


**MGCDC-CentroNia (Martha B. Gudelsky Child Development Center), Preliminary Plan No. 120210050**

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 Marco Fuster, Planner Coordinator, DownCounty Planning, [marco.fuster@montgomeryplanning.org](mailto:marco.fuster@montgomeryplanning.org), 301.495.4521

 Stephanie Dickel, Supervisor, DownCounty Planning, [stephanie.dickel@montgomeryplanning.org](mailto:stephanie.dickel@montgomeryplanning.org), 301.495.4527

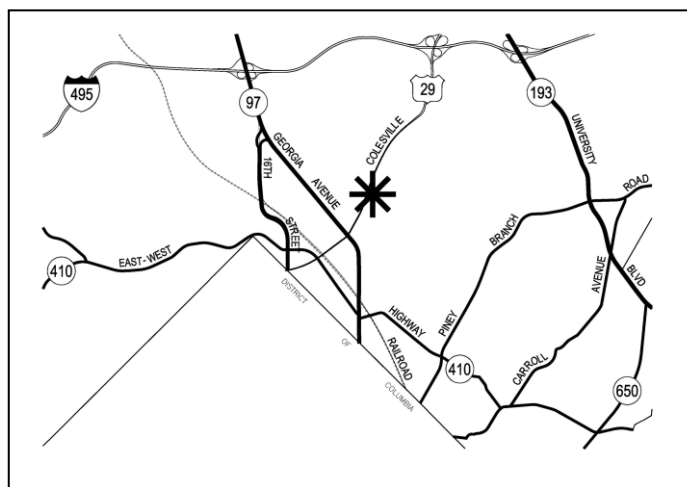
 Elza Hisel-McCoy, Chief, DownCounty Planning, [Elza.Hisel-McCoy@montgomeryplanning.org](mailto:Elza.Hisel-McCoy@montgomeryplanning.org), 301.495.2115

**Completed 3-15-21**

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**Description**

- Request for Preliminary Plan approval (associated with Conditional Use No. CU202008) for a Day Care Center for up to 180 children to be established in the former Silver Spring Library building
- Location: 8901 and 8907 Colesville Road, Silver Spring
- Zone: R-60
- Master Plan: 2000 *North and West Silver Spring Master Plan*
- Current Property Size: 95,906 square feet (2.2 acres)
- Application Accepted: May 22, 2020
- Applicant: Martha B. Gudelsky Child Development Center, Inc.
- Review Basis: Chapter 50, 59 & 22A



**Summary**

- Staff recommends APPROVAL with conditions.
- Request for Preliminary Plan approval (associated with Conditional Use No. CU202008) for a Day Care Center for up to 180 children to be established in the former Silver Spring Library building (to include a proposed addition).
- On September 24, 2020 the Planning Board recommended Conditional Use No. CU202008 be approved with conditions.
- On November 24, 2020 the Board of Appeals issued a Notification of Decision approving the Conditional Use subject to conditions. The Preliminary Plan could not be processed until the Decision was issued.
- Staff has not received any correspondence regarding the application.
- The Conditional Use approved waivers from Sections 59.6.2.4.B (Vehicle Parking Spaces), 59.6.2.9.C (Parking lot requirements for 10 or more spaces), and 59.6.2.5.K.2 (Setbacks), and the Alternative Method of Compliance from Section 59.6.4.4.D. (excessive illumination).
- Site Plan is not required for the proposed use and addition.

## **SECTION 1 – STAFF RECOMMENDATION**

Staff recommends approval of MG CDC-CentroNia (a.k.a. Martha B. Gudelsky Child Development Center, 8901 & 8907 Colesville Road, and former Silver Spring Library site) Preliminary Plan No. 120210050, for a Group Day Care facility of up to 31,000 gross square feet with up to 180 children and up to 60 staff persons. All site development elements shown on the electronic version of plans, uploaded to ePlans as of March 10, 2021, are required and subject to the following conditions:

### **General Approval**

1. This Preliminary Plan is limited to 1 lot for up to 31,000 gross square feet of Group Day Care, a maximum of 180 children at any one time and maximum of 60 staff persons at any one time.
2. The Applicant must comply with the conditions of approval enumerated in the November 24, 2020 Notification of Decision letter from the Board of Appeals approving Conditional Use No. CU202008.

### **Adequate Public Facilities and Outside Agencies**

3. The Adequate Public Facility (“APF”) review for the Preliminary Plan will remain valid for sixty (60) months from the date of mailing of this Planning Board Resolution.
4. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Transportation (“MCDOT”) in their letters dated August 31, 2020 and March 3, 2021 and incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDOT if the amendment does not conflict with any other conditions of the Preliminary Plan approval.
5. Before recording a plat for the Subject Property, the Applicant must satisfy MCDOT’s requirements for access and improvements.
6. The Planning Board has reviewed and accepts the recommendations of the Maryland State Highway Administration (“SHA”) in its letter dated August 21, 2020 and incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MSHA if the amendment does not conflict with any other conditions of the Preliminary Plan approval.
7. Before the issuance of access permits, the Applicant must satisfy the Maryland State Highway Administration’s requirements for access and improvements.
8. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Services (“MCDPS”) – Water Resources Section in its stormwater management concept letter dated February 16, 2021 and incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDPS – Water Resources Section if the amendment does not conflict with any other conditions of the Preliminary Plan approval.
9. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Services (“MCDPS”), Fire Department Access and Water Supply Section in its

letter dated February 26, 2021 and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in the letter, which MCDPS may amend if the amendment does not conflict with other conditions of Preliminary Plan approval.

#### Forest Conservation

10. The Applicant must comply with the October 6, 2020 conditions of approval for the Preliminary Forest Conservation Plan CU202008, approved in association with this Preliminary Plan.
11. The Applicant must revise the Final Forest Conservation Plan/Tree Save Plan to incorporate the following items:
  - a. In coordination with the Montgomery County Department of Permitting Services (MCDPS), the Applicant must specify and implement sediment control measures which also meet the tree protection goals as specified on the Tree Save Plan (such as untrenched filter logs).
  - b. No trenching shall be allowed within the Critical Root Zone (CRZ) of Tree-8 with exception for trenching associated with the waterline and minor portions of the retaining wall as shown on the Tree Save Plan.
  - c. If MCDPS ultimately requires implementation of a trenched sediment control method within the otherwise protected portions of Tree-8's CRZ, the Forest Conservation Plan must be amended to address the resulting tree impacts prior to conducting the associated work.
12. Prior to demolition or any land disturbing activities occurring, the Applicant must meet and coordinate onsite with M-NCPPC Staff and other applicable parties, such as MC-DOT and SHA, in order to:
  - a. Discuss and finalize the phasing of construction activities near trees including, but not limited to, Trees 8, 12, and 25;
  - b. Assess and make any recommended adjustments to tree protection and construction access measures for Tree-8;
  - c. Following this coordination, if it is determined that Tree-12 is to be removed, the Applicant must obtain approval of a revised variance request for the removal prior to conducting the associated work.
13. The Applicant must update the Forest Conservation Plan and associated Forest Conservation Worksheet to fully reflect the offsite Limits of Disturbance ("LOD").
14. Prior to demolition or any land disturbing activities occurring onsite the Applicant must receive approval from the M-NCPPC Office of the General Counsel for a Certificate of Compliance for an off-site forest mitigation bank, or payment via fee-in-lieu, for an afforestation equivalent credit of 0.34-acres (or as determined on the Certified Final Forest Conservation Plan).
15. Prior to Certification Final Forest Conservation Plan the Applicant must coordinate with Staff on clarifications, corrections and updates for the plan phasing, notes, details, graphics, and specifications and update all applicable drawings for consistency across plan sheets.
16. The Limits of Disturbance ("LOD") shown on the Final Sediment and Erosion Control Plan must be consistent with the LOD shown on the approved Final Forest Conservation Plan.

17. The Applicant must schedule the required site inspections by M-NCPPC Forest Conservation Inspection Staff per Section 22A.00.01.10 of the Forest Conservation Regulations.
18. The Applicant must comply with all tree protection and tree save measures shown on the approved Final Forest Conservation Plan. Tree save measures not specified on the Final Forest Conservation Plan may be required by the M-NCPPC forest conservation inspector at the pre-construction meeting.

#### **Transportation**

19. Prior to any above ground building permit the Applicant must dedicate right-of-way necessary to provide 60 feet from the right-of-way centerline along the Site's Colesville Road frontage.
20. Prior to the issuance of the final Use and Occupancy Certificate, the Applicant must install five-foot wide sidewalks along the Ellsworth Drive frontage.

#### **Record Plats**

21. There shall be no clearing or grading of the site prior to Certification of the Final Forest Conservation Plan and the Preliminary Plan.

#### **Easements**

22. The record plat must show necessary easements.

#### **Department of Parks Conditions**

23. Applicant must provide 12 individually signed parking spaces for Park patrons on the Martha Gudelsky Child Development Center along the northern most row of parking spaces. Individual signs shall read "Parking Reserved Exclusively for Park Patrons EXCEPT Monday-Friday 8:00 am to 9:00 am and 4:00 pm to 6:00 pm for MG CDC drop-off and pick-up." Clarifying signage at the entrance of the parking lot at Ellsworth Drive must also be provided indicating "Limited Courtesy Parking for Park Patrons, 3-hour limit, by authority of M-NCPPC at the northern end of the Centro Nia/MG CDC Parking Lot adjacent to Ellsworth Urban Park. Monitoring and enforcement by Montgomery County Park Police." Implementation and acceptance by the Department of Parks must be accomplished prior to release of building permit. The parking agreement and associated signage may be revised from time to time, through mutual agreement between the Applicant and Department of Parks.
24. The Applicant must ensure patron and maintenance access to the southwest corner of Ellsworth Urban Park adjacent to the dog park, and all formalized park entrances.

#### **Certified Preliminary Plan**

25. The Applicant must include the Conditional Use approval, stormwater management concept approval letter, other applicable agency letters and Preliminary Plan Resolution on the approval or cover sheet(s).
26. The certified Preliminary Plan must contain the following note:

*Unless specifically noted on this plan drawing or in the Planning Board conditions of approval, the building*

*footprints, building heights, on-site parking, site circulation, and sidewalks shown on the Preliminary Plan are illustrative. The final locations of buildings, structures and hardscape will be determined at the time of issuance of building permit(s). Please refer to the zoning data table for development standards such as setbacks, building restriction lines, building height, and lot coverage for each lot.*

27. Prior to the submittal of the certified Preliminary Plan the Applicant will coordinate with Staff on minor clarifications, corrections and updates for the plan notes and graphics and update all applicable drawings for consistency across plan sheets.

## SECTION 2 – PROPERTY DESCRIPTION

### Site and Vicinity Description

#### Site Description

The Subject Property (“Property” or “Site”) is located at 8901 and 8907 Colesville Road in Silver Spring, otherwise known as the former Silver Spring Library site. The Property site area measures approximately 95,906 square feet (approximately 2.02 acres) and is located along the east side of Colesville Road (US Route 29), approximately 350 feet north of its intersection with Spring Street and extends through the block to Ellsworth Drive. The Site is in the R-60 Zone and the 2000 *North and West Silver Spring Master Plan*, situated just outside of the Silver Spring Central Business District (CBD) and is comprised of Parcels P959 and P933. The Property is developed with the former Silver Spring Library building which has been vacant for several years, and two surface parking lots located along the Ellsworth Drive frontage. Site access includes a one-way through-drive entering from Colesville Road and exiting onto Ellsworth Drive, and an entry to the eastern parking lot from Ellsworth Drive. The Site features a sizable lawn along the Colesville Road frontage and existing trees and landscaping around the Site. The Ellsworth Urban Park, which provides a landscaped dog park and playground, abuts the Site to the north. The northern parking lot currently has 30 parking spaces which are reserved exclusively for park patrons through a longstanding, informal agreement with Montgomery County Libraries.



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

#### Site Vicinity

The surrounding neighborhood is composed of a mix of detached houses in the R-60 Zone, a recent townhome community in the RT-12.5 Zone, a series of high-rise apartment buildings and mid-rise commercial buildings, including a portion of the United Therapeutics campus in the EOF-3.0 H-100 Zone. The Silver Spring Central Business District is located one block away on the south side of Spring Street. The Property serves as a transitional



location between the higher density uses of the CBD to the south and the predominately single-family neighborhoods to the north.



Figure 2: Front view of existing building looking east from Colesville Road



Figure 3: Vicinity Map

On November 28, 2016, the Montgomery County Department of General Services issued a Request for Proposals for the redevelopment of the former Silver Spring Library site. The County selected the proposal submitted by the Applicant for the adaptive reuse of the existing building, and the construction of an addition, for a day care use.

## SECTION 3 –PROPOSAL

The Preliminary Plan will consolidate the Property into one lot and will include dedicating approximately 22 feet of frontage along Colesville Road to provide the Master Plan recommended 60-foot right-of-way from the centerline. Additionally, the Applicant will widen the existing sidewalk where necessary along the Colesville Road and Ellsworth Drive frontages to achieve a minimum width of five feet.





The Applicant is requesting to adaptively re-use the former library building and construct an approximately 15,000 square foot addition for a Group Day Care facility, comprised of a total gross floor area of up to 31,000 (which includes “cellar” space) square feet. The proposed two-story addition, to be located on the eastern edge of the existing building, has been designed to harmonize with the existing scale, materiality and architectural character of the existing building. The enclosed outdoor play area/outdoor classroom space includes an additional area of approximately 6,752 square feet. Additional minor site improvements are proposed to enhance the open space, provide improved ADA access & on-site circulation, accommodate on-site loading and trash collection, and improve stormwater management.



*Figure 5: Perspective View of Building Addition*

The proposed Group Day Care facility will serve a maximum enrollment of 180 students and up to 60 staff. The Group Day Care facility enrollment will primarily serve students between the ages of three months and five years and also includes a before- and after-school program. There will not be more than the maximum of 180 children and/or 60 staff persons onsite at any one time. The Group Day Care facility will serve a basic and essential need for Montgomery County residents, including residents and workers in the nearby Central Business District.

The onsite amenities include an outdoor play area (which is not open to the public) located on the north side of the building and a large multi-purpose room in the lower level of the proposed addition that may be available for use by the general community during times when that space would not be needed for the Group Day Care facility, subject to certain requirements and limitations.

The proposal includes signage advertising the use along the Site’s Colesville Road frontage.

#### Transportation

##### *Access and Circulation*

Vehicular access to the Property is provided through three existing curb cuts which are proposed to remain in the future condition as a result of the Subject Application. One inbound-only access point is provided off Colesville Road, in the southwest corner of the Site, which connects to the internal access drive. Two access points are

positioned on Ellsworth Drive. The northernmost access point provides full-movement access, while the southern access point is right-out only. Delivery and trash collection vehicles will access the Site from the driveway on Colesville Road and will exit onto Ellsworth Drive.

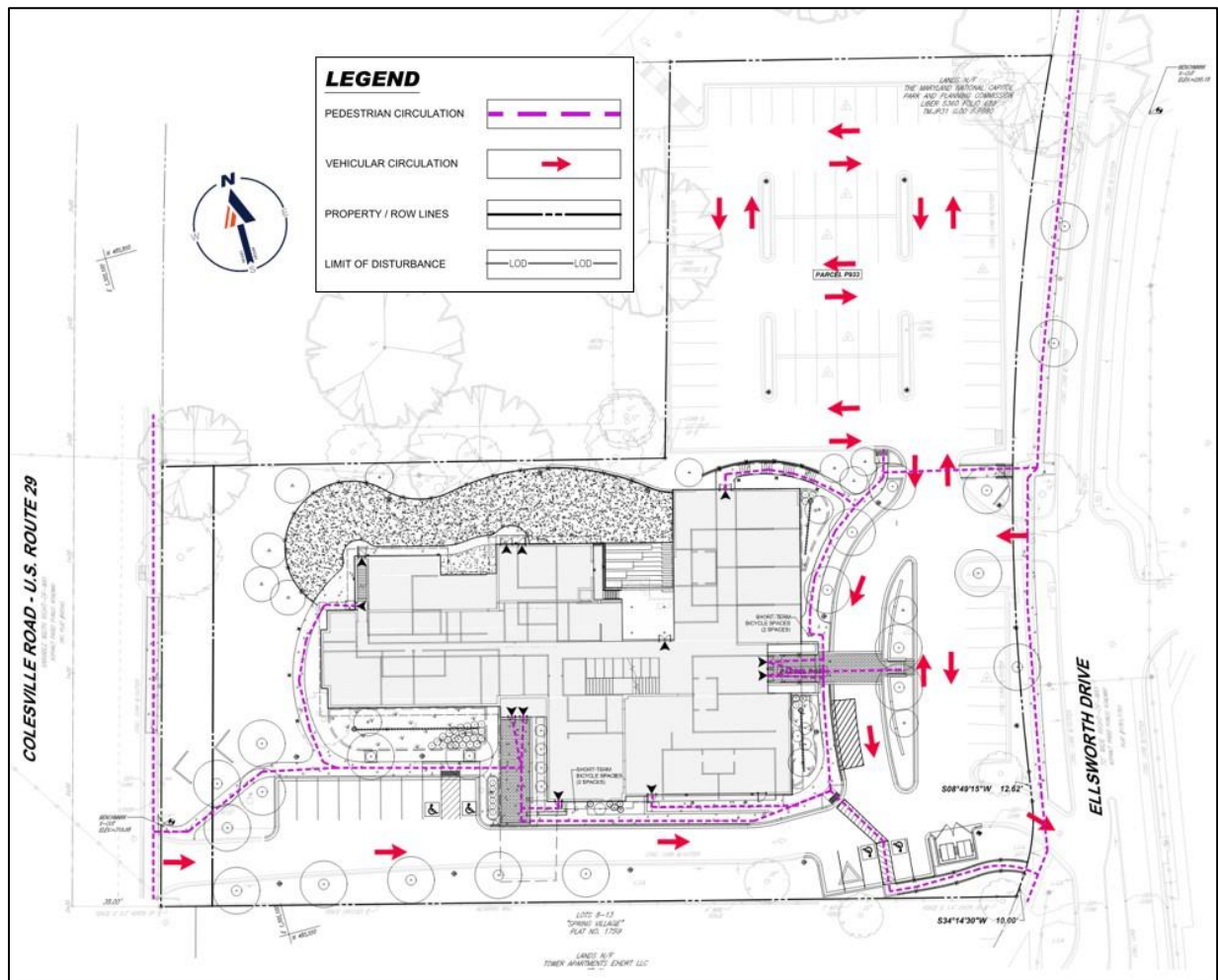


Figure 6: Site Access and Circulation

Sidewalks are present on the Site's Colesville Road and Ellsworth Drive frontages, but they are substandard in width. Along Colesville Road the sidewalks are four feet in width and have no buffer from roadway. On Ellsworth Drive four-foot sidewalks are present with a nine-foot grass buffer along the site frontage.

The Applicant will be required to replace the existing sidewalks with five-foot sidewalks while keeping the curb alignment to help comply with the *2000 North and West Silver Spring Master Plan* recommendations. New trees will be planted within the grass buffers along Ellsworth Drive.

To improve pedestrian access, circulation and safety to and through the Site, the Applicant will be required to install new internal sidewalks connecting to Ellsworth Drive at the northern and southern driveways to minimize conflicts between motorists and pedestrians. Some existing sidewalk segments that do not connect to marked crossings or to designated walkways will be removed to reduce conflicts between motorists and pedestrians. A new sidewalk will be installed along the southern boundary of the site behind the southernmost row of parking spaces, connecting the sidewalk on Ellsworth Drive to the Site. A new marked crosswalk across the internal

driveway will connect the internal sidewalk to the main building entrance. The marked crossing will increase visibility of pedestrians accessing the building entrance from the southernmost parking spaces on site. The crosswalk will align with the access aisle between the two new ADA parking spaces along the internal driveway. Internal sidewalks must be at least five-feet wide.

An uncontrolled, marked crosswalk is present at the intersection of the Site driveway on Colesville Road and South Noyes Drive. The Applicant has coordinated with MDOT SHA to discuss future plans for the intersection design. At the time of this report, MDOT SHA has no plans to change the existing crossing and therefore the Applicant will not be required to participate in intersection modifications.

#### *Transit Service*

The Site is located just under a half-mile from the Silver Spring Transit Center, which is served by Metrorail's Red line, the MDOT MTA Purple Line, the MARC Commuter Rail, and over 25 regional and local bus lines.

Two bus stops are located within the vicinity of the site. At the southwest corner of the Site on Colesville Road is a bus stop served by RideOn routes 8, 9, 13, 14, 21, 22, and Metrobus route Z8. A block south of the Site, at the corner of Ellsworth Drive and Spring Street is a bus stop served by RideOn route 12.

#### *Parking*

Motor vehicle parking is provided to the north and east of the existing building. A small number of parking spaces are located along the internal access drive to the southwest of the existing building. An approximately 15,000 square foot, two-story addition will be constructed on the east side of the existing building to accommodate the proposed day care facility. Fifteen parking spaces will be displaced by the proposed building addition, the dumpsters, and internal marked pedestrian pathways on the site. Seven of those displaced parking spaces will be provided with the proposed expansion of the parking lot in the southwest corner of the site. This will result in a net decrease in overall parking capacity for the site by eight spaces. The Zoning Ordinance requires a minimum of 93 parking spaces for the Site based on the size of the proposed use; however, the Applicant was granted a waiver by the Hearing Examiner<sup>1</sup> for four spaces, bringing the total capacity on site to 89 spaces.

When the Site served as the Silver Spring Branch of the Montgomery County Library System, it also provided parking for the adjacent Ellsworth Urban Park. For a period of approximately 30 years, the public was provided free parking through an agreement with Montgomery County Libraries and M-NCPPC. As conditioned, a minimum of 12 assigned parking spaces must be made available for use by the adjacent Ellsworth Urban Park during non-drop-off and pick-up hours, holidays and weekends by the Subject Group Day Care facility use. The time periods and usage of the shared parking spaces as a formal agreement shall be agreed upon by M-NCPPC Montgomery County Parks Department and the Applicant prior to release of building permit, as conditioned. The assigned spaces will be clearly marked with signage that indicates when these spaces can be used by patrons of the park.

The Applicant will provide a total of nine bicycle parking spaces on site. Four short-term spaces will be accommodated by inverted-U racks distributed evenly between the main building entrances. Five long-term bicycle parking spaces will be located inside the building at the entry level in a secured room. As conditioned, the final location and layout of the bicycle parking must be shown on the certified preliminary plan.

Due to site existing site conditions and the constraints associated with retrofitting the Property, the Applicant was granted waivers for the minimum number of Vehicle Parking Spaces, Parking Setbacks, and the Landscape Area, Canopy Cover & Perimeter Planting standards with the Conditional Use approval. Additionally, the Applicant

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<sup>1</sup> Hearing Examiner's Report and Decision dated November 24, 2021.

requested Alternative Method of Compliance regarding excessive illumination approved as part of the Conditional Use.

## SECTION 4 – ANALYSIS AND FINDINGS

### Analysis

1. *The layout of the subdivision, including size, width, shape, orientation and density of lots, and location and design of roads is appropriate for the subdivision given its location and the type of development or use contemplated and the applicable requirements of Chapter 59*

This Application has been reviewed for compliance with the Montgomery County Code, Chapter 50, the Subdivision Regulations including the technical review standards in Section 50.4.3. The Application meets all applicable sections. The size, width, shape and orientation of the proposed lot is appropriate for the location of the subdivision taking into account the recommendations included in the applicable master plan, and for the type of development or use contemplated. The Application substantially conforms to the 2000 *North and West Silver Spring Master Plan*, as discussed further in Finding 2. The Application complies with the land use recommendations for the site as well as the applicable urban design, roadway, and general recommendations outlined in the Master Plan. This Preliminary Plan creates one lot. Transportation access is adequate to serve the proposed development by this Preliminary Plan. Water and sewer and other utilities are available to and currently serve the Property. As conditioned the Application meets the Environmental Guidelines and Forest Conservation Law.

The lot was reviewed for compliance with the dimensional requirements for the R-60 zone as specified in the Zoning Ordinance. The lot as proposed will meet all the dimensional requirements for area, frontage, width, and setbacks in that zone. A summary of this review is included in following table. The Application has been reviewed by other applicable county agencies, all of which have recommended approval of the plan.



**Table 1: 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	91,755 square feet (after dedication)
59.4.4.9.B.1	Min Lot Width at Front Building Line Colesville Road Elsworth Road	60 feet 60 feet	188 feet 359 feet
59.4.4.9.B.1	Minimum Lot Width at Front Lot Line Colesville Road Ellsworth Road	25 feet 25 feet	188 feet 359 feet
59.4.4.9.B.1	Maximum Density (units/acre)	7.26 units	N/A
59.4.4.9.B.1	Maximum Lot Coverage	35% (32,114 SF)	20 % (18,351 SF)
59.4.4.9.B.2	Minimum Front Setback Colesville Road Ellsworth Road	25 feet 25 feet	46 feet 90 feet
59.4.4.9.B.2	Minimum Side Setback	8 feet	13 feet
59.4.4.9.B.2	Minimum Sum of Side Setbacks	18 feet	55 feet
59.4.4.9.B.2	Minimum Rear Setback	20 feet	See Front Setback Above
59.4.4.9.B.3	Maximum Height	35 feet	35 feet

2. *The Preliminary Plan substantially conforms to the Master Plan*

The Site is located within the area encompassed by the 2000 *North and West Silver Spring Master Plan* (Master Plan). Although the Master Plan does not specifically discuss this Property, there are specific recommendations regarding the review of Conditional Uses (then called “Special Exceptions”), particularly on “highly visible sites” like the Subject Property. For such sites, the visibility of parking areas, signage, and lighting should be minimized and the use of a residential style of architecture is desirable. Traffic generated by the use should be minimized as well (p. 42-44). Master Plan recommendations pertaining to Conditional Uses were evaluated by Staff as part of Conditional Use No. CU202008 and found to be in substantial conformance with the Master Plan.

The former library building, and the accompanying proposed addition have a one- to two-story residential scale. The addition extends the craftsman/sonian architectural character of the original building, with stone and brick walls, floor-to-ceiling windows, and deep hipped-roof overhangs.

The landscape and lighting design will remain in keeping with the existing character of the site, with new screening for the parking lot, which will be reconfigured internally to accommodate the addition, and not

expanded. The Application proposes one sign near the main site entrance on Colesville Road, which is the opposite side of the site from the neighborhood to the east.

The Applicant has designed the site circulation to retain a minimal traffic impact on the adjacent single-family neighborhood across Ellsworth Drive.

The Master Plan also recommends “community facilities to meet the human service, recreation, security, educational, and other needs of the diverse community” (p. 4). The proposed Group Day Care facility will provide a much-needed use for Montgomery County residents, including residents and workers in the nearby Central Business District and surrounding neighborhoods.

a. Land Use

The 2000 *North and West Silver Spring Master Plan* proposed land use map (page 19) identifies the property as recommended parkland and includes a general recommendation to consider converting local government facility sites, once they are declared surplus by the County, to parks as a means to meet the active recreational needs identified in the PROS Plan. Although the Department of General Services completed a reuse analysis for the Property and concluded that the Property was no longer needed for a public use, it was determined by the County that the use of the property for an early childhood development center, with an emphasis on services and programs for low-income working families, would better suit the County’s needs. Therefore, an exclusive park use is not viable, however as previously stated, the application provides a minimum of 12 assigned parking spaces to be made available for use by patrons of the adjacent Ellsworth Urban Park.

b. Environment

The *North and West Silver Spring Master Plan* includes overlapping recommendations regarding environmental enhancements:

- Enhance the natural environment by creating green spaces and identifying locations for improved street tree planting (pages 91 & 92).
- Improve permeability of surface parking areas with green space (page 95).
- General recommendations for buffering/screening of parking and applying urban forestry practices which includes the use of native species and removal of existing invasive species.
- Promote the use of areas designed to increase infiltration within required open or green space by use of alternative paving, soil conditioning and other techniques (page 94).
- Apply stormwater management opportunities during redevelopment (page 93).
- Incorporate recycling and energy efficiency programs and standards in the design of new development, and where possible, into renovations (page 93).

The environmental recommendations of the Master Plan have been addressed by the Application, as conditioned. The project will provide for new street trees along the Ellsworth frontage, include new landscaping which will enhance the screening over the existing conditions. Furthermore, the project will adaptively re-use the existing building and include energy efficient retrofits and features within the existing building footprint/proposed addition. The redevelopment will also provide stormwater management facilities onsite whereas none are known to currently exist within the property.

c. Transportation

The Applicant must dedicate right-of-way necessary to provide a minimum of 60 feet, as measured

from the right-of-way centerline, along the Site's Colesville Road frontage to achieve the total master-planned right-of-way width of 120 feet. The Applicant must also improve the sidewalks on both the Ellsworth Drive and Colesville Road frontages to achieve a minimum sidewalk width of 5-feet.

The Preliminary Plan substantially conforms to the recommendations within the 2000 *North and West Silver Spring Master Plan*.

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

a. Roads and Other Transportation Facilities

i. *Existing Facilities*

Master Planned Roadways and Bikeways

Colesville Road is owned and maintained by the Maryland Department of Transportation State Highway Administration (MDOT SHA). It is classified as a Major Highway with a master-planned right-of-way of 120 feet and a posted speed limit of 35 MPH. The Applicant is providing a minimum of sixty feet of right-of-way dedication, as measured from the right-of-way centerline, along the Site's frontage. No bikeways are master planned along Colesville Road.

Ellsworth Drive is owned and maintained by the Montgomery County Department of Transportation (MCDOT). It is classified a secondary residential roadway and per Section 49 of the County Code, the minimum standard right-of-way width is 70 feet. No additional right-of-way dedication is required by the Applicant because sufficient right-of-way exists along the Site Frontage. The 2018 *Bicycle Master Plan* recommends a neighborhood greenway bicycle facility on Ellsworth Drive, which is a shared road facility. The existing configuration of the roadway will allow for future implementation of neighborhood greenway and continued functionality as a secondary residential roadway without further modification on behalf of the Applicant.

Transit Service

The Site is located just under a half-mile from the Silver Spring Transit Center, which is served by Metrorail's Red line, the future MDOT MTA Purple Line, the MARC Commuter Rail, and over 25 regional and local bus lines.

Two bus stops are located within the vicinity of the site. At the southwest corner of the Site on Colesville Road is a bus stop served by RideOn routes 8, 9, 13, 14, 21, 22, and Metrobus route Z8. A block south of the Site, at the corner of Ellsworth Drive and Spring Street is a bus stop served by RideOn route 12.

Sidewalks

Sidewalks are present on the Site's frontages on Colesville Road and Ellsworth Drive, but they are substandard in width. Along Colesville Road the sidewalks are four feet in width and have no buffer from the adjacent roadway. On Ellsworth Drive four-foot sidewalks are present with a variable width grass buffer along the Site frontage. As conditioned, the Applicant will replace the existing four-foot wide sidewalks with five-foot wide sidewalks along both frontages and retain a variable width vegetated buffer, along the Ellsworth Drive frontage.

ii. *Proposed public transportation infrastructure*

The Applicant must dedicate right-of-way necessary to provide 60 feet from the right-of-way centerline along the Site's Colesville Road frontage to achieve the total master-planned width of 120 feet. The Applicant is also improving the sidewalks on the Ellsworth Drive and Colesville Road to achieve a minimum width of 5-feet.

b. Local Area Transportation Review (LATR)

The Proposed Group Daycare Facility will have an enrollment of up to 180 children and up to 60 staff. As such, the Site is expected to generate more than 50 peak-hour person trips, and a traffic study was completed in accordance with the *2016-2020 Subdivision Staging Policy* and the *2017 Local Area Transportation Review (LATR)* guidelines. The Site is not expected to generate more than 50 peak-hour pedestrian, bicycle, or transit trips, and is therefore exempt from adequacy tests associated with those modes of transportation.

**Table 2: Project Peak Hour Trip Generation**

Existing	Vehicle Rates		Adjusted Vehicle Rates		Person Trips	
	AM	PM	AM	PM	AM	PM
Library 16,000 SF	16	131	13	110	20	172
Proposed	AM	PM	AM	PM	AM	PM
Day Care Facility 180 Students <sup>1</sup>	140	142	118	119	185	187
Net New Trips	124	11	105	9	165	15

Source: Wells & Associates Transportation Study dated February 24, 2020 and revised August 2020

<sup>1</sup>The metric used to scale the potential new trips generated by the use for the transportation impact study was the number of students. It is important to note that per the 10<sup>th</sup> Edition of the ITE Trip Generation Manual, all trips to and from the Site during the peak travel hours are accounted for in the trip estimate, not just those trips made by students.

**Table 3: Peak Hour Trips Generation by Mode**

	Person Trips	Auto-Driver	Pedestrian*	Transit	Bike
AM	165	105	42	23	19
PM	15	9	4	2	2

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

Source: Wells & Associates Transportation Study dated February 24, 2020 and revised August 2020

*Vehicle Adequacy*

The Applicant evaluated a total of eight intersections, including the site driveway, in proximity to the Site. In accordance with the 2016-2020 Subdivision Staging Policy, the intersections were evaluated using the Highway Capacity Manual (HCM) methodology. A map of the intersections studied are shown in Figure 7.



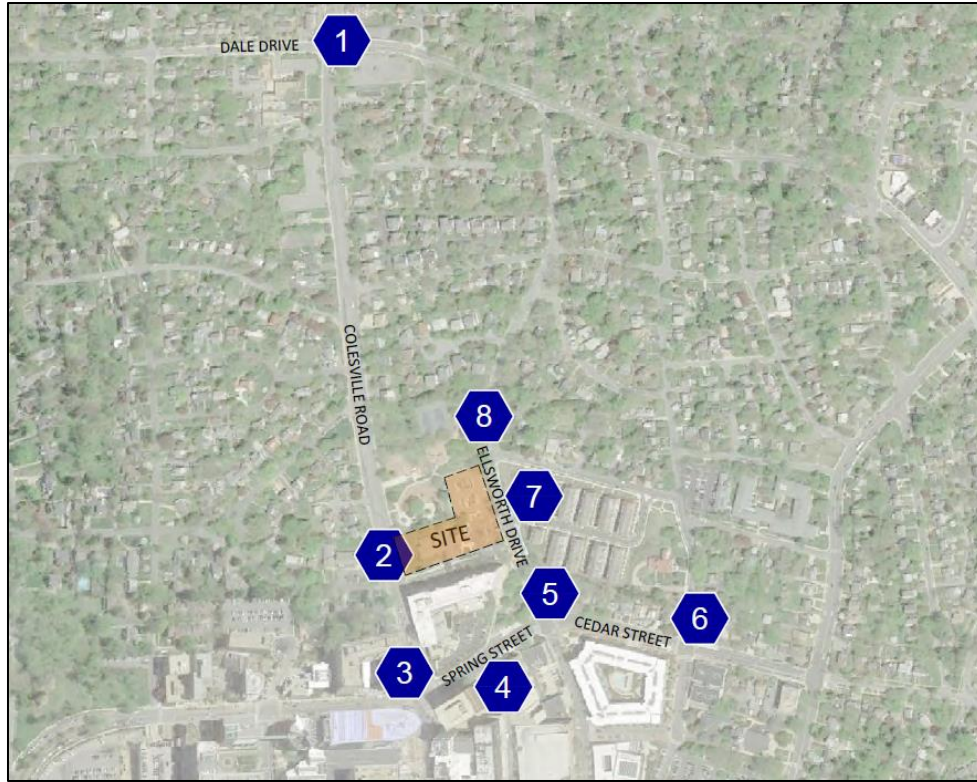


Figure 7: Intersection Analysis Map

The Site is in the Silver Spring/Takoma Park Policy Area, which is designated as an Orange Policy Area by the 2016- 2020 Subdivision Staging Policy. Traffic congestion in Orange Policy Areas is measured using Highway Capacity Manual (HCM) delay-based level of service standards, which applies to all signalized study intersections. The HCM average vehicle delay standard for the Silver Spring/Takoma Park Policy Area is 80 seconds. The HCM vehicle delay standard is currently exceeded at the intersection of Colesville Road and Dale Drive during the morning peak period. For the morning peak period, the delay for existing conditions is 119 seconds/vehicle, 165 seconds/vehicle when accounting for background conditions, and 167 seconds/vehicle for the total future conditions, including the enrollment for the Project (Table 4). Trips generated by the day care results in an increase of two seconds of delay during the morning peak period at the Colesville Road/Dale Drive intersection.

Table 4: Intersection Level of Service

Intersection	Congestion Standard	Existing		Background		Total Future	
		AM	PM	AM	PM	AM	PM
1. Colesville Road and Dale Drive	80 seconds	<b>119</b>	59	<b>165</b>	68	<b>167</b>	69
2. Colesville Road and Site Access	80 seconds	1	1	2	1	3	1
3. Colesville Road and Spring Street	80 seconds	27	40	30	42	31	44

4. Roder Road/Ellsworth Drive/ Spring Street	80 seconds	2	2	2	2	3	4
5. Ellsworth Drive and Cedar Street/ Spring Street	80 seconds	8	13	8	13	8	13
6. Pershing Drive and Cedar Street	80 seconds	35	57	35	57	33	65
7. Ellsworth Drive and Site Access Driveway	80 seconds	7	7	7	7	7	7
8. Ellsworth Drive and Springvale Road	80 seconds	7	7	7	7	7	7

*Source: Wells & Associates Transportation Study dated February 24, 2020 and revised August 2020*

The Applicant worked closely with MDOT SHA and MCDOT to determine the Site's traffic impact to the intersection of Colesville Road and Dale Drive and identify acceptable mitigation strategies. The selected mitigation strategy significantly decreases average vehicle delay at the intersection but does not undermine with Countywide transportation safety initiatives such as Vision Zero.

The Applicant submitted a Design Request for a traffic signal modification to MDOT SHA for the intersection of Colesville Road and Dale Drive. That Design Request sought to better facilitate Site generated turning movements at the Colesville Road and Dale Drive intersection. As proposed the signal modification would significantly reduce congestion at the intersection during the morning peak hour bringing the estimated average vehicle delay from 167 seconds down to 87 seconds (Table 5). While this does not bring the average vehicle delay back within the 80 second congestion standard for the Orange Policy Area, it cuts the delay by nearly 50 percent and more than compensates for the additional two seconds of delay incurred by Site generated trips. Recognizing that the intersection exceeds the delay in the existing condition, this strategy was accepted by MDOT SHA, MCDOT, and Planning staff.

**Table 5: Proposed Mitigation Results at Colesville Road and Dale Drive**

Intersection	Congestion Standard	Existing		Background		Total Future		Proposed Mitigation	
		AM	PM	AM	PM	AM	PM	AM	PM
1. Colesville Road and Dale Drive	80 seconds	<b>119</b>	59	<b>165</b>	68	<b>167</b>	69	<b>87</b>	N/A

The Applicant was directed by MDOT SHA to study the potential impacts of the requested signal modification on queuing lengths at the intersections immediately upstream and downstream of the modified signal at Colesville Road and Dale Drive. The outcome of that analysis showed queuing lengths at these intersections to be acceptable with the proposed signal modifications and was therefore approved by MDOT SHA and MCDOT. Therefore, the Planning Department and MCDOT require the Applicant to participate in the signal redesign, by making a payment of \$1,350 to CIP 507154 for the optimization of the split-phase of this traffic signal. The payment will be made to MCDOT prior to issuance of the right-of-way permit.

As an additional measure to reduce the impact on Colesville Road, Ellsworth Drive and the nearby

intersections, the Applicant will stagger arrivals and dismissals, drop-off and pick-ups between 7:00 a.m. and 10:00 a.m. and 4:00 p.m. to 6:00 p.m. are limited to 70 vehicles in any one hour. The Applicant must maintain records of the number of vehicles and children dropped off during each hour. The Applicant must make these records available to the Department of Permitting Services upon request.

Motorists accessing the Site will be required to park and enter the building when dropping off or picking up their children. While it is expected that a significant number of patrons will access the Site by walking or transit, staggering the drop-off and pick-up times will further reduce the need for excess parking spaces and will eliminate queuing within and off the site. The Applicant will clearly communicate and enforce the designated pick-up and drop-off times for each student.

c. Other Public Facilities and Services

The Applicant has approval for up to 180 children under the approved Conditional Use. As such, the Site is expected to generate 165 net new peak-hour person trips (105 net new vehicle peak-hour trips), and therefore a traffic study was completed in August 2020 to comply with the 2017 Local Area Transportation Review (LATR) guidelines. It was determined that trips generated by the day care results in an increase of two seconds of delay during the morning peak period at the Colesville Road/Dale Drive intersection. To mitigate the impact of the trips generated by the Project, the Applicant proposed to optimize the signal at Colesville Road and Dale Drive. The proposed changes to the signal timing were reviewed and approved by MCDOT. Therefore, the Planning Department and MCDOT require the Applicant to participate in the signal redesign, by making a payment of \$1,350 to CIP 507154 for the optimization of the split-phase of the traffic signal. The payment will be made to MCDOT prior to issuance of the right-of-way permit.

Public facilities and services are available and will be adequate to serve the proposed development. The Property is proposed to be served by public water and public sewer. The Application has been reviewed by the Montgomery County Fire and Rescue Service who has determined that the Property will have appropriate access for fire and rescue vehicles. Other public facilities and services, such as police stations, firehouses, and health services are operating according to the *Subdivision Staging Policy* resolution currently in effect and will be adequate to serve the Property. Electrical, telecommunications, and gas services are also available to serve the Property.

Transportation access is adequate to serve the proposed development by this Preliminary Plan.

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

a. Environmental Guidelines

A Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) was approved for the Subject Property on April 17, 2020. The Subject Property is located within the Sligo Creek watershed, a Use I watershed<sup>2</sup>, which is also a tributary to Anacostia River. The main stem of Sligo Creek lies about 2,500 feet north of the site. The Property, which consists of Parcel P933 to the North and Parcel P959 to the South, contains

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<sup>2</sup> Use I:

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

mature trees subject to the Variance provision of the Forest Conservation law, including specimen trees which measure 30-inches or greater in diameter-at-breast height (DBH). The northern portion of the site is bordered on three sides by pockets of man-made steep slopes having gradients of 25% or greater as well as slopes of 15-25% gradients. Soils on the property are largely 2B Glenelg silt loam and soil defined as Urban land; neither soil type is considered to be highly erodible or hydric.

There are no known rare, threatened, or endangered species on site; there are no 100-year floodplains, stream buffers, or wetlands on site. Other than the watershed itself and mature specimen trees, there are generally no environmentally sensitive resources associated with the Subject Property.

b. Forest Conservation Plan

Although there is no forest on-site, this Application is subject to Chapter 22A Forest Conservation Law. A Preliminary Forest Conservation Plan for this Application was previously reviewed and approved with conditions by the Planning Board Resolution No. 20-095 mailed on October 6, 2020 which was reviewed as part of the related Condition Use Application No. CU202008. The previously approved Preliminary Forest Conservation Plan showed a calculated Afforestation Requirement of 0.33-acres. The currently submitted Final Forest Conservation plan now incorporates additional offsite improvements for the sidewalk along Ellsworth Drive; as a result of this newly proposed work and expanded LOD, the net tract area for the project has increased by approximately 0.05-acres, which also increases the forest conservation requirements from 0.33 to 0.34-acres. As conditioned, the current plan still meets all applicable Chapter 22A Forest Conservation Law requirements. Staff upholds the previous recommendation for this Forest Conservation requirements to be met through credits purchased from an off-site Forest Conservation Bank; however, due to recent/ongoing changes in the Forest Conservation Law, the Final Forest Conservation Plan will include a provision to allow the requirements to be met by fee-in-lieu if the applicable credits from a Forest Conservation Bank are not available.

Although the Applicant proposes to retain the existing building currently onsite, the overall work and site modifications will have impacts on specimen trees, which triggered the need for a Variance Request and Tree Save Plan for impacts to subject trees. The approved Preliminary Forest Conservation Plan included a condition of approval for the Final Forest Conservation Plan to be submitted along with a Tree Save Plan prepared by an ISA Certified Arborist who is also a Maryland Licensed Tree Care Expert. Accordingly, the Applicant has provided a Tree Save Plan to Staff on March 5, 2021 along with the Final Forest Conservation Plan and updated variance request.

c. Forest Conservation Tree Variance

Section 22A-12(b)(3) of the Montgomery County Forest Conservation Law provides criteria that identify certain individual trees as high priority for retention and protection. Any impact to these trees, including removal of the subject tree or disturbance within the tree's critical root zone (CRZ), requires a variance. An applicant for a variance must provide certain written information in support of the required findings in accordance with Section 22A-21 of the County Forest Conservation Law. The Law requires no impact to trees that measure 30 inches DBH or greater; are part of a historic site or designated with a historic structure; are designated as national, state, or county champion trees; are at least 75% of the diameter of the current State champion tree of that species; or to trees, shrubs, or plants that are designated as Federal or State rare, threatened, or endangered species.

The previously approved variance request, reviewed as part of the Conditional Use Application for this site, found that there would be an unwarranted hardship in requiring no impact to all subject trees and



thus approved the impact to, but retention of, four subject trees. With this Preliminary Plan submittal, an updated Variance Request has been submitted to reflect the impact associated design changes and the addition of proposed sidewalk improvements which result in an updated LOD. The Planning Board's previous approval of tree impacts remains valid, however approval for new/additional impacts to Subject Trees is required.

Changes in this updated variance request include the addition of Tree-1, which was previously not proposed to be impacted, Tree-6 now has a slightly increased level of impact proposed, and Tree 8 maintains the same numerical level of proposed impact, however specialized construction techniques have been proposed for stress reduction measures. Additionally, Tree-12 now has significantly increased impact as a result of the offsite sidewalk improvements as conditioned by the approved Conditional Use Application. Details of new impacts to Subject Trees are shown graphically in Figure 8 and listed in Table 6 below.

**Table 6: New Impacts to Subject Trees**

TREE #	TYPE	DBH	CRZ Impacts as shown on PFCP	CRZ Impacts as shown on FFCP	CONDITION	PROPOSED STATUS
1	Siberian Elm	37"	n/a*	<b>2.7%</b>	Good	<b>SAVE</b>
6	Red Mulberry	34"	11.1%	<b>15.1%</b>	Poor	<b>SAVE</b>
12	Tree of Heaven	31"	5.7%	<b>22.8%</b>	Good	<b>SAVE</b>

\*Previously not affected on Preliminary Forest Conservation Plan.

Section 22A-21 of the County Forest Conservation Law sets forth the findings that must be made by the Planning Board or Planning Director, as appropriate, in order for a variance to be granted. In addition to the required findings outlined numerically below, Staff has determined that the Applicant has demonstrated that enforcement of the variance provision would result in an unwarranted hardship due to a number of distinct, yet related reasons. The mature trees existing onsite are associated with an older defunct facility in need of repurposing; the impacts to the subject trees are due to construction and demolition activities for this proposed redevelopment and are unavoidable if this building and site are to be refitted for future use. The proposed layout, which has been coordinated between the Applicant and MNCPPC Staff, as conditioned, has been established to minimize CRZ impacts to existing specimen trees by utilizing specialized construction techniques, minimizing limits of disturbance as feasible and implementing a five-year maintenance and management plan for the tree which is most impacted (Tree #8). Particular to Tree-8, Staff has worked with the Applicant to ensure that work near this impacted tree is carefully conducted. Specifically, through the use of helical piers for structural support of the proposed retaining wall, conducting minor grading by hand where feasible, and implementing MCDPS approved trenchless measures for sediment control, the Applicant has taken steps to ensure that this tree is properly protected; this would also have the added benefit of providing protection to other neighboring trees on the park property. Staff supports this direction and will continue to coordinate with the Applicant regarding non-invasive methods of sediment control acceptable to MCDPS, who must approve all measures for sediment control<sup>3</sup>.

<sup>3</sup> As submitted, the Tree Save Plan relies on trenchless methods for sediment control, which have been approved in the past by MCDPS under certain circumstances. However, if MCDPS does not ultimately approve the trenchless methods as proposed in the Tree Save Plan, the Applicant will need an FFCP amendment to address the resulting tree impacts. In response to this concern, MCDPS has recommended that, prior to submission of detailed sediment control plans, a meeting be held to discuss the sediment control design in this area of the project.

In addition to the impacts to Tree-8, discussed above, the variance request addresses newly proposed impacts associated with sidewalk improvements per conditions of approval for this Property's Conditional Use Application. Therefore, development of the Property requires the additional impacts to subject trees.

Staff has reviewed this Application and based on the existing circumstances and conditions on the Property, finds that there would be an unwarranted hardship if a variance were not granted.

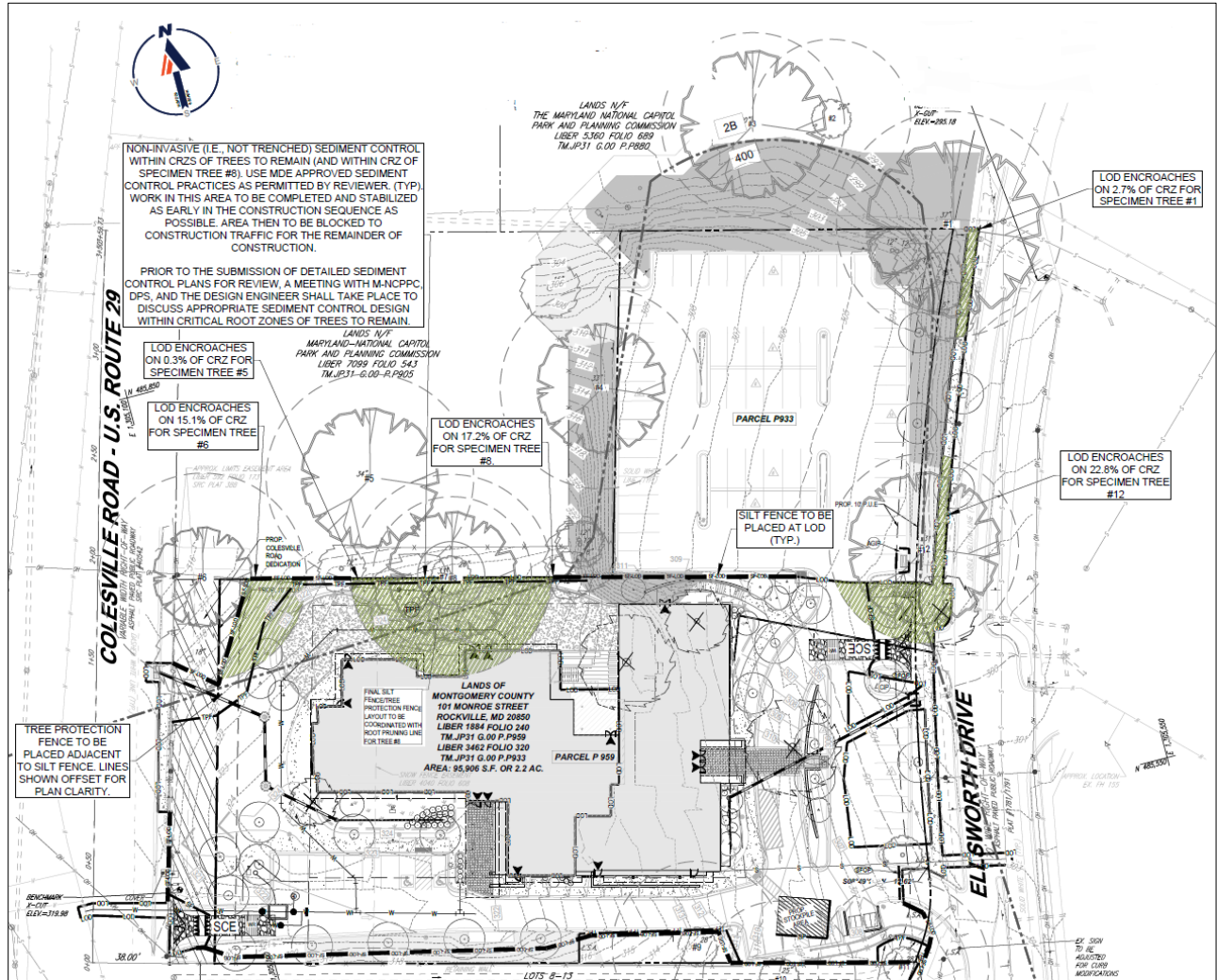


Figure 8: FFCP showing current impact proposed for variance trees

### Variance Findings

Staff has made the following determination based on the required findings for granting of the requested variance:

1. Will not confer on the applicant a special privilege that would be denied to other applicants.

The Applicant's proposal to reuse and expand the existing building onsite greatly reduces the impacts that would otherwise occur if the Applicant proposed demolition of the existing building and

construction of a completely new building and infrastructure. Further, the Applicant's proposal will provide a use cited by the Master Plan as fulfilling a need for this community. Additionally, the newly proposed impacts are associated with sidewalk improvements which are a condition of approval for this Property's Conditional Use Application. With these factors considered, Staff concludes the variance request would be granted to any applicant in a similar situation and does not represent a special privilege granted to this Applicant.

2. *Is not based on conditions or circumstances which are the result of the actions by the applicant.*

As stated above, the requested variance and associated tree impacts are due to the programmatic concerns and conditions of approval related to the improvement of the site and existing building which are essential to the rejuvenation of the existing structures included in the proposed development. The variance request submitted by the Applicant reflects efforts to lessen overall site impacts and retain mature trees which provide shade and buffering from adjacent uses. Without this flexibility in the proposed design and construction, far greater subject tree impacts would be expected. Therefore, this variance request is not based on circumstances which are the result of actions by the Applicant.

3. *Is not based on a condition relating to land or building use, either permitted or non-conforming, on a neighboring property.*

The requested variance is a result of the proposed site design and layout on the Subject Property and not as a result of land or building use on a neighboring property.

4. *Will not violate State water quality standards or cause measurable degradation in water quality.*

The Subject Property does not currently contain any stormwater management features. The Applicant proposes a development which will meet current State and local stormwater management standards; A measurable degradation in water quality is not anticipated as the development will maintain many mature trees onsite as well as provide additional tree plantings and landscaped areas; the inclusion of tree plantings and landscaped areas will help maximize the permeability of the soil, which will aid in reducing runoff and water uptake via evapotranspiration. Further, the Applicant will provide Best Management Practices (BMP) in the form of micro-bioretenention planter boxes in effort to meet ESD requirements for the site in order to achieve water quality standards. A partial waiver of stormwater management treatment of runoff volume, due to site limitations, has been granted by MCDPS. Although a partial waiver has been granted, it is important to note that this Application contains limited additional impervious surfaces, as the proposed building addition falls mainly on the existing parking lot. This development will also provide stormwater management on-site, where there are currently no such measures. The application will ultimately result in an improvement of water quality, rather than cause measurable degradation. Approval for this development's Conceptual Stormwater Management Plan was granted on February 16, 2021.

#### Mitigation for Trees Subject to the Variance

Staff does not recommend mitigation plantings for variance trees that are retained and not overly impacted.

#### Staff Recommendation on the Variance

As a result of the above findings, Staff recommends approval of the Applicant's updated request for a variance from the Forest Conservation Law for new impacts to, but retention of, three subject trees associated with the application. There are no subject tree removals approved under this application.

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

The Preliminary Plan Application meets the stormwater management requirements of Chapter 19 of the County Code. The Applicant received a stormwater concept approval from MCDPS water resources division on February 16, 2021. There are no known stormwater management facilities existing on the Property. The Application will meet stormwater management goals through a variety of techniques including micro-bioretenention planter boxes to treat stormwater runoff. A partial waiver for the remaining stormwater management treatment was granted with the concept approval. A detailed stormwater management review will occur at the time of detailed plan review and all facilities will be designed using the latest MCDPS guidelines.

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

There are no known burial site associated with the Subject Property.

7. *Any other applicable provisions specific to the property and necessary for approval of the subdivision is satisfied.*

There are other applicable provisions associated with the subdivision.

## **SECTION 6 – CITIZEN CORRESPONDENCE AND ISSUES**

The Applicant has met all proper signage, noticing and pre-submission meeting requirements for the submitted Applications. The Applicant held the required pre-submission community meeting on June 17, 2020 virtually through GoToMeeting, as permitted by the Planning Department's COVID-19 procedures. The Applicant provided notice for the pre-submission community meeting in accordance with the requirements set forth in the Administrative Procedures for Development Review and the Zoning Ordinance.

As of the date of posting of this staff report, Staff has not received any comments from the community on the proposed Preliminary Plan application.

## **SECTION 7– CONCLUSION**

The proposed lot meet all of the requirements established in the Subdivision Regulations and the Zoning Ordinance and conform to the recommendations of the 2000 *North and West Silver Spring Master Plan*. Access to the lot is adequate and all public facilities and utilities have been deemed adequate to serve this Application. The Application was reviewed by other applicable County agencies, all of whom have recommended approval of the plans. Therefore, Staff recommends approval of the Application, with the conditions as specified.



**Attachments:**

Attachment 1: Transmittal Letter

Attachment 2: PFCP Resolution

Attachment 3: Board of Appeals Notification of Decision

Attachment 4: MCDOT and SHA Letters

Attachment 5: SWM concept approval letter

Attachment 6: Fire and Rescue Letter

Attachment 7: Variance Request



**MONTGOMERY COUNTY PLANNING BOARD**  
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

October 1, 2020

Ms. Lynn Robeson Hannan, Director/Hearing Examiner  
Montgomery County Office of Zoning and Administrative Hearings  
Stella B. Werner Council Office Building  
100 Maryland Avenue, Room 200  
Rockville, Maryland 20850

SUBJECT: Conditional Use Application CU202008  
8901 and 8907 Colesville Road

Dear Ms. Robeson Hannan:

On September 24, 2020, the Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission reviewed Conditional Use CU202008, a request to approve a Day Care Center for up to 180 children, located at 8901 and 8907 Colesville Road, Silver Spring. The Planning Board received a presentation from Planning staff, and the Applicant was present to answer questions.

The Planning Board had considerable discussions with the Applicant and staff as part of the hearing.

Five letters were received regarding this application overall and are attached for your reference. Four of the letters were in support. One letter was received regarding consideration of the existing Neighborhood Traffic Protection Plan (NTPP) relative to this Conditional Use. Staff responded to the resident and included the NTPP in the public record for the conditional use application. Furthermore, the Planning Board will fully consider the adequacy of public services and facilities as part of the required Preliminary Plan of Subdivision.

Four members from the public signed up to testify during the Public Hearing (however one was unable to testify) and testimony was received in writing in advance of the Public Hearing. Two members spoke in support of the application and the third supported the proposed use overall, although they expressed concerns regarding traffic on Ellsworth Drive and the possible overuse of the play equipment in the neighboring park due to influx of new potential users.

The following revisions to the conditions of approval were recommended by staff and accepted the Board:

6. The Applicant must provide bicycle parking spaces in the following configuration.

- a. Four short-term spaces will be accommodated by inverted-U racks ~~to be or~~ Planning staff approved equivalent to be distributed evenly near the main building entrances.
7. Trash pick-up will be limited to the hours ~~of between~~ 9:00 a.m. and 3:00 p.m. to limit disruptions to the school operations and student safety as well as minimize noise impacts to the surrounding neighborhood.
11. The Applicant must widen the existing sidewalk, as necessary, along the Site's Colesville Road frontage to achieve minimum width of five feet, without removal or relocation of the existing utility pole.

Furthermore, the following revision to Preliminary Forest Conservation Plan Condition 3 was also made:

3. The development must comply with the Final Forest Conservation Plan which is to include a Tree Save Plan prepared by an ISA Certified Arborist who is also a Maryland Licensed Tree Care Expert. Additionally, as part of the preconstruction activities, the Applicant must enter into a contract with the tree care professional to implement a five-year maintenance and management plan for Tree 8. Mitigation plantings will be required if the tree dies or severely declines within the five-year timeframe as a result of Applicant's construction of its facilities or its operations, as determined by M-NCPPC Staff.

Additionally, during the hearing the Applicant proposed further changes to conditions 2, 3, 4, 12, and 15 (Attachment C). The Planning Board recommended approval of the changes to condition 2:

2. The general hours of operation are ~~limited to~~ Monday through Friday, 7:00 a.m. to 6:00 p.m. However, these hours may be extended to 11 p.m. and may also include Saturdays 7:00 a.m. to 11 p.m., without further approval.

The Planning Board did not accept the Applicant's proposed changes to conditions 3, 4, 12 and 15.

Proposed changes to Condition 3 regarding the pick-up and drop off schedules were not accepted by the Board, however if needed, further wide-ranging discussion with the Hearing Examiner was encouraged, and any alternative to the condition which may be acceptable should have specific and objectively verifiable standards to evaluate if staggering and/or not-auto driver mode share is being met.

Proposed changes to Condition 4 regarding queuing were not accepted by the Board.

Proposed changes to Condition 12 regarding the car share space were not accepted by the Board.

Ms. Lynn Robeson Hannan

October 1, 2020

Page Three

The Planning Board did not accept the Applicants' proposed changes to Condition 15 regarding accommodations for patrons of the adjacent Ellsworth Urban Park, however it was agreed that the condition would be deferred to the time of Preliminary Plan.

The current (2<sup>nd</sup>) submission of the proposed conditional use complies with the general conditions and standards of a Day Care Center, subject to the recommended conditions of approval. The Planning Board recommends approval of the Parking Waivers from Sections 59.6.2.4.B, 59.6.2.9.C, and 59.6.2.5.K.2, and the Alternative Method of Compliance from Section 59.6.4.4.D. As conditioned, 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 *North and West Silver Spring Master Plan*; and the Applicant has met the burden of proof by showing that the proposed facility will be operated without detriment to the neighborhood and will not adversely affect the public interest.

On a motion by Commissioner Cichy, seconded by Commissioner Verma, with Chair Anderson, Commissioner Cichy, and Commissioner Verma voting in favor (Vice Chair Fani-Gonzalez and Commissioner Patterson being absent), the Board recommends (3-0) that Conditional Use CU202008 be approved with the conditions as modified during the hearing.

We hope the Planning Board's recommendations and the staff report will be helpful to your proceedings.

Sincerely,

A handwritten signature in black ink, appearing to read 'Casey Anderson', with a stylized, cursive script.

Casey Anderson  
Chair

Attachment A: Staff Report for Conditional Use  
Attachment B: Staff Report for PFCP  
Attachment C: Conditions Request from Applicant  
Attachment D: Community Letters

CA: mf



# MONTGOMERY COUNTY PLANNING BOARD

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB No. 20-095

Forest Conservation Plan No. CU202008

8901 and 8907 Colesville Road

Date of Hearing: September 24, 2020

**OCT 06 2020**

## RESOLUTION

WHEREAS, under Montgomery County Code Chapter 22A, the Montgomery County Planning Board is authorized to review forest conservation plan applications; and

WHEREAS, on May 22, 2020, Martha B. Gudelsky Child Development Center, Inc. ("Applicant") filed an application for approval of a forest conservation plan on approximately 2.2 acres of land located at 8901 and 8907 Colesville Road ("Subject Property") in the Silver Spring/Takoma Park Policy Area and 2000 North and West Silver Spring Master Plan ("Master Plan") area; and

WHEREAS, Applicant's forest conservation plan application was designated Forest Conservation Plan No. CU202008, 8901 and 8907 Colesville Road ("Forest Conservation Plan" or "Application");<sup>1</sup> and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and other governmental agencies, Staff issued a memorandum to the Planning Board dated September 14, 2020, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on September 24, 2020, the Planning Board held a public hearing on the Application at which it heard testimony and received evidence submitted for the record on the Application; and

<sup>1</sup> Unless specifically indicated otherwise, the Board has reviewed the preliminary Forest Conservation Plan and set forth conditions under which the Staff can approve the final Forest Conservation Plan without further Board action. Therefore, for purposes of this Resolution, whether or not indicated, the Board's action is with regard to the preliminary Forest Conservation Plan.

WHEREAS, at the hearing, the Planning Board approved the Application subject to certain conditions, by the vote certified below.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Forest Conservation Plan No. CU202008 on the Subject Property, subject to the following conditions:<sup>2</sup>

1. Prior to any clearing, grading, or demolition on the site, the Applicant must submit and receive approval of a Final Forest Conservation Plan, which must be consistent with the approved Preliminary Forest Conservation Plan and associated conditions.
2. Prior to demolition or any land disturbing activities occurring onsite, the Applicant must receive approval from the M-NCPPC Office of the General Counsel for a Certificate of Compliance for an off-site forest mitigation bank for an equivalent credit of 0.33 acres or as determined by the Final Forest Conservation Plan.
3. The development must comply with the Final Forest Conservation Plan which is to include a Tree Save Plan prepared by an ISA Certified Arborist who is also a Maryland Licensed Tree Care Expert. Additionally, as part of the preconstruction activities, the Applicant must enter into a contract with the tree care professional to implement a five-year maintenance and management plan for Tree 8. Mitigation plantings will be required if the tree dies or severely declines within the five-year timeframe as a result of Applicant's construction of its facilities or its operations, as determined by M-NCPPC Staff.
4. Any proposed activity that triggers the requirements of a Forest Conservation Variance must be addressed per Section 22A-21 of the County Forest Conservation Law.

BE IT FURTHER RESOLVED that having given full consideration to the recommendations and findings of its Staff as presented at the hearing and as set forth in the Staff Report, which the Board hereby adopts and incorporates by reference (except as modified herein), and upon consideration of the entire record, the Planning Board FINDS, with the conditions of approval, that:

1. *The Application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code Chapter 22A, and ensures the protection of environmentally sensitive features.*

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<sup>2</sup> For the purpose of these conditions, the term "Applicant" shall also mean the developer, the owner, or any successor in interest to the terms of this approval.



A. Forest Conservation

The Board finds that as conditioned, the Forest Conservation Plan complies with the requirements of the Forest Conservation Law.

Although there is no forest on-site, this Application is subject to Chapter 22A Forest Conservation Law and has included a Preliminary Forest Conservation Plan with this Application. The Forest Conservation Worksheet shows a calculated Afforestation Requirement of 0.33-acres, which the Planning Board recommends be met through credits purchased from an off-site Forest Conservation Bank.

B. Forest Conservation Variance

Section 22A-12(b)(3) of the Forest Conservation Law identifies certain individual trees as high priority for retention and protection ("Protected Trees"). Any impact to these Protected Trees, including removal or any disturbance within a Protected Tree's critical root zone ("CRZ"), requires a variance under Section 22A-12(b)(3) ("Variance"). Otherwise such resources must be left in an undisturbed condition.

This Application will require the removal or CRZ impact to four Protected Trees as identified in the Staff Report. In accordance with Section 22A-21(a), the Applicant requested a Variance. The mature trees existing onsite are associated with an older defunct facility in need of repurposing; the impacts to the subject trees are due to construction and demolition activities for this proposed redevelopment and are unavoidable if this building and site are to be refitted for future use. The proposed layout, which has been coordinated between the Applicant and MNCPPC Staff, as conditioned, has been established to minimize CRZ impacts to existing specimen trees by utilizing specialized construction techniques, minimizing limits of disturbance as feasible and implementing a five-year maintenance and management plan for the tree which is most impacted (Tree #8). Given these onsite factors, the Board agrees that the Applicant would suffer unwarranted hardship by being denied reasonable and significant use of the Subject Property without the Variance.

The Board makes the following findings necessary to grant the Variance:

1. *Granting the Variance will not confer on the Applicant a special privilege that would be denied to other applicants.*

The Applicant's reuse and expansion of the existing building onsite greatly reduces the impacts that would otherwise occur if the

Applicant proposed demolition of the existing building and construction of a completely new building and infrastructure. Further, this development will provide a use cited by the Master Plan as a fulfilling a need for this community. With these factors considered, the Planning Board concludes the variance request would be granted to any applicant in a similar situation and does not represent a special privilege granted to this Applicant.

2. *The need for the Variance is not based on conditions or circumstances which are the result of the actions by the Applicant.*

As stated above, the requested variance and associated tree impacts are due to the programmatic concerns related to the improvement of the site and existing building which are essential to the rejuvenation of the existing structures included in the development. The variance request submitted by the Applicant reflects efforts to lessen overall site impacts and retain mature trees which provide shade and buffering from adjacent uses. Without this flexibility in the design and construction, far greater subject tree impacts would be expected. Therefore, this variance request is not based on circumstances which are the result of actions by the Applicant.

3. *The need for the Variance is not based on a condition related to land or building use, either permitted or non-conforming, on a neighboring property.*

The requested variance is a result of the site design and layout on the Subject Property and not as a result of land or building use on a neighboring property.

4. *Granting the Variance will not violate State water quality standards or cause measurable degradation in water quality.*

The Subject Property does not currently contain any stormwater management features. The Applicant's development will meet current State and local stormwater management standards; this will be verified by the submission of a Stormwater Management Plan to the Department of Permitting Services. A measurable degradation in water quality is not anticipated as the development will provide Best Management Practices (BMP) areas to meet ESD requirements for the site in order to achieve water quality standards. This Application contains limited additional impervious surfaces, as the building addition falls mainly on the existing parking lot. This development will also provide stormwater management on-site, where there are

currently no such measures. Thus, the Application will ultimately result in an improvement of water quality, rather than cause measurable degradation.

Mitigation for the Variance is at a rate that approximates the form and function of the Protected Trees removed. However, the subject Application contains no subject removals and will impact but retain four Protected Trees. No mitigation is required for Protected Trees impacted but retained.


BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Planning Board in this matter, and the date of this Resolution is OCT 06 2020 (which is the date that this Resolution is mailed to all parties of record); and

BE IT FURTHER RESOLVED that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

\* \* \* \* \*

#### CERTIFICATION

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission on motion of Commissioner Cichy, seconded by Commissioner Verma, with Chair Anderson and Commissioners Cichy and Verma voting in favor, and Vice Chair Fani-González and Commissioner Patterson absent at its regular meeting held on Thursday, September 24, 2020, in Wheaton, Maryland.

  
\_\_\_\_\_  
Casey Anderson, Chair  
Montgomery County Planning Board



## MONTGOMERY COUNTY, MARYLAND

November 24, 2020

TO: Parties to OZAH Case No. CU 20-08, *Martha B. Gudelsky Child Development Center, Inc.*

FROM: Montgomery County Office of Zoning and Administrative Hearings

SUBJECT: Notification of Decision and Applicable Procedures

On November 24, 2020, the Hearing Examiner issued a Report and Decision in **OZAH Case No. CU 20-08, Application of Martha B. Gudelsky Child Development Center, Inc.**, for a conditional use under Zoning Ordinance Section 59-3.4.4.F. (Day Care Center (over 30 persons). The Decision approves the application for a conditional use to operate a Day Care Center for up to 180 children at 8901 and 8907 Colesville Road, Silver Spring, Maryland, subject to the following conditions:

1. Physical improvements to the subject property are limited to those shown on the Applicant's Conditional Use Site Plan (Exhibit 68(a)), Landscape Plan (Exhibit 84), and Lighting Plan (Exhibit 16).
2. The Group Day Care must be limited to a maximum total GFA of 31,000 square feet, a maximum of 180 children at any one time and a maximum of 60 staff persons at any one time.
3. The hours of operation for day care are limited to 7:00 a.m. to 6:00 p.m. (exclusive of staff/teacher arrival before 7:00 a.m.) Hours for community, parental engagement, and teacher training activities are limited to Monday through Friday from 6:00 p.m. to 9:00 p.m. and Saturday from 10:00 a.m. to 4:00 p.m.
4. Drop-off and pick-ups between 7:00 a.m. and 10:00 a.m. and 4:00 p.m. to 6:00 p.m. are limited to 70 vehicles in any one hour. The Applicant must maintain records of the number of vehicles and children dropped off during each hour. The Applicant must make these records available to the Department of Permitting Services upon request.
5. The parking area closest to Colesville Road (in the southwestern portion of the property) must be reserved for visitors and teachers.
6. No vehicles may queue within the public right-of-way on Colesville Road while accessing the the subject property.
7. The Applicant must participate financially for the approved traffic signal redesign at Colesville Road and Dale Drive, as determined by MCDOT's letter dated August 31, 2020.
8. The Applicant must provide bicycle parking spaces in the following configuration:



- a. Four short-term spaces will be inverted-U racks or equivalent to be disturbed evenly near the main building entrances.
  - b. Five long-term spaces must be provided inside the building at the ground floor in a secured room.
9. Trash pick-up must be limited to the hours between 9:00 a.m. and 3:00 p.m.;
10. The Applicant may allow limited public or community use of portions of the facility when it does not conflict with any conditions of approval or operation of the day care center.
11. The Applicant must install five-foot wide sidewalks along the Ellsworth Drive frontage.
12. The Applicant must widen the existing sidewalk where necessary along the Colesville Road frontage to achieve minimum width of five feet, without removal or relocation of the existing utility pole.
13. The Applicant must comply with Section 69.6.2.3.D of the Zoning Ordinance for Car Share Spaces.
14. The Applicant must obtain approval of a Preliminary Plan of Subdivision per Chapter 50 of the Montgomery County Code.
15. The Applicant must make available a minimum of 12 assigned parking spaces for use by the adjacent Ellsworth Urban Park during non-drop-off and pick-up hours and holidays.
16. Non-native invasive vegetation that could be a health or safety concern must be removed prior to commencement of operation of the day care center.
17. The Applicant must obtain a Park Permit for impacts to Park Trees caused by the Applicant's construction.
18. The Applicant must comply with all Maryland State and Montgomery County licensure requirements and standards for the operation of a Day Care Center and must correct any deficiencies found in any government inspection.
19. The Applicant shall not use a public address system of any kind outside the building, nor shall any amplified music be played outside the buildings.
20. The Applicant must submit applications to the Department of Permitting Services (DPS) and obtain a variance from the Sign Review Board where necessary, for approval of all proposed signs for the day care center. The Applicant must file a copy of all sign permits with OZAH.
21. The Applicant must obtain and satisfy the requirements of all licenses and permits, including but not limited to building permits and use and occupancy permits, necessary to occupy the conditional use premises and operate the conditional use as granted herein. The Applicant shall at all times ensure that the conditional use and premises comply with all applicable codes (including but not limited to building, life safety and handicapped accessibility requirements),



regulations, directives and other governmental requirements, including the annual payment of conditional use administrative fees assessed by the Department of Permitting Services.

The full text of the Hearing Examiner's report is available at the following website address: [http://www.montgomerycountymd.gov/OZAH/spec\\_excep.html](http://www.montgomerycountymd.gov/OZAH/spec_excep.html). Any person receiving this notice who does not have access to the internet or to a printer may request a paper copy of the report by stating in writing that he or she lacks internet or printer access. Any interested person may also make a paper copy of the report, at a cost of ten cents per page, by visiting our office in the County Council Office Building, 100 Maryland Avenue, Suite 200, Rockville, Maryland 20850. For further information on obtaining a paper copy, please call the Office of Zoning and Administrative Hearings at 240-777-6660.

Any party of record may file a written request to present an appeal and oral argument before the Board of Appeals, within 10 days after the Office of Zoning and Administrative Hearings issues the Hearing Examiner's Report and Decision. Any party of record may, no later than 5 days after a request for oral argument is filed, file a written opposition to it or request to participate in oral argument. If the Board of Appeals grants a request for oral argument, the argument must be limited to matters contained in the record compiled by the Hearing Examiner. A person requesting an appeal, or opposing it, must send a copy of that request or opposition to the Hearing Examiner, the Board of Appeals, and all parties of record before the Hearing Examiner.

Contact information for the Board of Appeals is listed below, and additional procedures are specified in Zoning Ordinance §59.7.3.1.F.1.c.

The Board of Appeals may be contacted at:

Montgomery County Board of Appeals  
100 Maryland Avenue, Room 217  
Rockville, MD 20850  
(240) 777-6600  
<http://www.montgomerycountymd.gov/boa/>

**PLEASE NOTE THE FOLLOWING BOARD OF APPEALS FILING REQUIREMENTS DURING THE COVID-19 PANDEMIC:**

**The Board of Appeals website sets forth these procedures for filing documents:**

**Because remote operations may not always allow us to promptly date-stamp incoming U.S. Mail, until further notice, all time-sensitive filings (administrative appeals, appeals of conditional use decisions/requests for oral argument, requests for public hearings on administrative modifications, requests for reconsideration, etc.) should be sent via email to [BOA@montgomerycountymd.gov](mailto:BOA@montgomerycountymd.gov), and will be considered to have been filed on the date and time shown on your email. In addition, you also need to send a hard copy of your request, with any required filing fee, via U.S. Mail, to the Board's 100 Maryland Avenue address (above). Board staff will acknowledge receipt of your request and will contact you regarding scheduling.**



If you have questions about how to file a request for oral argument, please contact Staff of the Board of Appeals.

The Board of Appeals will consider your request for oral argument at a work session. Agendas for the Board's work sessions can be found on the Board's website and in the Board's office. You can also call the Board's office to see when the Board will consider your request. If your request for oral argument is granted, you will be notified by the Board of Appeals regarding the time and place for oral argument. Because decisions made by the Board are confined to the evidence of record before the Hearing Examiner, no new or additional evidence or witnesses will be considered. If your request for oral argument is denied, your case will likely be decided by the Board that same day, at the work session.

Parties requesting or opposing an appeal must not attempt to discuss this case with individual Board members because such *ex parte* communications are prohibited by law. If you have any questions regarding this procedure, please contact the Board of Appeals by calling 240-777-6600 or visiting its website: <http://www.montgomerycountymd.gov/boa/>.

COPIES TO:

Patricia A. Harris, Esquire

Elizabeth C. Rogers

Attorneys for the Applicant

Barbara Jay, Executive Director, Montgomery County Board of Appeals

Stephanie Dickel, Planning Department

Marco Fuster, Planning Department

Greg Nichols, Manager, Department of Permitting Services

Victor Salazar, Department of Permitting Services

Michael Coveyou, Director, Finance Department

Charles Frederick, Esquire, Associate County Attorney

**OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS  
for**

**MONTGOMERY COUNTY**

**Stella B. Werner Council Office Building**

**100 Maryland Avenue, Room 200**

**Rockville, Maryland 20850**

**<https://www.montgomerycountymd.gov/ozah/index.html>**

**Phone: (240) 777-6660; Fax (240) 777-6665**

**CASE NO. CU 20-08**

**APPLICATION OF MARTHA B. GUDELSKY CHILD DEVELOPMENT CENTER,  
INC.**

**ORDER EXTENDING TIME FOR ISSUANCE OF HEARING  
EXAMINER'S REPORT *NUNC PRO TUNC***

A public hearing in the above case was held on October 12, 2020. At the public hearing, the Hearing Examiner set the time for close of the record at October 23, 2020. T. 213.

The Zoning Ordinance requires issuance of the Hearing Examiner's Report and Decision within 30 days of the close of the record. The Hearing Examiner may by order extend the time for issuance of her Report and Decision. *Id. Zoning Ordinance, §59.7.3.1.F.1.*

The Hearing Examiner's report in the above-caption case is issued of even date herewith, necessitating an extension two days of the time required to complete the report. For that reason, the Hearing Examiner hereby orders that the time for issuance be extended to today, November 24, 2020.

So Ordered this 24<sup>th</sup> day of November 2020.



---

Lynn Robeson Hannan  
Hearing Examiner

**COPIES TO:**

Patricia Harris, Esquire

Elizabeth Rogers, Esquire

Attorneys for the Applicant

Stephanie Dickel, Planning Department

Marco Fuster, Planning Department

August 21, 2020

Ms. Nancy Randall  
Wells and Associates  
1110 Bonifant Street, Suite 210  
Silver Spring, MD 20910

Dear Ms. Randall:

Thank you for the opportunity to review the **Traffic Impact Study (TIS)** prepared by **Wells and Associates** dated **February 24, 2020**, *revised May 01, 2020* for the proposed **Martha Gudelsky Child Development Center** development – **20APMO003XX** located at **US 29 Colesville Road** (Mile Point: **1.12**) in **Montgomery County**, Maryland. The State Highway Administration (SHA) review is complete and we are pleased to respond.

- The proposed redevelopment consists of providing a daycare facility to accommodate up to 180 students, replacing the existing library facility.
- The access to the property will remain unchanged with three (3) driveways, one off Colesville Road and two off Ellsworth Drive. The access on Colesville Road is one-way inbound only while the southern-most access on Ellsworth Drive is one-way outbound only.

Based on the information provided, please address the following comments in a point-by-point response:

**Travel Forecasting and Analysis Division (TFAD) Comments by (Mr. Scott Holcomb):**

1. TFAD has reviewed the additional operational analyses for the US 29 corridor as requested by MDOT SHA. We are satisfied with the responses and analysis results and have no further comments on this application.

**District 3 Traffic Comments by (Mr. Alvin Powell):**

1. District 3 Traffic has no further comments.

Ms. Nancy Randall  
SHA Tracking No.: 20APMO003XX  
Page 2 of 2  
August 21, 2020

The SHA concurs with the report findings for this project as currently proposed and will not require the submission of any additional traffic analyses. However, an access permit will be required for all construction within the SHA right of way. Please submit one (1) set of the proposed improvement plans (including a set of hydraulic plans and computations) and a CD containing the plans and all supporting documentation to the Access Management Division at 9300 Kenilworth Avenue, Greenbelt, MD 20770, attention of Mr. Kwesi Woodroffe. For electronic submissions create an account with our new online system <https://mdotsha.force.com/accesspermit>. Please reference the SHA tracking number on any future submissions.

Please keep in mind that you can view the reviewer and project status via SHA Access Management Division web page at <https://www.roads.maryland.gov/mdotsha/pages/amd.aspx>. Please note, if this project has not obtained an SHA access permit and begun construction of the required improvements within five (5) years of this approval, extension of the permit shall be subject to the submission of an updated traffic impact analysis in order for SHA to determine whether the proposed improvements remain valid or if additional improvements will be required of the development. If you have any questions, or require additional information, please contact Mr. Kwesi Woodroffe at 301-513-7347, by using our toll free number (in Maryland only) at 1-800-749-0737 (x7347), or via email at [kwoodroffe@mdot.maryland.gov](mailto:kwoodroffe@mdot.maryland.gov) or [shaamdpermits@mdot.maryland.gov](mailto:shaamdpermits@mdot.maryland.gov).

Sincerely,



Andre Futrell,  
District Engineer, District 3, SHA

AF/jwm

cc: Ms. Natasha Aidoo, SHA District 3 Traffic  
Ms. Rola Daher, SHA – TFAD  
Ms. Stephanie Dickel, Montgomery Planning  
Mr. Derek Gunn, SHA District 3 Traffic  
Mr. Scott Holcomb, SHA – TFAD  
Ms. Katherine Mencarini, Montgomery Planning  
Mr. Alvin Powell, SHA District 3 Traffic  
Mr. Deepak Somarajan, Montgomery County Department of Transportation  
Ms. Rebecca Torma, Montgomery County Department of Transportation  
Mr. Kwesi Woodroffe, SHA District 3 Regional Engineer





## DEPARTMENT OF TRANSPORTATION

Marc Elrich  
County Executive

Christopher R. Conklin  
Director

August 31, 2020

Ms. Katherine Mencarini, Senior Planner  
Area 1 Planning Division  
The Maryland-National Capital  
Park & Planning Commission  
8787 Georgia Avenue  
Silver Spring, Maryland 20910-3760

RE: Martha Gudelsky – Child Development  
Center - Centronia  
Traffic Impact Study Review

Dear Ms. Mencarini:

We have completed our review of the revised Local Area Transportation Review and Transportation Policy Area Review (TIS) report for the proposed Martha Gudelsky – Child Development - Centronia. This study, dated May 1, 2020, was prepared by Wells + Associates. Total development evaluated by the report and analysis includes redevelopment of the existing building and construction of a two-story wing addition to the building to a 30,000 SF daycare for up to 180 students.

We offer the following comments:

**Adequacy Determination**

1. The study (page-16) indicates that the subject development will generate more than 50 total weekday peak hour person trips; therefore, the Motor Vehicle Adequacy test is required.
2. The study indicates that the analysis for pedestrian, transit and bicycle system adequacy is not required since the proposed development does not generate more than 50 trips for any of the tests. We accept this conclusion.

**Motor Vehicles System Adequacy**

1. The TIS indicates this study was prepared in accordance with the Fall 2017 Local Area Transportation Review (LATER) guidelines.

Office of the Director

101 Monroe Street, 10<sup>th</sup> Floor, Rockville, MD 20850 · 240-777-7170 · 240-777-7178 Fax  
[www.montgomerycountymd.gov/mcdot](http://www.montgomerycountymd.gov/mcdot)

2. The subject site and four out of eight studied intersections are located within the Silver Spring/Takoma Park Policy Area where the congestion threshold is established at a maximum overall average delay of 80 seconds per vehicle. The remaining four studied intersections are located within the Silver Spring CBD Policy Area where the congestion threshold is established at a maximum overall average delay of 120 seconds per vehicle.
3. All the studied intersections, with the exception of one, will operate within the congestion standard of the Silver Spring/Takoma Park or Silver Spring CBD Policy Areas. The intersection of Colesville Road and Dale Drive located within the Silver Spring/Takoma Park Policy Area, operates with a 119.4 second/vehicle delay in the AM peak hour, under existing conditions. The intersection delay increases to 164.8 seconds/vehicle under background conditions, and 167.6 seconds/vehicle under total future conditions. The consultant has proposed to optimize the intersections splits at this intersection. With the optimized splits, the intersection would continue to run at a 150-second cycle but the average delay at the intersection would be reduced to 109.5 seconds/vehicle during the AM peak hour under total future conditions. MCDOT is requesting a payment to be made for the optimization of the split-phase of this traffic signal. The payment of \$1,350 (CIP 507154) will be made to MCDOT prior to issuance of the right-of-way permit.

#### **Pedestrian and Bicycle Impact Statement**

1. The consultant provided an evaluation of the pedestrian and bicycle access and circulation in the vicinity of the site and the transit and other non-automotive operations in the study area. The consultant provided the location of sidewalks, pedestrian signal heads, accessible ramps and bus stops and routes within the study area.
2. Four of the studied intersections are signalized and provide controlled pedestrian crossings. The consultant determined that all four intersections provide sufficient timing for pedestrians to cross the respective road at a walking speed of 3.5 feet per second. In addition, there is adequate "Walk" time and "Flashing Don't Walk" time available for pedestrians to cross within the crosswalks on each street except one leg of the Ellsworth Drive and Spring Street/Cedar Street intersection.
3. The applicant provided the locations of bus stops and the routes; amenities at the stops were identified.

#### **TDM Plans**

CSS recommends that the applicant consider incorporating the following TDM elements into the project:

1. **Display of Transportation Information:** Incorporate into the design of the lobby/vestibule area, a monitor to display digital transportation-related information including real time transit information. This will serve employees, visitors and the general community. Information may include real time information for bus and Metrorail schedules and service announcements, locations of bikeshare and other shared-use mobility device services bikeshare, and announcements of County-sponsored activities and events. This will facilitate community use of this facility during non-daycare hours. There is no cost to connect to the County's feed and it can run on the same monitor



Ms. Mencarini  
Martha Gudelsky Child  
Development Center – Centronia  
August 31, 2020  
Page 3

the applicant plans to use to show project-related information.

2. *EV Parking*: The Applicant plans to provide 89 of the required 94 onsite parking spaces. To support the County's aggressive goals to address climate change, CSS recommends that 2 of the 89 spaces be designated as and fully wired for electric vehicle charging stations.

### **SUMMARY**

1. The motor vehicle delay will not exceed the Silver Spring/Takoma Park or Silver Spring CBD policy threshold with the exception of the Colesville Road and Dale Drive intersection during AM peak hours. The applicant has proposed mitigation at this intersection and they will make a payment of \$1,350 to MCDOT (CIP 507154) prior to issuance of the right-of-way permit.
2. We concur with the consultant's conclusion regarding the pedestrian, transit and bicycle system adequacy.

Thank you for the opportunity to review this report. If you have any questions or comments regarding this letter, please contact myself for this project, at Brenda.Pardo@montgomerycountymd.gov or at (240) 777-7170.

Sincerely,

*Brenda M. Pardo*

Brenda M. Pardo, Engineer III  
Development Review Team  
Office of Transportation Policy

[SharePoint\teams\DOT\Director's Office\Development Review\Brenda\Traffic Impact Study \(TIS\)\ Martha Gudelsky\Martha Gudelsky-TIS Letter 8.31.20](#)

cc:e: Correspondence folder FY 2021

Nancy Randall  
Atiq Panjshiri  
Sam Farhadi  
Mark Terry  
Kamal Hamud  
Rebecca Torma

Wells + Associates, Inc.  
MCDPS RWPR  
MCDPS RWPR  
MCDOT DTEO  
MCDOT DTEO  
MCDOT OTP



## DEPARTMENT OF TRANSPORTATION

Marc Elrich  
*County Executive*

Christopher R. Conklin  
*Director*

March 3, 2021

Mr. Marco Fuster, Planner Coordinator  
DownCounty Planning Division  
The Maryland-National Capital  
Park & Planning Commission  
2425 Reedie Drive  
Wheaton, MD 20902

RE: Preliminary Plan No. 120210050  
MGCDC Centronia

Dear Mr. Fuster:

We have completed our review of the preliminary uploaded to eplans on January 8, 2021. A previous version of the plans was reviewed by the Development Review Committee at its November 24, 2020 meeting. We recommend approval of the plans subject to the following comments:

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

**Significant Plan Review Comments**

1. Colesville Road (US 29) is classified as a Major Highway (M-10). Per the North and West Silver Spring 2000 Master Plan the minimum required right-of-way (ROW) is 120-foot. We defer to Maryland State Highway MDSHA for any improvements along Colesville Road (US 29).
2. Ellsworth Drive is classified as a Secondary Residential Street. The minimum ROW per Montgomery County Standard NO. MC-2002.01 for secondary streets is 60-feet. The existing right-of-way on Ellsworth Drive per plat #24826 is 70-feet. Thus, additional dedication is not required.

**Office of the Director**

---

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

[www.montgomerycountymd.gov](http://www.montgomerycountymd.gov)

*Located one block west of the Rockville Metro Station*

The certified preliminary plan shall reflect the following proposed frontage:

- Proposed variable width tree panel in the ROW, as shown on the Preliminary Plan.
  - Proposed 5-foot sidewalk in the ROW.
3. **Sight Distance**: A copy of the accepted Sight Distances Evaluation certification form is enclosed for your information and reference.
  4. **Storm Drain Study**: The storm drain analysis was reviewed and is acceptable to MCDOT. No improvements are needed to the downstream public storm drain system for this plan.
  5. The Traffic Impact Study (TIS) letter was issued on August 31, 2020. The TIS indicates the motor vehicle delay will not exceed the Silver Spring/Takoma Park or Silver Spring CBD policy threshold with the exception of the Colesville Road and Dale Drive intersection during AM peak hours. Thus, the applicant has proposed mitigation at this intersection and will make a payment of \$1,350 to MCDOT (CIP 507154) prior to issuance of the right-of-way permit.

#### **Standard Comments**

1. We defer to Maryland State Highway (MDSHA) for any improvements along Colesville Road (US 29).
2. No steps, stoops, balconies or retaining walls for the development are allowed in county right-of-way. No door swings into county ROW.
3. Please coordinate with Mr. Wayne Miller of our Division of Transit Services to coordinate any improvements along the site's frontage. Mr. Miller may be contacted at 240 777-5836 or at Wayne.Miller2@montgomerycountymd.gov.
4. Applicant should be mindful that this site is located within the boundaries of the Silver Spring Downtown Plan currently in development. The Scope of Work was approved by the Planning Board on 4 June 2020. Final plan approval is expected in Fall 2022, and will likely result in this site being included in the Downtown Urban, BPPA, TMD, and perhaps even PLD areas. As this is a redevelopment of a County-owned site: we should give more heed of these anticipated changes.
5. Provide a 10-foot Public Utility Easements along all street frontages.
6. Provide a minimum 5 ft continuous clear pathway (no grates) along all public streets.

7. Ensure curve radii are as small as practicable to accommodate target design vehicles without intrusion into bicycle or pedestrian travelways.
8. Reconstruct all access points to be at-grade with sidewalk, dropping down to street level between the sidewalk and roadway.
9. Forest Conservation Easements are NOT ALLOWED to overlap any easement.
10. Underground utilities.
11. CSS Comments

As noted in comments on the Conditional Use application the applicant in August, CSS recommends that the applicant incorporate the following TDM elements into the project:

Display of Transportation Information:

- Install a monitor in the lobby/vestibule area to display digital transportation-related information. This will serve employees, families using the child-care center, and general community using the community use space. Most digital service providers provide the Ride On real time information feed as part of their programming. This would be the same monitor the center plans to use to share information about its programs, etc.

EV Parking:

- To support the County's aggressive climate change goals, 2 of the 89 parking spaces to be provided should be designated as fully wired for electric vehicle charging stations. The spaces should be shown as such on the site plan.
12. Relocation of utilities along existing roads to accommodate the required roadway improvements shall be the responsibility of the applicant.
  13. Trees in the County rights of way – spacing and species to be in accordance with the applicable MCDOT standards. Tree planning within the public right of way must be coordinated with DPS Right-of-Way Plan Review Section.
  14. Permit and bond will be required as a prerequisite to MCDPS approval of the record plat. The permit will include, but not necessarily be limited to, the following improvements:
    - Sidewalk, handicap ramps, storm drainage and appurtenances, and street trees along Ellsworth Drive.

- Enclosed storm drainage and/or engineered channel (in accordance with the MCDOT Storm Drain Design Criteria) within the County rights-of-way and all drainage easements.
- Permanent monuments and property line markers, as required by Section 50-4.3(G) of the Subdivision Regulations.
- Erosion and sediment control measures as required by Montgomery County Code 19-10(02) and on-site stormwater management where applicable shall be provided by the Developer (at no cost to the County) at such locations deemed necessary by the Department of Permitting Services (DPS) and will comply with their specifications. Erosion and sediment control measures are to be built prior to construction of streets, houses and/or site grading and are to remain in operation (including maintenance) as long as deemed necessary by the DPS.
- Developer shall provide street lights in accordance with the specifications, requirements, and standards prescribed by the MCDOT Division of Traffic Engineering and Operations.

Thank you for the opportunity to review this preliminary plan. If you have any questions or comments regarding this letter, please contact myself for this project at [brenda.pardo@montgomerycountymd.gov](mailto:brenda.pardo@montgomerycountymd.gov) or at (240) 777-7170.

Sincerely,

*Brenda M. Pardo*

Brenda M. Pardo, Engineer III  
Development Review Team  
Office to Transportation Policy

[SharePoint\teams\DOT\Director's Office\Development Review\Brenda\Preliminary Plan\PP120210050 Centronia\Letters\120210050-Centronia-DOT Preliminary Plan Letter\\_3.3.21](#)

Attachments: Approved Sight Distance Study

cc: Correspondence folder FY 2021

cc-e: Bradford Fox                      Bohler Engineering  
Patricia A. Harris                      Lerch, Early & Brewer, Chtd.

Mr. Marco Fuster  
Preliminary Plan No. 120210050  
March 3, 2021  
Page 5

Mark Terry  
Atiq Panjshiri  
Sam Farhadi  
Rebecca Torma

MCDOT DTEO  
MCDPS RWPR  
MCDPS RWPR  
MCDOT OTP





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

**SIGHT DISTANCE EVALUATION**

Facility/Subdivision Name: CentroNia Preliminary Plan Number: 1-20210050

Street Name: Ellsworth Drive Master Plan Road Classification: Business

Posted Speed Limit: 30 mph

Street/Driveway #1 (Ellsworth Drive - North) Street/Driveway #2 \_\_\_\_\_

Sight Distance (feet)	OK?	Sight Distance (feet)	OK?
Right _____	_____	Right _____	_____
Left <u>330.4'</u>	<u>YES</u>	Left _____	_____

Comments: \_\_\_\_\_ Comments: \_\_\_\_\_  
CLEAR SIGHT DISTANCE TO  
INTERSECTION OF ELLSWORTH  
DRIVE AND SPRINGVALE ROAD.

**GUIDELINES**

Classification or Posted Speed  
(use higher value)

Tertiary	-	25 mph
Secondary	-	30
Business	-	30
Primary	-	35
Arterial	-	40
		(45)
Major	-	50
		(55)

Required  
Sight Distance  
in Each Direction\*

150'  
200'  
200'  
250'  
325'  
400'  
475'  
550'

\*Source: AASHTO

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

**ENGINEER/ SURVEYOR CERTIFICATE**

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

Signature 37986  
PLS/P.E. MD REG. NO. 37986  
PROFESSIONAL ENGINEER

12/30/20  
Date

**Montgomery County Review:**

☒ Approved

☐ Disapproved:

By: Brenda M. Pardo

Date: 3/3/21





1. OWNER:  
MONTGOMERY COUNTY  
101 MONROE STREET  
ROCKVILLE, MD 20850
2. APPLICANT:  
MONTGOMERY GUELDSKY CHILD DEVELOPMENT CENTER, INC. (T/A MARTHA  
GUELDSKY CHILD DEVELOPMENT CENTER)  
11900 TECH ROAD, SILVER SPRING, MD 20904
3. AREA = 95,906 SQUARE FEET OR 2.2 ACRES
4. EXISTING FOREST ON-SITE: NONE
5. CURRENT ZONING: RESIDENTIAL (R-60)
6. WSSC 200 SCALE BASE MAP: 21N1NW01
7. TAX ID #: 13-00971462, 13-00972821
8. TAX MAP: JP31
9. WATERSHED: SLIGO CREEK  
USE CLASS: I

ORG. DATE - 09/11/20









DEPARTMENT OF PERMITTING SERVICES

Marc Elrich  
County Executive

Mitra Pedoeem  
Director

February 16, 2021

Mr. Ian Gottheim  
Bohler Engineering  
16701 Melford Boulevard, Suite 310  
Bowie, MD 29715

Re: **COMBINED STORMWATER MANAGEMENT  
CONCEPT/SITE DEVELOPMENT  
STORMWATER MANAGEMENT PLAN** for  
Martha B. Gudelsky Child Development Center,  
Inc.  
Address: 8901/8907 Colesville Road  
Conditional Use Plan #: CU 20-08  
Preliminary Plan #: 120210050  
SM File #: 286053  
Tract Size/Zone: 91,755 SF/2.11 ac//R-60  
Total Concept Area: 47,410 SF  
Parcel(s): P933 and P959  
Watershed/Class: Sligo Creek/Class I  
Type of Development: Redevelopment

Dear Mr. Gottheim:

Based on a review by the Department of Permitting Services Review Staff, the stormwater management concept for the above-mentioned site is **acceptable**. The stormwater management concept proposes to meet required stormwater management goals via microbioretention planter boxes and a partial waiver of stormwater management treatments being requested for runoff volume not able to be treated on site due to site limitations including poor soils. The partial waiver is hereby granted.

The following items will need to be addressed during the detailed sediment control/stormwater management plan stage:

1. A detailed review of the stormwater management computations will occur at the time of detailed plan review.
2. An engineered sediment control plan must be submitted for this development.
3. All filtration media for manufactured best management practices, whether for new development or redevelopment, must consist of MDE approved material.



2425 Reedie Drive, 7<sup>th</sup> Floor, Wheaton, MD 20902 | 240-777-0311  
[www.montgomerycountymd.gov/permittingervices](http://www.montgomerycountymd.gov/permittingervices)

Mr. Ian Gottheim  
February 16, 2021  
Page 2 of 2

4. All facilities must be designed using latest available MCDPS guidance documents.

This list may not be all-inclusive and may change based on available information at the time.

Payment of a stormwater management contribution in accordance with Section 2 of the Stormwater Management Regulation 4-90 **is required**.

This letter must appear on the sediment control/stormwater management plan at its initial submittal. The concept approval is based on all stormwater management structures being located outside of the Public Utility Easement, the Public Improvement Easement, and the Public Right of Way unless specifically approved on the concept plan. Any divergence from the information provided to this office; or additional information received during the development process; or a change in an applicable Executive Regulation may constitute grounds to rescind or amend any approval actions taken, and to reevaluate the site for additional or amended stormwater management requirements. If there are subsequent additions or modifications to the development, a separate concept request shall be required.

If you have any questions regarding these actions, please feel free to contact Mary Fertig at 240-777-6340 or at [mary.fertig@montgomerycountymd.gov](mailto:mary.fertig@montgomerycountymd.gov).

Sincerely,

*Mark Etheridge*

Mark C. Etheridge, Manager  
Water Resources Section  
Division of Land Development Services

MCE: MMF

cc: N. Braunstein  
SM File # 286053

ESD: Required/Provided 4,148 cf / 2,492 cf  
PE: Target/Achieved: 1.75"/1.05"  
STRUCTURAL: n/a cf  
WAIVER: Partial



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**Department of Permitting Services**  
**Fire Department Access and Water Supply Comments**

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**DATE:** 26-Feb-21  
**TO:** Bradford Fox - bfox@bohlereng.com  
Bohler Engineering  
**FROM:** Marie LaBaw  
**RE:** Martha B Gudelsky Child Development Center  
120210050

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**PLAN APPROVED**

1. Review based only upon information contained on the plan submitted **24-Feb-21**. Review and approval does not cover unsatisfactory installation resulting from errors, omissions, or failure to clearly indicate conditions on this plan.
2. Correction of unsatisfactory installation will be required upon inspection and service of notice of violation to a party responsible for the property.

**\*\*\* See statement of performance based design: modifications & additions to existing building**  
**\*\*\***



16701 Melford Boulevard, Suite 310  
Bowie, MD 20715  
301.809.4500

March 5, 2021

VIA E-MAIL

Mr. Marco Fuster  
M-NCPPC  
2425 Reddie Drive, 4<sup>th</sup> Floor  
Wheaton, MD 20902

Re: Specimen Tree Variance Request 8901 Colesville Rd., Silver Spring, MD 20910  
Conditional Use Plan 20-08, Preliminary Plan #120210050

Dear Mr. Fuster:

On behalf of the Applicant, Martha B. Gudelsky Child Development Center, Inc., we are requesting a tree variance pursuant to the provisions of Section 22A-21 of the Montgomery County Code from Section 22A-12(b)(3) for significant impacts to specimen trees. More specifically, Section 22A-12(b)(3) provides for the non-disturbance of "any tree with a diameter, measured at 4.5 feet above the ground, of: (i) 30 inches or more; or (ii) 75% or more of the diameter, measured at 4.5 feet above ground, of the current State champion tree of that species."

**I. APPLICANT'S PROPOSAL**

The Applicant has submitted a Preliminary Forest Conservation Plan as part of a Conditional Use application (CU-20-08) for the Project, "MGCDC-CentroNia", and a Final Forest Conservation Plan as part of Preliminary Plan Application 120210050. The proposed development will establish a Day Care Facility with a secure playground.

There is a total of seven (7) specimen trees on or near the Property. Five (5) specimen trees are being impacted by construction and demolition activities. The trees identified in this variance request for CRZ impacts are shown on the Forest Conservation Plan.

**II. GENERAL DESCRIPTION AND JUSTIFICATION FOR TREES FOR WHICH A VARIANCE IS REQUESTED**

The proposed disturbance of trees 30" DBH or greater (specimen trees) is being requested to allow the proposed development of the day care facility. The proposed layout has been thoroughly vetted in coordination with MNCPPC Staff in an effort to significantly minimize CRZ impacts to existing specimen trees by minimizing limits of disturbance and limiting impervious areas.

For reasons described in Sections III and IV below, the Applicant respectfully requests the approval of the variance trees listed, in order to construct the day care facility, fenced in playground, associated open space, amenities, Ellsworth Drive sidewalk improvements, and infrastructure.

Tree #8, scarlet oak (*Quercus coccinea*) with a 33' DBH. The tree is listed in good condition by the environmentally qualified professional. Due to the proposed improvements, including the proposed building, sidewalk and drive aisles, there is a 48.3% impact on the critical root zone. Given that the

impact for each tree is primarily at or near the surface of the ground, the applicant will use reasonable efforts to preserve this tree but requires approval of a variance for impacting the critical root zone by greater than 30%. Tree protection fence and trenchless MDE Approved sediment control practices will be coordinated with the root pruning line for this Specimen Tree. Additional tree save measures including the use of non-invasive sediment control within the critical root zone is proposed, as mentioned by Montgomery County DPS Water Resources in an email dated March 4, 2021. Furthermore, construction will be sequenced in such a way that work in this area will be completed and stabilized as early in the construction sequence as possible and the area will be blocked to construction traffic for the remainder of the project.

### **Critical Root Zone (CRZ) impacts**

There are four (4) additional specimen trees impacted by the limit of disturbance within the limits of the Property. Tree # 5, American basswood, has a 0.3% critical root zone impact and is located off-site. All effort shall be made to coordinate with the adjoining property to save the offsite tree. Tree #12, tree of heaven, has a 22.8% critical root zone impact. Tree #6, red mulberry, has a 15.1% critical root zone impact. Tree #1, Siberian Elm, has a 2.7% critical root zone impact. The impacts associated with these trees are the result of the grading, proposed sidewalk modifications, and proposed playground improvements associated with the proposed day care facility on the Property. Tree protection measures will be adopted to protect them from being damaged during and after construction.

<b><i>SPECIMEN TREE TABLE</i></b>						
<b><i>No.</i></b>	<b><i>Common Name</i></b>	<b><i>Scientific Name</i></b>	<b><i>DBH</i></b>	<b><i>Condition</i></b>	<b><i>Comments</i></b>	<b><i>Impacts</i></b>
			<b><i>(inches)</i></b>	<b><i>Rating</i></b>		
1	Siberian elm	<i>Ulmus pumila</i>	37	Good	Split at 6 feet, scarring on one of leaders and healed over, fungus on bark, large dead wood, broken branches, damaged and exposed roots, non-native, potentially invasive species	LOD encroaches on 2.7% of CRZ
5**	American basswood**	<i>Tilia americana</i>	34	Good	Few broken branches, exposed roots	LOD encroaches on 0.3% of CRZ
6	red mulberry	<i>Morus rubra</i>	34	Poor	One-sided, split at base with codominant leaning leader, second leader split at 62 inches, poor structure, large dead wood, broken branches, growth into power lines, lichen growth on trunk, trunk leading and curved, english ivy ( <i>Hedera helix</i> ) growth on trunk	LOD encroaches on 15.1% of CRZ



8	scarlet oak	<i>Quercus coccinea</i>	33	Good	Few broken branches	LOD encroaches on 48.3% of CRZ
12	tree of heaven	<i>Ailanthus altissima</i>	31	Good	Non-native highly invasive species, fairly 1-sided, broken limbs and branches, some large dead wood, cut and broken branches	LOD encroaches on 22.8% of CRZ
** Denotes Specimen tree located off-site						

### **III. SATISFACTION OF THE CRITERIA LISTED IN SECTION 22A-21(b) OF THE MONTGOMERY COUNTY CODE**

Section 22A-21(b) lists the criteria for the granting of the variance requested herein. The following narrative explains how the requested variance is justified under the set of circumstances described above. This Forest Conservation Plan variance request is for one (1) on-site specimen tree to be impacted greater than 30% and four (4) Specimen trees to be impacted less than 30% (three on-site and one off-site).

*“(1) describe the special conditions peculiar to the property which caused the unwarranted hardship.”*

There are a number of special conditions peculiar to the Property which would cause unwarranted hardship, absent the variance.

- Specimen Tree 8 is currently located along the northern edge of the property line directly in front of the existing and proposed building footprint. The proposed demolition, grading, and site layout are in proximity of the Specimen Tree. In order to accommodate all required aspects of development - installation of a secured playground facility for the daycare - it is necessary to impact the specimen tree. Given a number of factors associated with the Property, there are no other feasible locations for the playground. Because it is important to preserve the design aesthetic of the existing building and its visibility from Colesville Road, locating the playground in the front of the building was not an option. Moreover, this exposed location also would create security concerns. The proposed location is desirable given its close proximity to the building. The center will serve very young children and the transition times involved in moving from an indoor activity to the playground takes a considerable amount of time. For this reason, locating the playground close to the building is important to the operation of the center. Given the existing layout of the remainder of the Property and the need for the existing parking spaces, no alternative locations were available for the playground.

*“(2) Describe how enforcement of these rules will deprive the owner of rights commonly enjoyed by others in similar areas.”*

Without the allowance of variance tree impacts, the Applicant would not be able to provide the square footage of the building and fenced in playground needed to achieve the operations of the facility and provide needed childcare to the desired number of children. The size of the playground is mandated by State licensing requirements. Due to existing steep slopes around the outer edges of the property, the

proposed playground was required to be placed in the provided location. The proposed location for the playground is also furthest from both active right of ways, providing a safe play area for children at the day care. Given the distribution of the specimen trees, precluding the impacts of the trees will severely restrict the development of the Property. Strict enforcement which prevents impacts of a specimen tree will prevent the desired redevelopment of the Property, which will deprive the applicant of rights commonly enjoyed by others in similar areas. Specimen Tree 8 would prevent demolition of the existing site features and the grading for the proposed improvements. Additional tree plantings to replace existing trees are proposed which will ultimately grow into healthier stronger specimen trees.

*“(3) Verify that State water quality standards will not be violated or that a measurable degradation in water quality will not occur as a result of the granting of the variance.”*

There is currently no stormwater management for the existing Site. The proposed stormwater management design will meet current State and local stormwater management standards. The state water quality standards will not be violated. A measurable degradation in water quality will not occur as a result of the granting of the variance. The proposed development will provide Best Management Practices (BMP) areas to meet ESDv requirements for the site and in turn ensure water quality is achieved. The development of the property will require approval of a Stormwater Management Plan which will ensure that water quality measures are implemented on the property. Per the approved Stormwater Concept Plan and associated approval letter dated February 16, 2021, the site proposes three (3) micro-bio retention planter boxes to treat stormwater runoff. The existing impervious parking lot is to remain. A partial waiver for the remaining stormwater management treatment, was granted. Per the conditions of the Concept Approval, a detailed stormwater management review will occur at the time of the detailed plan review and all facilities will be designed using the latest MCDPS guideline documents. Erosion and Sediment Control measures will be approved through the engineered Sediment Control plan. All filtration media manufactured for best management practices will consist of approved MDE material.

*“(4) Provide any other information appropriate to support the request.”*

The Applicant believes the information set forth above is adequate to justify the requested variance to impact the specimen trees on the subject property.

The specific rationale in support of the request for this variance is as follows:

1. The requested tree variance is necessary for implementation of this redevelopment project consistent with the overall planning principles for the site. There is no forest on the subject property nor are there any environmental buffers. The conditions related to this request are the unavoidable consequence of the development process under the zoning. Not granting the variance is an unwarranted hardship. The three subject trees are impacted by the proposed redevelopment, and necessary location of the daycare to meet the objectives of the development.
2. The requested variance is based on development plans that are consistent with the zoning approved through the County planning process, not conditions or circumstances resulting from actions by the applicant. The County awarded the Property to the applicant in order to redevelop it to provide needed childcare for up to 180 children. The variance trees are impacted by the proposed redevelopment for which a Conditional Use Plan and Preliminary Plan have been submitted. Strict protection of the variance trees would deprive the applicant

- from making changes to the site and complying with the County's policy and planning objectives. The impacts to trees 1, 5, 6, 8, and 12 are required to implement the location of the building and fenced in playground area, as well as required sidewalk improvements along Ellsworth Drive. There are no conditions relating to land or building use, either permitted or non-conforming, on a neighboring property that have played a role in the need for this variance.
3. The stormwater management plan incorporates environmental site design and provides stormwater management, there is currently no stormwater management for the property. The specimen trees being impacted are not in a stream valley buffer, wetland or special protection area. The plan provides stormwater treatment to the MEP for the newly constructed areas of the project and a partial stormwater management waiver was granted for the existing areas of the project site. Therefore, granting the variance with respect to these trees will not result in any violation of state water quality standards or degradation of water quality. Conceptual Stormwater Plan approval was obtained on February 21, 2021.

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

Sincerely,  
Bohler Engineering VA, LLC



Bradford Fox, P.E.  
Sr. Project Manager

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

BF/kd

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