



### Vibrantots Day Care, 501 Silver Spring Avenue, Conditional Use No. CU202003



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Completed: 5-22-20

### Description

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

Location: 501 Silver Spring Avenue, Silver Spring.

Zone: R-60.

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

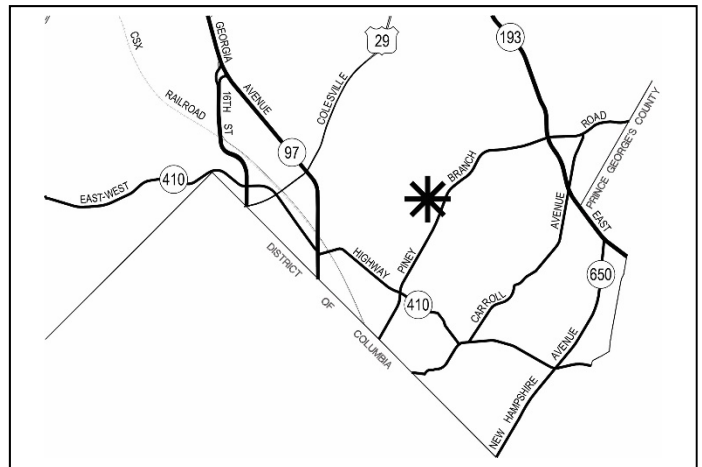
Property Size: 8,127-square feet.

Application Accepted: March 10, 2020.

Applicant: Raminder Kaur.

Review Basis: Chapter 59.

Hearing Examiner Public Hearing: July 6, 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 one (1) required long-term bicycle parking space.
- The Applicant submitted letters in support of the day care expansion.
- Staff has not received any correspondence in opposition to the application.

## STAFF RECOMMENDATION

Staff recommends approval of Conditional Use No. CU202003 subject to the following conditions:

1. The Group Day Care facility must be limited to a maximum of twelve (12) children, 1 (one) resident employee and up to two (2) non-resident employees.
2. The hours of operation are limited to Monday through Friday, 7:00 A.M. to 6:00 P.M., which is consistent with their current hours of operation.
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 must obtain a fence permit from the Department of Permitting Services (DPS) for the fence in the front yard. The fence must be consistent in height and material and must meet the Zoning Ordinance design standards for a fence within a residential zone. Due to the location of an existing storm drain easement in the front yard, the applicant will also need to enter a Revocable Agreement with the County to replace and/or improve the fence in its current location.

## Site and Neighborhood Description

### Site Description

The Subject Property ("Property" or "Site") is 501 Silver Spring Avenue in Silver Spring, otherwise known as Lot 17, Block D of the Blair-Takoma Section Two Subdivision. It is improved with a detached house (Figure 1) and the Applicant, who resides on the property, has been operating an eight-child family day care facility on the premises since June 2003 for children aged 18 months to five years. The existing family day care, Vibrantots, occupies the majority of the basement of the house.



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

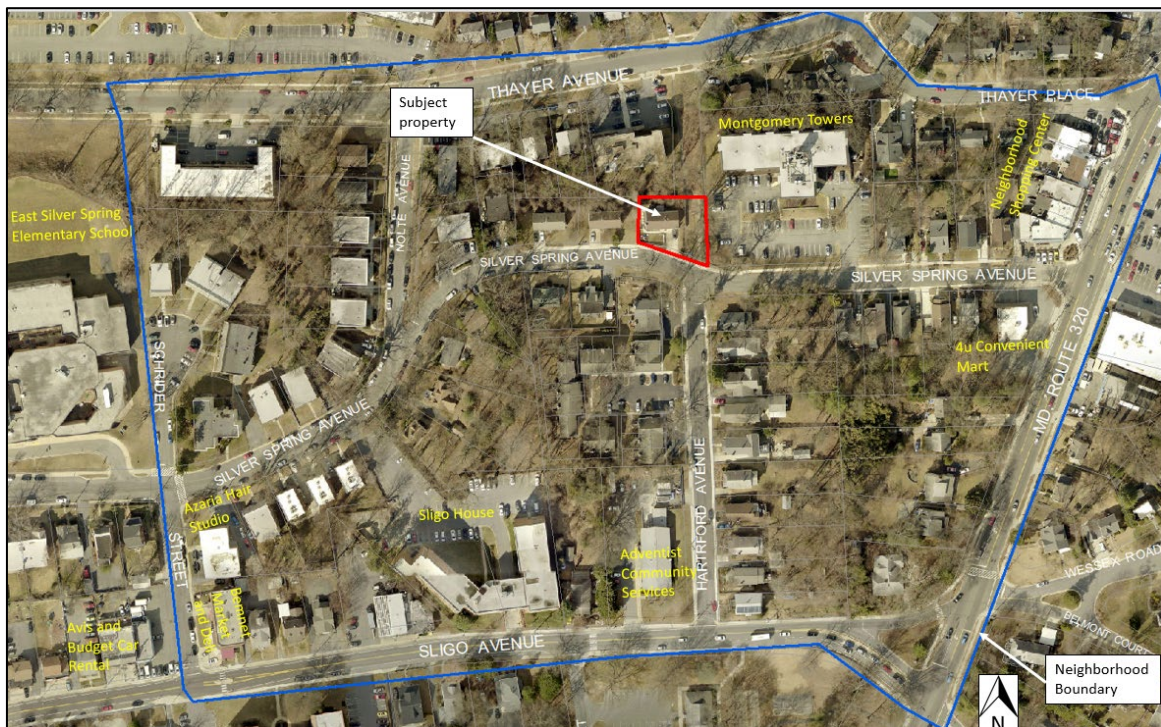
The 8,127 square-foot lot is located mid-block on the north side of Silver Spring Avenue. The Property has a driveway that is approximately 16 feet wide and 38 feet long that has space to park two cars. A four-foot sidewalk runs along the entire Property frontage on Silver Spring Avenue. A paved walkway connects the front of the home to the day care entrance in the rear of the Property. Immediately adjacent to the house (east side) is a paved, shared-use path that connects Silver Spring Avenue to Thayer Avenue.

The outdoor play area is located in the front yard of the house and is enclosed by fencing of varying heights. The fencing on the west side of the play area is approximately five- and-one-half feet high and to the south and east it is approximately two-and-one-half feet high. The applicant has agreed to obtain a permit for the fence, and to replace the shorter fence segments with panels that match the taller fence in material and height. The enclosed play area is approximately 16 feet wide and 12 feet deep.

Unrestricted on-street parking is allowed on the both sides of Silver Spring Avenue in the vicinity of the Property.

### Neighborhood Description

The Staff-defined Neighborhood (outlined in blue in Figure 2) is generally bounded by Thayer Avenue to the north; the Sligo Avenue to the south; Piney Branch Road to the east; and by Schrider Street and East Silver Spring Elementary School to the west. The Neighborhood is composed of detached houses in the R-60 Zone, mid-rise apartment buildings, neighborhood retail establishments. East Silver Spring Elementary School is located just west of the staff-defined boundary.



*Figure 2: Staff-Defined Neighborhood*

Staff identified three approved conditional uses/special exceptions in operation and located within the defined neighborhood:

1. S692: Charitable Institution (Adventist Community Services), located at 501 Sligo Avenue;
2. S1288: Accessory Apartment, located at 8119 Hartford Avenue; and

3. S1219: Construction and operation of a fast-food restaurant, located at 8120 Piney Branch Road.

### **Project Description**

The Applicant is requesting to the existing family day care facility from a facility that cares for up to eight children to a Group Day Care for a maximum of 12 children. The proposed facility will occupy the same space in the basement of the home as the existing day care. The Applicant is not proposing any expansion or change to the indoor day care space and the current hours of operation, Monday through Friday, from 7:00 a.m. to 6:00 p.m., will remain the same. The Applicant has agreed to replace the existing fence that currently encloses the outdoor play area (which is proposed to remain in the front yard) such that the replacement fence is consistent in height and material, in order to match the residential character of the neighborhood. During review of the application it was determined that the fence is potentially located within a storm drain easement. The Applicant has agreed to obtain a fencing permit to replace the fence, and to enter a Revocable Agreement with the County to meet all applicable County codes and policies prior to expanding the day care.

The Applicant lives on the Property and staffs the day care with her daughter (who is not a resident on the Property). The Applicant has indicated that there will only be one (1) non-resident employee working at the Group Day Care at the home, but staff is recommending approval for up to two non-resident employees to provide flexibility for the use. Per Section 59.3.4.4, up to three non-resident staff persons can be on the site at any one time.

Weather permitting, the children will play outside for up to an hour in the morning and an additional hour in the afternoon, similar to the current operation of the family day care. Parent drop-off and pick-up times are staggered from 7:00 A.M. to 9:30 A.M. and 4:00 P.M. to 6:00 P.M. to minimize the impacts on the adjacent residential streets.

The Applicant indicates that at least five parking spaces are available for the day care including two spaces in the driveway and three on-street spaces along the Property's Silver Spring Avenue frontage. By staggering the drop-off and pick-up times for families, there will be less of a burden on the public streets for parking.

The Applicant has not proposed any signage with this Application.





Figure 3: Front view of house, looking north from Silver Spring Avenue



Figure 4: Play Area, looking west

## **Analysis**

### **Master Plan**

The Site is located within the 2000 *East Silver Spring Master Plan* (Master Plan). 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 15 years, and the proposal results in a modest increase for 3 additional children which will not change the character of the neighborhood. The Subject Site is an appropriate location for a day care facility and compatible with the neighborhood. Therefore, the proposal is in substantial conformance with the Master Plan.

### **Transportation**

#### ***Master-Planned Roadways and Bikeway***

Silver Spring Avenue and Hartford Avenue are designated as secondary residential streets with 40-foot wide rights-of-way.

The 2018 *Bicycle Master Plan* recommends a neighborhood greenway along the Site frontage on Silver Spring Avenue. A new separated bikeway is also recommended on Piney Branch Road, one block east of the Site. No designated bicycle facilities are recommended on Silver Spring Avenue at this time. The 2018 *Bicycle Master Plan* recommends a shared roadway bicycle facility, which means that while bicyclists may choose to use Silver Spring Avenue due to its connectivity to the network, the existing right-of-way is sufficient, and no roadway improvements are needed at this time. The Subject Application does not preclude future improvements as a shared roadway or neighborhood greenway and therefore no further participation on behalf of the Applicant is required. No bikeways are recommended on Hartford Avenue.

One long-term bicycle parking space is required; however, 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 front yard.

#### ***Pedestrian Facilities***

Five-foot-wide sidewalks connect the Site to both the west and east on Silver Spring Avenue. Five-foot-wide sidewalks are also present on both sides of Hartford Avenue. A few children are expected to be walked to the day care based on the Site’s location within the surrounding residential neighborhood and the Applicant’s past experience with the family day care facility. Immediately east of the house is a three-foot-wide shared-use path that connects Silver Spring Avenue to Thayer Avenue.

#### ***Transit Service***

Although no public transit routes operate on Silver Spring Avenue within the vicinity of the Site, four Ride On routes operate on Piney Branch Road (routes 14,16, 20 and 24), one on Schrider Street (route 20) and one on Thayer Avenue (route 20). Service is available Monday through Friday from 5:00 AM to 1:00 AM Monday through Friday with headways between 15 and 30 minutes. The service hours and headways are similar on Saturdays and Sundays. The bus stop on the south side of Thayer Avenue is easily accessible to the Property via the shared use path connecting Thayer Avenue and Silver Spring Avenue immediately east of the Property.

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

The Site contains two off-street parking spaces within the Site driveway, and on-street parking is

available on both sides of Silver Spring Avenue. Given the parking requirement, the Vibrantots day care will instruct parents to schedule their drop-off and pick-up times such that there are only two vehicles arriving every 15-minutes at the Site in the morning and evening peak hours.

#### *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 group day care with 12 students, and the Policy Area mode split assumptions, 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*
<b>Morning Peak Hour</b>	16	21	13	2	10
<b>Evening Peak Hour</b>	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 day care center generates fewer than 50 person-trips during the weekday both AM and PM peak hours of the adjacent street. The LATR test parameter is total peak-hour person trips and not vehicular peak-hour trips. Person trips include all travel modes: vehicular, transit, walking, and bicycle trips.

To minimize impacts to the surrounding neighborhood and residential streets, the Applicant has agreed to schedule drop-off and pick-up time slots for each family such that there are no more than two client-owned vehicles on the Property during any 15-minute period. A proposed schedule was included with the application and is attached to the staff report (Attachment 4).

#### 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 has been granted an exemption to Chapter 22A, the Forest Conservation Law, because the conditional use is on a tract of land less than 40,000 square feet.

#### Community Comment

As of the date of posting of this staff report, Staff has not received any comments from the community. As a part of the application, the Applicant submitted two letters of support from parents whose children are enrolled in the existing day care. Both letters strongly recommended the approval of this day care expansion (Attachment 2).

#### **Conditions for Granting a Conditional Use- Section 59.7.3.1.E. Necessary Findings<sup>1</sup>**

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<sup>1</sup> 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. and are not included in this report.



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.*
  - b. *There are no applicable previous approvals on the Site. The existing eight-child day care facility is allowed by right.*
  - c. *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 two non-resident staff members will be on-site at any time. The Site is not located in the AR Zone.

- 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 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 square feet	8,127 square feet
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
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

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 two non-resident employees) Dwelling: 2  <b>Total: 4</b>	2 spaces in driveway 3 spaces along Site frontage on Silver Spring Avenue  <b>Total: 5</b>
59.6.2.4.C	Bicycle Parking Requirement	Group Day Care: 1 Long-Term	1 space in fenced front yard  (waiver under Section 59.6.2.10)

The Applicant requested a waiver, under Section 59.6.2.10, from the design specifications of Section 59.6.2.6.A for a long-term bicycle parking space which specifies a U-rack under a covered space or a locker or secured room. Secure space to park a bicycle is available in the fenced portion of the west side of the house close to the entrance to the day care. The proposed space, while uncovered and without a permanent U-rack, 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 front yard provides screening between the proposed use and the adjacent homes and the homeowner has agreed to obtain a permit for a new, replacement fence that will meet the Zoning Ordinance design standards for a fence within a residential zone. The fence material will be consistent in height and material and will uphold the residential character of the neighborhood.

### *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. The only physical changes to the outside of the Property will be a new and improved fence, enclosing the front play area. 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 three approved conditional uses within the Staff-defined neighborhood, which included a church, accessory apartments, and neighborhood retail. 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 2005, 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 facility include: (1) vehicular trips to and from the Site; (2) outdoor play areas; (3) noise generated by children; (4) drop-off and pick-up areas; and (5) lighting.

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. By limiting the number of children outside at any one time to 8, the expanded daycare will maintain the current operations and will minimize impact to the surrounding neighborhood.



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. The existing fence will be replaced with one that is consistent in height and material. To obtain the necessary fence permit, the applicant will install a fence that is compliant with the Zoning Ordinance, and will reach a Revocable Agreement with the County, as necessary, to be in compliance with all applicable County codes and policies.

By continuing similar operations to the daycare that exists today, scheduling drop-off and pick-up to reduce the impact on the adjacent residential streets, and providing screening of the front outdoor play area that is consistent with the residential character of the neighborhood, 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 the house is proposed. An improved fence enclosing the existing play area in the front yard will provide screening and an enhanced aesthetic that will uphold the residential character of the neighborhood.

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 findings set forth 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: Letters of support submitted by Applicant

Attachment 3: Subdivision Plat

Attachment 4: Drop-off and Pick-up Schedule

Attachment 5: Correspondence with the Department of Permitting Services Regarding the Fence

**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: 501 Silver Spring Ave. Silver Spring MD 20910  
 Subdivision: 0003 Parcel(s) # 0000 Lot #(s): 17 Block(s): D  
 Property Tax Identification Number: 82-2661947

**Applicant (Owner or Contract Purchaser):**

Name: Raminder Kaur  
 Street Address: 501 Silver Spring Ave.  
Silver Spring MD 20910  
 City State Zip Code  
 Phone No. (410) 796-9297 Fax No. \_\_\_\_\_

Total Area of Property: \_\_\_\_\_ acres 8.127 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): Raminder Kaur

Raminder Kaur  
 Signature

12/31/19  
 Date

**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]  
 Signature

3/25/20  
 Date

Vibrantots has created such a marvelously stimulating and loving environment for our son that we can't imagine our lives without it, or without Rosy, Eva and Lily, who manage the daycare. Andrew has learned and grown so much at Vibrantots during his time there; we hope that our daughter has the same opportunity to benefit from this loving group of people as soon as she can.

That's why we're very hopeful that Vibrantots will be able to expand to become a large family daycare center. Our whole family would benefit immensely from an expansion of this wonderful place—both because it's run so professionally, safely and lovingly and also because it's so convenient to our family and so many others.

**Expanding Vibrantots so that we could take both our children there would benefit our family. It would allow both of our kids to benefit from the engaging, loving environment that Miss Eva, Miss Rosy and Miss Lily have so carefully cultivated for the kids who are lucky enough to attend.**

Sincerely

Jacob Barron and Kate Davidoff



January 13, 2020

To Whom It May Concern:

My husband and I have two little girls under the age of 3 years old. As working parents and with one of us traveling for work, it is essentially that we be able to have both of our girls in facilities that provide an excellent education for them and that are close in physical location. When our eldest, Gabriella, turned 21 months old we were fortunate enough that Vibrantots had an opening and happened to be just a few blocks away from where our youngest would be at nanny share.

It was evident from beginning that Vibrantots helps children excel in learning new skills, socializing with other children, and creating a safe space for them. We love our Vibrantot family and have been surprised by how much Gabriella has learned including ABCs, colors, the concept of metamorphosis, and how to play well with others. Each day Gabriella is happy to see the teachers and we know that this the right place for her.

However, as our youngest, Josephina approaches 18 months, we are starting to wonder if we will be able to stay at Vibrantots. The class size is already full with no apparent children who will rotate out of the preschool. As I said above, with both of us working and with my husband traveling for work, it is vitally important that I be able to pick both of them up or be able to drop both of them off in the morning. If Vibrantots is as able to expand, we would be able to send both of our girls to Vibrantots knowing that not only they are getting an excellent educational foundation but also with the convenience of being able to pick them both up.

We hope that the State of Maryland will move forward with Vibrantots application and allow for such an expansion.

Sincerely,

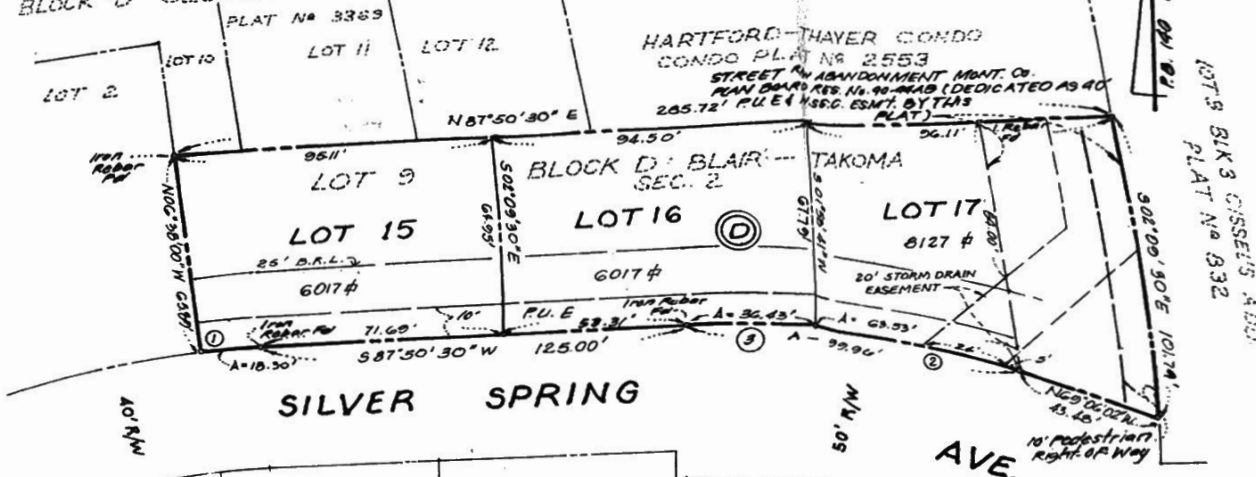


Keisha Sedlacek

Note: The 10' pedestrian right-of-way shown herein for use by the general public and is to be constructed and maintained by the owner of the property.

**PLAT NO 18647**

BLOCK "D" SECTION 2 BLAIR-TAKOMA



ATTACHMENT 3



VICINITY MAP  
SCALE: 1"=2000'

We hereby assent to the area abandonment as shown herein.

Milton P. Herman 9/4/90  
Milton P. Herman, Date  
Power-of-Attorney for Harry Klavien,  
Joseph Strassman, Israel Goldman,  
Ann Roush, Earth Novick and  
Milton Herman, Owners Lot 9  
Block 3, Cissel's Addition.

**OWNER'S DEDICATION**

I, **CHRIS N. FOTOS**, owner of the property shown herein, hereby adopt this plan of subdivision, establish and grant to Montgomery County, Md. or other appropriate agency a storm drain easement as shown herein, a temporary slope easement twenty-five (25) feet wide over the lot shown herein, adjacent contiguous and parallel to the street line, the slope easements shall be extinguished after all required public improvements in adjacent roadways have been accepted for maintenance by Montgomery County, Md. or other appropriate agency establish the minimum building restriction lines; hereby grant a Public Utilities Easement (P.U.E.) as shown herein to the parties named in a document entitled "Terms and Provisions of Public Easements" as recorded in Liber 3334 of Folio 457 among the Land Records of Montgomery County, Md., subject to all current and applicable regulations of all federal, state and local governing agencies.

**SURVEYOR'S CERTIFICATE**

I hereby certify that the plan shown herein is correct, that it is a subdivision of all the land conveyed by **J. PEARL BROMLEY** to **CHRIS N. FOTOS** by deed dated February 3, 1976, and recorded among the land records of Montgomery County, Maryland, in Liber 5105, Folio 885 and further clarify by an Amended Declaration Recorded among the aforesaid land records in Liber 5040 of Folio 08; also a resubdivision of all of Lot 9, Block D, Blair-Takoma Section 2 as recorded in P.B.A. Plat 319, and including the portion of Hartford St. abandoned by M.C.P.B. resolution N°30-44. That the property corners marked thusly - will be placed as shown, in accordance with the requirements of Section 60-26(e) of the Montgomery County Code, that the total area included in this plan of subdivision is 20,161 square feet, of which 4 square feet is dedicated to public use.

10/24/90  
Date

John Kerwyn Keith  
**JOHN KERWYN KEITH**  
Registered Professional Land Surveyor  
Maryland #10929

**FILED**  
AUG 26 1992

There are no suits of equity, actions of law, leases, liens, mortgages, or trusts on the property included in this plan of subdivision except a certain security note, and the parties in interest thereto have herein indicated their assent.

Melody S. Coble  
Witness

9/3/90  
Date

Chris N. Fotos  
**CHRIS N. FOTOS**

We assent to this plan of subdivision:

Melody S. Coble  
Witness

OCT 3 - 1990  
Date

John Kerwyn Keith  
**JOHN KERWYN KEITH**

Melody S. Coble  
Witness

OCT 3 - 1990  
Date

John Kerwyn Keith  
**JOHN KERWYN KEITH**

**BLAIR - TAKOMA  
SECTION TWO  
BLOCK D, LOTS 15, 16 & 17**

WHEATON (13TH) ELECTION DISTRICT  
MONTGOMERY COUNTY, MARYLAND  
SCALE: 1"=30' AUGUST, 1990

FOR PUBLIC SEWER AND WATER SYSTEMS ONLY:  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
MONTGOMERY COUNTY, MARYLAND

APPROVED: April 1, 1992

Steve Wang  
FOR DIRECTOR

MARYLAND NATIONAL CAPITAL PARK & PLANNING COMM.  
MONTGOMERY COUNTY PLANNING BOARD  
APPROVED: AUGUST 9, 1990  
Chris N. Fotos  
CHAIRMAN  
John Kerwyn Keith  
1ST SECRETARY - TREASURER

M.N.C.P. & R.C. RECORD FILE NO. 586-3

\* Further, we grant to the Washington Suburban Sanitary Commission (W.S.S.C.) such exclusive rights as necessary for the construction, reconstruction, operation, maintenance and repair of sanitary sewers and/or water mains and appurtenances within the water and/or sewer rights of way/easements shown herein, subject to and together with the conditions contained in a right of way document from the grantor(s) their successors or assigns to the W.S.S.C. and to be recorded hereafter.

DEPARTMENT OF TRANSPORTATION  
MONTGOMERY COUNTY, MARYLAND

APPROVED: MARCH 24, 1991  
John Kerwyn Keith  
FOR DIRECTOR

RECORDED:  
PLAT BOOK:  
PLAT NUMBER:

**JAMES W. HELTMAN, R.E.**  
CONSULTING ENGINEER  
2717 RITTENHOUSE STREET, N.W.  
WASHINGTON, D.C. 20008  
(202) 368-2390



Note: The 10' pedestrian right-of-way shown hereon for use by the general public and is to be constructed and maintained by the owner of the property.

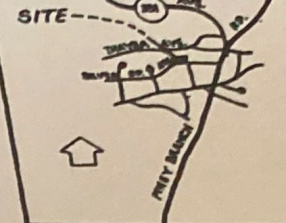
**PLAT NO 18647**

BLOCK "D" SECTION 2 BLAIR-TAKOMA

CURVE DATA					
N	Δ	ARC	RADIUS	TAN	CHORD
1	0° 50' 07"	18.80	21.15	9.7	18.84
2	1° 37' 00"	63.88	44.84	21.6	63.88
3	0° 58' 17"	26.49	31.24	15.5	26.49

ATTACHMENT 3

Key  
 --- Fence  
 --- Gates  
 H - House  
 DW - Drive way  
 Y - Yard playground



VICINITY MAP  
SCALE: 1"=2000'

Dimension:  
 House 24ft  
 49ft

We hereby assent to the area abandonment as shown hereon.  
Milton P. Herman Date 9/3/92  
 Milton Herman,  
 Power-of-Attorney for Harry Klevan,  
 Joseph Strassman, Israel Goldman,  
 Ann Roush, Edith Novick and  
 Milton Herman, Owners Lot 9  
 Block 3, Cissel's Addition.

**OWNER'S DEDICATION**

I CHRIS N. FOTOS, owner of the property shown hereon, hereby assent to this plan of subdivision, establish and grant to Montgomery County, Md. or other appropriate agency a storm drain easement as shown hereon, a temporary slope easements twenty-five (25) feet wide over the lot shown hereon, adjacent, continuous and parallel to the street line, the slope easements shall be extinguished after all required public improvements in adjacent roadways have been accepted for maintenance by Montgomery County, Md. or other appropriate agency establish the minimum building restriction lines, hereby grant a Public Utilities Easement (P.U.E.) as shown hereon to the parties named in a document entitled "Terms and Provisions of Public Easements" as recorded in Liber 3834 of Folio 457 among the Land Records of Montgomery County, Md., subject to all current and applicable regulations of all federal, state and local governing agencies.

There are no suits or equity, actions of law, leases, liens, mortgages, or trusts on the property included in this plan of subdivision except a certain security note, and the parties in interest thereof have either executed their assent.

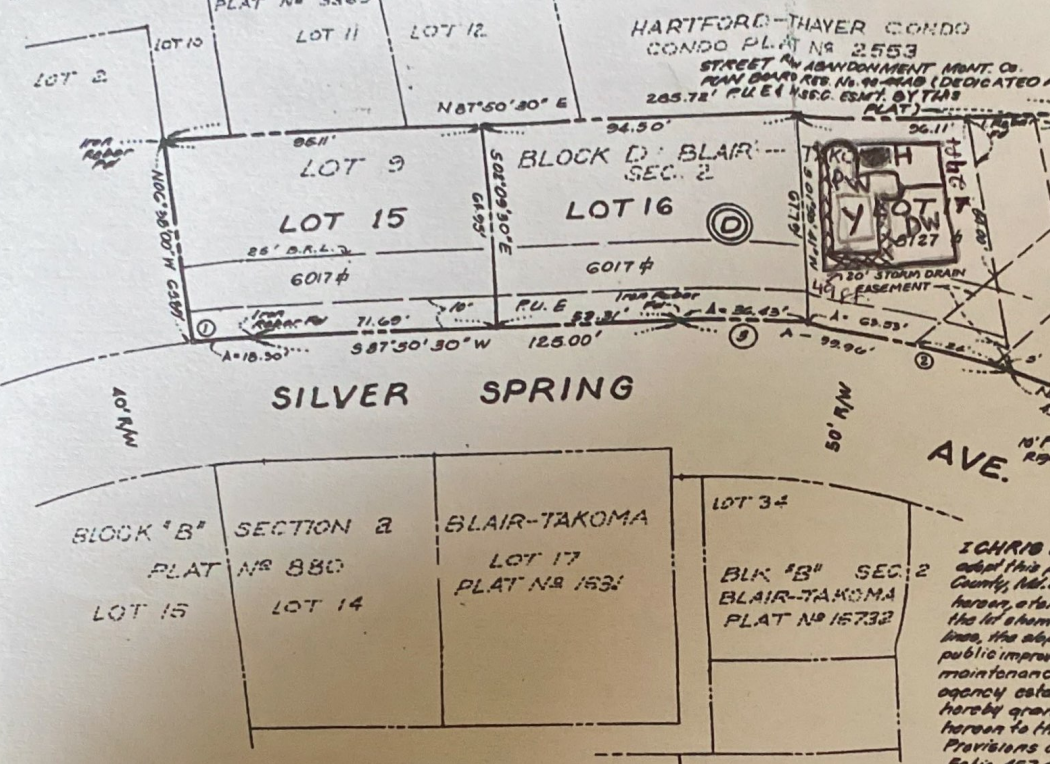
Melody X. Coble 9/3/92 Date  
 Witness CHRIS N. FOTOS

We assent to this plan of subdivision:  
BURKE and HERBERT BANK  
Melody X. Coble OCT 3 - 1992 Date  
 Witness  
Melody X. Coble OCT 3 - 1992 Date

**BLAIR - TAKOMA  
SECTION TWO  
BLOCK D, LOTS 15, 16 & 17**

WHEATON (13<sup>TH</sup>) ELECTION DISTRICT  
 MONTGOMERY COUNTY, MARYLAND  
 SCALE: 1"=30' AUGUST, 1990

JAMES W. HELTMAN, R.E.  
 CONSULTING ENGINEER  
 3717 FIFTEENTH STREET, N.W.  
 WASHINGTON, D.C. 20036  
 (202) 338-2330



**SURVEYOR'S CERTIFICATE**

I hereby certify that the plan shown hereon is correct, that it is a subdivision of all the land conveyed by J. PEARL BROMLEY to CHRIS N. FOTOS by deed dated February 3, 1976, and recorded among the land records of Montgomery County, Maryland, in Liber 5105, Folio 285 and further clarify by an Amended Declaration Recorded among the aforesaid land records in Liber 3834 of Folio 457, and also a resubdivision of all of Lots 9, Block D, Blair-Takoma Section 2 as recorded in P.O.A. Plat 518, and including the portion of Hartford St. abandoned by M.C.R. resolution N° 30-44 up to the property corners marked thereby or will be placed as shown, in accordance with the requirements of Section 60-26(2) of the Montgomery County Code, that the total area included in this plan of subdivision is 20,161 square feet, of which 4 square feet is dedicated to Public Use.

10/24/92 Date  
John Kerwyn Keith  
 JOHN KERWYN KEITH  
 Registered Professional Land Surveyor  
 Maryland #10929

FILED  
 AUG 26 1992

Further, we grant to the Washington Suburban Sanitary Commission (W.S.S.C.) such exclusive rights as necessary for the construction, reconstruction, operation, maintenance and repair of sanitary sewers and/or water mains and appurtenances within the water and/or sewer rights of ways/easements shown hereon, subject to and together with the conditions contained in a right of way document from the grantor(s) their successors or assigns to the W.S.S.C. and to be recorded hereafter.

FOR PUBLIC SEWER AND WATER SYSTEMS ONLY:  
 DEPARTMENT OF ENVIRONMENTAL PROTECTION  
 MONTGOMERY COUNTY, MARYLAND

APPROVED: APRIL 1, 1992

Steve King  
 FOR DIRECTOR

MARYLAND NATIONAL CAPITAL PARK & PLANNING COMM.  
 MONTGOMERY COUNTY PLANNING BOARD  
 APPROVED: AUGUST 9, 1990  
Paul Brunner Chairman  
James C. Brunner Vice-Chairman  
Robert C. Brunner Treasurer

DEPARTMENT OF TRANSPORTATION  
 MONTGOMERY COUNTY, MARYLAND

APPROVED: MARCH 24, 1992  
David M. Brunner  
 FOR DIRECTOR

RECORDED:  
 FLAT BOOK:  
 FLAT NUMBER:

M.N.C.P. & R.C. RECORD FILE NO. 586-3

Maryland State Archives  
 2024 RELEASE UNDER E.O. 14176



## **Traffic Statement**

**According to the Section 7.3.1.E** of the new Zoning Ordinance, we at Vibrantots have a planned and scheduled drop-off and pick-up of children in order to assure there is little impact on traffic, parking and noise from our facility and to avoid any nuisance to adjacent properties. The Conditional Use is consistent with the residential character of the neighborhood and follows *the Area Master Plan of Silver Spring Requirements*. There is no intention of altering the existing residence, since the expanded program can be accommodated within the existing space.

Vibrantots Daycare is located on Silver Spring Ave. There are no bus stops in front of the daycare. The nearest Bus stop is on Sligo Ave., which is the street parallel to Silver Spring Ave. The nearest School to the daycare is East Silver Spring Elementary School. There is no overlap between our drop-off and pick-up times and the hours of school traffic (from 8:00-8:30 am and 3-3:30 pm), as shown below.

### **Vibrantots Daycare Drop-off Schedule**

7:00 am – Owner Clocks in

7:30 am- Director clocks in

7:30 am – Child 1, 2 and 3 drop off

8:30 am – Child 4, 5 and 6 drop off

9:00 am – Child 7, and 8 drop off

*NOTE: owner lives at the property so will be at home all the time. The owners husband who also lives in the house, leaves for work at 10:30am. Owner's husband parks their car in their two-car garage. The director uses the garage to park car her car as well.*

### **Pick-Up Schedule**

4:15 pm – Child 1 and 2 are picked up

4:30 pm – Child 3 and 4 are picked up

5:00 pm – Child 4, 5 and 6 are picked up

5:30 pm – Child 7 and 8 picked up

6:00 pm –owner and director clock out

If we are permitted to have attendance of 12 children, the additional four children will be accommodated within the existing schedule so that no more than three families will be at the center at one time.

## **Proposed Drop-Off AND Pick-Up Schedule**

If we are approved for twelve children, my part-time employee (Director) will become full-time and we will hire a teachers Aid. Our daily schedule will continue to be from 7:00 am to 6:00 pm.

### **Drop-Off at the center**

7:00 am- Owner Clocks in

7:00 am – Director Clocks in

7:00 am to 7:30 am -3 children dropped off

7:30 am – 8:15 am -3 children dropped off

8:30 am – 9:00 am -3 children dropped off

9:00 am –9:30 am -3 Children dropped off

*NOTE: Owner will be at home and will not use a parking spot. Owner's husband uses the garage to park his car and the director will use garage upon arrival as well.*

### **Pick-ups**

4:00 pm – 3 children picked up

4:30 pm – 3 children picked up

5:00 pm – 3 children picked up

5:30 pm – 6:00 pm 3 children picked up

6:00 pm – owner director clock out

**Mencarini, Katherine**

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**From:** Emery, Henry <Henry.Emery@montgomerycountymd.gov>  
**Sent:** Wednesday, May 20, 2020 10:07 AM  
**To:** Farhadi, Sam; Mencarini, Katherine  
**Cc:** Dickel, Stephanie; Pfefferle, Mark; Hisel-McCoy, Elza; Jeeves, Brian  
**Subject:** RE: Question about a Fence and a Storm Drain Easement

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Katherine,

The applicant will have to apply for a fence permit at DPS and as part of that process and because the fence is in a storm drain easement they will have to do a Revocable Agreement with the County.

Regards,  
 Henry

*Henry Emery*  
 Professional Land Surveyor  
 Permitting Services Specialist  
 Department of Permitting Services  
 255 Rockville Pike, 2<sup>nd</sup> Floor  
 Rockville, Maryland 20850

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**From:** Farhadi, Sam <Sam.Farhadi@montgomerycountymd.gov>  
**Sent:** Wednesday, May 20, 2020 8:47 AM  
**To:** Mencarini, Katherine <katherine.mencarini@montgomeryplanning.org>  
**Cc:** Dickel, Stephanie <Stephanie.Dickel@montgomeryplanning.org>; Pfefferle, Mark <mark.pfefferle@montgomeryplanning.org>; Hisel-McCoy, Elza <elza.hisel-mccoy@montgomeryplanning.org>; Emery, Henry <Henry.Emery@montgomerycountymd.gov>; Jeeves, Brian <Brian.Jeeves@montgomerycountymd.gov>  
**Subject:** RE: Question about a Fence and a Storm Drain Easement

Hi Katie,

Yes, DPS reviews fence in the storm drainage easements.  
 I am forwarding your email to Henry and Brian that conduct that review.

Henry and Brian, FYI.

Thank you,

Sam

---

**From:** Mencarini, Katherine <[katherine.mencarini@montgomeryplanning.org](mailto:katherine.mencarini@montgomeryplanning.org)>  
**Sent:** Tuesday, May 19, 2020 5:18 PM  
**To:** Farhadi, Sam <[Sam.Farhadi@montgomerycountymd.gov](mailto:Sam.Farhadi@montgomerycountymd.gov)>  
**Cc:** Dickel, Stephanie <[Stephanie.Dickel@montgomeryplanning.org](mailto:Stephanie.Dickel@montgomeryplanning.org)>; Pfefferle, Mark

<[mark.pfefferle@montgomeryplanning.org](mailto:mark.pfefferle@montgomeryplanning.org)>; Hisel-McCoy, Elza <[elza.hisel-mccoy@montgomeryplanning.org](mailto:elza.hisel-mccoy@montgomeryplanning.org)>

**Subject:** Question about a Fence and a Storm Drain Easement

**[EXTERNAL EMAIL]**

Hello Sam,

I'm reviewing a conditional use application for a family day care center in a residential zone. During peer review, we discovered that the existing fencing around the play area in the front yard may be located within a storm drain easement.

- Subject Property is located at [501 Silver Spring Avenue in Silver Spring, MD](#)
- [Subdivision Plat](#) (this is Lot 17), see 6017 for the outline of the storm drain easement
- 59.6.4.3.C.2.c
  - o A wall or fence must not be located within any required drainage, utility, or similar easement, unless approved by the agency with jurisdiction over the easement

Questions:

1. Is DPS the agency with jurisdiction?
2. If DPS is the agency with jurisdiction, who should I have the applicant talk to about getting approval for the fencing location?
3. If DPS is the agency with jurisdiction, what considerations or criteria will likely need to be met to get approval for the location of the existing fence to continue. Please note the applicant is aware they need to replace the existing fence that's been added to over time.
4. It was also mentioned that the Applicant may need to enter a liability agreement with the County if the fence is to remain in place. Can you help me find more information about how to obtain one if this is necessary?

Any help you can provide would be helpful. We're looking to post the **staff report by Friday May 22.**

Thank you so much!  
Katie



**Katie Mencarini**  
Multimodal Planner Coordinator

Montgomery County Planning Department  
8787 Georgia Avenue, Silver Spring, MD 20910  
[katherine.mencarini@montgomeryplanning.org](mailto:katherine.mencarini@montgomeryplanning.org)  
o: 301.495.4549



Let's Plan Our Future. Together. THRIVE

Take 10 minutes to be counted now – visit: <https://2020census.gov/>



For COVID-19 Information and resources, visit: [www.montgomerycountymd.gov/COVID19](http://www.montgomerycountymd.gov/COVID19)