



Kiddie Academy Preliminary Plan Amendment 12001077A

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Staff Report Date: 3/16/2020

Description

- Request for Amendment to convert the existing structure from a veterinary hospital to a childcare center for up to 191 children.
- Location: On Sligo Avenue, 100 feet northeast of Fenton Street
- Zone: CR-1.5 C-1.0 R-1.5 H-60 T
- Master Plan: Silver Spring CBD
- Property size: 0.59 acres
- Applicant: Craig Pincince
Woodmont Acquisitions, LLC
- Acceptance Date: June 19, 2019
- Review basis, chapters 49, 50, 59, & 22a

Recommendation – Approval with conditions



Summary

- Staff recommends approval of the Preliminary Plan Amendment with conditions.
- The Planning Board granted three extensions of the review period for this application which lasted from October 17, 2019, to March 26, 2020.
- Request for Amendment of Preliminary Plan 120010770 to convert the existing structure from a veterinary hospital to a childcare center for up to 191 children.
- Associated changes include proposed primary vehicular access through a 20-foot right-of-way alley, conversion of public use space to private use, changes to onsite parking, stormwater management and landscaping.
- The Applicant has requested alternative compliance for the screening requirements between different building types and uses typically required under section 59.6.5.3 of the Zoning Ordinance, and a waiver for the landscape requirements associated with parking lots under section 59.6.2.9 of the Zoning Ordinance which applies to any surface parking lot with 10 or more spaces.

SECTION 1: RECOMMENDATION AND CONDITIONS

Staff recommends approval of Preliminary Plan Amendment No. 12001077A, subject to the following conditions, which supersede all previous conditions:

1. This Preliminary Plan is limited to one existing lot measuring approximately 25,500 square feet, for a childcare facility with up to 191 children.
2. Prior to any building permit release, the Applicant must abandon the existing County Board Appeals approval S-2469 for the current veterinary use.
3. The Adequate Public Facility (“APF”) review for the Preliminary Plan will remain valid for sixty (60) months from the date of mailing of this Planning Board Resolution.
4. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Transportation (“MCDOT”) in its letter dated February 14, 2020 and incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDOT if the amendment does not conflict with any other conditions of the Preliminary Plan approval.
5. Before recording the revised record plat for the Subject Property, the Applicant must satisfy MCDOT’s requirements for access and improvements except for any potential relocation or removal of an existing utility pole near the site frontage on Sligo Avenue.
6. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Services (“MCDPS”), Fire Department Access and Water Supply Section in its letter dated August 15, 2019 and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in the letter, which MCDPS may amend if the changes do not conflict with other conditions of the Preliminary Plan approval.
7. Public Open Space, Facilities, and Amenities
 - a) Per Section 59.4.5.3.C.1., the Applicant must provide at least 10 percent of the site area on-site as Public Open Space, or comply with the Off-Site Options provisions of Section 59.6.3.6.C of the Zoning Ordinance.
 - b) If the Applicant pursues the Off-Site Option, prior to issuance of the first above-grade building permit, subject to Staff review and approval, the Applicant must either:
 - i. Provide the financial contribution per the Zoning Ordinance provisions referenced in condition 7.a to the Planning Department Silver Spring Amenity Fund; or
 - ii. Obtain applicable permits to construct, renovate, restore, install, or operate public open space improvements within or near the Silver Spring CBD plan area.
 - c) Any off-site public open space improvements must be completed prior to the issuance of the final Use and Occupancy Certificate for the Subject Property.

- d) The Applicant must maintain all open spaces and amenity areas located on the off-site location(s) required by this approval.
8. The Applicant must comply with the following conditions of approval of Forest Conservation Exemption Plan 42020098E, approved as part of this Preliminary Plan amendment.
- a. The certification of the Tree Save Plan must be approved prior to Certified Preliminary Plan.
 - b. Prior to the issuance of the final Use and Occupancy permit, applicant will contribute \$1,200 or applicable rate, to the Parks Department or a non-profit responsible for park/open space improvements within or near the Silver Spring CBD for the planting of four 3-inch caliper trees to be planted within or near the CBD area. The ultimate planting of the trees will serve as mitigation for the loss of a specimen tree associated with the alley modifications.
 - c. Address any remaining minor plan clarifications/corrections to the satisfaction of M-NCPPC Staff prior to the certification of the Preliminary Plan.
9. Vehicular access to the site is limited to one-way clockwise circulation with all vehicles entering the Site from Fenton Street via the 20-foot Public Alley and all vehicles exiting onto Sligo Avenue.
10. No onsite staff parking is allowed.
11. The Applicant must provide the Silver Spring Streetscape improvements along the site frontage on Sligo Avenue.
12. Prior to certified Preliminary Plan, the Applicant must enter into a Surety and Maintenance Agreement with the Planning Board in a form approved by the M-NCPPC Office of General Counsel that outlines the responsibilities of the Applicant. The Agreement must include a performance bond or other form of surety, with the following provisions:
- a) A cost estimate of the materials and facilities (excluding play features) including exterior lighting, landscape, and fencing/walls, which, upon Staff approval, will establish the surety amount.
 - b) The cost estimate must include fees to design, construct, renovate, restore, install, or operate an offsite public open space located within or near the Silver Spring CBD plan area, if applicable.
 - c) Completion of all improvements covered by the surety will be followed by inspection and potential reduction of the surety.
 - d) The bond or surety for each item shall be clearly described within the Surety & Maintenance Agreement, including all relevant conditions.
13. There shall be no issuance of the Use and Occupancy permit prior to recordation of the revised plat.

14. The record plat must show necessary easements.
16. Prior to certification of the Preliminary Plan, a revised landscape, lighting and parking facilities plan must be submitted to, and approved by Staff that addresses elements to help maximize the overall canopy/green coverage, provide screening for the parking lot and minimize any excessive glare from vehicle headlights and the site lighting.
17. Before issuance of the final Use and Occupancy certificate for this Preliminary Plan, all on-site amenities including, but not limited to, landscaping sidewalks/pedestrian pathways, hardscape, and public open space amenities must be installed.
18. The Applicant must include all applicable agency letters and Preliminary Plan Resolutions on the approval or cover sheet(s).
19. The certified Preliminary Plan must contain the following note:

Unless specifically noted on this plan drawing or in the Planning Board conditions of approval, the building footprints, building heights, on-site parking, site circulation, and sidewalks shown on the Preliminary Plan are illustrative. The final locations of buildings, structures and hardscape will be determined at the time of issuance of building permit(s). Please refer to the zoning data table for development standards such as setbacks, building restriction lines, building height, and lot coverage for each lot.
20. Prior to the submittal of the certified Preliminary Plan the applicant will coordinate with staff on minor clarifications, corrections and updates for the plan notes and graphics and update all applicable drawings for consistency across plan sheets.

SECTION 2 – SITE LOCATION AND HISTORY

Site Location & Description

The site is located at 811 Sligo Avenue, 100 feet northeast of Fenton Street in the Silver Spring CBD (“Subject Property” or “Property”). The Property is adjacent to (but not within) the Fenton Overlay Zone that is immediately west of the site boundary. The Subject Property is adjacent to the Sligo Artspace project currently under construction on the former location of the Silver Spring Police Station.



Figure 1-Aerial View. North ↑

The Property consists of existing platted Lot 17 which totals 0.59 acres (25,500 square feet), created by Plat 618-43 (#22273) filed on August 14, 2002. The Subject Property is located in the CR-1.5 C-1.0 R-1.5 H-60 T zone on the north side of Sligo Avenue, approximately 100-feet east of Fenton Street and is currently developed with a veterinary hospital and associated parking lot with driveway access directly onto Sligo Avenue. The frontage area includes onsite public open space streetscape adjacent to the Right of Way (ROW).

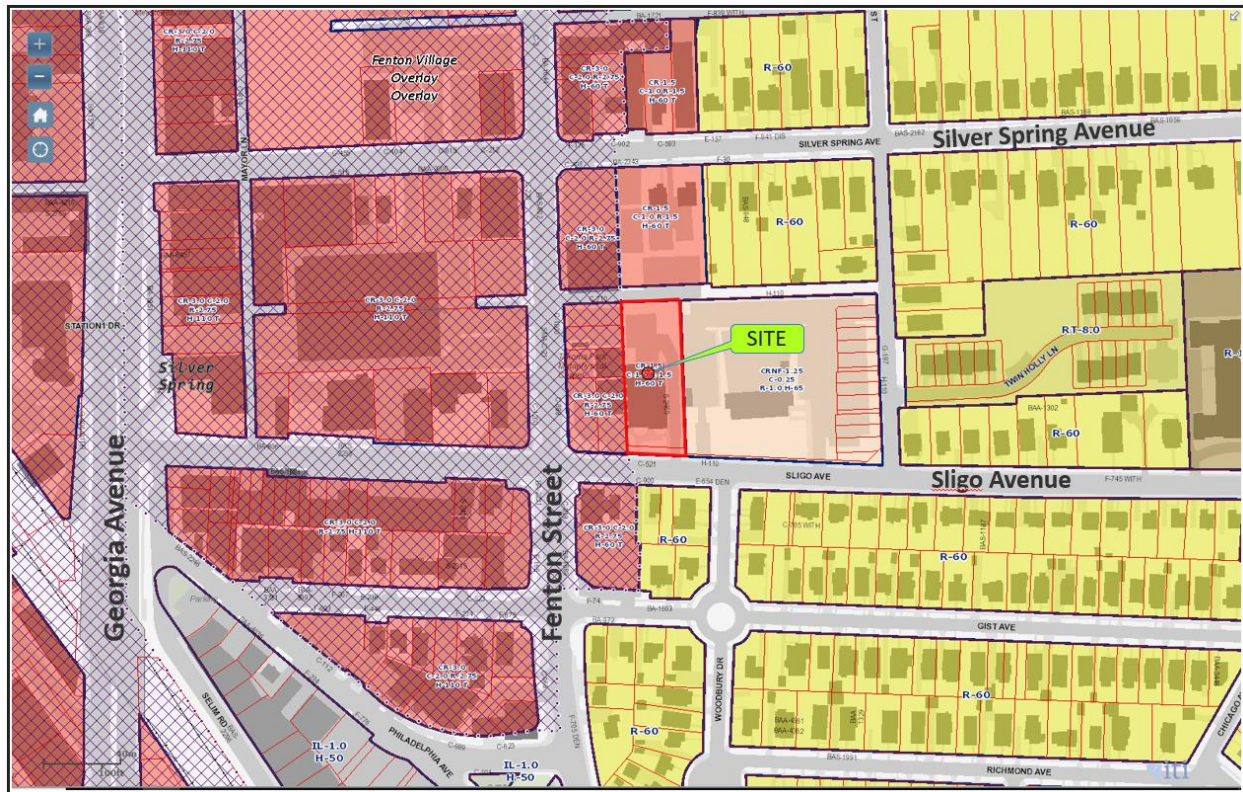


Figure 2 – Zoning Map. Hatched areas represent overlay zones. North ↑

The Property contains no environmentally sensitive features however, there is general landscaping and trees on the site, and one specimen tree which measures over 30" DBH located along the alley near the Subject Property. The site is located within the Sligo Creek watershed, a Use I watershed¹.

The surrounding properties consist of the following uses and include a number of recently approved Site Plan projects. The Sligo Artspace (Site Plan 82016014A), located to the east of the Subject Property, is currently under construction and includes a multifamily building, townhomes, art studios and 1,500 sf of retail. Although the property to the north across the alley is currently used for office and retail, it has Site Plan amendment approval from 2014 for a mixed-use development with multifamily residential, hotel and ground floor retail uses (Silver Spring Park, Site Plan 82010012A). 850 Sligo Avenue (Site Plan 82019005A) is located across Sligo Avenue from the Subject Property and has approval for a mixed-use building up to 85 multifamily dwelling units and up to 6,912 sf of nonresidential development. Existing one-family detached dwellings, zoned R-60, are located towards the northeast and south. A small

¹ WATER CONTACT RECREATION, PROTECTION OF AQUATIC LIFE. Waters that are suitable for: water contact sports: play and leisure time activities where the human body may come in direct contact with the surface water; fishing; the growth and propagation of fish (other than trout); other aquatic life, and wildlife; agricultural water supply; and industrial water supply.

shopping center which includes a convenience store, market, restaurant and check cashing abuts the western boundary of the Subject Property.



Figure 3-Aerial View. North ↑



Figure 4- Recent photo of site (northeast facing view). Sligo Artspace construction visible in background.

Previous Approvals

The Property has an approved Special Exception (CBA case S-2469) for the current veterinary use that will need to be abandon prior to any building permit release.

Preliminary Plan

By Resolution mailed February 14, 2002, (Attachment A) the Planning Board approved Preliminary Plan 120010770 to create 1 lot on 0.62 Acres of land for uses and conditions outlined in Board of Appeals opinion for Special Exception Case S-2469. The approval included right-of-way dedication, compliance with MCDPS stormwater management requirements, access improvement and requirements for a final landscape, lighting and parking facilities plan.

Plat 618-43 (#22273) filed on August 14, 2002, (Attachment F), established the existing Lot 17 consisting of 25,500 sf, including public use space adjacent to the Sligo Avenue ROW and a SWM easement (near the northwest corner of the site). Additionally, the plat specifically denied ingress/egress access to the 20-foot right-of way alley along the north side of the site. However as described below and in the transportation section of this report, DOT supports the currently proposed circulation through the alley as it provides increased safety and efficiency for this Application. (A new record plat will be re-recorded based on the requirements of the current Amendment).

SECTION 3 –PROPOSAL

Proposal

The Preliminary Plan Amendment 12001077A seeks to convert the existing structure from a veterinary hospital to a childcare center for up to 191 children. Per the recommendations of MCDOT and M-NCPPC Staff, the proposed primary vehicular access is to be rerouted through a 20-foot right-of-way alley. The proposed alley access requires joint approval by the Planning Board and Director of Transportation. Section 49-31.(p), states "An alley may be used to provide primary vehicular access if the Planning Board and the Director of Transportation concur that the dimensions and specifications proposed in a ... preliminary subdivision... would provide adequate primary vehicular access." DOT supports the proposed access and states the scenario will operate more safely and efficiently has deferred the final approval to the Planning Board (refer to February 14, 2020 Letter Attachment D).

The Amendment includes conversion of 2,565 square feet of approved/platted public use space into private use space. In accordance with Section 59.6.3.6.C of the Zoning Ordinance, the public use space requirements will either be addressed by a fee-in-lieu payment addressing all or part of the cost to design, construct, renovate, restore, install, or operate a public open space located within or near the Silver Spring CBD plan, or by the Applicant providing at least 2,565.25 square feet of public open space improvements off-site, within or near the Silver Spring CBD Plan area. The current space contains brick paving, lawn and raised landscape planters which appears to be of limited use/benefit.

Additionally, the associated design changes include onsite parking reduction from 14 existing spaces to 13 proposed spaces. Although the Site already has fewer spaces than the projected standards, the further reduction in parking is allowable since the Property is located within the Silver Spring Parking Lot District (PLD). The parking spaces will generally serve as short term pick-up and drop-off; there are recommended conditions of approval that there will be no onsite parking for staff. Queuing is anticipated to occur within the alley; however this scenario has been determined to be safer and more efficient than queuing that would otherwise occur if the primary access was from Sligo Avenue.

Furthermore, the Project includes the abandonment of the existing stormwater management facility/easement with replacement of new SWM planter box.

The Application has requested alternative compliance for the screening requirements between different building types and uses typically required under section 59.6.5.3 of the Zoning Ordinance, and a waiver for the landscape requirements associated with parking lots under section 59.6.2.9 of the Zoning Ordinance which applies to any surface parking lot with 10 or more spaces (Alternative Compliance/Wavier Request, Attachment E). The Alternative Compliance/Wavier is requested mainly due to site constraints and the considerable landscape screen approved along the boundary shared with the Sligo Artspace project which is currently under construction.

The original plan of subdivision provided appropriate right-of-way dedication and no new right-of-way dedications are required as part of the current application.

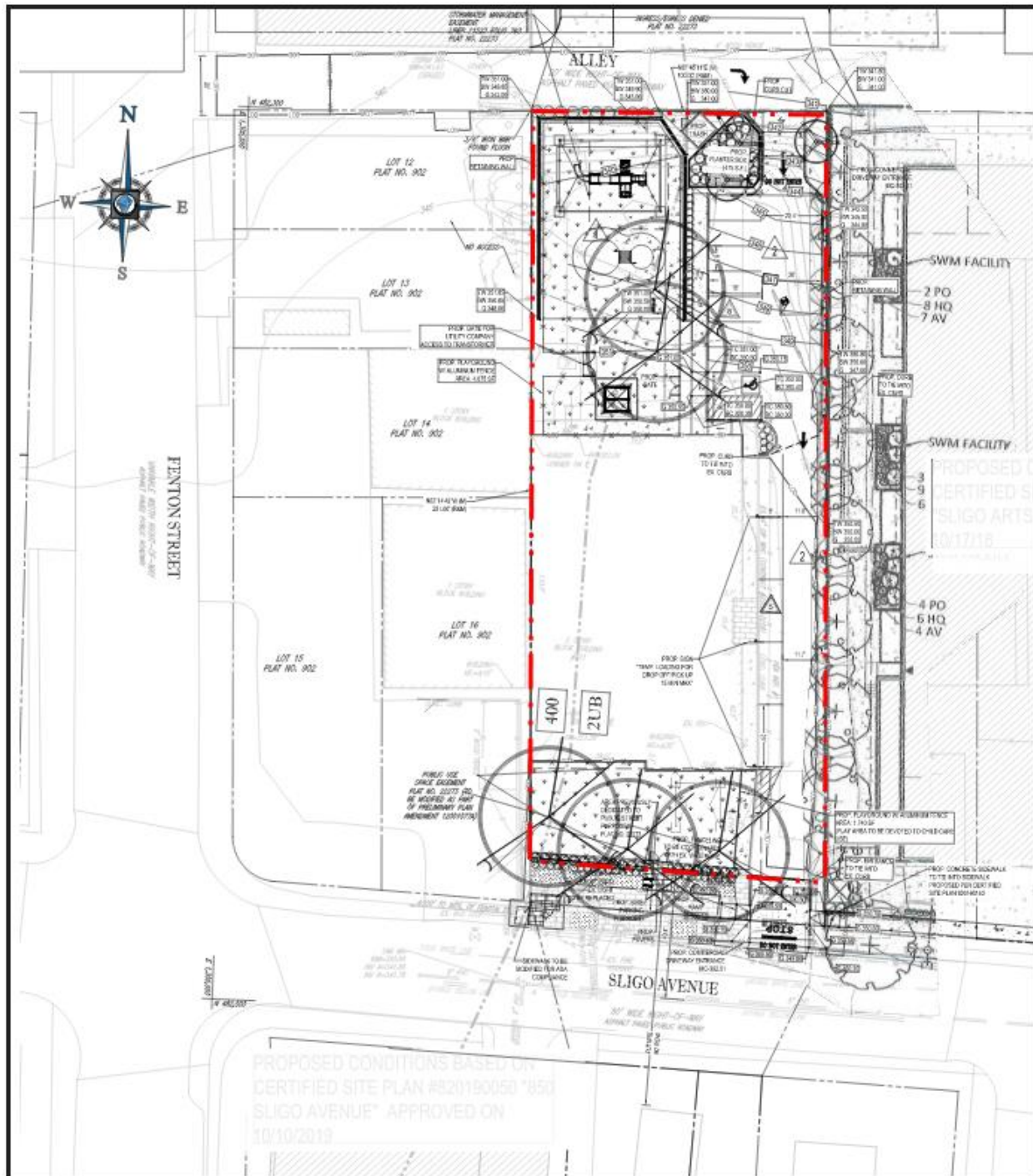


Figure 5 –Preliminary Plan.

SECTION 4 – ANALYSIS AND FINDINGS, 50.4.2.D

Preliminary Plan Amendment No. 12001077A does not substantively change the ultimate result and the effect of the Preliminary Plan No. 120010770 relative to lot, block and open space requirements. The proposed Amendment to change the use does not require any changes to the findings made by the Planning Board in the approval of Preliminary Plan No. 120010770.

The proposed Amendment does not alter the original intent and all findings of Preliminary Plan No. 120010770 remain in full force and effect, except as modified by the findings below.

a. The Preliminary Plan provides for required public sites and adequate open areas.

The original Preliminary Plan provided onsite Public Use space fronting the site. The open space met the Local Recreation Section under 50.4.3.D.2 which is intended to serve the present and future inhabitants of the subdivision. However, under the proposed use, the recreational requirements of the subdivision inhabitants (mostly children) will be met by the considerable play spaces proposed throughout the Property. Given that the current open space appears to provide limited existing use/benefit and will have even less benefit towards the proposed use, the open space requirements will now be met by either a fee-in-lieu payment addressing all or part of the cost to design, construct, renovate, restore, install, or operate a public open space located within or near the Silver Spring CBD plan, or by the Applicant providing at least the equivalent square footage (2,565.25 square feet)* of public open space improvements off-site, within or near the Silver Spring CBD Plan area.

b. The Lot(s) and Use comply with the basic requirements of Chapter 59

The lot was reviewed for compliance with the dimensional requirements for the CR-1.5 C-1.0 R-1.5 H-60 T zone as specified in the Zoning Ordinance. The lot as proposed will meet all the dimensional requirements for area, frontage, width, and setbacks in that zone. The existing building to remain and all site elements will meet the minimum requirements of the zone. The Site is located within the Silver Spring Parking Lot District and is not required to provide parking on-site.

The onsite parking is subject to landscape requirements under Section 59.6.2.9. however, a waiver for the parking lot landscaping requirements has been requested under 59.6.2.10. (Attachment E). Section 59.6.2.9. of the Zoning Ordinance regarding *Parking Lot Landscaping and Outdoor Lighting* applies to (among other things) any surface parking lot with 10 or more spaces. The landscape requirements under this scenario includes perimeter planting requirements with the following standards:

- i. be a minimum of 6 feet wide;
- ii. contain a hedge or low wall a minimum of 3 feet high; and
- iii. have a canopy tree planted every 30 feet on center

The waiver for the parking lot landscaping requirements can be granted under 59.6.2.10 if the deciding body determines the alternative design complies with 59.6.2.1, of which the intent is to ensure that the adequate parking is provided in safe and efficient manner. As conditioned, the parking is safe and efficient. Furthermore, as conditioned the perimeter landscaping and screening will be enhanced over the current design but not to the level which would preclude the need for the waiver.

Similarly to the above discussion on parking lot screening, there are also are landscaping screening requirements under section 59.6.5.3 of the Zoning Ordinance. The intent of the requirements is to ensure appropriate screening between different building types and uses. Alternative compliance for the screening requirements can be approved under 59.6.8.1. and the Applicant has made a request accordingly (Attachment E). The Alternative Compliance is requested mainly due to site constraints and the landscape screen already approved (but not yet installed) along the boundary shared with the Sligo Artspace that will generally achieve the desired effect.

The Planning Board may approve an alternative method of compliance with the requirement of 59.6.5 (among others) if it determines that there is a unique site, a use characteristic, or a development constraint, such as grade, visibility, an existing building or structure, an easement, or a utility line. The applicable deciding body must also determine that the unique site, use characteristic, or development constraint precludes safe or efficient development under the requirements of the applicable Division, and the alternative design will:

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

As conditioned, Staff supports the Applicants' request for alternative compliance and the intent is satisfied and mitigated. Staff notes that full compliance with the standard would eliminate five of the onsite parking spaces (which are used for short term drop off and pick up of children) and would adversely affect the safety and efficiency of the site circulation. Furthermore, elimination of the five parking spaces may adversely affect the adjacent roadways. Therefore, the alternative compliance is also in the public interest.

2. The Preliminary Plan substantially conforms to the Master Plan or Urban Renewal Plan

The Preliminary Plan Amendment is consistent with, and furthers, the recommendations of the 2000 *Silver Spring CBD Sector Plan* (Sector Plan). The Sector Plans does not have site specific recommendations for this Property; however, the project is consistent with the 6 vision themes identified in the Sector Plan (Page 14):

Sector Plan Vision Themes

The Sector Plan's themes articulate the shared goals and vision for the CBD and demonstrate how successful development incorporates multiple themes to "create varied land uses, development patterns, environments, and transportation choices...to create variety, the hallmark of an active downtown."(p. 15) The development meets these goals and vision by creating a child care facility that is scaled to the surrounding neighborhood and enhances the pedestrian experience in its vicinity.

Transit-Oriented Downtown - *The Plan's land use and development recommendations strive to balance the needs of commuter and local traffic, of walkers and drivers, and to maximize the investment in Silver Spring's transit infrastructure.*

The proposed Amendment strikes an appropriate balance that will satisfy the needs of local traffic. The Sector Plan states that "each street in the CBD plays a role – local or regional, pedestrian or auto, through-travel or destination." (pg. 16). By allowing vehicular access over the alley and thereby utilizing already existing infrastructure, any potential traffic circulation issues that would result otherwise from the projected influx of peak AM/PM trips are significantly mitigated. As evidenced by the Applicant's Traffic Study, the proposed circulation pattern will result in no queuing onto Sligo Avenue or Fenton Street. Given the Property's proximity to nearby residences and various modes of public transportation, it is expected that that a notable number of parents will walk their children to the daycare center.

Furthermore, the Property is located approximately 1/3 mile from the Silver Spring Metro/MARC train/Transit Center and from a Purple Line station which is under construction. By locating within the walksheds of these transportation choices, the workers and visitors coming to the site increase transit demand and support transit-oriented development.

Commercial Downtown - Silver Spring's location, infrastructure, and position in the metropolitan area market will continue its role as an employment center. New retail development will serve the local community with a mix of chain and independent businesses offering convenience and specialty shopping, restaurants, and entertainment.

This Application will serve a critical need for young families in the local community and will provide employment opportunities. The Sector Plan recommends "a mutually supportive mix" of commercial activity and specifically lists "child care services" as a desirable option. (pg. 18). The proposed Project, a child daycare center, is the type of use the Sector Plan contemplates and is well positioned to complement the surrounding residential and non-residential uses.

Residential Downtown

Although the Project does not include residential uses, it shares a block of Sligo Avenue that includes both single-family homes as well as approved multi-family development. The modest height of the existing building remains compatible with these residential uses on the block.

Civic Downtown - This Plan views civic facilities as partners in economic revitalization. New and regenerated facilities will draw people downtown, returning it to the center of community life and creating opportunities for economic and social connections.

The Applicant proposes to reuse the existing veterinary hospital for a child daycare center, which will create opportunities for economic and social connections. The Sector Plan desires programs that "will serve the most people and respond to the community's daily and special needs." (pg. 21). The child daycare center will provide a needed service to the immediate community and will serve as a facilitator to neighborhood interaction. The Applicant will provide daycare services for up to 191 children, which will undoubtedly create opportunities for new neighborhood interactions and social connections.

Furthermore, the upgraded streetscape, and offsite open space will add to the fabric of the civic spaces of the Sector Plan area.

Green Downtown - This Plan envisions shaded, tree-lined street and well-placed green parks and plazas, creating a comprehensive system of open spaces that provide economic, environmental, and aesthetic benefits through downtown.

The Site has considerable pre-existing landscape areas trees onsite which were established under the previous approval. As conditioned, the planting quantity is maximized to a reasonable extent. Furthermore, the outdoor play areas will consist of green turf and/or sod groundcover (rather than paving) which will generally help offset the proposed loss of portions of the existing lawn/landscape beds.

Pedestrian-Friendly Downtown - This Plan encourages the development of active streets and sidewalks, busy with people walking to shop, commute, or for pleasure. They will become downtown's defining feature, and will support activity, creating the setting for community.

The Amendment substantially conforms to this theme of the Sector Plan. Opening vehicular access to the alley limits vehicular circulation on Sligo Avenue to one way into the Property, thus limiting the amount of traffic interacting with the streetscape and thereby promoting the pedestrian environment. The Applicant's proposed parking will also facilitate a pedestrian-friendly downtown. As conditioned, daycare staff who drive to work will be required to park off-site (the Fenton Street public garage is very close to the Property), thereby increasing pedestrian activity in the southern gateway of the CBD. Furthermore, based on feedback received from the local community, the Applicant expects that a number of families will walk or use public transit to travel to the Property. The LATR pedestrian peak hour trip generation (per table 2 on page 19) is projected to be 46 pedestrians in the AM and 39 in the PM. As such, the Project promotes the development of active streets and sidewalks.

Additionally, the project is required by DOT to certify and/or provide streetscape frontage per the December 2019, Silver Spring Design Guidelines including sidewalks, lighting and street trees.

a. Land Use

The proposed use is appropriate under the Sector Plan which identifies the site as transitional mixed use (Page 30 of Sector Plans and Figure 5 below); while pages 125 and 126 support "expanding child care facilities in the CBD".

As discussed in detail in Section 2 above, the proposed Preliminary Plan Amendment substantially conforms to the Sector Plan. Approval of this Amendment will enable the Applicant to effectively reuse the existing veterinary hospital for a child daycare center, which aligns with themes of the Sector Plan.

As conditioned, the Preliminary Plan Amendment substantially conforms to the recommendations within the 2000 Silver Spring CBD Sector Plan.

Legend:

- Mixed Use
- Transitional Mixed Use
- Commercial Services
- Residential
- Retail
- Office
- Hotel
- Light Industrial
- Parks / Open Space
- Public and Semi-public
- Public Parking
- CBD area boundary
- Non-CBD area included in Plan

Scale: 0 to 1000 feet

North Arrow

Site Location: A red rectangle on the right side of the map, near Sligo Ave and Thayer St, is labeled "SITE" with a blue arrow pointing to it.

Approved & Adopted

Environment

In addition to the Green Theme discussed in detail in section 2 above, the Sector Plan also includes numerous recommendations for SWM enhancements and identifies Stormwater Management as the CBD's most important environmental issue. The Sector Plan also provides the related recommendation of minimized impervious surfaces. The existing SWM facility will be removed and replaced in similar location onsite. Furthermore, the outdoor play areas will consist of green turf and/or sod groundcover (rather than paving) which will generally help offset the proposed loss of portions of the existing lawn/landscape beds. Note: The SWM concept approval letter is not available yet, however the approval is anticipated prior to the Planning Board hearing and the details will be provided as part of the upcoming presentation.

3. Public Facilities will be adequate to support and service the area of the subdivision

Vehicular access to the Property is proposed from Fenton Street, via a Public Alley, as a one-way clockwise configuration. This circulation pattern will provide adequate on-site queuing and will facilitate efficient circulation.

The alley access as proposed requires joint approval by the Planning Board and Director of Transportation. Section 49-31.(p), states "An alley may be used to provide primary vehicular access if the Planning Board and the Director of Transportation concur that the dimensions and specifications proposed in a ... preliminary subdivision... would provide adequate primary vehicular access." DOT supports the proposed access and has deferred the final approval to the Planning Board.

Transit Connectivity

The immediate area is well served by transit that includes the Red Line Silver Spring Metrorail Station (located approximately ½ mile to the northwest of the Site), Metrobus, RideOn, the VanGo Circulator and future Purple Line.

Master Plan Roadways and Pedestrian/Bikeway Facilities

The 2000 *Silver Spring CBD Sector Plan* and the 2018 *Bicycle Master Plan* recommend the following master plan facilities along property frontage:

1. Sligo Avenue, along the southern site frontage, as an arterial with a minimum right-of-way width of 80'.

Adequate Public Facilities

A transportation study, dated May 14, 2019, was submitted to analyze the Project. The proposed development is estimated to generate 108 net new morning peak-hour person trips (53 vehicle trips) and 93 net new evening peak-hour person trips (46 vehicle trips) (Tables 1 and 2). Because the estimated transportation impact of the Project exceeds 50 net new trips for the vehicular mode, the Project evaluated the adequacy of study area intersections to satisfy the Local Area Transportation Review requirement.

Table 1: Project Peak Hour Trip Generation

Existing	Vehicle Rates		Adjusted Vehicle Rates		Person Trips	
	AM	PM	AM	PM	AM	PM
13,650 sf Animal Hospital/ Veterinary Clinic	(53)	(58)	(34)	(38)	(69)	(77)
Proposed	AM	PM	AM	PM	AM	PM
191 Student Day Care Center	134	129	87	84	177	170
Net New Trips	81	71	53	46	108	93

Source: Lenhart Consulting Transportation Study, dated May 14, 2019.

Table 2: Net New Peak Hour Trip Generation by Mode

	Person Trips	Auto Driver	Pedestrian*	Transit	Bike
AM	108	53	46	30	16
PM	93	46	39	25	14

* Pedestrian trips are the sum of all transit and bicycle trips generated by the project.

Source: Lenhart Consulting Transportation Study, dated May 14, 2019.

Vehicle Adequacy

As a project that generates less than 250 net new peak hour vehicle trips, the Applicant was required to evaluate one tier of intersections within Downtown Silver Spring, resulting in a total of 8 intersections, including the site access points. In accordance with the 2016-2020 Subdivision Staging Policy, the study locations are presented in Figure 7, below, and results of the HCM methodology are presented in Table 3.



Figure 7– Intersection Analysis Map. North ↑

Table 3: Intersection Capacity
Highway Capacity Manual Methodology
Control Delay (seconds)

Intersection/Corridor		Delay Standard	Existing Conditions		Background Conditions		Future Conditions	
			AM	PM	AM	PM	AM	PM
1	Fenton Street/ Silver Spring Avenue	120	11.3	15.1	14.0	16.2	14.1	16.3
2	Fenton Street/ Site Access	120	--	--	--	--	0.1	0.1
3	Fenton Street/ Sligo Avenue	120	22.9	20.3	28.4	24.6	32.6	27.3
4	Fenton Street/ Gist Avenue	120	1.5	1.0	1.5	1.0	1.5	1.0
5	Sligo Avenue/ Site Access	120	--	--	0.4	0.5	0.8	0.8
6	Sligo Avenue/ Woodbury Drive	80	1.4	0.6	1.2	0.5	1.2	0.5
7	Sligo Avenue/ Grove Street	80	1.8	2.5	1.8	2.5	2.0	2.6
8	Sligo Avenue/ Chicago Avenue	80	2.0	2.4	2.0	2.4	2.0	2.4

Source: Lenhart Consulting Transportation Study, dated May 14, 2019.

a. Other Public Facilities and Services

Public facilities and services are available and will be adequate to serve the proposed development. The Subject Property is currently served by public water and public sewer. The Application has been reviewed by the Montgomery County Fire and Rescue Service who has determined that the Subject Property will have appropriate access for fire and rescue vehicles. School adequacy was not reviewed as this Amendment is not a residential project and does not generate any students. Other public facilities and services, such as electrical, telecommunications, gas, police stations, firehouses, and health services are operating according to the *Subdivision Staging Policy* resolution currently in effect and will be adequate to serve the Property.

4. *All Forest Conservation Law, Chapter 22A requirements are satisfied*

a. Environmental Guidelines

The Property contains no forest, streams, wetland, floodplains or associated buffers. Furthermore, there are no rare threatened or endangered species, or known historical or cultural resources on or near the site. However, there is considerable landscaping and trees on the site, most of which were planted as part of the existing approved landscape plan. Additionally, there is a specimen tree which measures over 30" DBH located along the alley near the Subject Property. There is also a tree stand along the unimproved portion of the alley near the northeast corner of the site; however, the feature does not meet forest definition. The site is located within the Sligo Creek watershed, a Use I watershed.

b. Forest Conservation

This Application is subject to Chapter 22A, Montgomery County Forest Conservation Law, but is exempt from the requirement to submit a Forest Conservation Plan under Section 22A-5(s)(2). Forest Conservation Exemption 42020098E was confirmed for the Subject Property on January 3, 2020. The project meets the particular requirements of the exemption because the proposed activity occurs on a tract of land less 1 acre that will not result in the clearing of more than a total of 20,000 square feet of existing forest, or any existing specimen or champion tree, and reforestation requirements would not exceed 10,000 square feet.

However, there is one specimen tree located offsite that will be removed by the work to modify the alley as required by this Application. The removal of this specimen tree, T-33 which is a 36-inch American Elm, triggers the tree save plan provision of the Forest Conservation Law under 22A-6(b), which states an activity or development that would be exempt under Section 22A-5, except that the proposed activity involves clearing of a specimen or champion tree, requires the approval of a tree save plan, which may require tree preservation or mitigation for loss of individual trees. Staff recommends mitigation for the loss of T-33 be provided via the planting of four (4) three-inch caliper native canopy trees. As stated in condition of approval no. 9.b. of this Preliminary Plan Amendment, these plantings may occur in a combination of the following locations: offsite in direct replacement of T-33, as a part of offsite public open space enhancements, and/or elsewhere within the Silver Spring CBD as approved by MNCPPC Staff.

5. *All stormwater management, water quality plan, and floodplain requirements of Chapter 19 are satisfied*

The Preliminary Plan Amendment meets the stormwater management requirements of Chapter 19 of the County Code. The Applicant is coordinating on a stormwater concept approval from MCDPS water resources division. The Application is anticipated to meet stormwater management goals through a variety of techniques. However, the SWM concept approval letter is not available yet, and the approval is anticipated prior to the Planning Board hearing. The details of the stormwater concept approval will be provided and discussed as part of the March 26th presentation.

6. *Any burial site of which the applicant has actual notice or constructive notice or that is included in the Montgomery County Inventory and located within the subdivision boundary is approved under Subsection 50-4.3.*

This application is not within the vicinity of a burial site.

SECTION 6 – CITIZEN CORRESPONDENCE AND ISSUES

The Applicant has met all proper signage, noticing and pre-submission meeting requirements for the submitted Applications. A pre-submission meeting for the Preliminary Plan was held March 18, 2019. The Applicant reported that several attendees raised questions regarding the traffic impact of the Project, a significant number of attendees expressed support for the Project emphasizing the need for child care in this area and noting that, given the location, many children will be walked to the center, thus minimizing the traffic impact on the surrounding area.

Staff has received email correspondence from one community member who states that she and the East Silver Spring Community Association (ESSCA) supports sole access from alley rather than Sligo Ave. Staff

notes that the original submission for this amendment showed the primary access to the Site as being from Sligo Avenue. However, since the circulation/primary access has since been modified to use the alley for ingress as recommend by DOT and Staff, the community concerns have been addressed.

SECTION 7– CONCLUSION

The subject application meets all of the requirements established in the Subdivision Regulations and the Zoning Ordinance, and conform to the recommendations of the 2000 Silver Spring CBD Sector Plan. Access to the lot is adequate and all public facilities and utilities have been deemed adequate to serve this Application. The Application was reviewed by other applicable County agencies, all of whom have recommended approval of the plan. Therefore, Staff recommends approval of the Application, with the conditions as specified.

ATTACHMENTS

Attachment A: Planning Board Resolution Approving Preliminary Plan 120010770

Attachment B: Board of Appeals Opinion Approving Special Exception Case S-2469

Attachment C: Preliminary Plan

Attachment D: Agency Letters

Attachment E: Applicant Requests (for waiver and alternative compliance).

Attachment F: Record Plat



Date Mailed: February 14, 2002

Action: Approved Staff Recommendation

Motion of Comm. Bryant, seconded by
Comm. Robinson with a vote of 5-0;
Comms. Bryant, Holmes, Perdue and
Wellington voting in favor

MONTGOMERY COUNTY PLANNING BOARD

OPINION

Preliminary Plan 1-01077

NAME OF PLAN: AMBASSADOR ANIMAL HOSPITAL

On 05/25/01, SAILENDRA ROY submitted an application for the approval of a preliminary plan of subdivision of property in the CBD-0.5 zone. The application proposed to create 1 lot on 0.62 acres of land. The application was designated Preliminary Plan 1-01077. On 12/13/01, Preliminary Plan 1-01077 was brought before the Montgomery County Planning Board for a public hearing. At the public hearing, the Montgomery County Planning Board heard testimony and received evidence submitted in the record on the application. Based upon the testimony and evidence presented by staff and on the information on the Preliminary Subdivision Plan Application Form, attached hereto and made a part hereof, the Montgomery County Planning Board finds Preliminary Plan 1-01077 to be in accordance with the purposes and requirements of the Subdivision Regulations (Chapter 50, Montgomery County Code, as amended) and approves Preliminary Plan 1-01077.

Approval, subject to the following conditions:

- (1) This preliminary plan is limited to the uses and conditions outlined in Board of Appeals opinion for Special Exception Case No. S-2469
- (2) All road rights-of-way shown on the approved preliminary plan shall be dedicated by the applicant, to the full width mandated by the Silver Spring CBD Master Plan, unless otherwise designated on the preliminary plan
- (3) Record plat to provide for dedication for 40 feet of right-of-way for Sligo Road
- (4) Compliance with conditions of MCDPS stormwater management approval letter dated, June 29, 2001
- (5) Access and improvements as required to be approved by MCDPWT prior to recordation of plat
- (6) A final landscape, lighting and parking facilities plan must be reviewed and approved by technical staff prior to recordation of plat
- (7) This preliminary plan will remain valid for thirty-seven (37) months from the date of mailing of the Planning Board opinion. Prior to the expiration of this validity period, a final record plat for all property delineated on the approved preliminary plan must be recorded or a request for an extension must be filed
- (8) The Adequate Public Facility (APF) Review for this preliminary plan will remain valid for sixty-one (61) months from the date of mailing of the Planning Board opinion
- (9) Necessary Easements

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850
(240) 777-6600

www.montgomerycountymd.gov/content/council/boa/board.asp

Case No. S-2469

PETITION OF AMBASSADOR ANIMAL HOSPITAL

RESOLUTION TO MODIFY SPECIAL EXCEPTION

(Resolution Adopted January 19, 2005)

(Effective Date of Resolution: March 11, 2005)

The Board of Appeals has received a letters, dated November 9, 2004, and December 14, 2004, from Philip E. Perrine, AICP, on behalf of Dr. Sallendra Roy, holder of the captioned special exception. Mr. Perrine requests administrative modification of the special exception to allow: 1) relocation of the handicap parking space from the south end of the parking lot to the west side; 2) omission of two glass block windows indicated on building plans for the north wall, installation of two doors to the rear elevation, for a total of five doors; 3) location of signs over the east wall entrance to the Hospital and on the west side of the building; 4) a wooden fence along the front portion of the wet property line; 5) a wooden fence along the rear section of the special exception property between the landscaping strip and the auto storage lot to the west; 6) installation of three bollards within a parking island west of the dumpster in the rear of the property to provide protection for the grassed area and landscaping; and 7) limitation of the special exception use to the first floor of the building, allowing the second floor to be utilized for other, appropriate permitted uses in the CBD-0.5 Zone. Mr. Perrine also submits correspondence, dated December 10, 2004, from Chinmoy Mitra, Executive Vice President of ATI, Inc., Mr. Mitra states that "the building signs [associated with the special exception] meet Montgomery County Permitting guide lines."

The Board of Appeals granted Case No. S-2469, based upon a Report and Recommendation from the Hearing Examiner for Montgomery County, on October 22, 2001, to Ambassador Animal Hospital, Inc., to permit the construction and operation of a veterinary hospital.

The subject property is Lots 3 and 4, Block J, R. Holt Easley's Subdivision, located at 811 Sligo Avenue, Silver Spring, Maryland, in the CBD-0.5 and CBD-1 Zones.

The Board of Appeals considered Mr. Perrine's letter at its Worksession on January 19, 2005. Section 59-G-1.3(c)(1) of the Montgomery County Zoning Ordinance provides, pertaining to modification of special exceptions:

If the proposed modification is such that the terms or conditions could be modified without substantially changing the nature, character or intensity of the use and without substantially changing the effect on traffic or on the immediate neighborhood, the Board, without convening a public hearing to consider the proposed change, may modify the term or condition.

The Board finds that the requested changes will not substantially change the nature, character or intensity of the use or its effect on traffic or on the immediate neighborhood. Therefore, on a motion by Louise L. Mayer, seconded by Wendell M. Holloway, with Donna L. Barron and Allison Ishihara Fultz, Chair, in agreement and Angelo M. Caputo necessarily absent:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland that the record in Case No. S-2469 is re-opened to receive the letters dated November 9, 2004 and December 14, 2004 from Philip E. Perrine, with attachments, together with the letter dated December 10, 2004, from Chinmoy Mitra; and

BE IT FURTHER RESOLVED by the Board of Appeals for Montgomery County, Maryland that the request to modify the special exception is **granted**; and

BE IT FURTHER RESOLVED by the Board of Appeals for Montgomery County, Maryland that all terms and conditions of the original special exception, together with any modifications granted by the Board of Appeals, remain in effect.



Allison Ishihara Fultz
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 11th day of March, 2005.



Katherine Freeman
Executive Secretary to the Board

NOTE:

Any party may, within fifteen (15) days of the date of the Board's Resolution, request a public hearing on the particular action taken by the Board. Such request shall be in writing, and shall specify the reasons for the request and the nature of the objections and/or relief desired. In the event that such request is received, the Board shall suspend its decision and conduct a public hearing to consider the action taken.

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book (See Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County, in accordance with the Maryland Rules of Procedure.

BOARD OF APPEALS
for
MONTGOMERY COUNTY

Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850
(240) 777-6600

Case No. S-2469

PETITION OF AMBASSADOR ANIMAL HOSPITAL, INC.

OPINION OF THE BOARD

(Hearings held July 13, 2001, August 6 – 9 2001)
(Effective Date of Opinion: October 22, 2001)

Case No. S-2469 is an application for a special exception pursuant to Section 59-G-2.32(a) of the Zoning Ordinance to permit the construction and operation of a veterinary hospital.

The subject property is Lots 3 and 4, Block J, R. Holt Easley's Subdivision, located at 811 Sligo Avenue, Silver Spring, Maryland, in the CBD-0.5 and CBD-1 Zones.

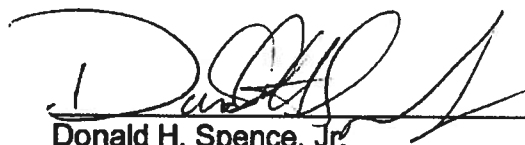
On May 24, 2001 the Board of Appeals referred the case to the Hearing Examiner for Montgomery County to conduct the public hearing and prepare a report and recommendation. Hearings were held July 13 and August 6-9 2001. On October 12, 2001, the Hearing Examiner forward an Amended Report and Recommendation to the Board of Appeals.

The Board considered the Hearing Examiner's report at its Worksession on October 16, 2001. After careful consideration, the Board voted to accept the Hearing Examiner's report and recommendation, as amended, to approve the special exception, with conditions.

Decision of the Board: Requested Special Exception **granted**, subject to the conditions in the Hearing Examiner's Report and Recommendation.

On a motion by Angelo M. Caputo, seconded by Louise L. Mayer, with Allison I. Fultz and Donald H. Spence, Jr., Chairman in agreement, the Board adopted the following Resolution:

BE IT RESOLVED by the Board of Appeals for Montgomery County Maryland that the Report and Recommendation of the Hearing Examiner in Case No. S-2469, Petition of Ambassador Animal Hospital (OZAH Referral No. 01-18) is adopted as the Resolution required by law as its decision in the above-entitled case.



Donald H. Spence, Jr.
Chairman, Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 22nd day of October, 2001.



Katherine Freeman
Executive Secretary to the Board

NOTE:

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book (See Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County in accordance with the Maryland Rules of Procedure.

PROPOSED CONDITIONS BASED ON
CERTIFIED SITE PLAN #82010012A
"SILVER SPRING PARK"
APPROVED ON 11/19/14

PROP. LOADING DOCK
PER CERTIFIED SITE PLAN
#82010012A
"SILVER SPRING PARK"
APPROVED ON 11/19/14

PROPOSED CONDITIONS BASED ON
CERTIFIED SITE PLAN #820160140
"SLIGO ARTSPACE" APPROVED ON
10/17/18

PROPOSED CONDITIONS BASED ON
CERTIFIED SITE PLAN #820190050 "850
SLIGO AVENUE" APPROVED ON
10/10/2019

LIST OF AMENDMENT ITEMS

1. PROVIDE PLAYGROUND AREA ON LOT 3.
2. CREATE 8 PARKING SPACES TO THE EAST OF THE PLAYGROUND AREA AND 5 SPACES TO THE EAST OF THE BUILDING.
3. CONVERTING EXISTING USE FROM VETERINARY HOSPITAL TO CHILD CARE CENTER
4. VEHICULAR ACCESS WITHIN A 20-FOOT ROW ALLEY
5. CONVERSION OF PUBLIC USE SPACE TO PRIVATE USE
6. CHANGES TO ONSITE STORMWATER MANAGEMENT
7. LANDSCAPE AND LIGHTING REVISIONS

GENERAL NOTES

1. DEVELOPER/APPLICANT:
WOODMONT ACQUISITIONS, LLC
2100 WEST 7TH STREET
FORT WORTH, TX 76107
CONTACT: CRAIG PINCINE
2. THIS PLAN IS BASED UPON THE FOLLOWING:

PREPARED BY BOHLER ENGINEERING
BOUNDARY & TOPOGRAPHIC SURVEY TITLE:
"WOODMONT
811 SLIGO AVENUE
ELECTION DISTRICT NO. 13
MONTGOMERY COUNTY, MARYLAND"
PREPARED BY: BOHLER ENGINEERING
FIELD DATE: 08/02/18
DATED: 08/10/18
PROJECT NO.: SB182062
3. ZONING DATA: CR-1.5 C-1.0 R-1.5 H-60T

EXISTING USE: COMMERCIAL
PROPOSED USE: COMMERCIAL
4. TOTAL FORESTED AREA DISTURBED: 0 SQ FT
5. TOTAL DISTURBED AREA: 0.39 AC ±
6. WSSC 2007 SHEET NO.: 210NW01
7. WATERSHED: SLIGO CREEK
8. TOTAL TRACT AREA: 0.585 AC ±
9. NO STREAMS EXIST ON-SITE.
10. NO FLOODPLAINS EXIST ON THE PROPERTY PER FEMA MAP #24031C0460D
11. NO WETLANDS EXIST ON-SITE.
12. NO KNOWN ENDANGERED SPECIES ARE KNOWN TO EXIST ON THE PROPERTY.
13. NO KNOWN HISTORIC FEATURES EXIST ON THE PROPERTY.
14. NO TREES GREATER THAN OR EQUAL TO 24 INCHES DIAMETER AT CHEST HEIGHT EXIST ON-SITE.
15. NO EXISTING FOREST ON-SITE.
16. NO SPECIMEN OF CHAMPION TREES ARE ARE PROPOSED FOR REMOVAL ON-SITE.

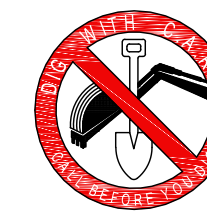


LOCATION MAP
COPYRIGHT ADC THE MAP PEOPLE
PERMIT USE NO. 20602153-5
SCALE: 1"=2000'

REVISIONS

[illegible]

THIS DRAWING IS INTENDED FOR MUNICIPAL AND/OR AGENCY
REVIEW AND APPROVAL. IT IS NOT INTENDED AS A
CONSTRUCTION DOCUMENT UNLESS INDICATED OTHERWISE.



THE FOLLOWING STATES REQUIRE NOTIFICATION BY EXCAVATORS, DESIGNERS, OR ANY PERSON PREPARING TO DISTURB THE EARTH'S SURFACE ANYWHERE IN THE STATE OF VIRGINIA, MARYLAND, THE DISTRICT OF COLUMBIA, AND DELAWARE CALL - 811
(WV 1-800-245-4848) (PA 1-800-242-1776) (DC 1-800-257-7777) (VA 1-800-552-7001) (MD 1-800-257-7777) (DE 1-800-282-8585)

NOT APPROVED FOR
CONSTRUCTION

PROJECT No.:	MB1820621
DRAWN BY:	IGE
CHECKED BY:	BLF
DATE:	05/01/19
SCALE:	1" = 20'
CAD I.D.:	SSP

PROJECT: KIDDIE
ACADEMY
12001077A

WOODMONT
ACQUISITIONS, LLC

811 SLIGO AVENUE
SILVER SPRING, MD 20190
MONTGOMERY COUNTY
TAX MAP: JN33



16701 MELFORD BLVD , SUITE 310
BOWIE, MARYLAND 20715
Phone: (301) 809-4500
Fax: (301) 809-4501
MD@BohlerEng.com

B. L. FOX

PROFESSIONAL ENGINEER

SHEET TITLE:

PRELIMINARY PLAN

SHEET NUMBER:

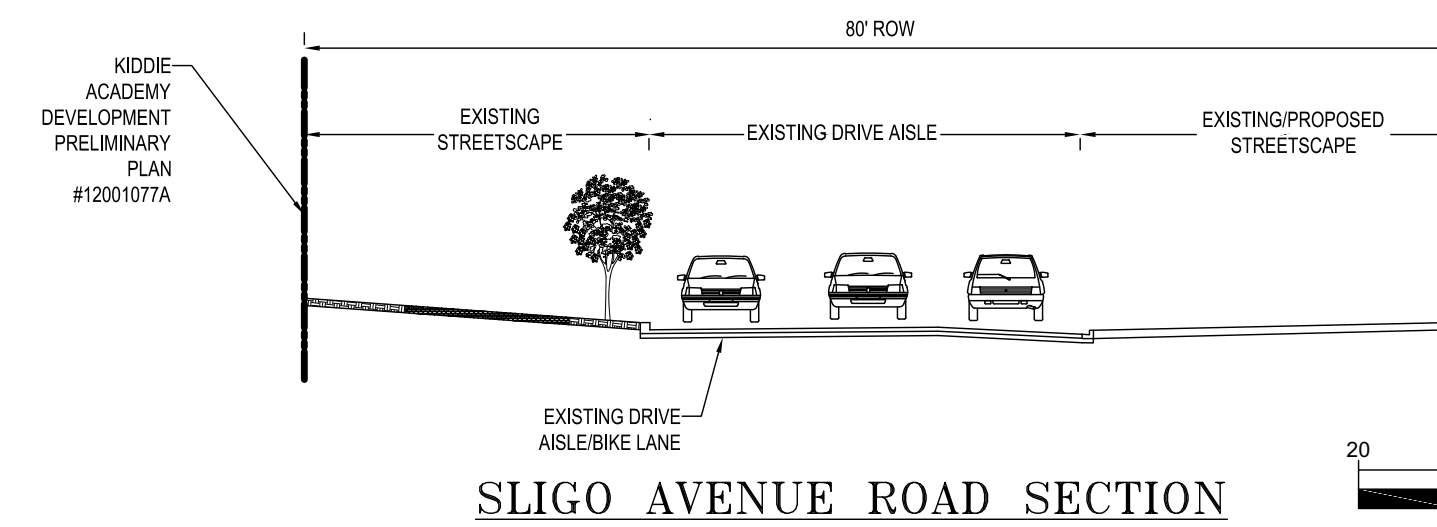
3

ZONE : CR-1.5, C-1.0, R-1.5, H-60T (FORMERLY CBD 0.5)		
STANDARD METHOD OF DEVELOPMENT		
DEVELOPMENT STANDARD	REQUIRED/PERMITTED	PROPOSED
BUILDING HEIGHT	60'	30'
BUILDING SETBACKS		
FRONT:	0'	32'
REAR:	0'	109'
SIDE (EAST):	15'	29'
SIDE (WEST):	0'	0'
PUBLIC USE SPACE		
	10% (2,650 SF)	0 % PROPOSED ON SITE *
NET LOT AREA		
	25,500 SF (0.585 ACRES)	
FLOOR AREA RATIO (FAR)		
	1.0	EX. 13,650 SF (NO PROPOSED SF)

*APPLICANT TO SATISFY THE 10% PUBLIC OPEN SPACE REQUIREMENT BY PROVIDING OFFSITE IMPROVEMENTS OR A FEE IN LIEU, PURSUANT TO ZONING ORDINANCE SECTION 6.3.6.C.

PARKING REQUIREMENTS (ZONE CR-1.5, C-1.0, R-1.5, H-60T (FORMERLY CBD 0.5))				
USE CATEGORY	ZONING ORDINANCE DEVELOPMENT STANDARDS		PARKING PROPOSED	
	MINIMUM	MAXIMUM	STANDARD SPACES	ADA SPACES
DAY CARE CENTER	3/1000 SF	4/1000 SF	12"	1"

*THE PROPOSED DEVELOPMENT IS LOCATED WITHIN THE SILVER SPRING PARKING LOT DISTRICT, AND THEREFORE IS NOT REQUIRED TO PROVIDE PARKING ONSITE.



PROFESSIONAL CERTIFICATION
I, BRADFORD L. FOX, HEREBY CERTIFY THAT THESE
DOCUMENTS WERE PREPARED OR APPROVED BY ME, AND
THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER
UNDER THE LAWS OF THE STATE OF MARYLAND,
LICENSE NO. 37966, EXPIRATION DATE: 11/30/2021



DEPARTMENT OF TRANSPORTATION

Marc Elrich
County Executive

Christopher R Conklin
Director

February 19, 2020

Mr. Marco Fuster, Senior Planner
Area 1 Planning Division
The Maryland-National Capital
Park & Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910-3760

RE: Preliminary Plan No. 12001077A
Kiddie Academy

Dear Mr. Fuster

We have completed our review of the revised preliminary plan uploaded to eplans dated January 28, 2020. A previous plan was reviewed by the Development Review Committee at its July 9, 2019 meeting. We recommend approval of the plan subject to the following comments:

All Planning Board Opinions relating to this plan or any subsequent revision, project plans or site plans should be submitted to the Montgomery County Department of Permitting Services (MCDPS) in the package for record plats, storm drain, grading or paving plans, or application for access permit. Include this letter and all other correspondence from this department.

Significant Plan Review Comments

1. The certified site plan should show that the proposed site circulation as inbound only from Fenton Street to the existing alley and outbound only from Sligo Avenue as specified in the Montgomery County Department of Transportation (MCDOT) Traffic Impact Study (TIS) Letter dated July 19, 2019. Final details of this access will be determined at or before the permit stage.
2. Per Section 49-31 (p) of the County Code, this project will require both Planning Board and MCDOT Director approval for the primary access being provided from the alley.

Office of the Director

101 Monroe Street 10th Floor · Rockville Maryland 20850 · 240-777-7170 · 240-777-7178 FAX

www.montgomerycountymd.gov

Located one block west of the Rockville Metro Station

The MCDOT Director recommended approval of the primary access from the alley in a revised letter dated February 14, 2020. We defer to Planning Board for the final approval.

3. The existing and proposed sidewalks along the site frontage shall be Americans with Disabilities Act (ADA) compliant. The applicant shall be responsible to replace any existing sidewalks which are not ADA compliant along their site frontage.
4. The proposed trash door swings into the public right-of-way, which is not allowed. The certified preliminary plan should address this issue.
5. At or before the permit stage, the applicant will remove impediments if any, such as and including utility poles for the entirety of their alley frontage
6. Prior to issuance of the right-of-way the permit, the applicant should contact Ms. Christina Contreras of MCDPS at christina.contreras@montgomerycountymd.gov for the requirements to reconstruct the existing alley from the subject property to Fenton Street since it is being used as primary access to the subject site. Prior to issuance of the first use and occupancy permit, the applicant shall be responsible for reconstructing the existing alley from the subject property to Fenton Street to the standard per Montgomery County standard MC-201.01. All costs associated with the alley reconstruction shall be the responsibility of the applicant.
7. At or before the permit stage, the applicant will be required to post the required traffic signs within the limits of the subject property to facilitate the correct site circulation.
8. Prior to issuance of the right-of-way permit, the applicant shall coordinate with adjacent property owner(s) to remove illegal obstructions if any, such as rolling dumpsters, from the alley and to provide a status report on these efforts.
9. There is an existing bus stop along their street frontage. At or before the issuance of the right-of-way permit, the applicant will contact Mr. Wayne Miller of our Division of Transit Services to coordinate bus stop improvements. The applicant will be responsible to construct a 5'x8' bus pad prior to issuance of the first use and occupancy permit. Mr. Miller may be contacted at 240 777-5836 or at Wayne.Miller2@montgomerycountymd.gov.
10. Storm Drain Analysis: **INCOMPLETE**
 - a. Identify the closest public storm drain system. Is there an increase/decrease in run off at all the study point(s) without using the reduced RCN? Provide outfall analysis of at all the study point(s).

- i. If there is an increase in runoff from the proposed site, analyze the existing public storm drain system from the proposed connection point to a point where three (3) consecutive storm drain pipe runs can convey the proposed peak design discharge without surcharging the system per the Section 1.3.5 of the Montgomery County Drainage Design Criteria.
 - ii. If there is a decrease in runoff from the proposed site, analyze the one (1) downstream storm drainpipe of existing public storm drain system from the proposed connection point.
- b. If the proposed subdivision drains to an existing closed section street, include spread computations in the impact analysis.
- c. Where does the proposed storm drain pipe from the planter box outfall?

Standard Plan Review Comments

1. The proposed Streetscapes shall be per the Silver Spring Downtown Streetscape Plan.
2. The sight distances study has been accepted. A copy of the accepted Sight Distances Evaluation certification form is enclosed for your information and reference. There should not any proposed tree or any obstruction to hinder the line of sight from the proposed access point(s).
3. The proposed driveway apron access along Sligo Avenue and the public alley shall meet Montgomery county standard detail MC-302.01 (Commercial Driveway).
4. No steps, stoops or retaining walls for the development are allowed in County right-of-way (ROW). No door swings are allowed into county ROW.
5. Trees in the County rights of way – spacing and species to be in accordance with the applicable MCDOT standards. Tree planning within the public right of way must be coordinated with MCDPS Right-of-Way Plan Review Section.
6. If the proposed development will alter any existing street lights, replacement of signing, and/or pavement markings, please contact Mr. Dan Sanayi of our Traffic Engineering Design and Operations Section at (240) 777-2190 for proper executing procedures. All costs associated with such relocations shall be the responsibility of the applicant.
7. The owner will be required to submit a recorded covenant for the operation and maintenance of private streets/alleys, storm drain systems, and/or open space areas prior to MCDPS approval of the record plat. The deed reference for this document is to be provided on the record plat.

8. Posting of the ROW permit bond is a prerequisite to MCDPS approval of the record plat. The right-of-way permit will include, but not necessarily be limited to, the following improvements:
- a. The existing public alley shall be reconstructed to bring it to standard from the subject property to Fenton Street per Montgomery County standard MC-201.01.
 - b. Handicap ramps, sidewalk, lawn panel, and street trees along Sligo Avenue.
 - c. Permanent monuments and property line markers, as required by Section 50-24(e) of the Subdivision Regulations.
 - d. Erosion and sediment control measures as required by Section 50-35(j) and on-site stormwater management where applicable shall be provided by the Developer (at no cost to the County) at such locations deemed necessary by the MCDPS and will comply with their specifications. Erosion and sediment control measures are to be built prior to construction of streets, houses and/or site grading and are to remain in operation (including maintenance) as long as deemed necessary by the MCDPS.
 - e. Developer shall ensure final and proper completion and installation of all utility lines underground along their site frontage.
 - f. Developer shall provide street lights in accordance with the specifications, requirements, and standards prescribed by the MCDOT Division of Traffic Engineering and Operations.

Thank you for the opportunity to review this preliminary plan. If you have any questions or comments regarding this letter, please contact Deepak Somarajan, our Development Review Team Engineer for this project at deepak.somarajan@montgomerycountymd.gov or (240) 777-2194.

Sincerely,



Deepak Somarajan, Engineer III
Development Review
Office of Transportation Policy

Mr. Marco Fuster
Preliminary Plan No. 12001077A
February 19, 2020
Page 5

Enclosures:

1. Attachment # 1: Sight Distance Form(s)
2. MCDOT Director's Approval Letter-Alley Primary Access

cc: Letters notebook

cc-e: Patricia Harris	Lerch, Early & brewer, Chtd
Bradford Fox	Bohler Engineering
Matthew Folden	MNCPPC Area-1
Michael L. Paylor	MCDOT DTEO
Mark Terry	MCDOT DTEO
Dan Sanayi	MCDOT DTEO
Wayne Miller	MCDOT DTS
Atiq Pajshiri	MCDPS
Sam Farhadi	MCPS
Christina Contreras	MCDPS
Rebecca Torma	MCDOT OTP
Deepak Somarajan	MCDOT OTP



MONTGOMERY COUNTY, MARYLAND
DEPARTMENT OF PUBLIC WORKS AND TRANSPORTATION
DEPARTMENT OF PERMITTING SERVICES

SIGHT DISTANCE EVALUATION

Facility/Subdivision Name: Kiddie Academy

Preliminary Plan Number: 1-2001077A

Street Name: SLIGO AVENUE

Master Plan Road
Classification: Arterial

Posted Speed Limit: 30 mph

Street/Driveway #1 (SLIGO AVE.)

Street/Driveway #2 ()

Sight Distance (feet)

OK?

Right 325

YES

Left 325

YES

Sight Distance (feet)

OK?

Right

Left

Comments: _____

Comments: _____

GUIDELINES

Classification or Posted Speed
(use higher value)

Tertiary - 25 mph

Secondary - 30

Business - 30

Primary - 35

Arterial - 40

(45)

Major - 50

(55)

Required
Sight Distance
in Each Direction*

150'

200'

200'

250'

325'

400'

475'

550'

Sight distance is measured from an eye height of 3.5' at a point on the centerline of the driveway (or side street) 6' back from the face of curb or edge of traveled way of the intersecting roadway where a point 2.75' above the road surface is visible. (See attached drawing)

*Source: AASHTO

ENGINEER/ SURVEYOR CERTIFICATE

I hereby certify that this information is accurate and was collected in accordance with these guidelines.



7/24/19
Date

Montgomery County Review:

☒ Approved

☐ Disapproved:

By: [Signature]

Date: 2/18/2020

Form Reformatted:
March, 2000

NOTE:- THERE SHOULD NOT BE ANY PROPOSED TREE/OBSTRUCTIONS
TO HINDER THE LINE OF SIGHT FROM THE PROPOSED ACCESS POINT(S).



Marc Elrich
County Executive

Christopher R Conklin
Director

DEPARTMENT OF TRANSPORTATION

February 14, 2020

Mr. Stephen Coslik
Kiddie Academy Silver Spring Academy LLC
2100 West 7th Street
Fort Worth, TX 76107

RE: Kiddie Academy, Use of Alley as Primary Access -REVISED LETTER

Dear Mr. Coslik:

This letter supersedes the previous letter dated November 22, 2019. This letter is in response to your request dated November 18, 2019, concerning primary access for Kiddie Academy, ("the Applicant") via existing public alley. The Montgomery County Code Section 49-31. P, states "An alley may be used to provide primary vehicular access if the Planning Board and the Director of Transportation concur that the dimensions and specifications proposed in a ...preliminary subdivision... would provide adequate primary vehicular access."

The Traffic Impact Study (TIS) dated May 14, 2019 studied two Scenarios for the site circulation.

- i. Scenario-1-Inbound only from Sligo Avenue to outbound only from the existing alley onto Fenton Street.
- ii. Scenario-2-Inbound only from Fenton Street to the existing alley and outbound only from Sligo Avenue.

As per the MCDOT TIS Letter dated July 19, 2019, the staff strongly recommended "Scenario-2-Inbound only from Fenton Street to the existing alley and outbound only from Sligo Avenue" for the following reasons:

- i. The southbound Fenton Street vehicle can wait in the two-way left turn lane (TWTL) and find adequate gaps to enter the existing public alley.

Office of the Director

101 Monroe Street 10th Floor · Rockville Maryland 20850 · 240-777-7170 · 240-777-7178 FAX
www.montgomerycountymd.gov

Located one block west of the Rockville Metro Station

- ii. Since the circulation will be inbound only from Fenton Street to the existing alley to access the subject site, the existing on-street parking will be retained; therefore, the sight distance is not an issue.
- iii. The vehicle storage length would be longer for this scenario when people are dropping off or picking up kids from the site. The vehicle queue extending into alley is of a lesser concern than the queue extending onto Sligo Avenue.
- iv. Based on the report, this scenario will operate more safely and efficiently without adverse impact to the existing Sligo Avenue and Fenton Street intersection.

Based on the information that was provided, I concur, with conditions, that with use of the alley as primary inbound vehicular access is appropriate. The Applicant will meet the following conditions:

- a) Before the approval of preliminary plan, the proposed access from the alley to the site should be designed for inbound movement only as specified in the MCDOT TIS Letter dated July 19, 2019. Final details of this access will be determined at or before the permit stage.
- b) At or before the permit stage, the applicant will remove impediments if any, such as and including utility poles for the entirety of their alley frontage.
- c) At or before the permit stage, the applicant shall be responsible for reconstructing the existing alley to bring it up to standard from the subject property to Fenton Street per Montgomery County standard MC-201.01.
- d) At or before the permit stage, the applicant will be required to post the required traffic signs on the property to facilitate the correct site circulation.
- e) At or before the permit stage, the applicant shall coordinate with adjacent property owner(s) to remove illegal obstructions if any, such as rolling dumpsters, from the alley and to provide a status report on these efforts.

If you have any questions or comments regarding this letter, please contact Mr. Deepak Somarajan, our Development Review Engineer III for this project, at deepak.somarajan@montgomerycountymd.gov or (240) 777-2194.

Sincerely,



Christopher R. Conklin, Director
Montgomery County Department of Transportation

Mr. Stephen Coslik
Kiddie Academy Silver Spring Academy LLC
February 14, 2020
Page 3

[sharepoint/transportation/directors office/development review/Deepak/Preliminary Plan/Kiddie Academy/Letter/ Kiddie Academy- Alley Vehicular access REVISED LETTER](#)

cc: Letters notebook

cc-e:	Patricia Harris	Lerch, Early & brewer, Chtd
	Bradford Fox	Bohler Engineering
	Matthew Folden	MNCPPC Area-1
	Michael L. Paylor	MCDOT DTEO
	Mark Terry	MCDOT DTEO
	Kamal Hamud	MCDOT DTEO
	Rebecca Torma	MCDOT OTP
	Deepak Somarajan	MCDOT OTP



Department of Permitting Services
Fire Department Access and Water Supply Comments

DATE: 15-Aug-19
TO: Bradford Fox - bfox@bohlereng.com
Bohler Engineering
FROM: Marie LaBaw
RE: Kiddie Academy
12001077A

PLAN APPROVED

1. Review based only upon information contained on the plan submitted **15-Aug-19** .Review and approval does not cover unsatisfactory installation resulting from errors, omissions, or failure to clearly indicate conditions on this plan.
2. Correction of unsatisfactory installation will be required upon inspection and service of notice of violation to a party responsible for the property.

***** Reonvation to existing building *****

BOHLER ENGINEERING

Professional Engineering Services

16701 Melford Blvd., Suite 310, Bowie, MD 20715

Telephone: (301) 809-4500 Fax: (301) 809-4501

LETTER OF TRANSMITTAL

VIA: Hand Delivery

TO: Department of Permitting Services
255 Rockville Pike
2nd Floor
Rockville, MD 20850

RE: Fire Department Access Plan
Kiddie Academy
811 Sligo Avenue
Silver Spring, Montgomery County, MD

ATTN: Dr. Marie LaBaw, PhD, P.E.

DATE: 08/14/19

JOB NO: MB182062

WE ARE SENDING YOU ☐ Shop drawings ☐ Copy of letter ☒ Attached ☐ Prints ☐ Change order

<u>COPIES</u>	<u>JOB#</u>	<u>DATE</u>	<u>REVISION</u>	<u>REVISION DATE</u>	<u>SHEET NO.</u>	<u>DESCRIPTION</u>
2	MB182062	08/14/19			1 of 1	Statement of Performance
2	MB182062	05/01/19	1	08/14/19	1 of 1	Fire Department Access Plan

These Are Transmitted: ☐ For approval ☐ For your use ☐ As requested
☒ For review and comment ☐ Approved as submitted ☐ Approved as noted
☐ Returned for corrections

Remarks:

Please find the enclosed documents for your review. Should you have any questions or require additional information, please do not hesitate to contact this office at (301) 809-4500. Thank you.

COPY TO:

SIGNED:



Bradford L. Fox, P.E.



August 14, 2019

Montgomery County Department of Permitting Services
Fire Department Access and Water Supply
255 Rockville Pike, 2nd Floor
Rockville, Maryland 20850

Attn: Marie LaBaw, PhD, PE

Re: Statement of Performance Based Design
Fire Department Access Plan
Kiddie Academy
811 Sligo Avenue
Silver Spring, Montgomery County, MD
BEPC # MB182062

Dear Dr. LaBaw:

On behalf of the applicant, Bohler Engineering has prepared this Statement of Performance Based Design for your review and approval. At this time the applicant has submitted a Preliminary Plan Amendment to propose a re-design of the existing Veterinary Hospital to a proposed child day care center, as well as improvements to the existing stormwater management and public open space. The enclosed Fire Department Access Plan demonstrates proposed renovations to the existing site and building.

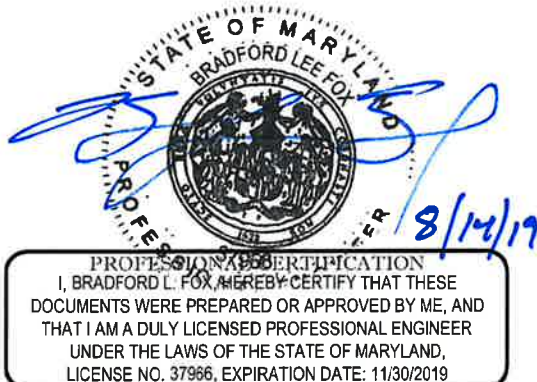
The proposed child day care center will maintain the door on the southern wall of the existing building nearest to Sligo Avenue. The entrance will be accessed by the fire department thru a gated playground, a knox box will be provided. This existing non-compliant condition will not be exacerbated by the proposed re-development.

The fenced playground will extend the distance from the FDC to the existing fire hydrant along Sligo Avenue to 87 feet, still less than the 100-foot maximum.

Please find enclosed the following material for your review:

- Two (2) copies of the Fire Department Access Plan, prepared by Bohler Engineering, dated May 1, 2019, revised August 14, 2019.

Should you have any questions or require additional information, please do not hesitate to contact this office at (301) 809-4500. Thank you.



cc: Matthew Jones, P.E., Bohler Engineering (w/o Enc.)
File

H:\18\MB182062\Administrative\Letters\190807 DPS - MLaBaw - FDAP Statement of Performance.doc

Sincerely,
Bohler Engineering VA, LLC

Bradford Fox, P.E.

FIRE CODE ENFORCEMENT

Fire Department Access Review

Review based only upon information contained on this plan. Does not cover unsatisfactory layout resulting from omissions, errors or failure to clearly indicate conditions on this plan. Correction of such unsatisfactory layout to afford required access will be required if found upon inspection after installation

8/15/2019

BY: SLC FM: 43 DATE: _____

Patricia A. Harris, Esq.
(301) 841-3832
paharris@lerchearly.com

January 27, 2020

Via Electronic Mail

Mr. Marco Fuster
Maryland-National Capital Park and Planning Commission
87 Georgica Avenue
Silver Spring 20910

Re: Kiddie Academy – Preliminary Plan Amendment No. 12001077A

Dear Marco:

Pursuant to Zoning Ordinance Section 6.81., Kiddie Academy (“Applicant”), the owner of 811 Sligo Avenue (the “Property”) requests application of the Alternative Method of Compliance in connection with pending Preliminary Plan Amendment 12001077A. Please accept this letter as justification for the Applicant’s noncompliance with the strict requirements of the screening requirements set forth in Section 6.5.3.

As you are aware, the Applicant is proposing a child care center in the existing building on the Property, that was most recently occupied by a veterinarian office. Because access to the center will utilize the alley located to the rear of the site, an amendment to the existing Preliminary Plan, approved in 2009 is required. Notably, no building additions to the existing structure are proposed. Immediately to the east of the Property is the Art Space project that provides multi-family residential units and art studios. Given the grades between the two properties, a retaining wall will be constructed by Kiddie Academy, adjacent to the property line.

Zoning Ordinance Section 6.5.3 requires screening along a lot line when the abutting property is a residential use. More specifically, given the child care center use, Section 6.5.3 C. 7, governing a “General Building with a Non-Industrial Use” would be applicable. The Applicant is proposing 1 tree along the northern end of the property in proximity to the Property line. At the same time, as indicated on Art Space’s approved Certified Site Plan 820160140 (Approval 10/17/18), Art Space is providing 16 trees (8 American Beach [*Fagus grandifolia*] and 8 Sourwood [*Oxydendrum arboreum*]) along the shared Property line. As a result of the proximity of these trees to the Property and the existing location of the driveway on the Property, there is not enough physical space for the Applicant to provide the landscaping required by Section 6.5.3.C.

The purpose of the screening requirements is to provide appropriate screening between different building types and uses and the trees to be planted by Art Space will provide sufficient

screening to the benefit of both Art Space and the child care center. Thus, the objectives of the Ordinance are being satisfied.

Accordingly, the Applicant requests Alternative Method of Compliance based on the unique site and the development constraints, including the existing conditions of the Property, the location of the driveway, the need for the retaining wall given the grade change and the planting of the Art Space trees that eliminates the opportunity for the Applicant to plant any additional trees along the shared Property line.

The Art Space trees satisfy the intent of the Zoning Ordinance by providing adequate screening and ensuring that there will be no adverse impacts between the two uses. Granting the Alternative Compliance is in the public interest in that it allows for the repurposing of the existing structure which in this case is a very needed use – a child care center, without in any way comprising the intent of the Zoning Ordinance.

Based on the reasons set forth above, the Applicant respectfully requests that the Alternative Method of Compliance be deemed sufficient in this matter.

We appreciate your attention to this matter.

Sincerely,



Patricia A. Harris

Enc.

Patricia A. Harris, Esq.
(301) 841-3832
paharris@lercheearly.com

February 24, 2020

Via Electronic Mail

Mr. Marco Fuster
Maryland-National Capital Park and Planning Commission
87 Georgia Avenue
Silver Spring 20910

Re: Kiddie Academy – Preliminary Plan Amendment No. 12001077A

Dear Marco:

Pursuant to Zoning Ordinance Section 6.2.10, Kiddie Academy (“Applicant”), the owner of 811 Sligo Avenue (the “Property”) requests a waiver from the surface parking perimeter planting requirements of Section 6.2.9.C.3.b. in connection with pending Preliminary Plan Amendment 12001077A. Section 6.2.9.C.3.b requires that for parking lots providing 10 or more spaces the perimeter planting of the surface parking lot must:

- i. be a minimum of 6 feet wide;
- ii. contain a hedge or low wall a minimum of 3 feet high;
- iii. have a canopy tree planted every 30 feet on center.

As you are aware, the Applicant is proposing a child care center in the existing building on the Property that was most recently occupied by a veterinarian office (the “Project”). The Property abuts the multi-family Arts Space project to the east and the existing driveway along the eastern Property line extends to the rear of the Property. The Project will provide a total of 13 parking spaces, with only eight spaces located in the northern portion of the Property and five additional parallel parking spaces located along the western side of the drive aisle adjacent to the building. Critically, while this driveway will be extended to provide access to the alley to the north, its location along the eastern property line is not changing.

Compliance with the landscaping requirements of Section 6.2.9.C.3.b in this instance would be very difficult and would have an adverse impact on the Project. The following factors support the Applicant’s waiver request:

1. The driveway is an existing condition. Relocation of the driveway to provide the six foot wide landscaping strip would shift the existing driveway further to the west, and decrease the size of the playground area. Because the size of the playground is dictated by the

childcare licensing requirements, any decrease in this area will cause the Project to be out of compliance in terms of the needed area. It is unknown whether the Applicant would be able to obtain a waiver from this licensing requirement, thus placing in jeopardy a needed use in this area of Silver Spring. Moreover, even if a waiver from the playground area requirement were to be granted, a decrease in the size of the space decreases the quality of the space for the children.

2. A retaining wall will be constructed along the eastern property line thus providing a low buffer between the two properties.

3. The Art Space development was planned and approved with the existing driveway in place and a landscaping buffer is provided along the western property line of the Art Space project thus providing a visual buffer from the driveway.

4. Overall, the Project is decreasing the size of the existing surface parking lot by converting a portion of the parking lot to the playground area, thus providing an overall benefit to the area.

5. The need for the Preliminary Plan Amendment is triggered only by the need to revise the Condition of Approval to allow access to the alley. No external changes are made to the building and the changes to the Property decrease the overall impervious area of the Property. Requiring the imposition of the six foot landscaping strip will require significant changes to the Property that are disproportional to the Preliminary Plan Amendment.

The Applicant is adaptively reusing an existing structure, which is an overall goal of Montgomery County. Reusing the existing structure and at the same time meeting the childcare center licensing requirements while meeting all of the requirements of the current Zoning Ordinance on a relatively small Property (only 25,500 square feet), presents a practical difficulty. The waiver from the landscaping requirement can be granted without compromising the intent of the Zoning Ordinance or adversely affecting the adjacent Art Space project.

Based on the reasons set forth above, the Applicant respectfully requests the granting of the waiver from the perimeter landscaping requirements.

We appreciate your attention to this matter.

Sincerely,



Patricia A. Harris

Patricia A. Harris, Esq.
(301) 841-3832
paharris@lercheearly.com

March 12, 2020

Via Electronic Mail

Mr. Marco Fuster
Maryland-National Capital Park and Planning Commission
87 Georgia Avenue
Silver Spring 20910

Re: Kiddie Academy – Preliminary Plan Amendment No. 12001077A

Dear Marco:

Pursuant to Zoning Ordinance Section 6.81., Kiddie Academy (“Applicant”), the owner of 811 Sligo Avenue (the “Property”) requests application of the Alternative Method of Compliance in connection with the open space required for pending Preliminary Plan Amendment 12001077A.

The Applicant is proposing a child care center in the existing building on the Property that was most recently occupied by a veterinarian office. Because access to the center will utilize the alley located to the rear of the site, an amendment to the existing Preliminary Plan approved in 2009 is required. Given the limited amount of changes to the Property, the Applicant is proceeding under the standard method of development that among other things, requires 10 percent on-site open space (Zoning Ordinance Section 4.5.3.C). Section 6.3.6.C.2 provides that as an alternative to providing on-site open space, an applicant may instead make a payment for improvements to a park in the vicinity of the subject site. For the reasons discussed below, the Applicant requests a modification to the payment requirements pursuant to the Alternative Method of Compliance.

I. On-site Requirement

The Property in its current state technically meets the open space requirement with the provision of the requisite 2,565 square feet of grassed area located in the front of the building (See attached photo). However, based on observation, this space is not used by the public and qualitatively, it is certainly lacking. The rear of the Property is currently improved with a surface parking lot. In order to accommodate the child care center, the Applicant is converting the majority of the parking lot in the rear of the building to playground area. However, in order to meet the State child care licensing requirements, 2,194 square feet of the open area in the front of the building will also be dedicated to playground area. As you may recall, at Staff’s suggestion, the remaining open space in this area was then eliminated, thus resulting in no on-site open space. Given the lack of available space on-site, the Applicant’s only option is to utilize the off-site provisions of Section 6.3.6.C.2.

II. Off-Site Option

Section 6.3.6.C. provides in relevant part as follows:

The Planning Board may find that the requirement for public open space is satisfied in whole or in part by:

...

2. paying all or part of the cost to design, construct, renovate, restore, install, or operate a public open space located within or near the applicable master plan area if the payment:
 - a. equals the cost of constructing the same amount of public open space and any associated amenity on-site per square foot plus the fair market value of the land per square foot;
 - b. implements the open space, recreation, and cultural goals of the applicable master plan; and
 - c. is made within 30 days after the release of any building permit for the subject application.

Based on the State Department of Assessment and Taxation records, this provision would require the Applicant to pay \$94,238 to satisfy Section 2.a (i.e. the fair market value of the 2,565 square feet) *plus* the additional cost of the improvements that could range anywhere from \$38,475 to \$89,775, based on a per square foot improvement cost of \$15 to \$35, respectively.

III. Basis for Alternative Compliance

Pursuant to the Alternative Compliance provisions, the Planning Board may approve an alternative method of compliance if it determines that there is a unique site, a use characteristic or a development constraint (such as an existing building) that precludes safe or efficient development under the relevant requirements.

Given the existing conditions and circumstances of the proposed use, the Applicant requests that the Planning Board approve a payment of \$20,000 as alternative compliance to the required payment set forth above. It is proposed that this payment be required to be made prior to the issuance of the use and occupancy permit.

Strict compliance with the off-site payment option would require a payment of more than \$100,000 – an amount that is highly disproportional to the proposed use. The proposed use does not involve any new development; it is simply the adaptive reuse of an existing building, which in and of itself is an environmentally encouraged approach. During the Applicant's community meeting, a number of the neighbors commented that there is a great need for more child care centers in the neighborhood and that they were looking forward to being able to walk their child to the new center. At the same time, providing quality child care is an economically challenging business and an additional cost of more than \$100,000 significantly increases this challenge. Moreover, the proposed child care center is not generating any need for open space; the very reason for not being able to provide the open space is that the existing space is being converted

to a playground to accommodate the child care center. Relatedly, given the distance of the off-site parks from the proposed child care center, the center will not use any of these surrounding facilities.

Equally important, the open space in the front of the building will be retained and thus it will contribute to the streetscape environment by providing an undeveloped, open area. Of course, because it will be devoted to playground area for the children, it will not technically be available for public open space. However, in contrast to the existing "open space," it will be attractive and well maintained and contribute overall to the improvement of the Sligo Avenue streetscape. It is also important to note that if the project had been an optional method form of development, no open space would be required on the Property, given its limited size and the fact that it fronts on only two public rights-of-way.

Based on the reasons set forth above, the Applicant respectfully requests that the proposed Alternative Method of Compliance involving an off-site open space payment of \$20,000 be deemed sufficient in this matter.

We appreciate your attention to this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Patricia A. Harris', with a stylized flourish at the end.

Patricia A. Harris

Enc.

Attachment A

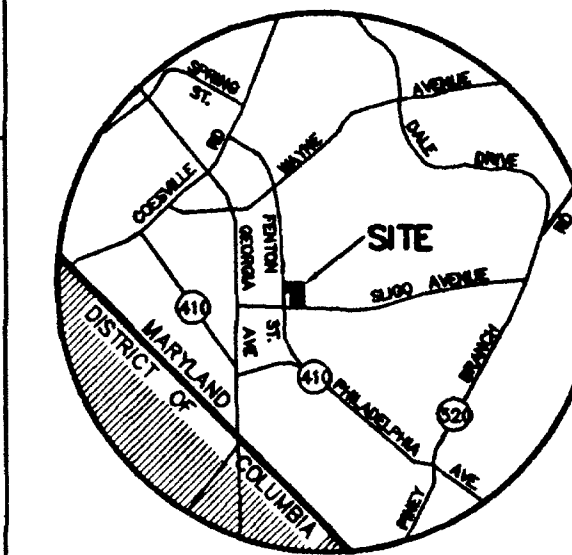


NOTES:

1. ALL TERMS, CONDITIONS, AGREEMENTS, LIMITATIONS, AND REQUIREMENTS ASSOCIATED WITH ANY PRELIMINARY PLAN, SITE PLAN, PROJECT PLAN OR OTHER PLAN, ALLOWING DEVELOPMENT OF THIS PROPERTY, APPROVED BY THE MONTGOMERY COUNTY PLANNING BOARD ARE INTENDED TO SURVIVE AND NOT BE EXTINGUISHED BY THE RECORDATION OF THIS PLAT, UNLESS EXPRESSLY CONTEMPLATED BY THE PLAN AS APPROVED. THE OFFICIAL PUBLIC FILES FOR ANY SUCH PLAN ARE MAINTAINED BY THE PLANNING BOARD AND AVAILABLE FOR PUBLIC REVIEW DURING NORMAL BUSINESS HOURS.
2. THE PROPERTY SHOWN HEREON IS TO BE SERVED BY PUBLIC WATER AND SEWER SERVICES ONLY.
3. THE LAND SHOWN HEREON IS ZONED CBD 0.5

4. THIS SUBDIVISION RECORD PLAT IS NOT INTENDED TO SHOW EVERY MATTER AFFECTING THE OWNERSHIP AND USE, NOR EVERY MATTER RESTRICTING THE OWNERSHIP AND USE OF THE PROPERTY. THE SUBDIVISION RECORD PLAT IS NOT INTENDED TO REPLACE AN EXAMINATION OF TITLE OR TO DEPICT OR NOTE ALL MATTERS AFFECTING TITLE.
5. THE PROPERTY SHOWN HEREON IS FOUND ON TAX MAP JN343 AND WSSC SHEET 210NW01.
6. THE PLAT IS EXEMPT FROM THE FOREST CONSERVATION LAW OF 1992 PER EXEMPTION LETTER DATED JANUARY 23, 2001 FOR NRI/FSD # 4-10227E.

PLAT NO. **22273**



VICINITY MAP
SCALE: 1" = 2,000'

7. IPFD DENOTES IRON PIPE FOUND, RBS DENOTES REBAR SET.
8. THIS PLAT IS LIMITED TO THE USES AND CONDITIONS OF PRELIMINARY PLAN NO. 1-01077.
9. PROPERTY SUBJECT TO THE CONDITIONS OF AN APPROVAL BY THE BOARD OF APPEALS FOR MONTGOMERY COUNTY FOR USE AS A VETERINARY HOSPITAL CASE NO. S-2469

10. THIS PLAT IS SUBJECT TO THE DECLARATION OF COVENANTS AS RECORDED AMONG THE LAND RECORDS OF MONTGOMERY COUNTY, MARYLAND IN LIBER 21523 FOLIO 765
11. COORDINATES SHOWN HEREON ARE BASE ON MARYLAND STATE NAD 83/91 DATUM AS PROJECTED BY WSSC STATIONS 20662 WITH COORDINATES OF NORTH 484,143.674 FEET AND EAST 1,304,251.722 FEET AND NO H-038-R WITH COORDINATES NORTH 484,463.985 FEET AND EAST 1,303,988.176 FEET.
12. THIS PLAT WAS PREPARED IN THE SURVEY MERIDIAN OF THE SUBDIVISION PLAT ENTITLED "R. HOLT EASLEY'S SUBDIVISION" RECORDED IN PLAT BOOK 1 AT PLAT 54 OF WHICH THE LAND SHOWN HEREON IS PART.

OWNER'S CERTIFICATE

THE UNDERSIGNED OWNER(S) OF THE PROPERTY SHOWN AND DESCRIBED HEREON, HEREBY ADOPT THIS PLAN OF SUBDIVISION AND ESTABLISHES THE MINIMUM BUILDING RESTRICTIONS LINES.

THE OWNER HEREBY PROVIDES THE PUBLIC USE SPACE AS APPROVED BY THE BOARD OF APPEALS FOR MONTGOMERY COUNTY IN SPECIAL EXCEPTION CASE NO. S-2469 BY OPINION OF OCTOBER 22, 2001.

THE OWNER HEREBY GRANTS TO THOSE PARTIES LISTED IN THAT CERTAIN DECLARATION RECORDED IN LIBER 21523 AT FOLIO 763 AMONG THE LAND RECORDS OF MONTGOMERY COUNTY, MARYLAND, A STORMWATER MANAGEMENT EASEMENT, SUBJECT TO THE TERMS AND PROVISIONS FOR THE AFOREMENTIONED EASEMENT INDICATED WITHIN SAID DECLARATION.

THE OWNER, ITS SUCCESSORS AND ASSIGNS, SHALL CAUSE PROPERTY OWNERS MARKERS TO BE SET BY A REGISTERED MARYLAND LAND SURVEYOR, IN ACCORDANCE WITH SECTION 50-24(e)(2) OF THE MONTGOMERY COUNTY CODE.

THERE ARE NO SUITS, ACTIONS AT LAW, LEASES, LIENS OR TRUSTS ON THIS PROPERTY, EXCEPT A CERTAIN DEED OF TRUST AND ALL PARTIES IN INTEREST THERETO HAVE INDICATED THEIR ASSENT BELOW.

BY: *Saileendra Roy* 7/22/02
SAILENDRA ROY, OWNER DATE

Aruna Roy 7/22/02
ARUNA ROY, OWNER DATE

FILED
AUG 14 2002

SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT THE PLAN SHOWN HEREON IS CORRECT TO THE BEST OF MY PROFESSIONAL KNOWLEDGE, BELIEF AND INFORMATION, AND THAT IT IS A RESUBDIVISION OF THE LAND CONVEYED BY MARIE M. WILSON TO SAILENDRA & ARUNA ROY BY DEED DATED 7/19/1999 & RECORDED AMONG THE LAND RECORDS OF MONTGOMERY COUNTY, MARYLAND IN LIBER 17307 AT FOLIO 516. THE PROPERTY SHOWN HEREON IS ALSO A RESUBDIVISION OF LOTS 3 AND 4, BLOCK 'J' AS SHOWN ON A PLAT OF "R. HOLT EASLEY SUBDIVISION" RECORDED AMONG SAID LAND RECORDS IN PLAT BOOK 1 AT PLAT 54, SAVING AND EXCEPTING PUBLIC SIDEWALK DEDICATION PER PLAT FILED IN PLAT BOOK 8 AT PLAT NUMBER 624.

I FURTHER CERTIFY THAT, ONCE ENGAGED AS DESCRIBED IN THE OWNER'S DEDICATION HEREON, ALL PROPERTY CORNER MARKERS SHOWN THUS (O), WILL BE SET AND DELINEATED HEREON IN ACCORDANCE WITH SECTION 50-24(e)(2) OF THE MONTGOMERY COUNTY CODE.

THE TOTAL AREA INCLUDED IN THIS PLAT OF SUBDIVISION IS 26,999.36 SQUARE FEET OR 0.6198 ACRES OF LAND AND THE TOTAL AREA OF STREET DEDICATION INCLUDED IN THIS PLAT IS 1,499.36 SQUARE FEET OR 0.0344 ACRES OF LAND.

BY: *Alan Shackelford* 7/1/2002
ALAN SHACKELFORD DATE
PROPERTY LINE SURVEYOR
MARYLAND REGISTRATION NO. 598

SUBDIVISION RECORD PLAT

LOT 17 BLOCK J
A RESUBDIVISION LOTS 3 AND 4, BLOCK J
R. HOLT EASLEY'S SUBDIVISION
SILVER SPRING, ELECTION DISTRICT NO. 13
MONTGOMERY COUNTY, MARYLAND

SCALE: 1" = 30' DATE: MARCH 2002

PUBLIC USE SPACE		
LABEL	BEARING	DISTANCE
A1	N00°00'00"E	30.00 FT.
A2	N90°00'00"E	77.50 FT.
A3	S00°00'00"E	36.20 FT.
A4	N85°25'34"W	77.75 FT.

STORMWATER MANAGEMENT EASEMENT		
LABEL	BEARING	DISTANCE
L1	N00°00'00"E	39.78 FT.
L2	N90°00'00"E	19.00 FT.
L3	S00°00'00"E	10.75 FT.
L4	S45°53'00"E	10.10 FT.
L5	S00°00'00"E	22.00 FT.
L6	N90°00'00"W	26.25 FT.

AREA TABULATION

LOT 17	25,500 SF	OR 0.5854 AC.
STREET DEDICATION	1499.36 SF	OR 0.0344 AC.
TOTAL AREA OF PLAT	26999.36 SF	OR 0.6198 AC.

202164161027031405CDD0.5
MARYLAND - NATIONAL CAPITAL PARK AND PLANNING COMMISSION
MONTGOMERY COUNTY PLANNING BOARD

APPROVED: March 7, 2002

Adrian M. Hays *Mini Wang Feinstone*
CHAIRMAN ASST. SECRETARY TREASURER

M-NCP&PC RECORD PLAT FILE NO. 618-43

MONTGOMERY COUNTY, MARYLAND
DEPARTMENT OF PERMITTING SERVICES

APPROVED: July 31, 2002

BY: *Robert P. Hall*
DIRECTOR

RECORDING INFORMATION

PLAT NO. _____

DATE: _____



DCL CONSULTING ENGINEERING AND PLANNING
8950 Rt. 108 E., Suite 229 Columbia, MD. 21045
Phone: 410-995-0090 Fax: 410-992-7038

