelbaum, Emily [mailto:Emily.Tettelbaum@montgomeryplanning.org]

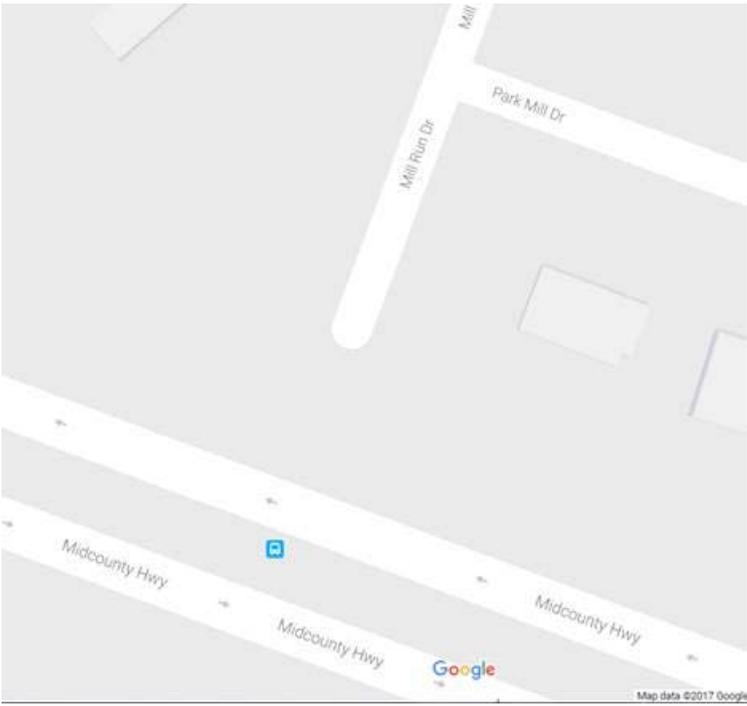
**Sent:** Wednesday, May 31, 2017 1:42 PM

**To:** Somarajan, Deepak <Deepak.Somarajan@montgomerycountymd.gov>; Terry, Mark <Mark.Terry@montgomerycountymd.gov>; Bilgrami, Khursheed <Khursheed.Bilgrami@montgomerycountymd.gov>; Kerse, Seifu <Seifu.Kerse@montgomerycountymd.gov>; Liang, Kyle <Kyle.Liang@montgomerycountymd.gov>; LaBaw, Marie <Marie.LaBaw@montgomerycountymd.gov>

**Subject:** RE: Question about dead ends

Hi All,

I just realized the dead end is actually Mill Run Drive, not Park Mill Road as described in my initial email. Here's another screenshot that may be more clear. Thanks in advance for your help!



# ATTACHMENT 4

Development Applications and Regulatory Coordination

Effective 9/30/2013

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: 17505 Park Mill Drive

Subdivision: Mill Creek Town Parcel(s) # 0000 Lot #(s): 8 Block(s): G

Property Tax Identification Number: \_\_\_\_\_

Applicant (Owner or Contract Purchaser):

Name: Robin Rice  
Street Address: 5913 Wild Flower Ct  
Derwood, MD 20855  
Phone No: 301 963-7190 State: \_\_\_\_\_ Fax No: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Total Area of Property: 0 acres 15,000 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): Robin Rice

Signature

Date

4/4/2016

### FOR STAFF USE ONLY

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

is exempt from the Forest Conservation Plan requirements under Section 22A-5 (q)(1) of the Forest Conservation Law

Signature of M-NCPPC Environmental Planning staff reviewer:

Signature

Date

3/24/2017

**ATTACHMENT 5**

Office of Zoning & Administrative Hearing  
100 Maryland Ave, Room 200  
Rockville, MD 20850

Office of Zoning and  
APR 20 2017  
Administrative Hearings

April 19, 2017

To Whom it may Concern,

We write in regard to the application for a thirty (30) child daycare at a residential property at 17505 Park Mill Drive, Derwood, MD, in the Mill Creek Towne subdivision. We are opposed to this application. As long-time residents—over 30 years—we do not want to see our quiet, residential neighborhood commercialized in this way.

The proposed location of the thirty-child daycare is in the middle of a residential block. Allowing such a business can only have harmful effects on the neighborhood. Car traffic will dramatically increase, particularly during hours where children are going to and from school. Staff parking will take up a large part of the street. Mill Creek Towne does not have sidewalks in most sections of the neighborhood and that will endanger both children and pedestrians, who use the street to play, take walks, and exercise.

Allowing such a commercial enterprise in a residential community like Mill Creek Towne sets a dangerous precedent that frustrates the separation between residential and commercial zoning. Such regulations exist for a reason, including ensuring the quiet enjoyment and fundamental welfare of residents of such communities by protecting them from encroachment by commercial interests and the downstream negative effects that will inevitably ensue from such a venture.

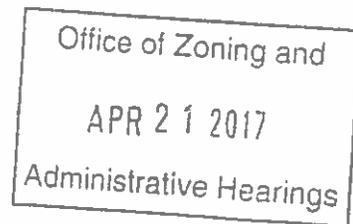
There is no compelling reason to grant this application. Thank you for your attention to this matter.

Sincerely,

*Wendy S. Beckerman*      *Jedd I. Moskowitz*

Wendy S. Beckerman  
Jedd I. Moskowitz  
7424 Miller Fall Rd  
Derwood, MD 20855

EXHIBIT NO. 40 (a)  
APPLICATION NO. CU 17-14



April 18, 2017

Office of Zoning & Administrative Hearing  
100 Maryland Avenue, Room 200  
Rockville, MD 20850

RE: Daycare at 17505 Park Mill Drive, Derwood, MD

To Whom It May Concern:

This letter is being written to your office to voice our opposition to the Daycare (in a residential home) where an application to be allowed to have 30 children is pending.

This, we feel, is an excessive number of children and traffic in our residential area. This is not a business location, this is strictly a residential setting.

As we live about 8 houses away, we oppose this application.

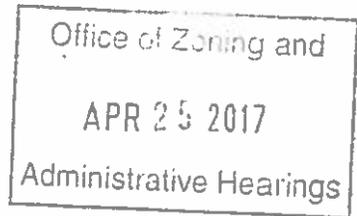
Very truly yours,

A handwritten signature in cursive script that reads "Ralph &amp; Melanie Page".

Ralph E. and Melanie M. Page  
17413 Park Mill Drive  
Derwood, MD 20855

EXHIBIT NO. \_\_\_\_\_ to (f)  
APPLICATION NO. Ca 17-14

18040 Mill Creek Drive  
Derwood, Maryland 20855-1023  
301-977-2867 □ [idnasa@aol.com](mailto:idnasa@aol.com)



April 21, 2017

Office of Zoning and Administrative Hearings  
Hearing Examiner's Office  
100 Maryland Avenue, Room 200  
Rockville, Maryland 20850

Dear Sir or Madam:

We are writing to OBJECT to the granting of application number CU 17-14 for a 30-child day care business at 17505 Park Mill Drive in Derwood.

Location

17505 Park Mill Drive is located in the Mill Creek Towne area, an area of single-family homes, residential-width streets without traffic markings, and no curbs or sidewalks (except those adjacent to the neighborhood elementary school). It is singularly UNSUITED for a large business of this nature.

Parking

A flier we received states that it is envisioned that "staff cars" for the day care business will be parked at the end of Mill Run Drive near Midcounty Highway. This proposed parking location is approximately the distance of a dozen houses from the location of the day care business. We do not know how many cars would be parked there, but it is not reasonable to assume that the increase in traffic would go unnoticed by the homeowners along Mill Run and Park Mill. Given the distance between the proposed parking location and the day care business, it seems likely that before long, the staff would grow tired of the long walk, especially during inclement weather, and park closer to the business.

Traffic

It is obvious that to create a 30-child day care business would mean approximately 30 cars bringing the children to the day care every morning, and 30 cars again in the late afternoon or evening picking them up--unless some of the

EXHIBIT NO. 40 (a)  
APPLICATION NO. CU 17-14

children were being walked to the location--an unknown factor at this point. That many cars entering and exiting the area on a twice-daily basis would result in very bad traffic congestion, as the extra vehicles would most likely use Mill Run for access to Shady Grove Road. We would have the day care business cars added to the cars and school buses going to or returning from the elementary school on Park Mill and residents going to and returning from work.

### Appearance and Property Values

This neighborhood is not suitable for a large business which requires ample parking access. Neither do we want to see "up to two-thirds of the yard paved" over, which is mentioned in the flier we received. Suitable locations for businesses include Red Mill Shopping Center, The Grove (where there is already a day care), Walnut Hill, various churches, or other spots which currently include adequate parking for large numbers of cars. We already have some residents who park commercial trucks and vans in their driveways! We don't want our neighborhood to take on the look of a downtown city area, which would contribute to the deterioration of our suburban neighborhood and a loss of property values. Consider the future use of the property when the day care business operator decides to call it quits and moves out. Who would want to move into a house with a paved-over front yard?

### Noise

In evaluating the normal daily activities of a 30-child day care business, please think of the noise and activity level resulting from a child's birthday party. People who live near where such a party is taking place will only hear the noise for a few hours on one day a year per child in the family. We might add that, although possible, it is not very likely that attendance at a home party would reach the level of 30 children. However, those who live near a 30-child day care business will be subjected to shrill screams, cries, yells, etc., ALL DAY LONG and AT LEAST FIVE DAYS A WEEK. The business might even be open on weekends. There is NO WAY that the neighbors of a 30-child day care business for several houses around the business would be able to escape the noise, except perhaps during the worst weather when everyone would be inside their homes.

### Provision of Day Care and Reasonable Limits

We understand that there is a need for various types of day care for under-school-age children whose parent(s) must work outside the home. One of us (Sandi) has had experience providing day care in the home for several children.

Based on this experience and our over 39-year history of living at this address, we affirm that a residential home in the Mill Creek Towne neighborhood is not at all suited for taking in and adequately caring for 30 children on a daily basis, even if an extension is built onto the house. We feel that a limit of perhaps eight children would be reasonable, although an additional person might have to be hired to look after the children. More children and more persons to look after them would not in any way be an asset to this community.

For these reasons, we request that you deny application CU 17-14 for a 30-child day care business at 17505 Park Mill Drive, Derwood.

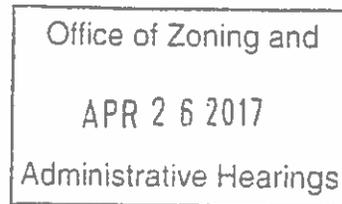
Sincerely,

  
Sandi Atkinson

  
Maurine Atkinson

17808 Cliffbourne Ln  
Derwood, MD 20855-1105  
April 24, 2017

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



Subject: Opposition to Application Case # CU 17-14

Dear Sir/Madam:

My family opposes this conditional use application for 12+ (and up to 30) children and additional staff in a residential home daycare in Mill Creek Towne (a non-HOA community).

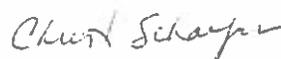
Providing daycare to over 12 children is NOT a family (residential house) daycare, it is a commercial business. The business is located not on the edge, but in the middle of an established 50+ year old neighborhood WITHOUT sidewalks. Even with a circular driveway, there will be significant additional traffic within the neighborhood. And, additions to the building to increase the house relative to the lot size will give 30 children less outdoor space to play, create substantial noise to surrounding neighbors, reduce property values of surrounding homes, and change the character of the neighborhood. There are commercial properties available in Derwood that would better suit a large daycare of 13-30 children.

Mill Creek Towne is a neighborhood with more elderly than young families, narrow streets, and no sidewalks. Street parking is a hazard. Fortunately, most residents have driveways that can accommodate their vehicles. Cars parking on the street and additional traffic from this commercial business will greatly diminish our quality of life. Many residents (as we do) walk/run/ride bikes on Park Mill Road every day. There are currently several family day care homes within the neighborhood, and I have had close calls while walking on two occasions by cars going to and leaving a family residential daycare on Cliffbourne Court.

Cars parked on the street and additional traffic from a 13-30 child daycare would be considerable as most drop-offs will not be two children at a time. This would be mostly for infants to preschool age as the local elementary school within a mile offers daycare for school aged children. Each child creates four trips a day—dropping off, leaving, picking up, and leaving (as much as most single family homes with two drivers going to work and back).

We urge you to reject CU 17-14 to protect our safety and quality of life. Thank you for the opportunity to opine and for your consideration.

Sincerely,



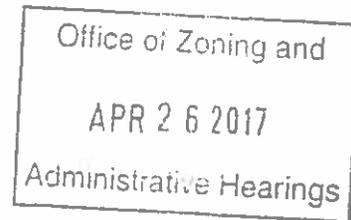
Christi Schaefer

cc: Planning Director  
Montgomery County Planning Department

EXHIBIT NO. 40 (A)  
APPLICATION NO. CU 17-14

April 25, 2017

Office of Zoning & Administrative Hearing  
100 Maryland Avenue  
Room 200  
Rockville, MD 20850



RE: No. CU 17-14

To whom it may concern,

I strongly oppose the No. CU 17-14 application submitted by Robin Rice for the 30 Child daycare! I oppose the No. CU 17-14 application for the following reasons:

- Overall safety concerns for the residents from a commercial enterprise
- Noise from traffic and car doors potentially 30 to 60 cars per day 150 -180 per week.
- Sight lines and width of Park Mill Drive is not suitable for commercial use
- Daily public nuisance from on street parking in front of other residents
- Increase volume of traffic in front of the Park Mill Drive homes
- Decreased resale value of surrounding homes
- Lower comps used by realtors for the community
- Lower appraised value for the community
- Lack of sidewalks to avoid on street parked cars
- Increased traffic at peak times for residents at Mill Run Drive/Shady Grove Rd (no traffic arrow) to assist residents to safely enter and exit the community.
- Public nuisance- noise generated daily from large groups of children at play

I can continue to list the harmful impacts to the residence of the community, but it should be obvious that the Mill Creek Towne lot sizes do not support the No. CU 17-14 application. If you truly have a desire to help keep Mill Creek Towne as residential community and not a mixed use development, do the right thing for the residents and deny the No. CU 17-14 application. If No. CU 17-14 is approved, how do you objectively deny future 30 person per day business activities?

I am basically a lifelong resident of the Mill Creek Towne subdivision. When I was five years old, my family moved to the Mill Creek Towne subdivision in September of 1968. I attended the Mill Creek Towne assigned schools K-12. Approximately 28 years ago, I purchased my own home in the Mill Creek Towne subdivision. I have witnessed the area around the community be developed and dissected by Shady Grove Road. Enough is enough! Please help protect our residential community from further traffic and noise! The residents of the Mill Creek Towne subdivision are depending on you to protect us! We do not have an active HOA and we do not have city officials like the City of Gaithersburg and City of Rockville residents do to protect their communities. We are depending on you to protect our community and deny the No. CU 17-14 application!

Sincerely,

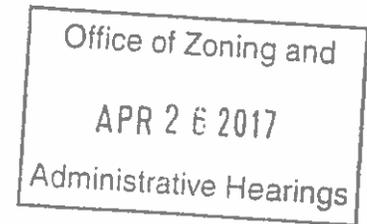
A handwritten signature in cursive script that reads "Jean Nodine".

Jean Nodine  
7508 Park Mill Ct  
Derwood MD 20855  
JHNodine@aol.com

EXHIBIT NO. 40(c)  
APPLICATION NO. CU 17-14

OFFICE OF ZONING  
& ADMINISTRATIVE HEARING  
100 MARYLAND AVENUE  
ROOM 200  
ROCKVILLE, MD 20850

APRIL 24, 2017



RE: NO. CU 17 - 14

TO WHOM IT MAY CONCERN:

AS A 50 YEAR RESIDENT OF MILL CREEK TOWNE IN MONTGOMERY COUNTY, I AM WRITING TO VOICE MY OPPOSITION TO THE CONDITIONAL USE APPLICATION FOR A 30 CHILD DAY CARE CENTER SUBMITTED BY ROBIN RICE.

I STRONGLY OPPOSE THIS APPLICATION FOR THE FOLLOWING REASONS:

1. THIS COMMERCIAL ENTERPRISE WILL ENORMOUSLY INCREASE TRAFFIC IN A RESIDENTIAL COMMUNITY.
2. 2/3 OF THE YARD ON THIS RESIDENCE WILL BE PAVED FOR PARKING FOR THIS COMMERCIAL ENDEAVOR.
3. THE OWNER OF THE DAY CARE WILL NOT EVEN BE RESIDING IN THE PRIVATE HOUSE BEING USED TO "CARE" FOR 30 CHILDREN.
4. ALL THE ABOVE MENTIONED ITEMS WILL INEVITABLY REDUCE PROPERTY VALUES IN THIS QUIET, RESIDENTIAL NEIGHBORHOOD.

MY HUSBAND AND I PLAN ON ATTENDING THE HEARING ON JULY 21, 2017 AT 9:30 A.M. TO PROTEST THIS APPLICATION, WHICH IS A COMMERCIAL ENTERPRISE IN A RESIDENTIAL COMMUNITY, MERELY MASQUERADING AS A SERVICE.

SINCERELY,

A handwritten signature in cursive script that reads "Barbara Feldmann".

BARBARA FELDMANN  
17800 MILL CREEK DRIVE  
DERWOOD, MD 20855

EXHIBIT NO. 40 (j)  
APPLICATION NO. CU 17-14

Office of Zoning and  
APR 26 2017  
Administrative Hearings

April 20, 2017

Bonnie Lloyd  
17605 Park Mill Drive  
Derwood, Maryland 20855

Office of Zoning & Administrative Hearing  
101 Monroe Street, Room 100  
Rockville, Maryland 20850

RE: CU 17-14 / 17505 Park Mill Drive, Derwood, Maryland

Dear Sir or Madam,

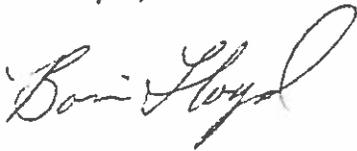
I am a long-time resident of Mill Creek Towne in Derwood, and I strongly object to Robin Rice's petition to Montgomery County to have the property at 17505 Park Mill Drive approved for ~~commercial use in order to accommodate a daycare for 30 children~~

This commercial enterprise has no right to ruin the harmony and tranquility of our long-standing neighborhood. The increased traffic, parking issues, paved green space, and commercial enterprise are not in keeping with the aesthetics of our community, and would greatly devalue our residential properties.

There are ample commercial properties already in existence in the 20855 zip code, and, according to [www.ChildCareCenters.us](http://www.ChildCareCenters.us), there are already 9 childcare centers in the 20855 zip code which can accommodate a total of 624 children. This number does not include family based, home daycares.

Please preserve our residential neighborhood.

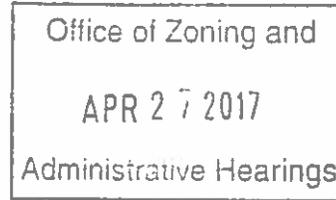
Thank you,



Bonnie Lloyd

EXHIBIT NO. 40 (K)  
APPLICATION NO. CU 17-14

April 25, 2017



To Whom It May Concern:

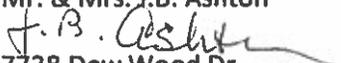
This is to let you know that we object to the application No. CU 17-14 for a 30 child care facility at 17505 Park Mill Drive, Derwood, MD.

Mill Creek Towne is in a nice residential neighborhood where many owners have lived since the 1960s. The person who wants to open the child care center doesn't live in the house and she wants to turn it into a business establishment.

Several years ago someone in Mill Creek Towne was operating one person (the owner of the house) hair salon, and the county shut her down. She had Mill Creek residents as customers, not outsiders.

I would like to mention that there a few houses in Mill Creek that are occupied by more than one family. It is my understanding that that is illegal.

Very truly yours,

Mr. & Mrs. J.B. Ashton  
  
7728 Dew Wood Dr.

Derwood, MD 20855

Office of Zoning and  
APR 28 2017  
Administrative Hearings

Jane Lewis  
17713 Caddy Drive  
Derwood, MD 20855

April 22, 2017

Office of Zoning & Administrative Hearing  
100 Maryland Avenue  
Room 200  
Rockville, MD 20850

**RE: Conditional Use Application No. CU 17-14**

Dear Madame or Sir,

I am writing you today to voice my opposition to the conditional use application (CU 17-14) for a 30-child Day Care at 17505 Park Mill Drive, Derwood, MD 20855. I have been a resident of Mill Creek Towne since 1984. We chose this neighborhood for its quiet & neighborly feel, the schools, and it's planned proximity to the Metro. We have enjoyed a wonderful life here raising our two sons and continue to enjoy the friendships we've made.

My concerns for the neighborhood as a result of this conditional use application being approved are:

- Increased traffic
- Construction required for the increased space to accommodate 30 children
- Up to two thirds of the yard being paved to accommodate cars thereby reducing yard space for children to play outdoors
- Increased on-street parking which puts pedestrians more at risk as they walk in the street to get around parked cars
- Potential for lower property values not just for the houses directly adjacent to the property but for all houses in the neighborhood

This application has stirred up a great deal of communication on several on-line listservs and has pitted neighbors against once another. This is very detrimental to the peaceful feel of our community.

Thank you for taking my concerns into consideration as you assess the appropriateness of this application.

Yours truly,



Jane Lewis

EXHIBIT NO. 40 (m)  
APPLICATION NO. CU 17-14

Office of Zoning and  
APR 28 2017  
Administrative Hearings

**PETITION**

We the undersigned ask the Montgomery County Planning Commission and the Hearing Examiner to deny the proposed expansion of the Happy Childcare Nest of 17505 Park Mill Drive beyond its current 12 children (CU 17-14). Such a large business is incompatible with our residential neighborhood, and fails to meet many of the conditions of the 2014 Zoning Code. We also believe many of the necessary changes needed to accommodate more than 12 children will decrease property values. *Noise, traffic, crowded parking*

Vladimir Salita

PRINT NAME

ADDRESS 18021 Mill Creek Dr, Derwood, MD 20855

SIGNATURE \_\_\_\_\_

Yelena Salita

PRINT NAME

ADDRESS 18021 Mill Creek Dr, Derwood, MD 20855

SIGNATURE *[Signature]*

\_\_\_\_\_  
PRINT NAME

ADDRESS \_\_\_\_\_

SIGNATURE \_\_\_\_\_

EXHIBIT NO. 40(n)  
APPLICATION NO. CU 17-14

Office of Zoning and Administrative Hearing  
100 Maryland Ave. Room 200  
rockville, MD 20850

Office of Zoning and  
APR 28 2017  
Administrative Hearings

I am writing in regard to Case No. - CU 17-14 of an application for a 30 child Daycare business in a residential property at 17505 Park Mill Drive, Mill Creek Towne, Derwood, MD.

I and many of our neighbors vehemently oppose this commercial business in the midst of our residential neighborhood. Please consider the deleterious effects of such a business in the midst of our community such as traffic issues, parking issues and declining property values and do not approve such an enterprise in our peaceful community.

*Serge Trian*  
*18056 Mill Creek Dr.*  
*Derwood, MD 20855*

EXHIBIT NO. 40(0)  
APPLICATION NO. CU 17-14

Office of Zoning and Administrative Hearing  
100 Maryland Ave. Room 200  
rockville, MD 20850

Office of Zoning and  
APR 28 2017  
Administrative Hearings

I am writing in regard to Case No. - CU 17-14 of an application for a 30 child Daycare business in a residential property at 17505 Park Mill Drive, Mill Creek Towne, Derwood, MD.

I and many of our neighbors vehemently oppose this commercial business in the midst of our residential neighborhood. Please consider the deleterious effects of such a business in the midst of our community such as traffic issues, parking issues and declining property values and do not approve such an enterprise in our peaceful community.

*Elizabeth H. Triau*  
*18256 Mill Creek Dr.*  
*Derwood, MD 20855*

EXHIBIT NO. 40 (p)  
APPLICATION NO. CU 17-14

Office of Zoning and  
MAY 1 - 2017  
Administrative Hearings

April 17, 2017

Office of Zoning and Administrative Hearings  
100 Maryland Avenue, Room 200  
Rockville MD 20850

My name is Sheryl Greenfield. I am writing to ask the Zoning Office to not approve a conditional use application for property at 17505 Park Mill Drive, Derwood 20855.

I live in the Mill Creek Towne Development where this 30 child daycare is being proposed. This is a community of private homes. It is not zoned for private business, especially turning a home into a 30 child day care center. We have children who walk to the neighborhood school. They do not need increased traffic during the morning and afternoon walk home, when the day care parents are also using the road.

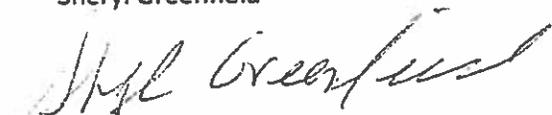
Any construction needed to turn this private home into a business is going to be an eyesore to surrounding neighbors. This proposal increased construction of 468 sq feet will bring down the value of surrounding houses. Who wants a business with traffic next to their home? There is no parking available to allow 30 cars to park and drop off children. This is a residential neighborhood.

The bylaws of Mill Creek Towne do not allow businesses in the homes. This bylaw needs to be preserved. We are a quiet neighborhood built for family living. Day care centers of that size have to be in areas zoned for businesses.

I urged the board to reject the turning of a family home into a 30 child day care center in Mill Creek Towne.

Thank you,

Sheryl Greenfield



17719 Caddy Drive  
Derwood, Maryland 20855

EXHIBIT NO.           7009            
APPLICATION NO. CU17-14  
14

Office of Zoning and

MAY 01 2017

Administrative Hearings

May 1, 2017

100 Maryland Avenue, Room 200,  
Rockville, MD 20850

**RE: CU 17-14 Proposed Day Care at 17505 Park Mill Dr., Derwood**

Dear Sir/Madam,

It is not reasonable to propose a 30 kid daycare in a residential neighborhood like ours (Mill Creek Town).

Can you imagine the noise created by that many kids? Not to mention the traffic each morning and afternoon dropping them off and picking them up.

**Please void this application. Thank you.**

Best regards,



Imre Kovessi  
7713 Warbler Lane  
Rockville, MD 20855  
Phone: (301) 963-1641  
Fax: (240) 238-2741  
Cell: (240) 793-8957  
Email: imkovessi@gmail.com

EXHIBIT NO. 40 (72)  
APPLICATION NO. CU 17-14

Office of Hearing and

MAY 02 2017

Administrative Hearings

on July 21<sup>st</sup>

Sincerely,

~~Y.A. Winkler-Romeo~~ MD

T.A. Winkler-Romeo, MD

7619 Dew Wood Dr.

Detroit, MI 48205

EXHIBIT NO. 4065

APPLICATION NO. CU 1714

---

I strongly oppose <sup>4/25/17</sup> the application for No. CU17-14. (Daycare in Mill Creek Towne, Derwood for 30 students).

Mill Creek is presently a quiet, residential area. I do not want businesses to move in. Property values will decrease & traffic will increase. Also, problems w/ parking.

I plan on protesting this application at the hearing →

Office of Zoning and Administrative Hearing  
100 Maryland Ave. Room 200  
rockville, MD 20850

Office of Zoning and  
MAY 02 2017  
Administrative Hearings

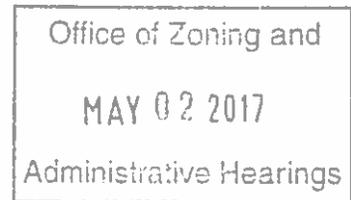
I am writing in regard to Case No. - CU 17-14 of an application for a 30 child Daycare business in a residential property at 17505 Park Mill Drive, Mill Creek Towne, Derwood, MD.

I and many of our neighbors vehemently oppose this commercial business in the midst of our residential neighborhood. Please consider the deleterious effects of such a business in the midst of our community such as traffic issues, parking issues and declining property values and do not approve such an enterprise in our peaceful community.

5.1.17  
Richard Lowery  
*Richard Lowery*  
18004 Mill Creek Dr  
Derwood, MD 20855

EXHIBIT NO. 40 (+)  
APPLICATION NO. CU 17-14

18037 Mill Creek Drive  
Derwood, MD 20855  
April 29, 2017



Hearing Examiners  
Office of Zoning and Administrative Hearing  
100 Maryland Ave., Room 200  
Rockville, MD 20850

Conditional Use Application: CU 17-14

Greetings,

Attached is a flyer we received regarding a Conditional Use application for a 30-child day care facility at 17505 Park Mill Drive, Derwood, MD. We are writing, because we oppose the application.

That address is in the Mill Creek Towne neighborhood, a neighborhood of family residences, not businesses. A 30-child day care center is most certainly a full-fledged business. And the applicant wants to pave the front yard for eight parking spaces and the side yard for two. Now who in his right mind would expect a single-family house to have 10 parking spaces? Our houses and lots sizes are just not fit for that. So by no stretch would this be a home day-care facility. It is a business, plain and simple. It belongs in a location zoned commercial. For your benefit, we are attaching a picture of the house in question so you can see for yourself just how unsuitable this house is for this business request.

The owner of the house is a real estate investor. She wants to expand her business and increase her profit. What benefits her hurts the rest of us in Mill Creek Towne. If she's allowed to make all the changes she wants to this single family home, paving as much as she has requested, and later she closes her business, no one will want to buy that house as a residence. It won't even look like a home anymore. We'll be stuck having a business there forever. And we don't want that. We don't want to be a mixed-use community of businesses and homes. We want what we are: a residential neighborhood.

The real estate investor/owner claims that because she purchased a house in foreclosure, she has improved the neighborhood and thus should be allowed to expand her business. But that is not sufficient reason to justify a zoning exemption. Priority belongs to those who live here, not a non-resident outsider looking for a profit. This residential neighborhood is not designed for businesses...not for the traffic they bring, not for the facilities they require.

Just a few years ago, a business operating in a home at 17605 Park Mill Drive, directly across from Mill Creek Towne elementary school, was forced out. It brought traffic and parked cars, up to 15, all day long and into the evenings. When they started modifying

EXHIBIT NO. 40 (u)  
APPLICATION NO. CU 17-14

their front lawn to accommodate those cars, we reported the business. It was required to move. So our community has a history of trying to remain residential.

We have lived almost 30 years in Mill Creek Towne. Purchasing our home here was quite an investment for us. We bought it knowing this was a beautiful community of homes. We just cannot afford to have our property devalued because this beautiful neighborhood is morphing into a business/residential community.

Please do not approve the conditional use application (No. Cu17-14). It is not what we need. It is not what the neighborhood wants.

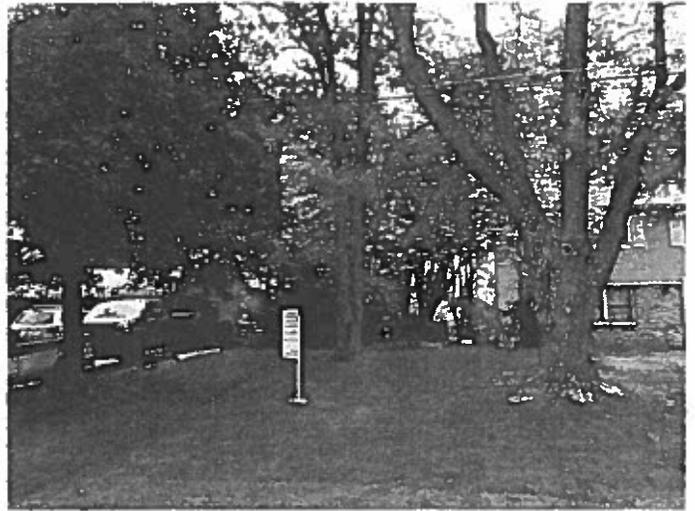
Sincerely yours,

A handwritten signature in black ink, appearing to read "John De Cleene". The signature is written in a cursive style with a long horizontal flourish extending to the right.

John and Clare De Cleene



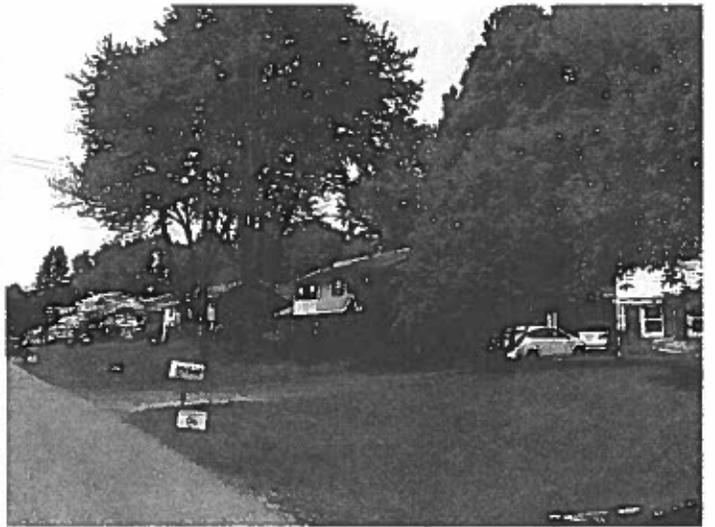
**Front View of House Applying for 30-Child License**



**Left Side View of House**



**Right Side View of House**



**Street View Showing Typical Houses & Yards**

**A CONDITIONAL USE APPLICATION HAS BEEN FILED FOR A  
30 CHILD DAY CARE AT 17505 PARK MILL DRIVE DERWOOD  
(NO. CU 17-14)**

**POSSIBLE CONSEQUENCES PER APPLICATION:**

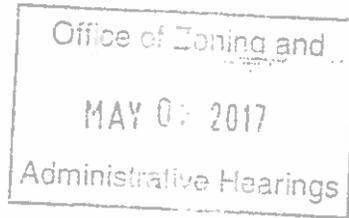
**INCREASED TRAFFIC  
CONSTRUCTION FOR INCREASED SPACE  
(A BUMP OUT OF 468 SQ. FEET REQUESTED)  
UP TO TWO THIRDS (2/3) OF YARD PAVED  
LESS YARD SPACE FOR CHILDREN  
ON-STREET PARKING  
STAFF CARS PARKING AT DEAD END ON MILL RUN DR.  
SCOUT MEETINGS, WEDDINGS, FUNERALS, PARTIES, VOLUNTEERS,  
ETC. NOT INCLUDED IN 30 LIMIT**

**ADDITIONAL POSSIBLE CONSEQUENCES:**

**LOWER PROPERTY VALUES**

**TO OBJECT TO THIS APPLICATION  
PLEASE CALL (Monday-Friday 8:30AM-4:30PM)  
(240) 777-6666  
OR WRITE A LETTER TO THE OFFICE OF ZONING &  
ADMINISTRATIVE HEARING  
(Please sign it for it to count)  
ATTEND THE HEARING, NO DATE HAS BEEN SET YET**

**A PETITION WILL BE CIRCULATING. IF YOU ARE INTERESTED IN ASSISTING THOSE OPPOSED,  
PLEASE LET THOSE WITH THE PETITIONS KNOW. IF YOU VOICE YOUR CONCERN ON  
NEXTDOORNEIGHBORS.COM (MILL CREEK TOWNE SECTION), SOMEONE WILL CONTACT YOU.**



May 1, 2017

18001 Mill Creek Drive  
Rockville, MD 20855

Office of Zoning and Administrative Hearings  
Montgomery County  
100 Maryland Ave. - Room 200  
Rockville, MD 20850

Subject: Case CU 17-14: Daycare Center at 17505 Park Mill Drive

This is a request that you reject the subject application for a daycare center in the Mill Creek Towne neighborhood. We do not need more noise, more traffic, or more cars parked along our streets.

A short distance away on the other (east) side of Shady Grove Road, there are vacancies in the line of stores where the post office is. Advise the applicant to rent one of those spaces instead, where there already is room and a good sized parking lot, convenient to the area.

The subject proposal, however well-intended, is not compatible with our residential neighborhood.

A handwritten signature in black ink that reads "Don Plotkin". The signature is stylized with a large initial "D" and a long horizontal stroke.

Don Plotkin

EXHIBIT NO. 40 (v)  
APPLICATION NO. CU 17-14

DONALD W. MOWBRAY, JR.  
17709 CLIFFBOURNE LANE  
DERWOOD, MARYLAND 20855



April 29, 2017

Office of Zoning and Administrative Hearing  
100 Maryland Ave. Room 200  
Rockville, MD 20850

I am writing in regards to Case No. - CU 17-14, an application for a 30 child Daycare business in a residential property at 17505 Park Mill Drive, Mill Creek Towne, Derwood, MD.

Many of my neighbors and I vehemently oppose this commercial business in the midst of our residential neighborhood. Please consider the negative effects of this business use in our residential community such as traffic, parking issues and declining property values; and **do not** approve this enterprise in our residential community. I hope you will agree with us that this is not the proper zoning for this location.

Thank you for your consideration of our position.

Sincerely yours,

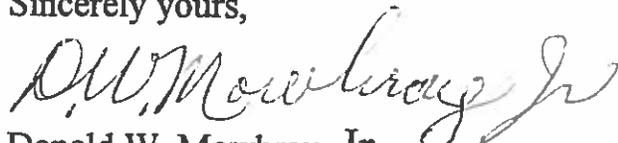
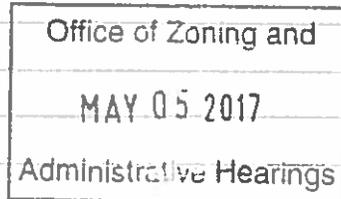
  
Donald W. Mowbray, Jr.

EXHIBIT NO. 2017  
APPLICATION NO. CU 17-14

Office of Zoning + Administrative Hearings  
100 Maryland Ave  
Room 200  
Rockville MD 20850

5/4/2017

Re: No. CU 17-14



To Whom it May Concern,

I would like to voice my concern regarding the conditional use application for the 30 child daycare submitted by Robin Rice

I strongly oppose the application as the Mill Creek Towne neighborhood is a quiet residential neighborhood. This is not the appropriate area for a commercial daycare

The streets are not wide enough for the traffic for a 30 child daycare, there is no room for on street parking nor is it appropriate to pave up 2/3 of the yard for driveways.

I am concerned this commercial enterprise will lower property values for all, will endanger pedestrians walking in the neighborhood, will create a noise hazard and spoil the quiet tree lined neighborhood.

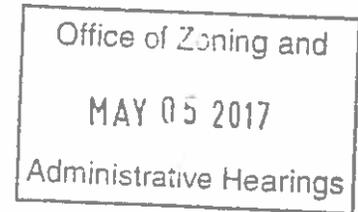
I do plan to be present at the hearing scheduled

Thank you for your consideration.

Sincerely,  
Mary Russel  
18028 Mill Creek Dr  
Derwood MD 20855  
EXHIBIT NO. 40(y)  
APPLICATION NO. CU 17-14

May 3, 2017

Office of Zoning and Administrative Hearing  
100 Maryland Ave. Room 200  
rockville, MD 20850



I am writing in regard to Case No. - CU 17-14 of an application for a 30 child Daycare business in a residential property at 17505 Park Mill Drive, Mill Creek Towne, Derwood, MD.

I and many of our neighbors vehemently oppose this commercial business in the midst of our residential neighborhood. Please consider the deleterious effects of such a business in the midst of our community such as traffic issues, parking issues and declining property values and do not approve such an enterprise in our peaceful community.

CAROLYN Humerickhouse

Carolyn Humerickhouse

Mark Humerickhouse

Mark Humerickhouse

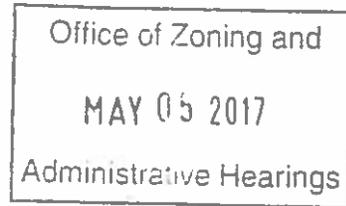
17811 Mill Creek Drive

Derwood, MD 20855-1020

EXHIBIT NO. 40 (A)  
APPLICATION NO. CU 17-14

May 3, 2017

Office of Zoning & Administrative Hearings  
100 Maryland Avenue  
Room 200  
Rockville MD 20850



RE: No. CU 17-14

This letter is to voice our concern regarding the conditional use application for the increase to a 30 child daycare in Mill Creek Towne submitted by Robin Rice who is the owner of the daycare.

We strongly oppose this application as it would create a commercial enterprise in a residential area. This is evident in the application which includes putting in a circular driveway plus 10 parking spaces in what was a front lawn. This is a quiet community in the midst of the hustle and bustle of Montgomery County. The streets do not have sidewalks except near the elementary school, yet it is a safe neighborhood to go walking by yourself, with your children or with a pet. You meet neighbors from all over Mill Creek Towne when enjoying an evening outdoors. How safe will it remain with potentially upwards of 120 car trips through the neighborhood? Assuming 30 non-sibling children, it would be 30 cars entering and leaving the neighborhood twice a day.

After the safety of the residents of the community, the next very real concern for all the home owners is how this will affect all our property values. Arguments have been made that if you don't live on the street where this commercial business is run, you shouldn't be affected. We all know that part of property value is the comparison to what other homes in the community sold for and how long they were on the market. So, yes, everyone who lives in Mill Creek Towne will be impacted by the growth of this commercial enterprise if you grant her application to increase the number of children she can accommodate.

While you have already granted Ms. Rice her Special Exception for a maximum of 12 children in her daycare. Maybe the home she purchased could hold more, but this community cannot. We urge you to deny Ms. Rice's application to increase her business for up to 30 children. My husband and I plan to attend the hearing on July 21, 2017 at 9:30 a.m. to protest this application.

Thank you for your time and attention to our concerns.

A handwritten signature in black ink. It consists of a stylized signature for Robert Johnson followed by a long horizontal line and then the name "Belinda Fulco" written in a cursive script.

Robert Johnson and Belinda Fulco  
Homeowners  
7400 Vinyard Court, Derwood, MD 20855

EXHIBIT NO. 40 (aa)  
APPLICATION NO. CU 17-14

Office of Zoning  
100 Maryland Avenue  
Room 200  
Rockville, MD 20850  
May 8, 2017



RE: No. CU 17-14

To Whom It May Concern,

This letter is to voice our opposition to the conditional use application for the 30 child day care submitted by Robin Rice.

We oppose this for two main reasons. First, this is a residential neighborhood and has been that way since we moved in over twenty years ago. That is one of the reasons we moved here and one of the reasons that we stay. There are currently no other business exceptions here that we know of. We feel that letting businesses enter the residential area will degrade the quality of life here. In our discussions with neighbors about CU 17-14, we have not run across one person that is for this change, and numerous people are opposed to it. In fact, all houses except one or two on Park Mill Drive in the section near where Robin Rice's house is located, have signs opposing CU 17-14. These are the direct neighbors who will be negatively affected by this change and their opinion is an overwhelming "no".

Second, we believe that the additional traffic in the vicinity will increase the likelihood of a pedestrian accident. This is a safety issue since the Mill Creek Towne Elementary School is on the same street – Park Mill Drive. Elementary students, those of us who walk our dogs and those who use the tunnel underneath Shady Grove Road to go the local pool or CVS will face an increased risk of a traffic accident if 30 cars are added.

At least one of us plans on attending the hearing on July 21, 2017 at 9:30 A.M. to protest this application.

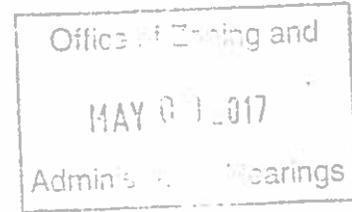
Respectfully,

Rob and Patty Peterson  
7505 Park Mill Court  
Derwood, MD 20855

EXHIBIT NO. 40(66)  
APPLICATION NO. CU 17-14

Valerie Nelson  
7609 Warbler Lane  
Derwood, MD 20855

May 1, 2017



Office of Zoning and Administrative Hearing,  
Stella B. Werner Council Office Building,  
100 Maryland Avenue,  
Room 200,  
Rockville, MD 20850

RE: CU-14: Requesting Expansion of Daycare Operation from 12 to 30 children. Filed by Robin Rice. Hearing date: July 21, 2017

To Whom it May Concern:

I am writing to vociferously protest against the planned expansion of this neighborhood daycare. We live in a very quiet, peaceful, neighborhood, and I believe this expansion will not only negatively affect the immediate neighbors, but also the quality of life in our entire neighborhood. I drove by the address, yesterday, just to see the property where this Daycare Center is, and not only did nearly every neighbor on the street have a sign protesting this expansion request, but I could see for myself that their concerns were justified. My understanding is that when these neighbors were approached about this daycare the top number of children to be served was eight. Then space for four infants was added, which brought the number to twelve. Now we have the request for thirty children. I fear these neighbors were the victims of a bait-and-switch scheme. In addition, it is my understanding that the business owner does not reside at the property, and thus has no ties to the neighborhood, which can decrease the motivation to remedy problems that may occur.

The proposed expansion is just too large for our neighborhood. The resulting increase in early morning and evening traffic volume, the noise, and the lack of parking, will seriously and adversely affect the resident's ability to quietly enjoy their property. This neighborhood was never designed by the planners to be a mixed-use development. We all bought our homes here based on this assumption. Believe me, if we had wanted to live in a mixed-use neighborhood, there were many to choose from in this area. In addition, no one can convince me that there isn't a "slippery slope" effect if we let this large business into our neighborhood. If we don't stop this, it will only encourage more people to try the same thing.

As a final note: I just recently became aware of this issue, and have been following the very passionate discussion on the website Next Door Neighbor. The majority of people living in this neighborhood are opposed to this expansion, but I realized that some of the most vociferous supporters of this expansion did not even live in our neighborhood! I am puzzled by this, and don't really know why these people are so invested in an issue they

EXHIBIT NO. 40 (CC)  
APPLICATION NO. CU 17-14

would not have to deal with at all. So, I urge the zoning office to consider the residency of the supporters to avoid being swayed by the opinions of people who do not live in our neighborhood and won't be impacted at all by your decision.

Thank-you for your attention to this matter.

Sincerely yours,

A handwritten signature in cursive script that reads "Valerie Nelson". The signature is written in black ink and is positioned to the right of the typed name.

Valerie Nelson

Office of Zoning and Administrative Hearing  
100 Maryland Ave. Room 200  
rockville, MD 20850

Office of Zoning and  
MAY 6 - 2017  
Asst. Zoning Administrator

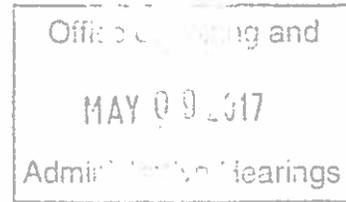
I am writing in regard to Case No. - CU 17-14 of an application for a 30 child Daycare business in a residential property at 17505 Park Mill Drive, Mill Creek Towne, Derwood, MD.

I and many of our neighbors vehemently oppose this commercial business in the midst of our residential neighborhood. Please consider the deleterious effects of such a business in the midst of our community such as traffic issues, parking issues and declining property values and do not approve such an enterprise in our peaceful community.

FRANCIS DE ORIO  
Francis De Orio  
18024 MILL CREEK DR  
DERWOOD MD 20855

EXHIBIT NO. 40 (dd)  
APPLICATION NO. CU 17-14

Office of Zoning and Administration Hearings  
100 Maryland Avenue  
Rockville, Maryland 20850



May 7, 2017

To Whom It May Concern:

I am writing to protest the the Day Care at 17505 Park Mill Drive, Derwood, Maryland

This is a residential area and businesses should not be allowed to operate in our community. If you make an allowance for the Day Care, what next?

Also the increase of traffic plus the paved yard are a few of my concerns as well as what it may do to our property values.

I take pride in my yard and home as so many do in Mill Creek Town and feel this Day Care is not an acceptable and will only degrade not enhance.

*Carole Weikert*

Carole Weikert,  
17700 Mill Creek Drive  
Derwood, Maryland 20855

cweikert@wap.org

EXHIBIT NO. 40 (ea)  
APPLICATION NO. CU 17-14

This notice is for Case CU 17-14  
17505 Park Mill Dr.  
Derwood MD 20855

I am opposed + object to this  
application.

John Manno

Office of Zoning and

APR 19 2017

Administrative Hearings

EXHIBIT NO. 40 (A)  
APPLICATION NO. CU 17-14

Dear Zoning Administration,

I would like to voice my strong objection to the requested application for a 30 child day care center on the property at 17505 Park Mill Drive, Derwood. This is a residential neighborhood not a business area. The current home is on a residential street and does not face a major road. The addition of such a business then opens the entire neighborhood to more businesses. Please keep our neighborhood just that, a neighborhood.

Thank you,  
Dianna Holzinger  
17801 Cliffbourne Lane  
Derwood, MD 20855



Office of Zoning and  
APR 19 2017  
Administrative Hearings

EXHIBIT NO. 40(a)  
APPLICATION NO. CU 17-14

17828 Cliffbourne Lane  
Derwood, MD 2055  
April 17, 2017

Office of Zoning and  
APR 19 2017  
Administrative Hearings

Office of Zoning and Administrative Hearing  
100 Maryland Avenue  
Room 200  
Rockville, MD 20850

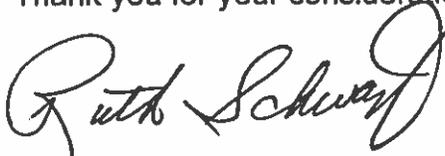
Dear Sir or Madam:

As a homeowner in Derwood in the Mill Creek Towne subdivision, I am opposed to the child care business that would operate in a private home in our lovely quiet neighborhood. Ms. Robin Rice purchased a home in Mill Creek Towne with the intent of operating her business with a 30-child capacity in our residential neighborhood. In addition to the 30 children, there would be staff as well Ms. Rice's employee who resides in the home with her family. The home/business is located at 17505 Park Mill Drive in Derwood. Ms. Rice filed for a conditional use application for 30-child day care business (No. CU-17-14).

A business of this size would bring a great deal of traffic, parking problems, and generally would be disruptive to our neighborhood. While a large child care business is important for the community at large, I believe that it is inappropriate for a residential community and should be located in area zoned for businesses.

I urge the hearing examiner to reject the conditional use application (No. CU-17-14) for the 30-child day care business.

Thank you for your consideration.



Ruth Schwartz

EXHIBIT NO. 40 (6)  
APPLICATION NO. CU 17-14

**ANDREW L. LUCARELLI**  
17436 Park Mill Drive, Derwood, MD 20855  
301.947.2693 • luke0311@hotmail.com



April 18, 2017

Office of Zoning & Administrative Hearing  
100 Maryland Ave, Room 200  
Rockville, MD 20850

**RE: Application for Thirty (30) Child Daycare at 17505 Park Mill Drive,  
Derwood, MD**

Ladies and Gentlemen:

I write in regard to the application for a thirty (30) child daycare at a residential property at 17505 Park Mill Drive, Derwood, MD, in the Mill Creek Towne subdivision, and in specific to my vehement opposition to the application. Granting such an application will fundamentally frustrate the primary purpose of a residential community by unnecessarily commercializing a portion of the neighborhood and will invariably (and most importantly) increase the danger to the residents, including the children of the neighborhood.

I live at 17436 Park Mill Drive with my wife and two daughters, aged 8 and 5. The proposed location of the thirty-child daycare is a mere two houses down the street from our home. There are numerous other families with school-age children on that section of Park Mill Drive. Allowing such a business, in the midst of a residential development where children and others are routinely on the streets, can only have deleterious effects on the neighborhood. Car traffic will dramatically increase, particularly during hours where children are going to and from school, or are likely to be actively playing along the street, riding bicycles or scooters, or walking along the street. Being an older neighborhood, Mill Creek Towne does not have sidewalks in most sections of the neighborhood (including the street with the proposed daycare and my residence). As a result, there is no alternative for children other than to use the street in doing any of the activities described above. My children actively participate in all of these activities, as do children from numerous other families in the neighborhood.

In addition to the likely direct and negative impact on the children, the street is also highly utilized by pedestrian traffic of all ages, whether walking or running for exercise or walking to and from Shady Grove Road to utilize public transit. Such an unnecessary increase in road traffic can only endanger people engaging in those activities, all of which should be encouraged by the community.

Lastly, allowing such a commercial enterprise in a residential community such as Mill Creek Towne sets a dangerous precedent that frustrates the separation between Residential and Commercial zoning. Such regulations exist for a reason, including ensuring the quiet enjoyment and fundamental welfare of residents of such communities by protecting them from

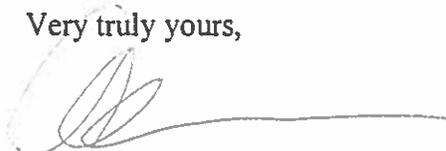
EXHIBIT NO. 40CC  
APPLICATION NO. CU 17-14

encroachment by commercial interests and the downstream negative effects that necessarily flow from such an operation.

In sum, other than the economic benefit to the property owner, there is no compelling reason to grant this application. Rather, granting this application will have an immediate negative impact to all those in the Mill Creek Towne community, with most immediate impact being borne by my family and our neighbors who will derive no benefit from this commercial operation and will instead have to deal with all of the issues detailed above.

Please do not hesitate to contact me if you need further information.

Very truly yours,

A handwritten signature in black ink, appearing to read 'AL', followed by a long horizontal line extending to the right.

Andrew L. Lucarelli

I am writing this letter in opposition to #CU17-14. I live in Mill Creek Towne subdivision and believe that granting this conditional permit will negatively impact our subdivision. Mill Creek Towne is an established residential subdivision. The increase in cars dropping off or picking up children and employees going to and from the daycare; the increase in trash generation; the increase in noise from an increase in children; are just a few of the negative impacts to an established neighborhood. These impacts do not address other issues such as safety of the neighborhood; decrease in property values; changing the dynamics of an established neighborhood; or an increase in traffic upon entering the subdivision. An increase in traffic will also make it more dangerous for children and adults walking to Mill Creek Towne Elementary school (which is on the same street) or people just walking the neighborhood.

We purchased our home in Mill Creek Towne to get away from "the city". It is our desire to come home and relax away from the hustle and bustle of this area. I do not believe it is in the best interest of our community to "commercialize" a residence by allowing more children at a daycare. It is a quiet residential area and by granting a conditional use permit allowing up to 30 children would certainly distract from this.

I respectfully ask that you not grant #CU17-14.

Thank you for your time and consideration,



Margaret Williams  
17613 Wheat Fall Drive  
Derwood, MD 20855

RECEIVED  
M-NCPPC

JUN 13 2017

Montgomery County  
Planning Department

APR 30 2017

Administrative Hearings

Anne's April 8th post is misleading in parts. Mrs. Pryor lives in my property and as long as someone lives in a house they have residential use rights like having girl scout meetings. My proposal is for 30 client children and to be closed in weekends, evenings, federal holidays and the day after thanksgiving. The current zoning permits R-200 zoned properties to be open 7 days 24 hours.

I have the appropriate county approval for an apron so I can put in a circular driveway. A conditional use does not change the property to a commercial zone, it stays residential. Any property owner can apply for an apron and put in a circular driveway.

My application identifies my opinion that on street queuing can accommodate 37 vehicles, I am not asking for 37 vehicles at one time. My application anticipates 21 vehicles. My proposal is that one of the conditions of the application being granted is that I must limited the number of client vehicles to 8 in a ten minute timeframe with one staff member in the morning and 6 client vehicles in a ten minute evening time period without a staff member leaving.

My proposal is that all client's park on my property with staff members parking in front of my property.

One of my suggestions is that staff members "They will also park in the dead end section on Mill Run Drive". There is plenty of public parking on my street but I think it would be nicer to have staff members park at the dead end vs. in front of my neighbor's property. I don't think I will need it but it is a good idea. I anticipate 3 staff members needing parking at the same time. The Hearing examiner might decide staff members to park 200 feet from either of the child care's property corner. Where staff members park is up to the hearing examiner. I put 10 different suggestions in my application.

My application has been approved as being accepted to apply for the conditional use because I proved I am the property owner.

I have applied for a waiver for the side yard setback requirements so I can put two cars on the right side of my house. That is the only waiver I am requesting in reference to the conditional use application. I am proposing that I be required to install a 6' fence to make the parking discrete and a drainage pipe to make it nice for my neighbor. The Hearing Examiner may not require me to but if he does not, I can still make it nice for my neighbors without a waiver.

The Hearing Examiner will also make a decision on whether or not I have to install a 4' fence on my property lines or install more landscaping. Neighbor's opinions on this issue can help the Hearing Examiner decide which to require.

Robin

Submitted by  
Anne Gregorick  
301-  
538-2027

EXHIBIT NO. 42 (A)  
APPLICATION NO. 1417-14

# ATTACHMENT 6

**NOTE: R/R DENSITY CONTROL DEVELOPMENT - RESUBDIVISION STRICTLY CONTROLLED**

**PLAT No 7472 OWNERS DEDICATION**

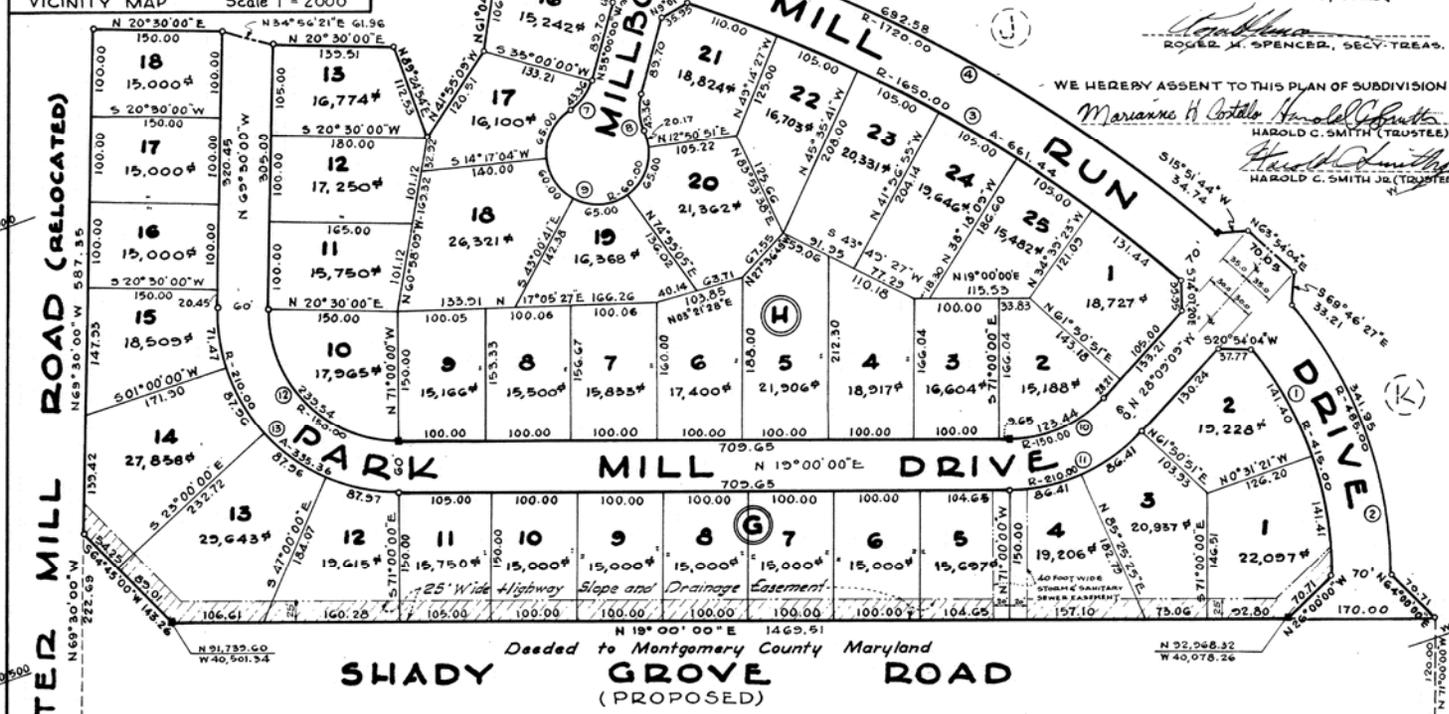
WE, ROCK CREEK TOWNE INC., A MARYLAND CORPORATION, OWNERS OF THE PROPERTY AS SHOWN AND DESCRIBED HEREON, HEREBY ADOPT THIS PLAN OF SUBDIVISION; ESTABLISH THE MINIMUM BUILDING RESTRICTION LINES; DEDICATE THE STREETS TO PUBLIC USE; GRANT STORM AND SANITARY EASEMENTS AS SHOWN; GRANT SLOPE EASEMENTS 40 FEET WIDE, ADJACENT, PARALLEL, AND CONTIGUOUS TO ALL STREETS SHOWN HEREON, THAT SAID EASEMENTS ARE TO BE EXTINGUISHED WHEN ALL PUBLIC IMPROVEMENTS, INCLUDING SIDEWALKS, HAVE BEEN COMPLETED AND ACCEPTED FOR MAINTENANCE BY MONTGOMERY COUNTY OR OTHER APPROPRIATE PUBLIC AGENCY.

THERE ARE NO LEASES, LIENS, MORTGAGES, SUITS OR ACTIONS AT LAW AFFECTING THIS PROPERTY EXCEPT A DEED OF TRUST OF WHICH THOSE WITH AN INTEREST THERETO HAVE INDICATED THEIR ASSENT BELOW.

**ROCK CREEK TOWNE INC.**  
By: *Edward Kapiloff*  
LEONARD KAPILOFF, PRES.  
*Roger M. Spencer*  
ROGER M. SPENCER, SECY. TREAS.

4/10/64

WE HEREBY ASSENT TO THIS PLAN OF SUBDIVISION  
*Marianne H. Costello*  
HAROLD C. SMITH (TRUSTEE)  
*Harold C. Smith Jr.*  
HAROLD C. SMITH JR. (TRUSTEE)



VICINITY MAP Scale 1" = 2000'

SHADOW AREA SURVEY

PARK (MNC&PC) PLAT BOOK 73 PLAT 7082

**CURVE DATA**

NO	RADIUS	ARC	Δ	CHD. BEARING	DIST.	TAN
1	415.00	282.81	39-02-43	S85°28'38"W	277.37	147.14
2	485.00	341.95	40-23-46	S88°48'07"W	334.91	178.43
3	1650.00	661.44	22-58-06	S48°25'25"W	627.02	335.23
4	1720.00	692.58	23-04-15	S48°20'30"W	647.91	351.08
5	1650.00	661.00	4-07-56	N30°53'39"E	118.37	59.53
6	1720.00	102.00	3-23-52	S31°28'42"W	101.39	51.02
7	60.00	43.36	41-24-35	N34°17'42"W	42.45	22.68
8	60.00	43.36	41-24-35	S75°42'18"E	42.43	22.48
9	60.00	275.52	262-48-10	S95°00'00"W	30.00	
10	150.00	123.44	47-05-03	S4°34'34"E	119.39	65.46
11	210.00	172.82	47-05-03	S4°34'34"E	167.50	91.64
12	150.00	239.54	31-30-00	S64°45'00"W	214.89	153.98
13	210.00	335.36	31-30-00	S64°45'00"W	300.85	215.57

**SURVEYOR'S CERTIFICATE**

I HEREBY CERTIFY THAT THE PLAN SHOWN HEREON IS CORRECT; THAT IT IS A SUBDIVISION OF PART OF THE LAND CONVEYED FROM BERNARD KAPILOFF AND NATHAN SHINDRO TO ROCK CREEK TOWNE INC. BY DEED DATED JUNE 15, 1954 AND RECORDED IN LIBER 3832 AT FOLIO 1023 AMONG THE LAND RECORDS OF MONTGOMERY COUNTY, MARYLAND; THAT IRON PIPE SHOWN THUS ARE IN PLACE AS INDICATED HEREON.

4/10/64 *James M. Fowler Jr.*  
JAMES M. FOWLER JR.  
REGISTERED LAND SURVEYOR

RECORDED: \_\_\_\_\_  
PLAT BOOK: \_\_\_\_\_  
PLAT NO: \_\_\_\_\_



MARYLAND NATIONAL CAPITAL PARKS & PLANNING COMMISSION  
MONTGOMERY COUNTY PLANNING BOARD

APPROVED *Mar. 5, 1962*  
*Thomas H. Grand*  
THOMAS H. GRAND  
SECRETARY, TREASURER  
MNC&PC RECORD FILE NO. 189-30

MONTGOMERY COUNTY MARYLAND  
DEPT. OF PUBLIC WORKS

APPROVED *July 8, 1964*  
*Richard J. Lynch*  
RICHARD J. LYNCH  
DEPT. DIRECTOR, PUBLIC WORKS

**PLAT 4.**  
**PART OF BLOCKS G AND H**

**Mill Creek Towne**

**REDLAND**  
MONTGOMERY COUNTY, MARYLAND

PREPARED BY  
OFFICE OF  
JAMES M. FOWLER  
27 W. JEFFERSON ST., ROCK., MD.  
PO. 2-2377



# ATTACHMENT 8



DEPARTMENT OF PERMITTING SERVICES

Isiah Leggett  
County Executive

Diane R. Schwartz Jones  
Director

Montgomery County Sign Review Board

October 28, 2016

Re: 17505 Park Mill Drive  
Derwood, Maryland  
Sign Variance Case No. 354070

Dear Sir or Madam:

On October 21, 2016 the Sign Review Board reviewed a request for a sign variance for the referenced location. At the hearing on this date, the Sign Review Board took the following action:

1. Approved a 3 square foot non-illuminated wall sign to be installed on the front wall of the dwelling at a height not to exceed 5 feet.
2. Denied the request to erect a separate 9.5 foot-high freestanding sign at the subject property line abutting Shady Grove Road.

The Sign Review Board in considering the proposed freestanding sign concluded the applicant had not demonstrated that the strict application of the sign ordinance would result in an exceptional hardship or significant economic burden and, therefore, denied the portion of the variance pertaining to the freestanding sign.

A final decision by the Sign Review Board may be appealed by any aggrieved party to the Montgomery County Board of Appeals within thirty (30) days of the decision.

Sincerely,

Roger Waterstreet  
Staff Liaison to the Sign Review Board