

MCPB

Item No.:

Date: 3-11-2021

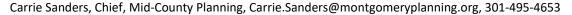
9205 Tulip Grove Road, Conditional Use No. CU202104

PDS

Parker Smith, Senior Planner, Mid-County Planning, Parker.Smith@montgomeryplanning.org, 301-495-1327



Emily Tettelbaum, Acting Supervisor, Mid-County Planning, Emily. Tettelbaum@montgomeryplanning.org, 301-495-4569



Completed: 3/1/21

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: 9205 Tulip Grove Road.

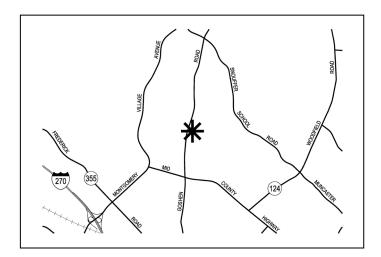
Zone: R-90.

Master Plan: 1996 Gaithersburg Vicinity Master Plan.

Property Size: 12,248-square feet. Application Accepted: 11/17/2020.

Applicant: Valerie Brunova. Review Basis: Chapter 59.

Hearing Examiner Public Hearing: March 29, 2021.



Summary

- Staff recommends approval with conditions.
- The Applicant submitted a letter in support of the daycare expansion.

STAFF RECOMMENDATION

Staff recommends approval of Conditional Use No. CU202104 subject to the following conditions:

- 1. The Group Day Care facility must be limited to a maximum of twelve (12) children and one (1) non-resident employee.
- 2. The hours of operation are limited to Monday through Friday, 8:00 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. Outside play time may not occur prior to 9:00 a.m.

SITE AND NEIGHBORHOOD DESCRIPTION

Site Description

The Subject Property (Property or Site) is 9205 Tulip Grove Road in Gaithersburg, otherwise known as Lot 14, Block 2, Section 2 Charlene (Plat #10278, 1972). It is improved with a detached house (Figure 1) and the Applicant has been operating an eight-child day care facility on the premise since April 2018 for 3-month-old through five-year-old children. The existing daycare occupies the basement of the house.

The 12,248-square foot lot is located mid-block on the north side of Tulip Grove Road. The Property has a driveway that is approximately 18 feet wide and 38 feet long that has space to park four to five cars.

The daycare is accessed via an entrance at the rear of the house that opens into the basement daycare area. People dropping off children may park in the driveway or on the street, and walk their child through an enclosed vestibule, out to the back of the house. People then walk down a set of exterior stairs, through a gate in the fenced-in rear recreation area and finally to the entrance of the basement-level main daycare area. The area just outside the daycare entrance is covered by a second-level deck, which will be off-limits to children.

The rear yard of the house is enclosed by a 6' tall fence along the western, northern, eastern property lines. As shown in Figure 1 below, the outdoor play area is located within the eastern portion of the rear yard, bounded by additional fencing on the western (3' in height) and northern (6' in height) sides.

Unrestricted on-street parking is allowed on both sides of Tulip Grove Road in the vicinity of the Property.



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

Neighborhood Description

The Staff-defined Neighborhood (outlined in blue in Figure 2) is generally bounded by Centerway Road to the north and by Goshen Road to the west. To the east, the neighborhood extends to Quail Valley Boulevard. The Neighborhood is comprised exclusively of single-family detached homes. To the north and south of the neighborhood are townhouse complexes, where the units are often centered around communal parking lots and open spaces. East of Quail Valley Boulevard are Strawberry Knoll Elementary School and Strawberry Knoll Local Park, each of which are major community assets to the subject neighborhood.

Staff identified one approved conditional use/special exception within the defined neighborhood:

• \$1658: 18924 Lindenhouse Road – To permit a home occupation (import/export business)



Figure 2: Staff-Defined Neighborhood (outlined in blue)

PROJECT DESCRIPTION

The Applicant is requesting to expand the existing day care 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 and the same outdoor recreation area as the existing day care. 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 8 a.m. to 6 p.m., will remain the same. The Applicant and her husband live on the Property and serve as the daycare's primary caregivers. One additional staff member may be hired at a later date, depending on need and the family's situation. An amendment to this conditional use application will be required if the applicant wishes to employ more than one non-resident staff member.

Weather permitting, the children will play outside during designated outdoor play hours. While outdoor play hours typically occur from 10:30 a.m. to 12:00 p.m. and from 5:00 p.m. to 6:00 p.m., children may

play outside as early as 9:00 a.m., per condition 4. Parent drop-offs take place between 8:30 a.m. and 10:00 a.m. and pick-ups occur between 4:30 p.m. and 6:00 p.m.

The Applicant indicates that space is available to park at least 4 cars in the driveway, and there is additional parking available on-street along Tulip Grove Road, where there are no parking restrictions. The garage on site can also hold up to two cars, which will be primarily used by residents.

The Applicant has not proposed any signage with this Application.



Figure 3: Front view of house



Figure 4: Rear yard (facing north)

Analysis

Master Plan

The Site is located within the *Gaithersburg Vicinity Master Plan*, originally adopted in 1985 and amended in 1988 and again in 1990. The Master Plan does not discuss the Site, nor does it include language about day cares, special exceptions/conditional uses, or residential areas in general.

The existing eight-child day care has been on the Site for two 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 Master Plan.

Transportation

Master-Planned Roadways and Bikeway

Tulip Grove Road is designated as a secondary residential street with a 60-foot wide right-of-way.

There are no bicycle facilities within the Staff-defined Neighborhood. The 2018 *Bicycle Master Plan* recommends separated bikeways along the following area roads: Quail Valley Boulevard, which runs

through the heart of the neighborhood, as well as along Goshen Road, Centerway Road, Strawberry Knoll Road, and Emory Grove Road. No bicycle facilities are recommended along Tulip Grove Road.

Pedestrian Facilities

There are no sidewalks along Tulip Grove Road, nor are there any along any of the streets that connect directly with Tulip Grove Road, such as Harkness Lane to the north and Lindenhouse Road to the south.

Transit Service

There is no bus service that runs along Tulip Grove Road. The nearest transit services are Ride On Bus Route 60, which runs along Centerway Road to the north of the subject property, and Ride On Bus Route 64, which runs along Centerway Road as well as through the neighborhood along Quail Valley Boulevard.

The nearest rail transit station is Shady Grove station, which serves as the western terminus of WMATA's red line. The station is about five miles southeast of the subject property, and can be reached in a roughly fifteen-minute drive.

Parking and Drop-Off/Pick-Up

The site contains four off-street parking spaces, and on-street parking is available on both sides of Tulip Grove Road. To minimize impacts to the neighborhood, Staff recommends limiting scheduled parental drop-off and pick-up to two vehicles every 15-minutes.

Local Area Transportation Review

A proposed schedule of drop-offs/pick-ups during the weekday morning peak period (6:30 to 9:30 a.m.) and evening peak period (4:00 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 8:30 a.m. and 10:00 a.m., and the evening schedule shows up to twelve children picked-up between 4:30 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, and the Policy Area mode split assumptions, are shown below:

Period	ITE Vehicle Trips	Subdivision Staging Policy Projected Trips				
		Person Trips	Auto Driver Trips	Auto Passenger Trips	Pedestrian Trips	
Morning Peak Hour	11	14	11	2	1	
Evening Peak Hour	11.12	14	11	2	1	
	L Category: 56	l 5 – Dav Care Cer	nter: pedestrian trips r	। epresent all walking, bikin	l g. and transit trips	

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

This application was submitted in November of 2020, and as such is subject to the 2016-2020 Subdivision Staging Policy, rather than the new Growth and Infrastructure Policy that took effect on January 1, 2021. Under the 2016-2020 Subdivision Staging Policy, a traffic study is not required to satisfy the Local Area Transportation Review (LATR) test 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.

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. As a part of the application, the Applicant submitted a letter of support from the Walnut Creek Homeowner's Association (Attachment 2).

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 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;

<u>Use Standards for Group Day Care- Section 59.3.4.4.D.2</u>

- 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.

¹ 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.

- 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. As conditioned, no more than one non-resident staff member 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;

Development Standards- Section 59.4.4.8.C

Development Standard	Required/ Permitted	Proposed
Minimum Lot Area: (Section 59.4.4.8.C.2)	5,000 sq. ft.	12,248 sq. ft.
Minimum Lot Width at Front Building Line (Section 59.4.4.8.C.2)	Determined at site plan	±70 feet
Minimum Lot Width at Front Lot Line (Section 59.4.4.8.C.2)	25 feet	±65 feet
Maximum Density (Section 59.4.4.8.C.2)	1 unit (3.6 dwelling units/acre)	1 unit
Maximum Lot Coverage (Section 59.4.4.8.C.2)	30 percent	±17%
Minimum Front Setback (Section 59.4.4.8.C.3)	25 feet	±26 feet
Minimum Side Setback (Section 59.4.4.8.C.3)	Determined at site plan	±4 feet
Minimum Sum of Side Setbacks (Section 59.4.4.8.C.3)	Determined at site plan	±11 feet

Minimum Rear Setback	Determined at	±65 feet
(Section 59.4.4.8.C.3)	site plan	
Maximum Height	35 feet	±25 feet
(Section 59.4.4.9.B.3)		

R-90 Zone, Optional Method Cluster Development

According to Plat 10278 (Attachment 3), the Property was part of a subdivision developed under R-90 optional method cluster development. As such, many setbacks were determined at site plan.

General Development Requirements- Division 59.6

Parking

	Required Spaces	Proposed
Vehicle Parking	Group Day Care: 1	4 spaces in driveway
Requirement	(1/ non-resident employee)	
(Section 59.6.2.4.B)	Dwelling: 2	
	Total: 3	

Screening

The existing fencing in the rear yard provides sufficient screening between the proposed use and the adjacent homes. The rear yard is surrounded by opaque, 6-foot tall fencing along the western, northern, and eastern property lines. The outdoor play area is set back from and bounded by additional fencing on the western and northern property lines.

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 *Gaithersburg Vicinity Master Plan*, and the proposal is in substantial conformance with the Sector 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 one approved conditional use within the Staff-defined neighborhood, a home occupation at 18924 Lindenhouse Road. Although approval of this Application will increase the number of conditional uses in the Staff-defined Neighborhood, the proposed daycare 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 April 2018, 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 and landscaping on the Site is 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 is consistent with the goals and recommendations of the Gaithersburg Vicinity 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: Letter of HOA support submitted by Applicant

Attachment 3: Subdivision Plat Attachment 4: Authorization Letter

Attachment 5: Property Survey

ATTACHMENT 1

Development Applications and Regulatory Coo	rdination	4		Effective 9/30/2013			
M-NCPPC • 8787 Georgia Avenue, Silver Spring, MD 209		495-4550, fax: 301-49	5-1306				
				APPLICATION			
Forest Conservation Law Applicability for Special Exceptions							
Street Address: 9205 Tulip Grove Rd Gaithers bury MD 20879 Subdivision: Parcel(s) # N/A Lot #(s): 14 Block(s): Z							
Street Address: 9205 1446 GOVE	Ka C	outhers bury	111) 20879				
Subdivision: Parcel(s) #///	L	ot #(s): /4	Block(s):	2			
Property Tax Identification Number: 46 44 96 9	76.		_,				
Applicant (Owner or Contract Purchaser):							
Trind Thodina Name 9205 Tulip Grove, Rd, G. Street Address City Phone Na.	a: than	husel					
Street Address	MD	· ·	2087	9			
City	State	()	Zip Code				
Total Area of Property: 0 28	_acres	2,840	square feet				
OR, all of the following: The application applies to a property of less than 40,00 The property is not subject to a previously approved For the special exception proposal will not impact any characteristic of applicant (Owner or Contract Purchaser): Signature	orest Conse impion tree	vation Plan.	otgomery County Fores	stry Board.			
Signature		Date					
FOR STAFF USE ONLY M-NCPPC acknowledges that the special exception for the special exception fo			ery County Code				
is exempt from the Forest Conservation Plan requireme Forest Conservation Law	ents under :	Section 22A-5 (q)(1) of	the				
Signature of M-NCPPC Environmental Planning staff review	wer:						
And		10	/28/20				
Signature		Date					

ATTACHMENT 2



7605 Arlington Road, Suite 100 Bethesda, MD 20814

> Main Office (301) 656-8600 Facsimile (301) 907-4766

> www.alliedrealtycorp.com

Since 1940

Parker.Smith@montgomeryplanning.org

To Whom It May Concern:

RE: Project: 9205 Tulip Grove Road (CU202104)

The Walnut Creek Homeowners Association by its Board of Directors has reviewed the application of Valerie Brunova to operate a day care center at 9205 Tulip Grove Road. This property falls within our Association. The Board made a request of Ms Brunova to add the Association as an "additional insured" on an insurance policy showing \$1,000,000 in liability coverage. She promptly agreed to that request.

The Walnut Creek Homeowners Association supports a diverse and inclusive community and finds that a day care center should be part of the community.

Very truly yours.
On behalf of the Board of Directors

J. Michael Coburn Community Manager

CC: Board of Directors, Walnut Creek HOA <u>brunova777@gmail.com</u>







I am Irina Zhogina the owner of the property located at 9205 Tulip grove rd, Gaithersburg, MD 20879.

I authorize my daughter Valeriia Brunova to apply for conditional use of this property in order to increase the daycare capacity from 8 to 12 children.

Mound 10/24/2020

CONSUMER INFORMATION NOTES: .

- 1. This plan is a benefit to a consumer insofar as it is required by a lender or a title insurance company agent in connection with contemplated transfer, financing or re-financing.
- 2. This plan is not to be relied upon for the establishment or location of fences, garages, buildings, or o existing or future improvements.
- 3. This plan does not provide for the accurate identification of property boundary lines, but such identific may not be required for the transfer of title or securing financing or re-financing.
- 4. Building line and/or Flood Zone information is taken from available sources and is subject to interpretation of ori
- 5. No Title Report furnished.

Notes:

Setback distances as shown to the principal structure from property lines are approximate. The level of accuracy for this drawing should be taken to be no greater than plus or minus 2 feet.

Fences, if shown, have been located by approximate methods.

No property corners confirmed.

LOT 10 LOT 11 N 73° 02' 08" E 104.25' 12,248 S.F. FRAME 30.5 STORY FRAME #9205 CONC. 20.2 FRAME CONC. 18.3 20.2 ASPHALT DRIVEWAY A=65.00' R=275.71 TULIP GROVE ROAD

LOCATION DRAWING LOT 14, BLOCK 2 SECTION TWO PLAT 2

CHARLENE

MONTGOMERY COUNTY, MARYLAND

SURVEYOR'S CERTIFICATE

THE INFORMATION SHOWN HEREON HAS BEEN BASED UPON THE RESULTS OF A FIELD INSPECTION PURSUANT TO THE DEED OR PLAT OF RECORD. EXISTING STRUCTURES SHOWN HAVE BEEN FIELD LOCATED BASED UPON MEASUREMENTS FROM PROPERTY MARKERS FOUND OR FROM EVIDENCE OF LINES OF APPARENT OCCUPATION.

REFERENCES

PLAT BK. 94

PLAT NO. 10278



SNIDER & ASSOCIATES
LAND SURVEYORS
20270 Goldenrod Lane, Suit
Germantown, Maryland 20
301/948-5100 Fax 301/948

DATE OF LOCATIONS

SCALE: 1"

LIBER

WALL CHECK: DRAWN BY: