



12917 Parkland Drive, Conditional Use No. CU 2021-02



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Completed 10-26-20

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: 12917 Parkland Drive, Rockville.

Zone: R-60.

Master Plan: 1994 *Aspen Hill Master Plan*.

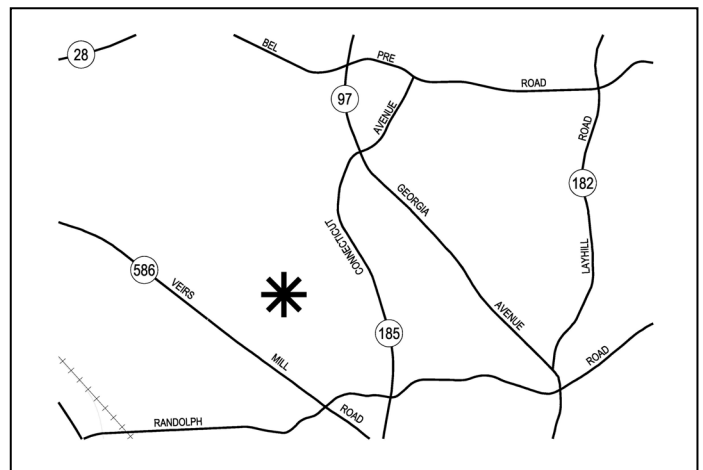
Property Size: 6,264 square feet.

Application Accepted: July 28, 2020.

Applicant: Isaac M. Lopez.

Review Basis: Chapter 59.

Hearing Examiner Public Hearing: November 20, 2020.



Summary

- Staff recommends approval with conditions.

Section 1: Staff Recommendation

Staff recommends approval of Conditional Use No. CU 21-02 subject to the following conditions:

1. The Group Day Care facility must be limited to a maximum of twelve (12) children and 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.
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. Signage must comply with Section 59-6.7.8. or the Applicant must gain approval of a Sign Variance.

Section 2: Site and Neighborhood Description

Site Description

The Subject Property (Property or Site) is located at 12917 Parkland Drive in Rockville, otherwise known as Lot 13, Block 10 of the Wheaton Woods Subdivision. The Property contains a detached house (Figures 1-3) in which the Applicant resides and operates an eight-child day care facility known as Solecitos Montessori Education at Home Spanish Program. The daycare has been in operation since May 2017 and enrolls children from 3 months to five years old. Presently, the Applicant's two-year old son is one of the eight children that attend the day care.

The 6,264-square-foot lot is located on the east side of Parkland Drive. The Property has a driveway that is approximately 10 feet wide and 36 feet and 10 inches long that has space to park two cars. A sidewalk connects the front door of the house/daycare entrance to Parkland Drive. The house has one LED motion sensor security light next to the front door.

The outdoor play area is located in the front yard of the house and is enclosed by a four-foot galvanized steel chain link fence. The play area has an artificial surface with a variety of play equipment.

Unrestricted on-street parking is allowed along the east side of Parkland Drive in the vicinity of the Property. On-street parking is prohibited along the west side of Parkland Drive opposite the Property on school days between 8:00 a.m. and 4:00 p.m.



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



Figure 2: Front view of house and play area

Neighborhood Description

The Staff-defined Neighborhood (outlined in blue in Figure 3) is generally bounded by Grenoble Drive to the north and east; Turkey Branch Parkway and Falcon Street to the south; and Parkland Drive to the west. The entire Neighborhood is comprised of detached houses in the R-60 Zone. Staff did not identify any existing, approved conditional uses within the Staff-defined Neighborhood.

Wheaton Woods Elementary School is located directly across Parkland Drive from the Site. The school is located outside the Staff-defined Neighborhood because it is unlikely to be impacted by the proposed daycare expansion. Matthew Henson State Park is located to the southeast of the Neighborhood.



Figure 3: Staff-Defined Neighborhood (outlined in blue with property outlined in red)

Project Description

The Applicant is requesting to expand the existing day care facility from eight children to a Group Day Care for a maximum of 12 children, ages three months to five years old. The current daycare is at capacity and the Applicant has seven families on a waiting list.

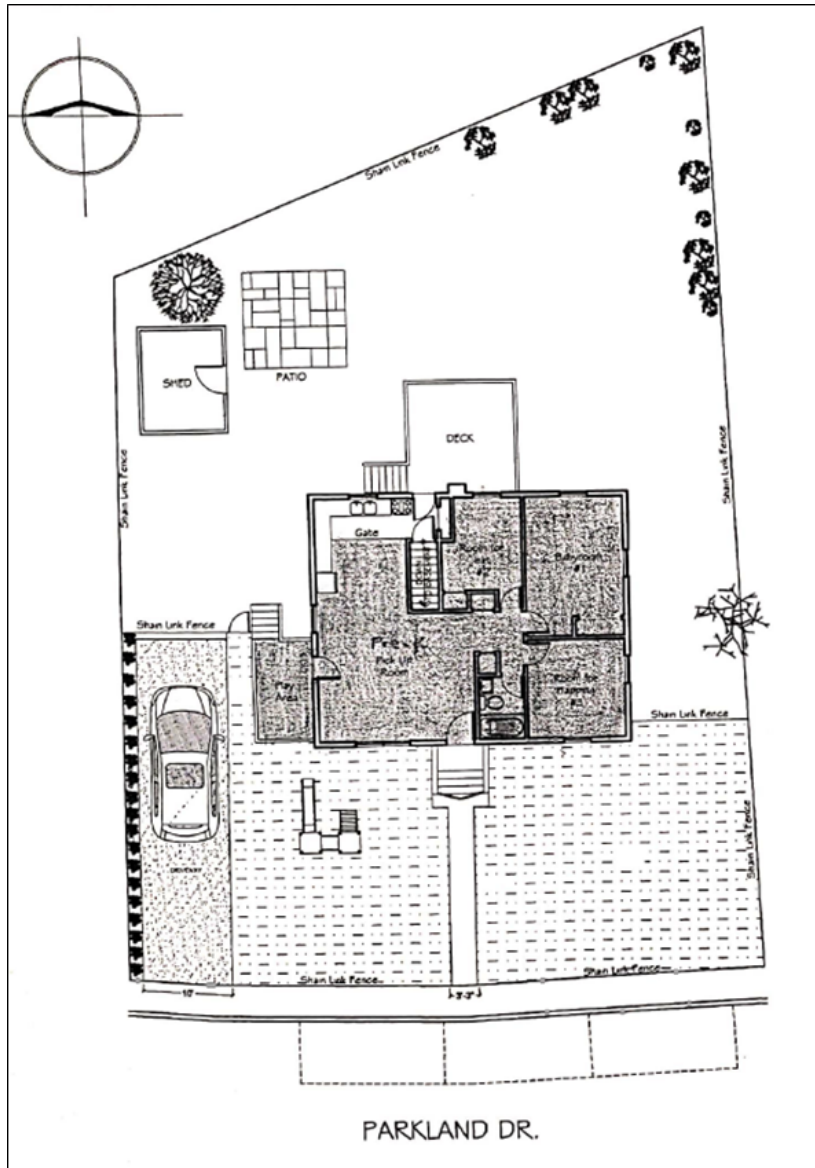


Figure 4: Site Plan

The proposed facility occupies the majority of the first floor of the house. The Applicant is not proposing any expansion or change to the indoor or outdoor daycare 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 day care currently operates with two resident staff (the Applicant and his wife) and one non-resident staff. The Applicant will hire one additional non-resident staff for the proposed daycare expansion.

Weather pending, the children will play outside for an hour each morning and the afternoon, similarly to the current operation. Morning outdoor time is generally from 11:00 a.m. to 12:00 p.m. and afternoon outdoor time is generally 4:30 p.m. to 5:30 p.m. Children typically arrive before 9:00 a.m. and are picked-up between 4:45 p.m. and 6:00 p.m. Parents typically transport kids to and from the daycare by car.

Parking available for the day care includes two tandem spaces in the driveway, two on-street spaces along the Property frontage¹, and two on-street spaces in front of the adjacent corner property (to the north).

Section 3: Analysis

Master Plan

The Site is located within the 1994 *Aspen Hill Master Plan* (Master Plan) area. The Master Plan does not contain any specific recommendations for the Site, but it includes general recommendations that apply to the Subject Application.

The overall vision of the Master Plan is to reinforce the primarily suburban, residential character of the area by retaining the residential zoning with a few refinements while seeking to increase opportunities for community interaction (page 1). The proposed use is consistent with the general vision of the plan since it is conducted within a detached house and the existing family day care is already integrated into the neighborhood.

The Master Plan supports various types of childcare facilities within the planning area, particularly facilities that provide care to the youngest children (page 171, 193). The Applicant plans to enroll children as young as three months old, helping to fulfil the particular need sited in the Master Plan. The Master Plan includes guidance about siting conditional uses (called special exceptions at the time the Plan was written):

Avoid excessive concentration of special exception and other nonresidential land uses along major transportation corridors. Sites along these corridors are more vulnerable to over-concentration because they are more visible.

- *Protect major transportation corridors and residential communities from incompatible design of special exception uses. In the design and review of special exceptions, the following guidelines should be followed, in addition to those stated for special exception uses in the Zoning Ordinance:*
 - a) *Any modification or addition to an existing building to accommodate a special exception use should be compatible with the architecture of the adjoining neighborhood and should not be significantly larger than nearby structures.*
 - b) *Front yard parking should be avoided because of its commercial appearance; however, in situations where side or rear yard parking is not available, front yard parking should be allowed only if it can be adequately landscaped and screened.*

¹ The Applicant indicates that there is space for three cars to park along the property frontage, but Staff finds that only two spaces are actually available to park without blocking the driveway entrance, assuming 21-foot long parallel parking spaces.

- c) *Close scrutiny should be given to replacing or enhancing the screening and buffering as viewed from the abutting residential areas and along the major roadways.*
(page 80)

Parkland Drive is a residential road and not considered a major transportation corridor. The Subject Application would be the only conditional use on Parkland Drive within the Staff-Defined Neighborhood. The detached house will retain the residential appearance and the fence enclosing the front yard play area is consistent with other fences in the neighborhood.

The existing eight-child day care has been on the Site for three 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 day care facility and compatible with the neighborhood. Therefore, the proposal is in substantial conformance with the Sector Plan.

Transportation

Off-Street Parking

The existing single-family housing unit has an approximately 40-foot long driveway, as measured from the back of sidewalk to the existing driveway terminus in the rear yard. This length can accommodate approximately two-full size vehicles. The existing chain link fence provides a visual cue to parking vehicles about how far one must pull in to avoid obstructing the sidewalk. The family residing in the unit owns one vehicle, which is typically parked in the driveway. One additional car can park in the driveway during pick-up and drop-off periods.

Loading and Unloading & Local Area Transportation Review (LATR) Study

The Applicant's unloading and loading statement proposes staggered drop-off and pick-up periods for the two-non-resident staff and 11 non-resident children to reduce parking impacts along neighborhood streets. The proposal follows:

Arrival

- 7:30am – Three (3) children are dropped off
- 8:00am – One (1) staff arrives; two (2) children are dropped off
- 8:30am – Four (4) children are dropped off
- 9:00am – One (1) staff arrives; two (2) children are dropped off

Departure

- 4:45pm – Two (2) children picked up
- 5:00pm – Two (2) children picked up; one (1) staff departs
- 5:30pm – Four (4) children picked up
- 6:00pm – Three (3) children picked-up; one (1) staff departs

Typically, arrivals and departures are counted as separate trips per the Institute of Transportation Engineers *Trip Generation Manual*. This means that the proposed site will generate 35 morning and evening trips, as shown in Tables 1 and 2.

Table 1 – Person Trip Site Arrivals

Person Trips – 35 Total Arrivals						
Time	Child Trip Arrive	Child Trip Depart	Parent Trip Arrive	Parent Trip Depart	Staff Arrive	Staff Depart
7:00am	0	0	0	0	0	0
7:30am	3	0	3	3	0	0
8:00am	2	0	2	2	1	0
8:30am	4	0	4	4	0	0
9:00am	2	0	2	2	1	0
Total	11	0	11	11	2	0

Table 2 – Person Trip Site Departures

Person Trips – 35 Total Departures						
Time	Child Trip Arrive	Child Trip Depart	Parent Trip Arrive	Parent Trip Depart	Staff Arrive	Staff Depart
4:45pm	0	2	2	2	0	0
5:00pm	0	2	2	2	0	1
5:30pm	0	4	4	4	0	0
6:00pm	0	3	3	3	0	1
Total	0	11	11	11	0	2

The Planning Department's *Local Area Transportation Review (LATR) Guidelines* dictate that a study must be undertaken if a proposal exceeds 49 peak-period weekday trips in either the morning and/or evening. The proposed use does not meet the threshold and no study is required. Additionally, the Applicant notes that some of the existing staff do not use personal vehicles to travel to and from the site, further reducing impacts to the neighborhood.

Given the generous supply of unregulated on-street parking and staggered drop-off and pick-up, Staff believes the Applicant's proposal will not have any adverse impact on neighborhood streets. The Applicant's proposal is adequate and acceptable.

Proximate Transit

The site is within a half mile walk of the Ride On 48 line and the Washington Metropolitan Area Transportation Authority's (WMATA) Q Metrobus series. The Ride On 48 Line provides service between WMATA's Rockville and Wheaton Metrorail Stations with approximately 25-minute peak hour headways. The Q Metrobus series provides connections between WMATA's Shady Grove Road Metrorail and Silver Spring Metrorail stations. Proximate to the site, the Q series travels primarily on Veirs Mill Road. Headways range from 15 to 20 minutes during peak travel periods.

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 no clearing or grading activities are proposed on or near the Property.

Community Comment

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

Section 4: Findings (Section 59.7.3.1.E.) ²

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 day care facility 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

- 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.

² Findings 59-7.3.1.E.5 and 59-7.3.1.E.6 are not applicable to this Application and are not included in this report.

Table 3: R-60 Zone Standard Method Development Standards

Development Standard	Required/ Permitted	Proposed
Minimum Lot Area: (Section 59.4.4.9.B.1)	6,000 sq. ft.	6,264 sq. ft.
Minimum Lot Width at Front Building Line (Section 59.4.4.9.B.1)	60 feet	±68 feet
Minimum Lot Width at Front Lot Line (Section 59.4.4.9.B.1)	25 feet	±68 feet
Maximum Density (Section 59.4.4.9.B.1)	1 unit (7.26 dwelling units/acre)	1 unit
Maximum Lot Coverage (Section 59.4.4.9.B.1)	35 percent	±15%
Minimum Front Setback (Section 59.4.4.9.B.2)	25 feet	±25.5 feet
Minimum Side Setback (Section 59.4.4.9.B.2)	8 feet	±13 feet
Minimum Sum of Side Setbacks (Section 59.4.4.9.B.2)	18 feet	±33.7 feet
Minimum Rear Setback (Section 59.4.4.9.B.2)	20 feet	±34 feet
Maximum Height (Section 59.4.4.9.B.3)	30 feet	±15 feet

General Development Requirements- Division 59.6

Parking

	Required Spaces	Proposed Spaces
Vehicle Parking Requirement (Section 59.6.2.4.B)	Group Day Care: 2 (1/ non-resident employee) + Dwelling: 2 Total: 4	2 in driveway + 2 spaces along property frontage Total: 4

Zoning Text Amendment No. 19-08 (Ordinance No: 19-11, Attachment 2) eliminated the requirement for home-based Group Daycares to provide bicycle parking, but the Applicant has indicated that bicycle parking can be accommodated on-site should staff or parents desire to travel to the site by bicycle.

Screening

Section 59-6.5.2.B requires screening that ensures compatibility with the surrounding neighborhood. The existing outdoor play area in the Property's front yard is bordered with a 4-foot chain link fence, which is similar to fencing in other front and rear yards in the neighborhood. Given that Wheaton Woods Elementary School is directly across Parkland Drive from the Subject Property, also with unscreened play areas facing the street, Staff considers the proposed play area compatible with the neighborhood, particularly with the restriction on the number of children playing outside at any one time.



Figure 5: Play areas at Wheaton Woods Elementary School

Lighting

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

Signage

The Applicant informed Staff that a non-compliant sign advertising the existing day care has been recently removed from the fence in the front yard. The Applicant may install a new sign that complies with the sign regulations in Division 59-7.

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

As discussed in the Analysis section above, the Site is located within the 1994 *Aspen Hill Master Plan* area, 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 did not identify any existing, approved conditional uses in the Neighborhood. The proposed daycare expansion will not impact the area adversely or alter the area's predominantly residential nature. The existing day care has been operating on the Site since 2017, 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.

The existing lighting on the Site is adequate for the proposal. The existing 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.

Section 5: 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 is consistent with the goals and recommendations of the 1994 *Aspen Hill 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: Page 6 from ZTA No. 19-08, Ordinance No. 19-11

ATTACHMENT 1

5

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: 12917 Parkland drive Rockville MD 20853

Subdivision: 0081 Parcel(s) # 0000 Lot #(s): 13 Block(s): 10

Property Tax Identification Number: 01269881

Applicant (Owner or Contract Purchaser):

Isaac M. Lopez

Name 12917 Parkland drive

Street Address Rockville

State MD

Zip Code 20853

City (240) 899-0240

State

Fax No. ()

Phone No.

Zip Code

Total Area of Property: 0.14 acres 6,264 square feet

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

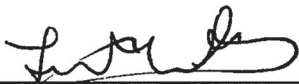
Applicant attests that the following statements apply to the subject special exception:

- 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

07/14/2020

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:

Aaron Savage

Signature

7/23/20

Date

ATTACHMENT 2

Ordinance No.: 19-11

28 depends upon whether the property is located in or outside of a Parking Lot
 29 District or Reduced Parking Area.

30 * * *

31 C. Bicycle Parking Spaces

USE or USE GROUP	Metric	Agricultural, Rural Residential, Residential, and Industrial Zones		Commercial/Residential and Employment Zones	
		Minimum (Maximum)	% Long-Term	Minimum (Maximum)	% Long-Term
RESIDENTIAL					
Household Living					
Multi-Unit Living	Dwelling Unit (10[20]+ Units Only)	0.35 (100 max <u>per building</u>)	95%	0.50 (100 max <u>per building</u>)	95%
Group Living					
Dormitory Independent Living Facility for Seniors or Persons with Disabilities Personal Living Quarters Residential Care Facility (<u>except Assisted Living/Memory Care Facility</u>)	Dwelling Unit (20+ Units Only)	0.25 (50 max)	95%	0.25 (50 max)	95%
Residential Care Facility (<u>Assisted Living/Memory Care</u>)	<u>Total Employees</u>	<u>0.10 (25 max)</u>	<u>95%</u>	<u>0.10 (25 max)</u>	<u>95%</u>
CIVIC AND INSTITUTIONAL					
* * *					
Day Care Facility					
<u>Day Care Center</u> Group Day Care [Day Care Center] (<u>excluding home-based Day Care</u>)	5,000 SF of GFA	1.00 (5 max)	85%	1.00 (5 max)	85%
Educational Institution (Private)	[5,000 SF of GFA] <u>Total Students</u>	[1.00 (50 max)] <u>0.05 (50 max)</u>	[15%] <u>0%</u>	[1.00 (50 max)] <u>0.05 (50 max)</u>	[15%] <u>0%</u>
	<u>Total Employees</u>	<u>0.10 (15 max)</u>	<u>100%</u>	<u>0.10 (15 max)</u>	<u>100%</u>
* * *					
Private Club, Service Organization	10,000 SF of GFA	0.50 (10 max)	15%	1.00 (10 max)	15%
Religious [[Institution]] <u>Assembly</u>	<u>The greater of 2,000 SF of GFA or 200 fixed seats</u>	<u>1.00 (25 max for all activities in a single building)</u>	<u>15%</u>	<u>1.00 (25 max)</u>	<u>15%</u>
* * *					