



Jawairia Iqbal Group Day care, 108 East Melbourne Avenue, Conditional Use No. CU202004



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Completed 5-22-20

Description

Request to increase the maximum number of children at an existing eight-child family day care to a Group Day Care with up to twelve children.

Location: 108 East Melbourne Avenue, Silver Spring.

Zone: R-60.

Master Plan: 2000 *East Silver Spring Master Plan*.

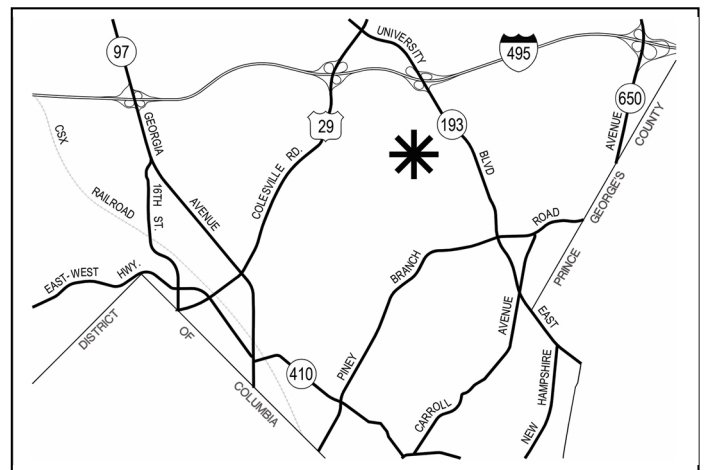
Property Size: 8,494 square feet.

Application Accepted: February 28, 2020.

Applicant: Fauzia Iqbal.

Review Basis: Chapter 59.

Hearing Examiner Public Hearing: June 29, 2020.



Summary

- Staff recommends approval with conditions.
- Staff supports a waiver under Section 59-6.2.10 for relief from the design specifications for the required long-term bicycle parking space.
- At the time of this report, no correspondence from the community has been received.

STAFF RECOMMENDATION

Staff recommends approval of Conditional Use No. CU202004 subject to the following conditions:

1. The Group Day Care must be limited to a maximum of twelve (12) children and up to two (2) non-resident employees.
2. The hours of operation are limited to Monday through Friday, 7:30 a.m. to 5:30 p.m.
3. The Applicant must schedule staggered drop-off and pick-up of children with a maximum of two (2) vehicles dropping off or picking up children during any fifteen (15)-minute period.
4. No more than eight (8) children may play outside at any one time.
5. Outside play time may not occur prior to 9:00 a.m.
6. The Applicant will coordinate with the Department of Permitting Services (DPS) to approve a fencing enclosure for the rear yard that is in compliance with applicable County Codes and policies.

Site and Neighborhood Description

Site Description

The Subject Property ("Property" or "Site") is located at 108 East Melbourne Avenue in Silver Spring, otherwise known as Lot 8, Block B of the Brookside Forest Subdivision. The Site is improved with a detached house (Figure 1) and the Applicant has been operating an eight-child family day care on the premises since 2008. The existing family day care provides care for newborns and children up to four years in age. The existing day care occupies three rooms on the first floor of the house (approximately 750 square feet).



Figure 1: Aerial photo of the Subject Site (outlined in red)

The 8,494 square-foot lot is located on the northwest corner of the intersection of East Melbourne Avenue and Walden Road. The Property has a driveway that is approximately 25 feet wide and 32 feet long that

has space for up to four cars. A concrete walkway connects the entrance of the day care on the east side of the house, accessed from Walden Road. An unenclosed porch covers the entrance on the west side of the house.

Seasonal landscaped beds are located along the walkway to the day care and in front of the house. The house has two residential-type lighting fixtures in the front and a covered, unenclosed porch outside the entrance to the day care.

The outdoor play area is located in the rear yard of the house and is enclosed by fencing approximately four and a half feet in height to along the west side of the property and approximately seven feet in height along the rear and east side of the property. A partially enclosed porch also provides screening of the backyard play area from view from East Melbourne Avenue. The majority of the play area surface is mulch and other natural soft surface with a variety of playground equipment installed.

The section of the fence that is seven feet in height exceeds the maximum fencing height in a residential zone by six inches. As a condition of the Planning Board's recommendation of approval of the conditional use, the Applicant will therefore be required to coordinate with the Department of Permitting Services (DPS) on providing fencing on the Subject Property that is consistent with all applicable County codes and regulations.

On-street parking is allowed on the north side of East Melbourne Avenue and on Walden Road. Both roadways are both Secondary Residential Roads and are 26 feet in width. The existing street section provides ample parking capacity for parents dropping-off or picking-up children attending the day care, as well as on-site parking for the proposed one non-resident staff and the members of the household.

Neighborhood Description

The Staff-defined Neighborhood (outlined in blue in Figure 2) is generally bounded by East Franklin Road to the north; East Schuyler Road to the south; Mintwood Road and Upper Long Branch Neighborhood Park to the east; and by Flower Avenue to the west.



Figure 2: Staff-Defined Neighborhood

The Neighborhood is composed of detached houses in the R-60 Zone. Staff identified two approved conditional uses/special exceptions within the defined neighborhood:

- CBA-3037: Home Occupation, located at 9 Stockton Road
- S1190: Accessory Apartment, located at 9320 Walden Road

Project Description

The Applicant is requesting to expand the existing family day care for a maximum of 12 children. The proposed group day care will occupy the same space in the home as the existing family day care. The Applicant is not proposing any expansion or change to the indoor or outdoor day care space and the current hours of operation, Monday through Friday from 7:30 a.m. to 5:30 p.m., will remain the same. The Applicant and three other family members live on the Property and staff the existing day care. One non-resident employee will be hired for the proposed day care expansion.

Weather permitting, the children will play outside for up to an hour in the morning and the afternoon, similarly to the current operation. Outdoor play will be limited to a maximum of eight children at a time. Parent drop-off and pick-up times are staggered from 7:30 a.m. to 9:00 a.m. and 4:45 p.m. to 5:30 p.m.

The Applicant indicates that a total of seven parking spaces are available for the day care including four tandem parking spaces in the driveway and four on-street spaces along the Property frontages: three on-street spaces in front of the home on East Melbourne Avenue and one on Walden Road.

The Applicant has no existing or proposed signage included as part of this Application.

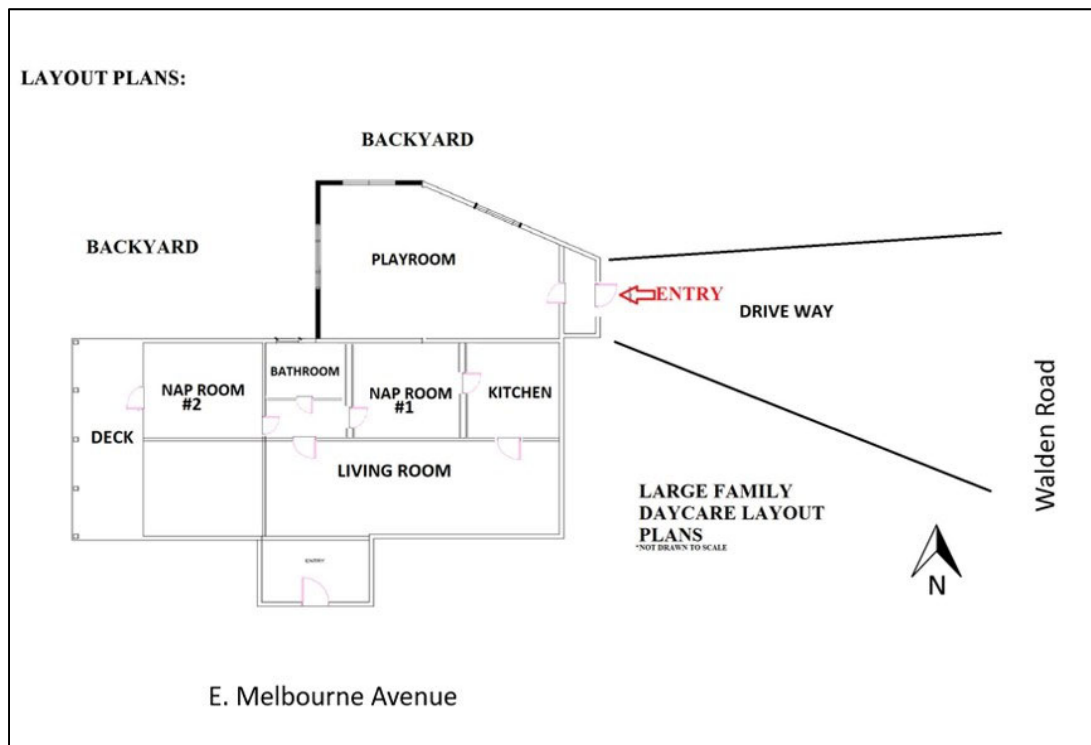


Figure 3: Schematic Floorplan

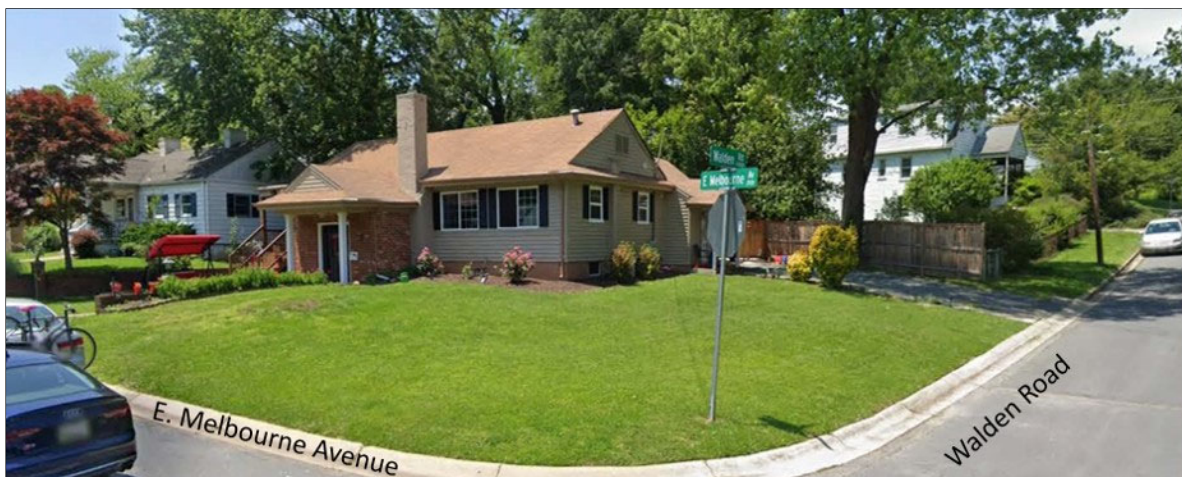


Figure 4: Front view of house facing northwest



Figure 5: Front view of house facing north



Figure 6: Rear yard facing east



Figure 7: Rear yard facing north

Analysis

Master Plan

The Site is located within the 2000 *East Silver Spring Master Plan* (Master Plan) area. Although the Master Plan does not specifically discuss this Property, one of the generalized planning goals is to “preserve existing residential character, encourage neighborhood reinvestment, and enhance the quality of life throughout East Silver Spring” (page 21).

The Master Plan recommends retention of R-60 zoning for the majority of the Plan area, while recognizing that the Zone allows certain uses in addition to single-family residential that may be non-residential but are considered compatible (page 26).

The existing eight-child family day care has been on the Site for over ten years, and the proposal is a modest expansion which will not change the character of the neighborhood. The Subject Site is an appropriate location for a group day care and compatible with the neighborhood. Therefore, the proposal is in substantial conformance with the Master Plan.

Transportation

Master-Planned Roadways and Bikeway

East Melbourne Avenue is designated as a secondary residential street with a 60-foot-wide right-of-way. Walden Road is a secondary residential street with a 50-foot-wide right of way.

The 2018 *Bicycle Master Plan* recommends a neighborhood greenway east of the Site along Sudbury Road between East Franklin Avenue and Plymouth Street. No designated or separated bicycle facilities are recommended on Sudbury Road. One long-term bicycle parking space is required; however, the Applicant requested and Staff supports a waiver to deviate from the design specifications in Section 59.6.2.6.A. Although a bicycle parking space will not be provided within a building, covered parking garage, or bicycle

locker as specified in Section 59.6.2.6.A, bicycles can be parked within the fenced side yard or on the covered side porch adjacent to the home's main entrance.

Pedestrian Facilities

A four-foot-wide lead-in sidewalk connects the day care entrance to Walden Road, along the southern side of the driveway. A few children are expected to be walked to the day care by their parents or guardians.

Transit Service

Although no public transit routes operate on Hayden Drive, two RideOn routes operate on East Franklin Avenue (RideOn Routes 14 and 19) connecting Dallas Avenue, the Takoma Park Metro Station and the Silver Spring Transit Center. RideOn Route 19 also runs along Flower Avenue and stops approximately two blocks from the Site.

Parking and Drop-Off/Pick-Up

The Site contains three off-street parking spaces, and on-street parking is available on both East Melbourne Avenue and Walden Road. Given the relatively limited on-street parking supply, the scheduled parental drop-off and pick-ups must be limited to two vehicles every 15-minutes.

Local Area Transportation Review

A proposed schedule of drop-off/pick-up and staff arrivals during the weekday morning peak period (6:30 a.m. to 9:30 a.m.) and evening peak period (4:00 p.m. to 7:00 p.m.) is included in the Application for Conditional Use. The morning arrival schedule shows up to twelve children dropped off between 7:00 a.m. and 9:30 a.m., and the evening schedule shows up to twelve children picked up between 4:00P.M. and 6:00 P.M. Sibling groups will likely reduce the total number of projected vehicle trips. The projected peak-hour morning and evening trips based on the Institute of Transportation Engineers' (ITE) trip generation rates for a day care center with 12 students, and the Policy Area mode split estimates, are shown in the table below.

Table 1: Estimated Site Trip Generation

Period	ITE Vehicle Trips	Subdivision Staging Policy Projected Trips			
		Person Trips	Auto Driver Trips	Auto Passenger Trips	Pedestrian Trips*
Morning Peak Hour	16	21	13	2	10
Evening Peak Hour	12	16	10	2	8
ITE Land Use Category: 565 – Day Care Center; pedestrian trips represent all walking, biking, and transit trips					

* pedestrian trips are the projected sum of transit riders walking to/from their bus stop, bicyclists, and other students expected to walk to the day care.

Under the *2016-2020 Subdivision Staging Policy*, a transportation study is not required to satisfy the Local Area Transportation Review (LATR) because the proposed group day care generates fewer than 50 person-trips during the weekday a.m. and p.m. peak hours.

Environment

The Site contains no streams, wetlands or their buffers, or known habitats of rare, threatened, or endangered species; thus, the project is in conformance with the *Environmental Guidelines*. This application is not subject to Chapter 22A, the Forest Conservation Law, because the property is less than 40,000 square feet in size.

Community Correspondence

As of the date of posting of this staff report, Staff has not received any comments from the community.

Conditions for Granting a Conditional Use- Section 59.7.3.1.E. Necessary Findings¹

1. *To approve a conditional use application, the Hearing Examiner must find that the proposed development:*
 - a. *satisfies any applicable previous approval on the subject site or, if not, that the previous approval must be amended.*

There are no applicable previous approvals on the Site. The existing eight-child family day care is allowed by right.
 - b. *satisfies the requirements of the zone, use standards under Article 59.3, and to the extent the Hearing Examiner finds necessary to ensure compatibility, meets applicable general requirements under Article 59.6;*

Use Standards for Group Day Care- Section 59.3.4.4.D.2

- a. *Where a Group Day Care (9-12 Persons) is allowed as a limited use, it must satisfy the following standards:*
 - i. *The facility must not be located in a townhouse or duplex building type.*
 - ii. *In a detached house, the registrant is the provider and a resident. If the provider is not a resident, the provider may file a conditional use application for a Day Care Center (13-30 Persons) (See Section 3.4.4.E)*
 - iii. *In a detached house, no more than 3 non-resident staff members are on-site at any time*
 - iv. *In the AR zone, this use may be prohibited under Section 3.1.5, Transferable Development Rights.*

The facility is not located in a townhouse or duplex and the Applicant is the provider and a resident. No more than one non-resident staff member will be on-site at any time. The Site is not located in the AR Zone.

¹ Findings 59-7.3.1.E.5 and 59-7.3.1.E.6 are not applicable to this Application because the application is for a day care use and not community swimming pool, filing station, etc.

- b. *Where a Group Day Care (9-12 Persons) is allowed as a conditional use, it may be permitted by the Hearing Examiner under all limited use standards and Section 7.3.1, Conditional Use;*

Table 2: R-60 Zone Development Standards- Section 59.4.4.9.B

Section	Development Standard	Required/ Permitted	Proposed
59.4.4.9.B.1	Minimum Lot Area	6,000 sq. ft.	8,494 sq. ft.
59.4.4.9.B.1	Minimum Lot Width at Front Building Line	60 feet	meets minimum
59.4.4.9.B.1	Minimum Lot Width at Front Lot Line	25 feet	meets minimum
59.4.4.9.B.1	Maximum Density	1 unit (7.26 dwelling units/acre)	1 unit
59.4.4.9.B.1	Maximum Lot Coverage	35 percent	Below maximum
59.4.4.9.B.2	Minimum Front Setback	25 feet	meets minimum ¹
59.4.4.9.B.2	Minimum Side Setback	8 feet	meets minimum
59.4.4.9.B.2	Minimum Sum of Side Setbacks	18 feet	meets minimum
59.4.4.9.B.2	Minimum Rear Setback	20 feet	meets minimum
59.4.4.9.B.3	Maximum Height	30 feet	Below maximum

¹The lot was recorded in 1940 and is conforming under Section 59.7.7.1.A. (pursuant to Section 59.B-5.3 in the Zoning Ordinance in effect prior to October 30, 2014).

Table 3: General Development Requirements- Division 59.6

Section	Parking	Required Spaces	Proposed
59.6.2.4.B	Vehicle Parking Requirement	Group Day Care: 2 (up to 2 non-resident employees) Dwelling: 2 Total: 4	4 spaces in driveway Additional parking permitted and available on East Melbourne Avenue (3 spaces) and on Walden Road (1 space) Total: 8
59.6.2.4.C	Bicycle Parking Requirement	Group Day Care: 1 Long-Term	1 space under covered side porch (waiver under Section 59.6.2.10)

The Applicant requested a waiver, under Section 59.6.2.10 of the Zoning Ordinance, from the design specifications of Section 59.6.2.6.A for a long-term bicycle parking space, the *Bicycle Parking Guidelines* specifies as a metal U-rack. Secure, weather protected space to park a bicycle is available under the covered porch on the west side of the house close to the entrance to the day care. The proposed space satisfies the intent of Division 6.2 to ensure safe and efficient bicycle parking. Staff recommends approval of a waiver.

Screening

The existing fencing in the rear yard provides sufficient screening between the proposed use and the adjacent homes. However, the current fencing exceeds the maximum height for a residential fence, therefore as conditioned the applicant must coordinate with DPS to get approval for all fencing on the Subject Property.

Lighting

The existing lighting is residential in nature and will not cause any unreasonable glare on neighboring properties.

Signage

No signage is proposed as part of this Application, but any signage added in the future must satisfy Division 6.7.

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

As discussed in the Analysis section above, the Site is located within the boundaries of the 2000 *East Silver Spring Master Plan*, and the proposal is in substantial conformance with the Master Plan.

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

The proposal is harmonious with, and will not alter the character of, the surrounding neighborhood. No physical changes are proposed on the Property. Therefore, the proposed expansion of the existing day care use will not alter the character of the neighborhood.

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

Staff identified two approved conditional uses within the Staff-defined neighborhood, a home occupation and accessory apartment. Although approval of this Application will increase the number of conditional uses in the Staff-defined Neighborhood, the proposed day care expansion will not affect the area adversely or alter the area's predominantly residential nature. The existing day care has been operating on the Site

since 2008, the increase in the number of children being served is modest, and the Applicant is not proposing any physical changes to the Property.

- f. will be served by adequate public services and facilities including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage, and other public facilities. If an approved adequate public facilities test is currently valid and the impact of the conditional use is equal to or less than what was approved, a new adequate public facilities test is not required. If an adequate public facilities test is required and:*
 - i. if a preliminary subdivision plan is not filed concurrently or required subsequently, the Hearing Examiner must find that the proposed development will be served by adequate public services and facilities, including schools, police and fire protection, water, sanitary sewer, public roads, and storm drainage, or*
 - ii. if a preliminary subdivision plan is filed concurrently or required subsequently, the Planning Board must find that the proposed development will be served by adequate public services and facilities including schools, police and fire protection, water, sanitary sewer, public roads, and storm drainage, and*

There are adequate public services and facilities to serve the proposed use, and a Preliminary Plan of Subdivision is not required.

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

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

Staff has identified the following inherent impacts of the proposal:

The inherent physical and operational characteristics necessarily associated with a Group Day Care include: (1) vehicular trips to and from the Site; (2) outdoor play areas; (3) noise generated by children; (4) drop-off and pick-up areas; and (5) lighting.

Adequate parking and drop-off/pick-up areas are available on-site and adjacent to the Property. The drop-offs and pick-ups will be limited by the conditions of approval of the proposed use to minimize impacts to the neighborhood.

The play area is adequate, and the number of children outside at one time will be limited to no more than eight, with outside play time prohibited prior to 9:00 a.m.

The existing lighting and landscaping on the Site are adequate for the proposal. The existing lighting fixtures are residential in nature and will not intrude on neighboring properties.

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

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

The proposal is for the expansion of an existing day care facility in an existing house; no construction, reconstruction or alteration of any structure is proposed.

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

The proposed use will be compatible with the nearby residential properties and Staff recommends approval with conditions.

CONCLUSION

The proposed conditional use complies with the general conditions and standards of a Group Day Care Facility, subject to the recommended conditions of approval. The proposed use meets the required findings set for in Section 59.7.3.1.E. of the Zoning Ordinance, is consistent with the goals and recommendations of the 2000 *East Silver Spring Master Plan*, will not alter the residential character of the surrounding neighborhood, and will not result in any unacceptable noise, traffic, or environmental impacts on surrounding properties. Staff recommends approval with conditions.

Attachments:

Attachment 1: Forest Conservation Applicability for Conditional Uses/Special Exceptions

Attachment 2: Subdivision Plat

Attachment 3: Property Survey

Attachment 4: Applicant's drop-off and pick-up schedule

Development Applications and Regulatory Coordination

Effective 9/30/2013

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

APPLICATION**Forest Conservation Law Applicability for Special Exceptions****PROPERTY LOCATION**Street Address: 108 E. Melbourne Ave, Silver Spring, MD, 20901Subdivision: 0010 Parcel(s) #: _____ Lot #(s): 8 Block(s): _____Property Tax Identification Number: 01011522**Applicant (Owner or Contract Purchaser):**

Name: Jawaria Tqbal
 Street Address: 108 E. Melbourne Ave, Silver Spring, MD, 20901
 City: _____ State: _____ Zip Code: _____
 Phone No.: _____ Fax No.: _____

Total Area of Property: 8494 sqft acres _____ square feet**APPLICANT ATTESTS THAT THE FOLLOWING STATEMENTS APPLY TO THE SUBJECT SPECIAL EXCEPTION APPLICATION**

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

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

OR, all of the following:

- The application applies to a property of less than 40,000 square feet.
- The property is not subject to a previously approved Forest Conservation Plan.
- The special exception proposal will not impact any champion tree as defined by the Montgomery County Forestry Board.

Signature of applicant (Owner or Contract Purchaser): _____

Signature

Date

2/21/2020**FOR STAFF USE ONLY**

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

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

Signature of M-NCPPC Environmental Planning staff reviewer: _____

Signature

Date

3/4/20

ENGINEER'S CERTIFICATION
 I hereby certify that the plat hereon delineated is correct;
 That it is a subdivision of part of the land conveyed by NINA L. DRANE MEYERS and BENJAMIN FRANKLIN MEYERS, her husband, to the NORTH WASHINGTON REALTY COMPANY, INCORPORATED, by deed dated April 25, 1931, and recorded among the land records of Montgomery County, Maryland, in Liber 520 at Folio 240;
 That stones, marked thus \bullet and pipes, marked thus \circ have been placed as shown.

Date: JAN. 17, 1933

James M. Seybolt
 CIVIL ENGINEER

OWNER'S DEDICATION
 The NORTH WASHINGTON REALTY COMPANY, INCORPORATED, duly incorporated under the laws of the State of Delaware, owner of the property above described, adopts the plan of subdivision shown hereon;
 And establishes the minimum building restriction lines;
 And dedicates the streets to public use

Date: JAN. 17, 1933

E. Brooke Lee
 E. Brooke Lee, President

ATTEST *John B. Sterling*
 John B. Sterling, Secretary

SECTION 3
HIGHLAND VIEW
 OF SLIGO PARK
 MONTGOMERY COUNTY
 MARYLAND

SCALE 1"=100'

JAN. 1933

MARYLAND NATIONAL CAPITAL PARK & PLANNING COMMISSION
 APPROVED JAN. 19, 1933
Irvin Dymally
 DATE
Charles R. ...
 CHIEF ENGINEER
 M-N C P L P C RECORD FILE NO. 285

WASHINGTON SUBURBAN SANITARY DISTRICT
 APPROVED JAN. 18, 1933
 AS TO SUITABILITY FOR WATER AND SEWER
Robert ...
 CHIEF ENGINEER

County Surveyor
 Riverdale

SLIGO PARK

SECTION ONE HIGHLAND VIEW OF

70' AVENUE

FLOWER

SCHUYLER

8 ROAD

LIMIT OF SUBDIVISION

NOTE
 The radius of all fillet curves at street corners is 15 feet.

456
 Abstract

NOT INCLUDED IN SUBDIVISION

AVENUE

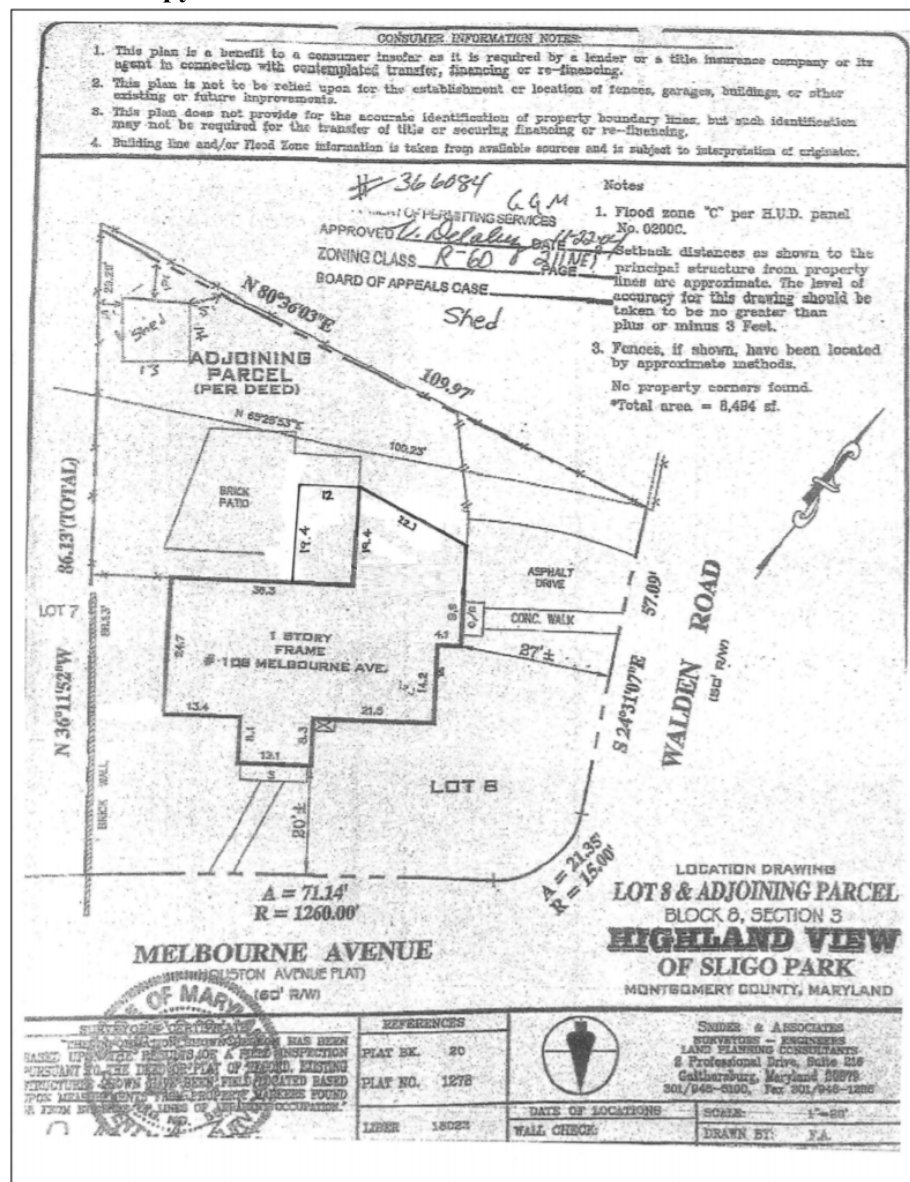
50' ROAD

WALDEN

20' RIGHT OF WAY DESCRIBED IN DIVISION OF DRANE ESTATE

LOT COVERAGE	
LOT SIZE	6300 SF
TOTAL HOUSE	1289 SF
TOTAL INDOOR SF OF DAYCARE	~700 SF
TOTAL LOT COVERAGE WITH HOUSE	20.46%

Certified Copy of Site Plan:



TRANSPORTATION STATEMENT FOR DAY CARE APPLICATIONS

Morning Peak Period Drop-Off and Staff Arrivals (6:30am-9:30am)		
Time	Number of Children (car or walk)	Number of Staff (car, bus, or walk)
6:30-6:45 am		
6:45-7:00 am		
7:00-7:15 am	1 Child (Walking)	
7:15-7:30 am	1 Child (Car)	
7:30-7:45 am	2 Siblings (Walking)	
7:45-8:00am	1 Child (Walking)	
8:00-8:15am	2 Siblings (Car)	
8:15-8:30 am	2 Children (Walking)	
8:30-8:45 am	1 Child (Car)	
8:45-9:00 am	2 Siblings (Walking)	1 Staff (Car)
9:00-9:15 am		
9:15-9:30 am		
Total		

Include the number of children and staff that will arrive during each 15-minute interval for the proposed day care use.

Include the number of children and staff that will depart during each 15-minute interval for the proposed day care use.

Evening Peak Period Pick-Up and Staff Departures (4:00pm-7:00PM)		
Time	Number of Children	Number of Staff
4:00-4:15pm	2 Siblings (Walking)	
4:15-4:30pm	1 Child (Car)	
4:30-4:45pm	1 Child (Walking)	1 Staff (Car Parked)
4:45-5:00pm	2 Siblings (Car)	
5:00-5:15pm	2 Children (Walking)	
5:15-5:30pm	2 Children (Walking) 2 Siblings (Car)	
5:30-5:45pm		
5:45-6:00pm		
6:00-6:15pm		
6:15-6:30pm		
6:30-6:45pm		
6:45-7:00pm		
Total		