

**LITTLE STEPS DAYCARE/PRIMROSE AT 16650 GEORGIA AVE
CONDITIONAL USE NO. CU202504, PRELIMINARY PLAN NO.
120250090 AND FOREST CONSERVATION PLAN NO. F20240890**



Description

Request to create one lot for an existing antique shop and a new Day Care Center (Over 30 Persons). This review includes a Conditional Use application for the Day Care which is being processed concurrently with a Preliminary Plan of Subdivision and a Forest Conservation Plan.

COMPLETED: 4/27/2026

PLANNING BOARD HEARING DATE: 5/7/2026

MCPB ITEM NO. 9

Planning Staff

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LOCATION/ADDRESS

16650 Georgia Avenue. On the west side of Georgia Avenue, approximately 150 feet south of Emory Church Road

MASTER PLAN

2005 Olney Master Plan

ZONE

R-200

PROPERTY SIZE

2.12 acres

APPLICANT

Little Steps, LLC

ACCEPTANCE DATE

December 24, 2024

REVIEW BASIS

Ch.59, 50, and 22A

Summary:

- Staff recommends approval of the Conditional Use with conditions and transmittal of comments to the Hearing Examiner for a hearing scheduled TBD.
- Staff recommends approval of the associated Forest Conservation Plan with conditions.
- Staff recommends approval of the associated Preliminary Plan with conditions.
- Staff supports the Applicant's request for a parking setback waiver for the 12 parking spaces parallel to the northern property line for the Conditional Use.
- Staff supports the Applicant's request for a parking waiver and shared parking agreement for the Conditional Use.
- The Subject Site has an existing antique store, metal pole barn, 1-story wood building, and an associated parking lot.
- Staff have not received any public correspondence as of the date of this Staff Report.

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SECTION 1: RECOMMENDATIONS AND CONDITIONS

LITTLE STEPS DAYCARE, CONDITIONAL USE NO. CU202504

Staff recommends approval of Conditional Use No. CU202504, for a Day Care Center (Over 30 Persons), subject to the following conditions:

1. The use is limited to the Day Care Center (Over 30 Persons) with a maximum of 165 children and 35 employees.
2. Hours of operation from 6:00 a.m. to 6:30 p.m., Monday through Friday.
3. No more than 40 children are allowed to play outside at any time.
4. The Applicant must obtain the required sign permits for future signs through the Montgomery County Department of Permitting Services (“MCDPS”) Zoning and Site Plan Enforcement Division before signage is installed.
5. The Applicant must schedule a preconstruction meeting (pre-con), preferably on-site, with staff from the MCDPS responsible for Conditional Use Plan conformance and compliance. The pre-con must occur before any site development work commencement and before any work covered by the surety and maintenance agreement. The Applicant, along with their representatives, must attend the pre-con with MCDPS Staff. A copy of the approved Conditional Use Plan, along with any subsequent amendments, is required to be on-site at all times during the construction of the project.
6. Before approval of a record plat, the Preliminary Plan must be certified.
7. The Record Plat must be recorded before the release of any building permit.
8. All Conditional Use Plan sheets submitted to the OZAH must be signed by the appropriate professional.

PRIMROSE AT 16650 GEORGIA AVENUE, PRELIMINARY PLAN 120250090

Staff recommends approval with conditions of the Preliminary Plan to create one (1) lot to construct a proposed 12,000 square-foot Day Care Center (Over 30 Persons) on the Property, with an existing antique store. All site development elements shown on the latest electronic version of the Preliminary Plan No. 120250090 as of the date of this Staff Report submitted via ePlans to the M-NCPPC, are required except as modified by the following conditions:

GENERAL APPROVAL

1. This Preliminary Plan is limited to one (1) lot for a 12,000 square-foot day care center with up to 165 students and an existing 10,552 square foot antique store (registered non-conforming use).

2. This Preliminary Plan approval is contingent on approval of Conditional Use No. CU202504 for a Day Care Center (over 30 persons), for the proposed land use in a manner consistent with the Preliminary Plan Application and findings.
3. The Preliminary Plan must not be certified until Conditional Use No. CU202504 is approved by the Hearing Examiner. If the conditional use approval necessitates minor changes to the Preliminary Plan drawings that do not impact findings or conditions of approval, the certified Preliminary Plan drawings may be updated to reflect those changes but must not be certified until 16 days after the Hearing Examiner issues the Conditional Use approval. If the conditional use approval necessitates major changes to the Preliminary Plan drawings that impact findings or conditions of approval, or if relevant objections are received to the changes within 15 days of the conditional use approval date, the Preliminary Plan may not be certified, and a preliminary plan amendment must be filed.

ADEQUATE PUBLIC FACILITIES

4. The Adequate Public Facilities (“APF”) review for the Preliminary Plan will remain valid for five (5) years from the initiation date (as defined in Montgomery County Code Section 50.4.3.J.5).

PLAN VALIDITY PERIOD

5. The Preliminary Plan will remain valid for three (3) years from its initiation date (as defined in Montgomery County Code Section 50.4.2.G), and before the expiration date of this validity period, a final record plat for all property delineated on the approved Preliminary Plan must be recorded in the Montgomery County Land Records or a request for an extension filed.

OUTSIDE AGENCIES

6. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Transportation (“MCDOT”) in its letter dated October 27, 2025, and incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each recommendation in the letter, which may be amended by MCDOT if the amendment does not conflict with any other conditions of the Preliminary Plan approval.
7. Before recording a plat for the Subject Property, the Applicant must satisfy MCDOT’s requirements for access and improvements.
8. The Planning Board has reviewed and accepts the recommendations of the Maryland State Highway Administration (“MDOT SHA”) in its letter dated March 25, 2025, and incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each recommendation in the letter, which may be amended by MDOT SHA if the amendment does not conflict with any other conditions of the Preliminary Plan approval.

9. Before the issuance of access permits, the Applicant must satisfy the Maryland State Highway Administration's requirements for access and improvements.
10. 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 January 24, 2025, and incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each recommendation 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.
11. The Planning Board has reviewed and accepts the recommendations of the MCDPS, Fire Department Access and Water Supply Section, in its letter dated March 19, 2025, and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations in the letter, which MCDPS may amend if the amendment does not conflict with other conditions of Preliminary Plan approval.

OTHER APPROVALS

12. The Applicant must comply with the conditions of Conditional Use No. CU202504 as approved by the Office of Zoning and Administrative Hearings.
13. Before approval of a record plat or any demolition, clearing or grading for the Subject Property, the Applicant must receive Staff certification of this Preliminary Plan.
14. Before record plat approval, the Applicant must abandon the existing septic system in accordance with MCDPS standards.

TRANSPORTATION

Frontage Improvements on Existing Roads

15. The Applicant must show the following dedications and easements, and show them on the record plat(s) for the following existing roads:
 - a. All land necessary to accommodate all frontage improvements within the right-of-way, except for the ten-foot-wide (10 ft) sidepath, along Georgia Avenue, as shown on the Certified Preliminary Plan.
 - b. A ten-foot-wide (10 ft) Public Utility Easement (PUE) and overlapping variable width (19 feet maximum) Public Improvement Easement (PIE) to accommodate the ten-foot-wide (10 ft) sidepath and utilities along the Subject Property frontage of the Georgia Avenue access road, as shown on the Certified Preliminary Plan.
16. Before the recordation of plat(s), the Applicant must satisfy all necessary requirements of MDOT SHA to ensure construction of a ten (10)-foot wide asphalt sidepath with a six (6)-foot-wide street buffer along the Property frontage on Georgia Avenue, connecting to the existing asphalt sidepath north of the Site, as shown on the Certified Preliminary Plan.

Pedestrian and Bicycle Circulation

17. The Applicant must provide three (3) long-term and two (2) short-term bicycle spaces.
 - a. The long-term spaces must be in a secure, well-lit bicycle room/shelter in front of the west side of the daycare building, with a key lock door, as shown on the Certified Preliminary Plan.
 - b. The short-term spaces must be inverted U-racks, installed as shown on the Certified Preliminary Plan (weather-protected preferred).
18. The Applicant must provide a pedestrian connection from the south entrance of the Site, connecting the proposed sidepath to the proposed sidewalk along the proposed daycare building.
 - a. The exact location shall be determined in coordination with Planning Staff at the time of certification of the Preliminary Plan.

Off-Site Improvements/LATR

19. Before the recordation of the record plat, the following off-site improvements must be permitted and bonded (to ensure construction) pursuant to MDOT SHA requirements:
 - a. Installation of a high-visibility crosswalk on the south leg of the intersection of Georgia Avenue Service Road and Emory Church Road.
 - b. Installation of a high-visibility crosswalk on the east leg of the intersection of Georgia Avenue (MD-97) and Emory Church Road.
20. If, at the time the Applicant submits for permits to construct one of the required LATR Off-Site Improvements above, the improvement is no longer necessary or desirable, because: i) it has been constructed or is under construction by another applicant or as part of a capital improvement project by a government agency, or, ii) the applicable master plan has changed and no longer requires or suggests the improvement, the Applicant can propose an alternative LATR Off-Site Improvement from the priority list of improvements provided in the subject Staff Report that is of similar value, and this alternative improvement, if reviewed and approved by Planning Staff, can be substituted and shown on a revised Certified Preliminary Plan.

SURETY

21. Before issuance of any building permit or sediment control permit, whichever comes first, the Applicant must enter into a Surety and Maintenance Agreement with the Planning Board in a form approved by the M-NCPPC Office of General Counsel that outlines the Applicant's responsibilities. The Agreement must include a performance bond or other form of surety, with the following provisions.
 - a) A cost estimate of the materials and facilities, which, upon Staff approval, will establish the surety amount.
 - b) The cost estimate must include a list of any/all aspects required for the construction of a site element by the Planning Board on the preliminary plan, such as a private road, sidewalks, or other circulation, and any off-site improvements not bonded by other county agencies.

- c) Completion of all improvements covered by the surety will be followed by inspection and potential reduction of the surety.
- d) The bond or surety for each item shall be clearly described within the Surety and Maintenance Agreement, including all relevant conditions.
- e) Before approval to release any portion of the performance bond, the Applicant must deliver to the Planning Department, with a copy to MCDPS, certification by a professional engineer licensed in the State of Maryland that the fire access improvements have been constructed and installed per the recommendations from the Fire Department Access and Water Supply Section, and as shown in the approved MCDPS fire access plan, or as amended.

RECORD PLATS

- 22. There shall be no clearing or grading of the site before the recordation of the plat(s).
- 23. The record plat must show necessary easements.

CERTIFIED PRELIMINARY PLAN

- 24. The certified Preliminary Plan must contain the following notes:
 - a. *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 Conditional Use approval. Please refer to the zoning data table for development standards such as setbacks, building restriction lines, building height, and lot coverage for each lot.*
 - b. *The Applicant must schedule an on-site preconstruction meeting with M-NCPPC inspection staff before any demolition, clearing, or grading occurs on-site. The Applicant, along with their representatives, must attend the pre-construction meeting with the M-NCPPC inspector. A copy of the approved Certified Preliminary Plan is required to be on-site at all times during construction.*
- 25. Before submittal of the Certified Preliminary Plan, the Applicant must make the following changes:
 - a. Show resolutions and approval letters on the certified set
 - b. Include the approved Fire Department Access Plan.
 - c. Update the PIE dimensions to reflect a tapered PIE with a maximum width of 19 feet parallel to the Georgia Avenue access road.

FOREST CONSERVATION PLAN F20240890

Staff recommends approval of Final Forest Conservation Plan No. F20240890 (“FFCP”). All site development elements shown on the latest electronic version of the Final Forest Conservation Plan No. F20240890, as of the date of this Staff Report submitted via ePlans to the M-NCPPC, are required except as modified by the following conditions:

1. Before recordation of the plat and the start of any demolition, clearing, grading, or construction, whichever comes first, for the Associated Plans (Preliminary Plan No. 120250090 and CU202504), the Applicant must:
 - a) Record a Category I Conservation Easement over all areas of forest retention, forest planting and environmental buffers as specified on the approved Final Forest Conservation Plan. The Category I Conservation Easement must be in a form approved by the M-NCPPC Office of the General Counsel and must be recorded in the Montgomery County Land Records by deed. The Book/Page for the easement must be referenced on the record plat.
 - b) Execute a five-year Maintenance and Management Agreement (“MMA”) in a form approved by the M-NCPPC Office of the General Counsel. The MMA is required for all forest planting areas, mitigation tree plantings, including variance tree mitigation plantings, and landscape plantings credited toward meeting the requirements of the FCP. The MMA includes invasive species management and control measures as deemed necessary by the M-NCPPC Forest Conservation Inspection Staff.
 - c) Submit a cost estimate for the reforestation/afforestation and other FCP requirements, which includes but is not limited to trees and shrubs, variance mitigation trees, five years of maintenance including invasive species management controls, permanent easement posts and signage, natural surface trails, split rail fencing, mulching, staking, tree protection, and tree protection removal credited toward meeting the requirements as shown on the FCP. This cost estimate must be reviewed and approved by the M-NCPPC Planning Department Inspection Staff before the submission of financial surety to determine the amount of the financial surety.
 - d) Submit financial surety, in a form approved by the M-NCPPC Office of the General Counsel, to the M-NCPPC Planning Department Inspection Supervisor for the 0.147 acres of new forest planting, mitigation trees and maintenance, including invasive species management controls, credited toward meeting the requirements of the FCP.
 - e) Record an M-NCPPC approved Certificate of Compliance in an M-NCPPC approved off-site forest bank within the Upper Rock Creek watershed or Priority Area to satisfy the reforestation requirement of 0.31 acres of mitigation credit. If no off-site forest banks exist within the Upper Rock Creek watershed or Priority Area, then the off-site requirement may be met by purchasing 0.33 acres of mitigation credits from a mitigation bank within Montgomery County outside of the Upper Rock Creek watershed or Priority Area, subject

to Staff approval. Credits may only be debited from forest mitigation banks that protect all or part of an existing forest to meet up to 50 percent of the afforestation requirement. If forest mitigation bank credits are not available for purchase, a fee-in-lieu payment must be made to M-NCPPC for the appropriate mitigation credits outside of the same watershed or Priority Area.

2. Within the first planting season following the stabilization of the applicable disturbed area inside of the LOD, or as directed by the M-NCPPC Forest Conservation Inspection Staff, the Applicant must install the plantings, permanent fencing, and permanent forest conservation area signage as shown on the approved FCP.
3. Within the first planting season following the release of the first Sediment and Erosion Control Permit from the Montgomery County Department of Permitting Services for the Subject Property, or as directed by the M-NCPPC Forest Conservation Inspection Staff, the Applicant must install the variance tree mitigation plantings on the Subject Property as shown on the approved FCP. The variance tree mitigation plantings must be a minimum size of 3 caliper inches, totaling 25.5 caliper inches, as shown on the approved FCP. The quantity of mitigation plantings can be reduced if the M-NCPPC Forest Conservation Inspection Staff determines that Protected Trees shown as removed can be retained. Adjustments to the planting locations of these trees are permitted with the approval of the M-NCPPC Forest Conservation Inspection Staff.
4. The Applicant must schedule the required site inspections by M-NCPPC Forest Conservation Inspection Staff per Section 22A.00.01.10 of the Code of Montgomery County Regulations (“COMCOR”), Forest Conservation Regulations.
5. 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 Inspection Staff.
6. 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.

SECTION 2: SITE DESCRIPTION

PROPERTY DESCRIPTION AND VICINITY

The Subject Property is a 2.117 acre (92,200 square feet) unrecorded parcel (Parcel 110 on Tax Map HS53) of R-200 zoned land, located at 16650 Georgia Avenue (MD 97), on the west side of Georgia Avenue, approximately 150 feet south of Emory Church Road (“Property” or “Subject Property”). The

Subject Property is within the Southern Olney area identified in the 2005 *Olney Master Plan* (“Master Plan”) and the Olney Policy Area of the current Growth and Infrastructure Policy (GIP).



Figure 1 - Vicinity Map and Neighborhood Boundary with Zoning

The Subject Property abuts property zoned R-200 to the north, west and south. The parcels of land to the north (Parcel D) and west (Parcel A) are unimproved open space parcels owned by the Adjacent Victoria Springs Homeowners Association (HOA), as shown in Figure 1. Directly abutting and running parallel to the northern Property line, on the HOA parcel, is an existing 80-foot-wide PEPCO right-of-way (easement) with high voltage underground transmission lines that run from the Access Road to Gooseneck Terrace.

South of the Subject Property is a nine-lot subdivision on Tavenner Court. Three of the properties were developed with single-family detached houses on Tavenner Court. Three of the houses that front on and have access to Tavenner Court directly abut the Subject Property with their rear yards oriented towards the Subject Property. At the southeast corner of the Property, south of the Antique Shop is

Parcel P164, Master Plan Historic Site No.23-107 (Watt Jones Hyatt House), which is improved with a single-family detached residential house known as the Watt Jones Hyatt House.

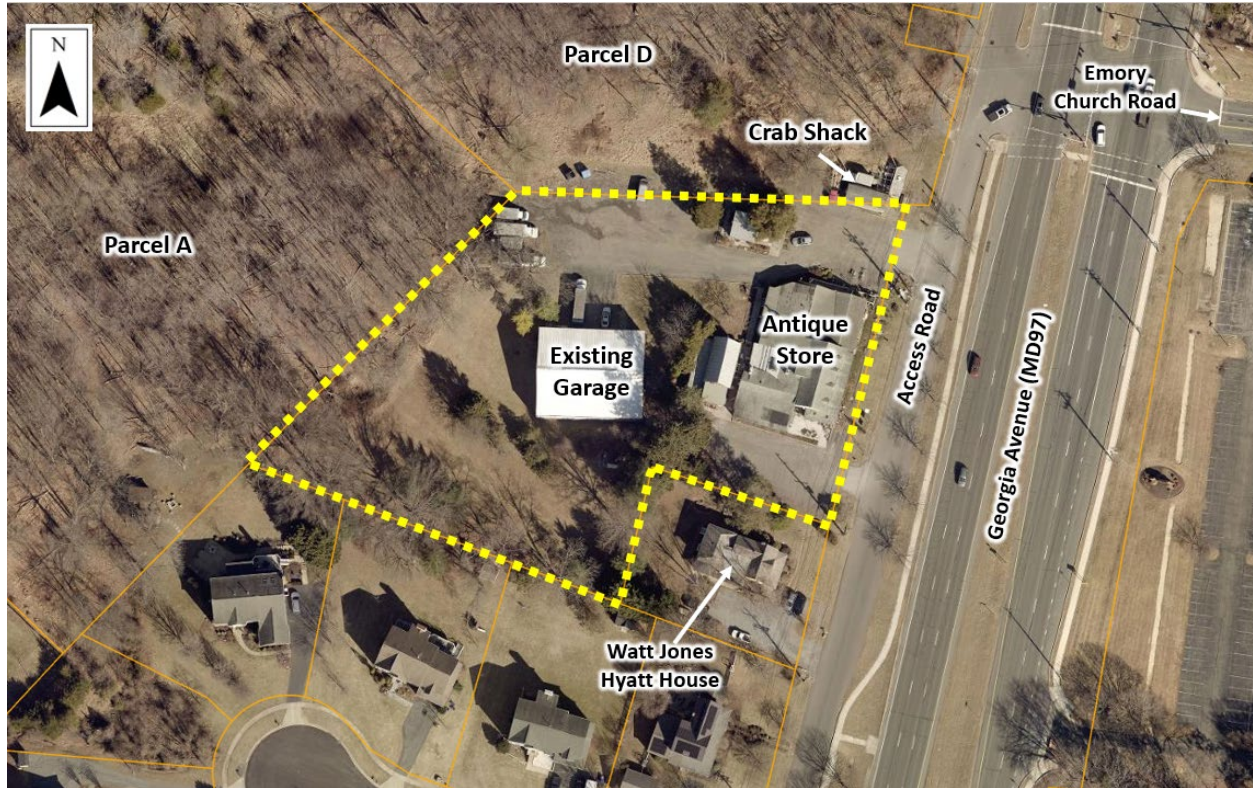


Figure 2 – Aerial view of existing Subject Property

The Property is currently improved with several existing buildings, accessory structures, and a gravel parking lot. The most notable building is the antique shop, which abuts the Access Road. The antique shop building (formerly a residence) was originally constructed in 1900 (approximately). In 1954 the Antique Store use was approved as a special exception, which was later extinguished when a change in zoning made the it a non-conforming use. The Antique Store building, associated barn/shop (located directly behind the store), the associated gravel parking and several buildings and structures are certified as a non-conforming use/site, registered with MCDPS #238733 (Attachment A). Behind the antique shop is an existing metal garage.



Figure 3 – View of Existing Antique Store and Barn/Shop from the MD97 Service Road (to remain)



Figure 4 – View of Existing Antique Store/Retail and Barn/Shop (to remain) from north (left) and south (right) parking lots

The existing improvements are generally located within the northeastern two-thirds of the site. Portions of these improvements – specifically, two accessory sheds and wooden platform structures – encroach onto the adjacent open space parcel/Pepco right-of-way to the north. The remainder of the Property is mostly lawn with areas of individual trees.

Currently, vehicular access to the Property is via two (2) existing curb cuts from Georgia Avenue Service Road, which runs north to south along the Subject Property. Georgia Avenue is a nine (9)-lane Boulevard with a minimum master planned right-of-way (ROW) of one hundred and fifty (150) feet. Currently, there is a narrow concrete sidewalk on the opposite side of the street, but no bicycle and pedestrian facilities along the frontage of the Subject Property.

The Subject Property is within the North Branch of the Upper Rock Creek Watershed, classified by the State of Maryland as Use Class III waters. The Property is generally flat and slopes away from Georgia Avenue to the west. There is approximately 0.08 acres of forest on the Subject Property, located along the western edge of the Property. The Property contains 15 significant/specimen trees and 0.20 acres of environmental buffers on site associated with an off-site wetland to the west and stream to the north. There are no steep slopes, wetlands, seeps, or springs on the Subject Property. No known rare, threatened, or endangered species or habitats exist on the Subject Property.

SECTION 3: PROJECT DESCRIPTION

PROPOSAL

On December 24, 2024, Little Steps, LLC (“Applicant”) submitted Primrose at 16650 Georgia Avenue, Preliminary Plan No. 120250090 (“Preliminary Plan”), Little Steps Daycare, Conditional Use No. CU202504 (“Conditional Use”) and an associated Final Forest Conservation Plan No. F20240890 (Attachments B-D). The existing antique store, established in the 1900’s, is registered with MCDPS as a legal non-conforming use, including the main structure, detached barn/shop, other accessory buildings, use and associated parking. Only the antique store, detached barn/shop (part of the antique store) and two rows of existing parking will be retained. The existing store and shop are not subject to review as part of the conditional use; however, the Preliminary Plan does take this use into account for the parking calculations and adequate public facilities (APF) review.

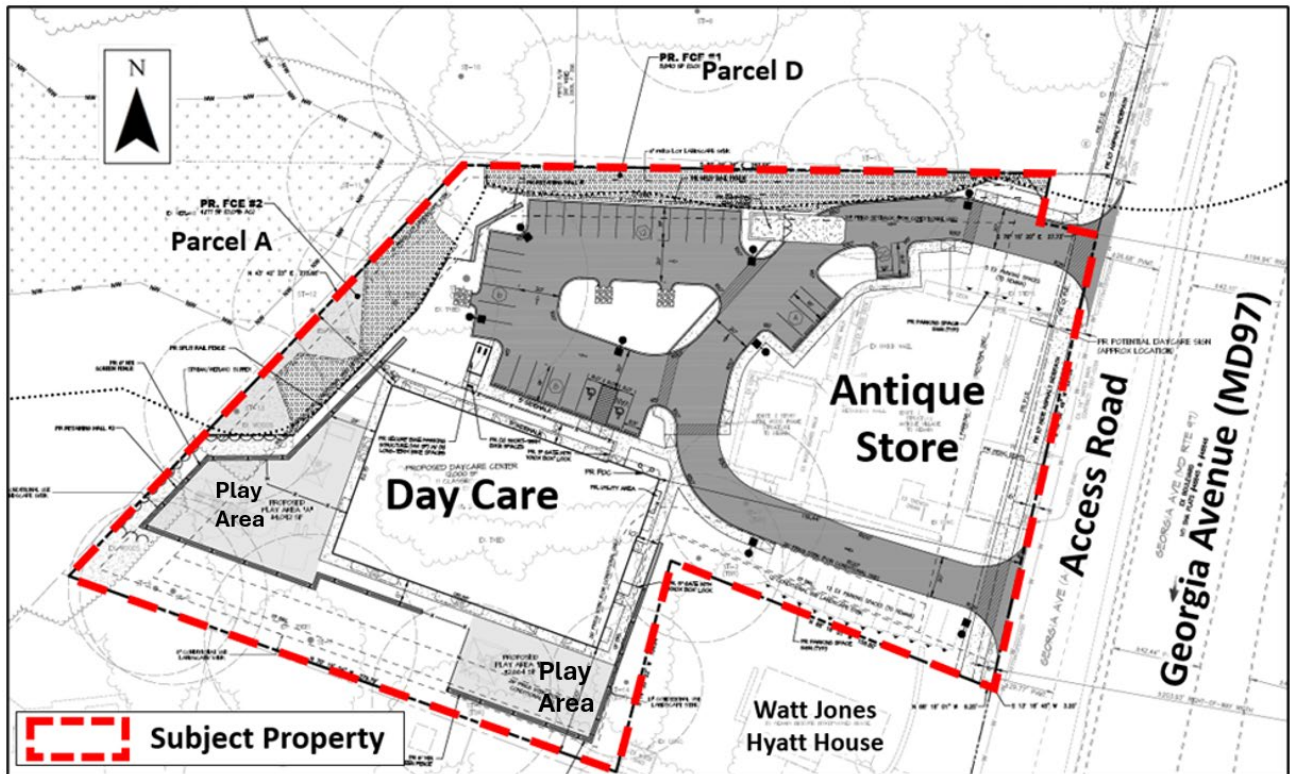


Figure 5 – Preliminary Plan

Conditional Use No. CU202504 is a request to construct a 12,000 square foot building for a Primrose Day Care Center with up to 165 children (“Day Care”), in accordance with Section 59-3.4.4.E of the Montgomery County Zoning Ordinance. The Day Care Center will be open from 6:00 a.m. until 6:30

p.m., Monday through Friday. The Day Care Center will have 35 employees. The Application includes a parking lot with associated landscaping and lighting. The Conditional Use Application also includes a parking waiver request to reduce the number of parking spaces required and a waiver to reduce the minimum side parking setback for a conditional use in a residential detached zone. A shared parking agreement between the Day Care and Antique Store is proposed to accommodate on-site parking.

Preliminary Plan No. 120250090 proposes the subdivision of the existing unrecorded parcel to create one (1) lot on approximately 2.117 acres of land for the Day Care and the existing Antique Shop, which will remain (Figure 5). A preliminary plan of subdivision is required because the Subject Property is an unrecorded parcel, not a recorded lot.

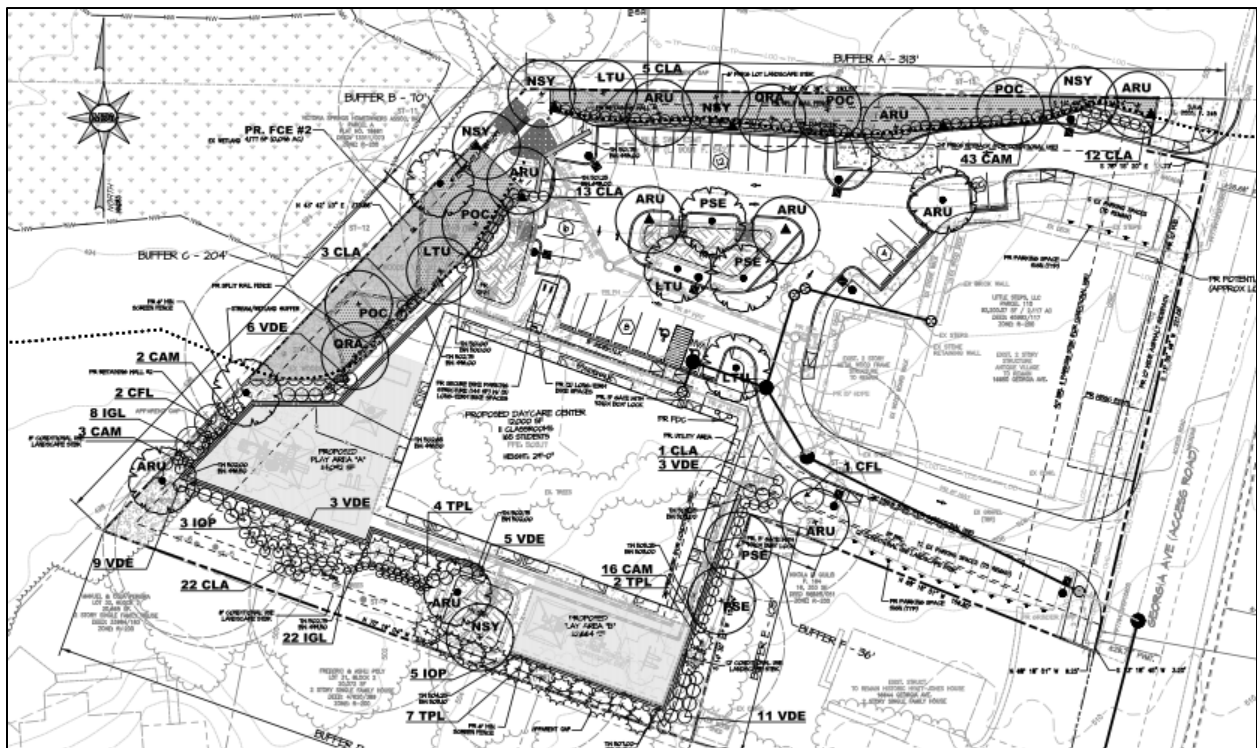


Figure 6 – Overall Composite Plan

The Applicant will construct a new Day Care building up to 12,000 square feet. The building will consist of approximately 11 classrooms, restrooms, an office, a kitchen, a conference room and other accessory rooms. The proposal also includes a new parking lot with associated lighting and landscaping, as well as providing secure bike parking up to 144 square feet for long-term bike storage. Two outdoor play areas are being provided behind the Day Care, totaling approximately 6,756 square

feet. To provide a secure play area and provide screening for the adjacent properties, a six-foot-tall board on board fence will be installed. Additional landscaping is being planted between the fence and Property line to supplement existing vegetation and provide a more robust visual buffer.

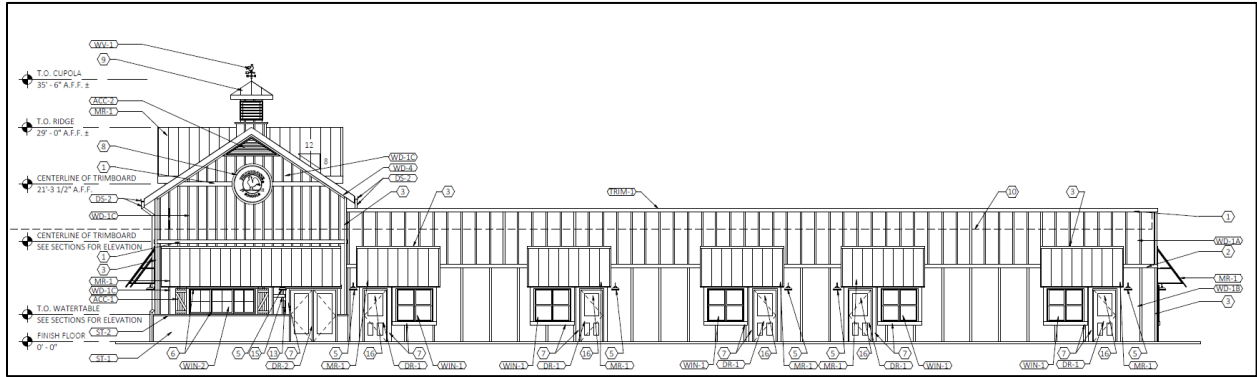


Figure 7 – Day Care Center Front Elevation (North)

The Property is within the W-1 and S-3 water sewer service categories, respectively, and is currently served by public water and on-site septic. The existing water service lines will be upgraded to serve both buildings, and the existing septic system will be abandoned accordingly. Sewer service will be extended (Private/Non-CIP project) approximately 320 feet from an existing main north to the Subject Property, using a grinder pump system. Stormwater management goals will be met by using micro-bioretenion facilities. The MCDPS has granted a partial waiver. Due to site constraints and environmentally sensitive features throughout the Property, the required Environmental Site Design (ESD) volume cannot be fully provided via ESD practices.

BUILDING/ARCHITECTURE

The proposed Day Care building is located at the rear of the Subject Property and is configured with a rectangular footprint. The building is single story with board and batten siding, and a flat roof with a standing seam parapet system. The proposed Day Care center has a flat main roof approximately 18 feet in height with a height of approximately 29 feet at the highest point of the architectural corner embellishment with a cupola above it. The Day Care center will not be clearly visible from Georgia Avenue. The long façades of the building masses are broken up to reduce the overall scale and impact by articulating and punctuating the façade with windows, awnings, and doors.

TRANSPORTATION

The Applicant will retain access via two (2) existing curb cuts from the Georgia Avenue Service Road. As part of this Application, a ten (10)-foot-wide asphalt sidepath with a six (6)-foot-wide street buffer will be constructed along the Site frontage and connect to the existing asphalt sidepath north of the Site. The proposed frontage improvements will provide pedestrian and bicyclist access to the Site.

As part of the off-site improvements mitigation responsibility, as outlined by the Local Area Transportation Review (LATR) Guidelines, the Applicant will be installing two (2) high-visibility crosswalks: one (1) on the south leg of the intersection of Georgia Avenue Service Road and Emory Church Road, and one (1) on the east leg of the intersection of Georgia Avenue (MD-97) and Emory Church Road.

ENVIRONMENT AND CLIMATE

The Subject Property contains fifteen significant and specimen trees, ranging from 25 to 39 inches DBH and 0.08 acres of forest. There are no other environmental features onsite; however, there are streams and wetlands offsite to the north and west.

SECTION 4: COMMUNITY OUTREACH

The Applicant has complied with all submittal and noticing requirements, and a pre-submittal public meeting was held on August 1, 2024.

According to the pre-application meeting minutes (Attachment E), during the meeting, the Applicant answered questions about the development process, how a day care is permitted in a residential zone, and the likely number of students to be enrolled. The Applicant also explained how the onsite parking and drop-off would work and described the proposed screening and landscaping along the southern property line. Community members also ask how the development addresses traffic and safety issues at the intersection of Georgia Avenue and Emory Church Road and confirmed that the traffic analysis does account for the proposed development of a day care at the synagogue (Shaare Tefila) to the south of the site.

As of the date of this Staff Report, no correspondence has been received.

SECTION 5: CONDITION USE

CONDITIONAL USE NO. CU202504

1. Per Section 59.7.3.1.E., to approve a conditional use application, the Hearing Examiner must find that the proposed development:

a) satisfies any applicable previous approval on the subject site or, if not, that the previous approval must be amended.

The Site has no applicable previous approvals. The Applicant submitted the Conditional Use and the Preliminary Plan concurrently. As conditioned, the related Preliminary Plan may not be certified unless the Conditional Use application is approved by the Hearing Examiner.

b) satisfies the requirements of the zone, use standards under Article 59-3, and to the extent the Hearing Examiner finds necessary to ensure compatibility, meets applicable general requirements under Article 59-6;

i. Use Standards

A Day Care Center (Over 30 Persons) means a Day Care Facility for over 30 people where staffing, operations, and structures comply with State and local regulations and is not located in a townhouse or duplex building type.

Per Section 59-3.4.4.E.2, a Day Care Center (Over 30 Persons) may be allowed as a Conditional Use in the R-200 zone if permitted by the Hearing Examiner under Section 59-7.3.1, Conditional Use, and the following specific use standards:

(1) All required parking must be behind the front building line; however, required parking may be located between the structure and the street where the Hearing Examiner finds that such parking is safe, not detrimental to the neighborhood, accessible, and compatible with surrounding properties.

The intent of this section is that the parking will not be visible from the neighborhood and road. All parking associated with the Day Care Center use will be located behind the front building line. The antique store is the most visible building

from Georgia Avenue and serves as a buffer between the road and the proposed parking. All parking in front of the Daycare front building line exists and is intended for the Antique Store's use.

(2) An adequate area for the discharge and pick up of children is provided.

Visitors dropping off children to the Day Care center will be required to park their vehicles and accompany their children into the Center to ensure safe drop-off and pick-up. Accordingly, a drop-off space is not provided. As discussed below, a Shared Parking Analysis was performed to determine the number of parking spaces needed for the uses during the peak parking demand periods. This analysis demonstrated that the Applicant is providing a sufficient number of parking spaces for visitors to park and drop off their children.

Visitors will be able to park and have access to safe pedestrian walkways and sidewalks to enter and exit the Site. Conflict points between vehicles and pedestrians will be minimized, as the internal vehicular circulation is proposed to be one-way. Cars will access the Site from the northside entrance and exit through the southside entrance.

(3) The Hearing Examiner may limit the number of children outside at any one time.

Children will utilize their respective age-appropriate play areas in groups of no more than 20, but typically less. There are two proposed play areas, and play times are staggered during the day. At no time will there be more than two groups of 20 children, totaling more than 40 children, in the play areas. All play areas are fenced for security and buffered along the exterior with landscaping and fencing to reduce noise.

(4) In the RE-2, RE-2C, RE-1, R-200, R-90, R-60, and R-40 zones, the Day Care Center (Over 30 Persons) must be located on a site containing a minimum of 500 square feet of land area per person. The Hearing Examiner may reduce the area requirement to less than 500 square feet, but not less than 250 square feet, per person where it finds that:

- a. the facility will predominately serve persons of an age range that requires limited outdoor activity space;**
- b. the additional density will not adversely affect adjacent properties; and**

c. additional traffic generated by the additional density will not adversely affect the surrounding streets.

The Property has a total land area of 92,200 square feet and is in the R-200 zone. Based on a maximum enrollment of 165 children, the Property will contain approximately 558 square feet of land area per person.

(5) The Hearing Examiner may limit the number of people allowed for overnight care.

The Applicant is not proposing any overnight care with this Application.

(6) In the AR zone, this use may be prohibited Section 3.1.5, Transferable Development Rights.

The Property is in the R-200 zone; therefore, this section does not apply.

ii. **Development Standards**

Table 1: Conditional Use Data Table (R-200 Zone, Standard Method)

Development Standard	Permitted/ Required	Proposed Preliminary Plan	Proposed Conditional Use Plan
Site Area	N/A	2.117 acres (92,200SF)	2.117 acres (92,200SF)
Minimum Lot Area	20,000 SF	2.117 acres (92,200SF)	2.117 acres (92,200SF)
Minimum Lot Width at Front BRL	100 ft.	239 ft.	239 ft.
Minimum Lot Width at Front Lot Line	25 ft.	221 ft.	221 ft.
Principal Building, Min. Setback			
Front	40 ft. min.	178ft.	178 ft.
Side	12 ft. min.	19 ft. (east), 53 ft. (south), 111 ft. (north)	19 ft. (east), 53 ft. (south), 111ft. (north)
Sum of Sides	25 ft. min.	164 ft.	164 ft.
Rear	30 ft. min.	49 ft.	49 ft.
Max. Building Height Day Care Center	50 ft.	36 ft.	36 ft.
Lot Coverage (max)	25% (23, 050 SF)	22.5% (20,719 SF) (including retained building)	22.5% (20,719 SF) (including retained building)
Parking Lot Tree Canopy Coverage	25% (3,607 SF)	25.04% (3,613 SF)	25.04% (3,613 SF)

iii. **General Requirements of 59-6**

(7) Access- 59-6.1

The Applicant will retain the existing points of entry along the Georgia Avenue Service Road, and provide vehicular, pedestrian, and bicyclist access to the Site via the existing two (2) curb cuts, each of which are twenty (20) feet in width. Internal vehicular access has been designed to be one-way. Motor vehicles will access the Site via the existing driveway to the north side of the Property and exit via the existing driveway to the south side.

The proposed ten (10)-foot-wide asphalt sidepath will provide access to non-motorized users to the Site. To facilitate pedestrian and bicyclist circulation in and out of the Site, the proposed ten (10)-foot-wide asphalt sidepath will connect to internal concrete sidewalks and crosswalks to ensure that pedestrians and bicyclists safely enter and exit the Proposed Development.

On the opposite side of the Site, across Georgia Avenue and within 400 feet, there is an existing bus stop that provides both RideOn and WMATA service to the neighboring area and the Shady Grove Metro Station.

(8) Parking, Queuing and Loading-59-6.2

The Conditional Use Plan provides adequate vehicle, ADA, and bicycle parking to serve the proposed uses.

As indicated in Data Table 2 for the Conditional Use Plan, the Applicant is requesting a parking waiver and a shared parking agreement for the proposed parking.

Table 2: Parking Standards for Conditional Use in the R-200 Zone

Vehicle Parking Requirements	Required/Permitted	Proposed Preliminary Plan	Proposed Conditional Use
Total Vehicle Parking	89 min.	49 Total* (17 existing retained and 32 new)	49 Total* (17 existing retained and 32 new)
Antique Store/Retail (5 per 1k Gross leasable area)	53 min.	See Total	See Total
Day Care (3 per 1k GFA)	36 min.	See Total	See Total
Compact (20%)	16 max.	2 spaces	2 spaces
ADA Accessible	3 min.	2 spaces	2 spaces
Van Accessible	1 min.	1 space	1 space
Motorcycle Parking (2%)	3 min.	Not required	Not required
Min. Vehicle Parking Setbacks			
Rear (West)	30 ft.	30 ft.	31 ft.
Sides (North/South)	24/26 ft.	12 ft.**(north)/26 ft. (south)	12 ft.**(north)/26 ft. (south)
Bicycle Parking			
Short-term Spaces (1 per 1k SF)	1 min.	2 min.	2 min.
Long-term Spaces (1 per 1k SF)	3 min.	3 min.	3 min. ¹

*Section 59-6.2.3.1.3.a: Shared parking and parking waiver

**The Applicant is requesting a parking setback waiver per Section 59-6.2.10 (See Figure 8)

a. Shared Parking Agreement

Per Section 59-6.2.3.1.3.a, an applicant proposing development with more than one use may submit a shared parking analysis using the Urban Land Institute Shared Parking Model instead of using the parking table in Section 6.2.4.B. Per the shared parking analysis (Attachment F) submitted with the Conditional Use application, the proposed total of 49 parking spaces are sufficient for the Project.

¹ Long-term spaces are provided in a 144 SF storage room at the front of the Day Care Center building.

The shared parking analysis was performed based on a series of parking surveys conducted for the existing use (antique shop) and an existing Primrose School Day Care. The results of these surveys determined that only 46 parking spaces are needed for the Project during the period of peak demand of parking.

There will be 49 on-site parking spaces provided, including ADA compliant spaces. The existing 17 parking spaces associated with the Antique Store are being retained as non-conforming. The Applicant is constructing 32 new parking spaces, which will be located behind the rear building line of the Antique Store.

All 32 new parking spaces meet the minimum 8.5 foot by 18-foot dimensional requirements and are arranged to allow for safe, efficient and orderly maneuvering. The Applicant is proposing twelve (12) spaces that are 16 feet deep as permitted per Section 59-6.2.5.E.2. These reduced parking spaces will not impede vehicle, bike or pedestrian flow.

A loading space is not required for the Day Care or Antique Store and motorcycle parking spaces are not required for parking facilities with fewer than 50 spaces

b. Parking Waiver

Pursuant to Section 6.2.10, the Applicant is requesting a waiver from providing the required number of parking spaces for the combined Day Care Conditional Use and the existing retail uses on the site. A parking waiver is needed because fewer parking spaces are proposed than required under Section 59-6.2.3.I.3.a. The parking requirements table indicates 89 total spaces are needed. However, and as mentioned above, the shared parking analysis indicates that the proposed 49 spaces are sufficient for the Project.

c. Parking Setback Waiver

The Applicant is requesting relief from Section 59-6.2.5.K.2 – Parking Facilities for Conditional Use in Residential Detached Zones, pursuant to Section 6.2.10 of the Zoning Ordinance.

The required side parking setback for a conditional use in a residential detached zone, with three or more parking spaces, is equal to twice the minimum side setback for the detached house.

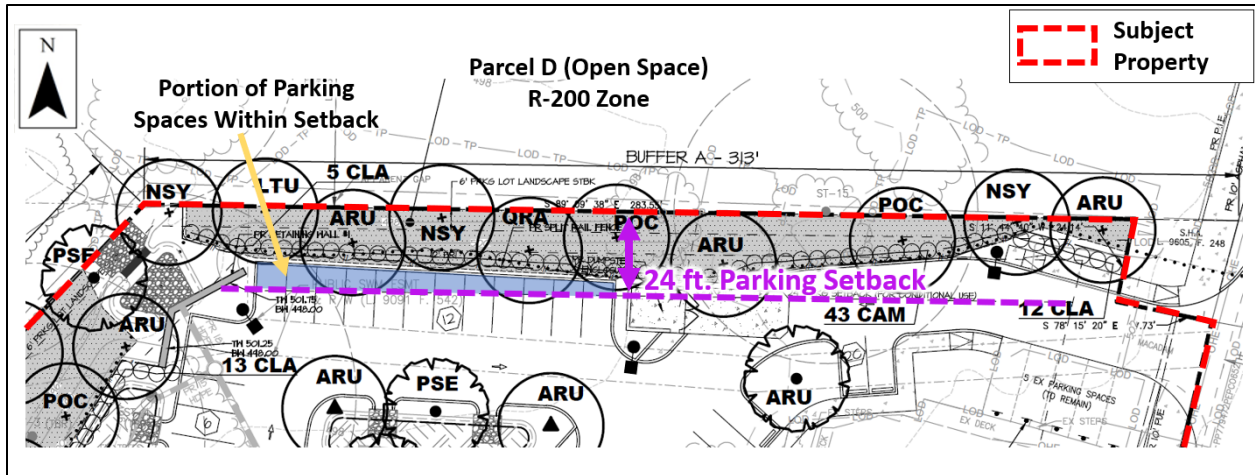


Figure 8 - Parking Setback Waiver

The minimum building side setback for the R-200 zone is 12 feet; therefore, the parking side setback along the northern Property line is 24 feet, double the minimum building setback. However, due to the location of the existing northern entrance into the Property, which is impractical to relocate because of (1) the location of the existing antique shop structure and (2) the irregular shape of the Property, strict adherence to the 24-foot-wide parking lot side setback is not feasible. Due to these constraints, a side parking setback of 12.23 feet is proposed for the 12 parking spaces at this location (Figure 8). Staff supports a reduction in the setback for parking along the north Property line because the abutting parcel is an open space parcel for the adjoining subdivision and there is an 80-foot-wide Pepco easement along the northern shared property line. Accordingly, no houses could be built on the parcel to the north of the Subject Property. The proposed 12-foot setback satisfies the intent of Section 6.2.1 by providing adequate parking in a safe and efficient manner. The proposed parking meets the required parking setback from the Property line to the west.

d. Parking Lot Landscaping and Outdoor Lighting

The Applicant will be planting a variety of native deciduous and evergreen trees and shrubs throughout the Property. These shade trees, including Red Maple, Black Gum, American Sycamore, Black Cherry, Tulip Poplar, and Red Oak will be planted around the perimeter of the parking lot. The trees will shade 25.04% or 3,613 square feet of the 14,428 square foot surface parking lot, which exceeds the minimum 25 % shading requirement and creates depth

in the landscape (Figure 9). The Application includes a variety of new landscaping and lighting throughout the Property.

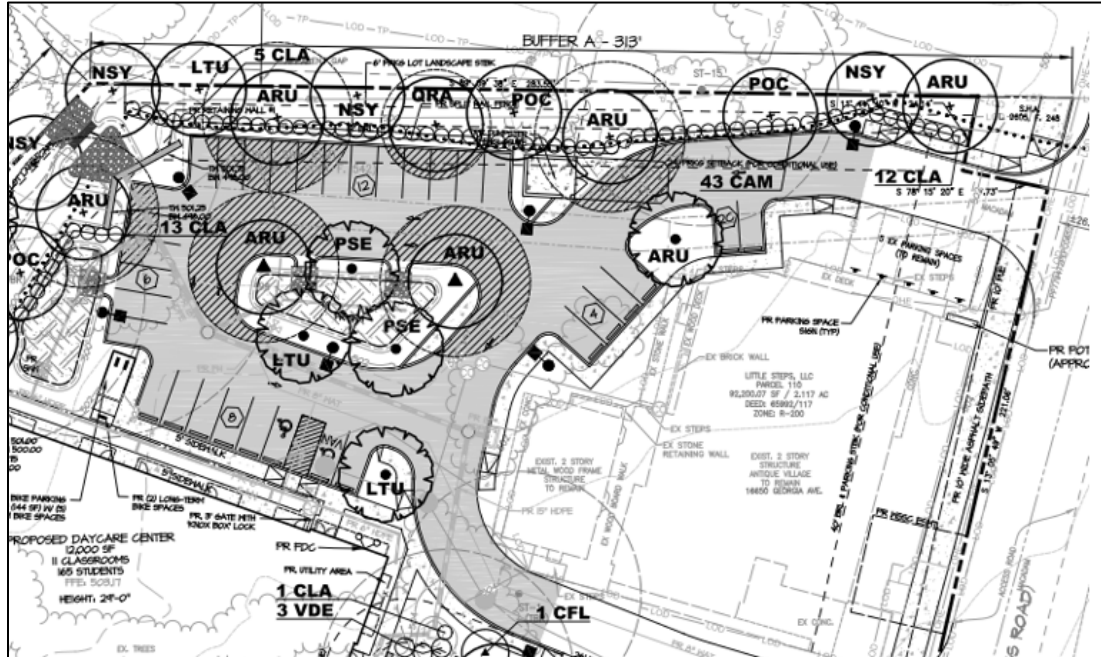


Figure 9 – Parking Lot Tree Canopy Coverage Diagram

The parking lot lights will be 22'-6" tall freestanding pole lights positioned on the perimeter of each parking area. The Applicant has provided an updated Photometrics Plan that shows 0.1 footcandles or less at all property lines. The proposed parking lot lighting will not cause objectionable glare or illumination on the neighboring properties because the Applicant is utilizing full cutoff lighting, side shielding fixtures, and the required landscape screening per Section 59-6.2.9. The proposed lighting is safe and adequate for the Day Care use.

(9) Open Space and Recreation-59-6.3

Open Space and Recreation are not required for a Day Care use or general building type in the R-200 zone.

(10) General Landscaping and Outdoor Lighting- 59-6.4

Shrubs and ground cover will also be planted along the perimeter of the parking area (Figure 10). A 6-foot-high screen fence and landscaping will be

(11) Screening-59-6.5

The Conditional Use proposes a day care use in a general building type in the R-200 zone (Residential Zone) and abuts property zoned R-200 to the north, west and south. The parcels of land to the north (Parcel D) and west (Parcel A) are unimproved open space parcels owned by the Adjacent Victoria Springs Homeowners Association. The three houses to the south and the abutting Historic House are in the R-200 zone. Under Section 59-6.5.2 of the Zoning Ordinance, screening is required between the proposed building and all residentially zoned property that is vacant or improved with an agricultural or residential use. Perimeter plantings are also required between the parking lot and residentially zoned property improved with miscellaneous uses (open space) to the north and west per Section 59-6.2.9.C.3.b.

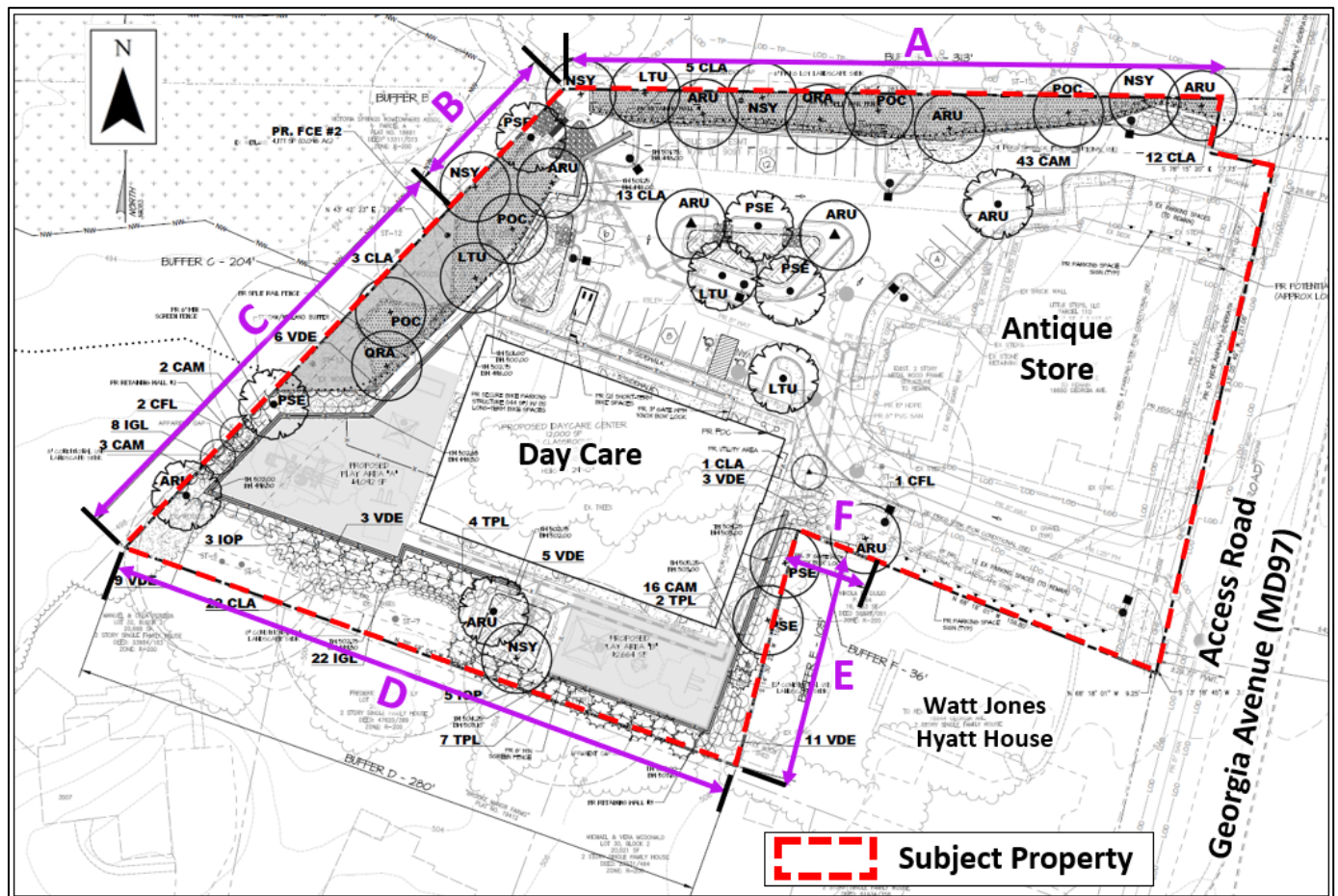


Figure 11 – Screening Plan

The Conditional Use satisfies the screening requirement within six buffer segments (A-F), with segments C and D including modifications to the standard screening using Alternative Compliance, pursuant to Section 6.8.1 of the Zoning Ordinance.

Segments A (north) and B (west) provide standard perimeter planting around the parking lot per Section 6.2.9, which requires: a minimum of 10 feet in width, a hedge or fence, a minimum of 6 feet high, a canopy tree planted every 30 feet on center and a minimum of 2 understory trees for every canopy tree. Segment F provides a buffer between the drive aisle and adjacent residential house using similar plantings.

Section 59-6.5.3.C.7 requires certain planting requirements for conditional uses in residential detached zones. Segments C through E provide screening between the building, adjacent open space and existing residences to the south and east (Figure 11).

Segments C used a modified screening standards (alternative compliance), including a 6-foot-tall screen fence that will sit slightly above the Day Care site because it will be installed on top of a proposed retaining wall. The modified screening area varies in depth and will be planted with deciduous trees and shrubs to supplement the existing trees that are being retained. The proposed retaining wall, fence, and new landscaping meet the intent of the code for screening by providing additional screening to the surrounding neighbors and therefore Staff supports the Alternative Compliance. Segment E is 8 feet deep and meets the Option A screening requirements per Section 59-6.5.3.C.7, including a 6-foot-tall board on board fence.

With a modified version of the planting plan in Section 59-6.5.3.C.7, the proposed design will provide adequate screening between the Day Care building and abutting properties in the R-200 zone. Additional screening is not needed along the front of the Property because the existing antique store provides sufficient screening of the parking and building from Georgia Avenue.

(12) Signage-59-6.7

The conditional use site plan shows a potential daycare ground sign near the north entrance to the parking lot. Also, the architectural plans show two potential signs on the building. Details for the signs have not been submitted with the Conditional Use, but all signs will need to conform to the sign

regulations in Chapter 59. The Applicant will need to apply for sign permits with the MCDPS Zoning Section before installing any new signs.

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

The Site is located within the 2005 *Olney Master Plan* (“Master Plan”) area. It is in the “Southern Olney” plan neighborhood. The Master Plan maintains Olney as a “satellite town” and focuses on improving the land-use patterns “through infill development, preserving open space, and upgrading existing facilities” (p. 3).

The Master Plan generally directs commercial growth to the Town Center and discourages the proliferation of commercial uses outside the Town Center to protect existing communities from potential negative impacts of growth (p. 41). The Master Plan “recommends that the existing low-density character of Georgia Avenue between Norbeck Road and the Town Center be reinforced through careful design of future road improvements and a significant setback from the road for all new developments. Special exceptions with the potential to create a commercial appearance along major roads are discouraged” (p. 4). The Master Plan states that “Georgia Avenue between Norbeck Road and the Town Center should have an open, semi-rural appearance to mark the transition from more densely populated areas south of Norbeck Road to the low-density suburban character of Olney” (p. 41). It recommends a minimum 100-foot setback from Georgia Avenue along this stretch and recommends that “future special exceptions along this area should be landscaped such that they are not visible from the road” (p. 41). The Master Plan specifically recommends against lighting that produces a halo effect or nightglow.

While a day care is a commercial operation, it is considered an “institutional use” that operates more like a school than the retail-oriented commercial uses the Master Plan discourages outside the town center. A day care would support the residential uses in the area. The Application shows extensive new plantings surrounding the proposed building, playgrounds, and parking areas, including screening of the building from Georgia Avenue, so the impacts on the surrounding neighborhood should be minimal. Because the proposed building will be behind the existing building on the site and the neighboring historic house along Georgia Avenue, it will have a negligible impact on the view from the road. The Applicant will also remove a couple of existing sheds that are visible from Georgia Avenue and create a cluttered look to the site, which will further improve the appearance from the road. The landscape plan submitted with the associated Conditional Use plan shows sufficient screening in front of the day care building when viewed from Georgia Avenue.

The Master Plan encourages conditional use projects to be compatible with “adjoining uses in terms of height, size, scale, traffic and visual impact of the structures and parking lots” (p. 42). The proposed day care facility is one story tall and includes architectural features typically used on residential buildings. The Day Care will be consistent in appearance and scale with the neighborhood. The new parking areas and traffic circulation will not be visible from the nearby residential uses. The lighting proposed by the Applicant is the minimum amount necessary for safety and will not adversely affect surrounding properties.

The environmental recommendations in the Master Plan emphasize the protection of natural resources. The Property is in the Upper Rock Creek watershed but was not included in the Special Protection Area (SPA) because the area was already built out at the time and most existing uses would have become non-conforming in the SPA due to its more intense zoning and existing imperviousness. The Master Plan recommends that new developments use environmentally sensitive development techniques to maximize stormwater treatment and infiltration. The Applicant has received an approved stormwater management concept from the MCDPS, Water Resources Section (Attachment G).

The Master Plan recommends Georgia Avenue (MD 97) as a 4-lane, divided road with a 150-foot right-of-way and a shared-use path along Georgia Avenue. The Application shows a 10-foot-wide sidepath along its frontage.

The proposed day care building reinforces the residential character of this section of Georgia Avenue and is not the type of retail or service use that the Master Plan discourages outside the town center. The subdivision substantially conforms with the Master Plan.

d) is harmonious with and will not alter the character of the surrounding neighborhood in a manner inconsistent with the plan;

The surrounding neighborhood is largely residential, except for the Property itself, which is developed with multiple commercial structures associated with the antique shop. There is also a small strip shopping center located to the north of the Property. The proposed day care center use is harmonious with the existing antique shop use that is to remain on the Property. The Day Care Center use is harmonious with the surrounding residential uses because Day Care Centers are a local service use and will directly serve the surrounding community. Because the proposed Day Care Center is being located behind the existing antique shop buildings, the visual impact on the surrounding neighborhood will be minimal. Lastly, the landscaping, forest retention, specimen tree retention and reforestation will be utilized to further screen the Day Care Center from the surrounding

properties.

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

The surrounding neighborhood does not have any existing Special Exceptions or Conditional Uses. The approval of this Application will not adversely impact or alter the predominant residential character of the neighborhood. The site design and layout will ensure minimal impact on the residential character of the neighborhood. The proposed Day Care Center will be located behind the existing antique shop building, which will screen the proposed Day Care Center building from the view from the Property's frontage along Georgia Avenue. In addition, landscaping, forest retention, specimen tree retention and reforestation will be utilized to further screen the Day Care Center from the surrounding properties. As outlined in the Master Plan section above, the proposed Day Care Center substantially conforms to the Master Plan and does not alter the area's character.

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

The Project will require submittal of a subsequent Preliminary Plan application, and the Planning Board will determine the adequacy of the public facilities. Staff have conducted a preliminary analysis of transportation impacts as described below.

The Applicant has filed the Preliminary Plan concurrently with the Conditional Use Plan, and the Planning Board must make the appropriate findings regarding adequate public facilities.

(1) Transportation

Master-Planned Roadways and Bikeway

The Property fronts an access road, parallel to Georgia Avenue (MD 97), a State-owned and maintained street. Under the 2005 *Olney Master Plan*, there are no master planned streets for this Site. The 2018 *Bicycle Master Plan* recommends a ten (10)-foot-wide asphalt sidepath along the Site's frontage.

As part of the Application, the Applicant will accommodate all frontage improvements within the existing right-of-way, except the ten-foot-wide (10 ft) asphalt sidepath, along the Subject Property frontage for Georgia Avenue. Additionally, to conform with the 2018 *Bicycle Master Plan*, the Applicant is responsible for installing a ten (10)-foot-wide asphalt sidepath, separated from traffic by a six (6)-foot-wide street buffer, along the frontage of the Property, on the west side of the access road. This facility will connect to the existing asphalt sidepath north of the Subject Property. The proposed ten-foot-wide (10 ft) asphalt sidepath will be located in a new variable (17 to 19 foot) width Public Improvement Easement (PIE), as approved by MDOT SHA (Attachment G).

Pedestrian Facilities

Currently, there are no pedestrian facilities along the Property's frontage. However, there is an existing narrow concrete sidewalk in the median, separating the access road and Georgia Avenue (MD97). Additionally, there is an existing sidepath north of the Site that provides both pedestrian and bicyclist access to areas adjacent to the Site.

The proposed development will provide safe and efficient pedestrian and bicyclist access to the area. The Applicant will construct a ten (10)-foot-wide asphalt sidepath, separated from traffic by a six (6)-foot-wide street buffer. This facility will extend north of the Site, connecting to the existing asphalt sidepath located along the adjacent Property.

The Applicant has obtained permission from the adjacent property owner, the Victoria Springs HOA, to extend the asphalt sidepath. The Victoria Springs HOA will provide the required easement to make this sidepath connection possible, as stated in its letter dated October 8, 2025 (Attachment H). This permission will enable the Applicant to extend and connect the proposed ten (10)-foot-wide asphalt sidepath to the existing asphalt sidepath to the north. Before construction, the Applicant will file the necessary permits with PEPCO to allow construction of the path, which crosses a portion of the HOA Property that is also encumbered by a PEPCO easement.

Transit Service

The closest bus stop is located on the opposite side of the Site within 400 feet, across Georgia Avenue. This bus stop provides both RideOn and WMATA service to the neighboring area and to the Shady Grove Metro Station. To the north, and within 500 feet, there is also another bus stop that provides RideOn and WMATA service to the neighboring area and the Wheaton Metro Station.

Local Area Transportation Review

The Applicant exceeded the 50 net new person-trip threshold set in the *2020-2024 Growth and Infrastructure Policy (GIP)* and therefore provided a full Transportation Impact Study (TIS) that addressed Local Area Transportation Review (LATR) Guidelines. LATR is satisfied, and no further transportation analysis is required as part of this Application. A summary of the findings and off-site mitigation improvements is discussed in the Preliminary Plan findings section below.

(2) Schools

Residential development is not proposed by this Application; therefore, this finding does not apply.

(3) Other Public Facilities

The Property is located within water and sewer categories W-1 and S-3 and is serviced by an existing on-site septic system and an existing a water line from the 16-inch water located in the Georgia Avenue right-of-way. Water and sewer

needs are expected to be met by the Washington Suburban Sanitary Commission (“WSSC”) by extending the water and sewer lines (Attachment G). The Applicant has an approved Hydraulic Planning Analysis from WSSC approving the Applicant’s request to extend gravity sewer service to the Property from the terminus of Tavenner Court (approximately 325 feet south) via a new 8-inch sewer line. A new on-site grinder pump (private) will tie on site services to the new gravity sewer line. Other utilities, public facilities and services, such as electric, telecommunications, police stations, firehouses, and health services are currently operating within the standards set by the 2020-2024 Growth and Infrastructure Policy in effect at the time the Application was submitted. The Applicant has an approved Stormwater Management Plan from MCDPS Water Resources and an approved Fire Department Access Plan from MCDPS. Accordingly, all public facilities will be adequate.

g) will not cause undue harm to the neighborhood as a result of a non-inherent adverse effect alone or the combination of an inherent and a non-inherent adverse effect in any of the following categories:

- i. the use, peaceful enjoyment, economic value or development potential of abutting and confronting properties or the general neighborhood;***
- ii. traffic, noise, odors, dust, illumination, or a lack of parking; or***
- iii. the health, safety, or welfare of neighboring residents, residents, visitors, or employees.***

This finding requires consideration of the inherent and non-inherent adverse effects of the proposed use on nearby properties and the general neighborhood. Section 59-1.4.2 of the Zoning Ordinance defines inherent adverse effects as “adverse effects created by physical or operational characteristics of a conditional use necessarily associated with a particular use, regardless of its physical size or scale of operations.” Inherent adverse effects alone are not a sufficient basis for denial of a conditional use.

Non-inherent adverse effects are defined as “adverse effects created by physical or operational characteristics of a conditional use not necessarily associated with the particular use or created by an unusual characteristic of the site.” Non-inherent adverse effects are a sufficient basis to deny a conditional use, alone or in combination with inherent effects, if the adverse effect causes “undue” harm to the surrounding neighborhood. When analyzing whether impacts are inherent or non-inherent, Staff examines the size, scale, scope, light, noise, traffic and environmental effects of the proposed use.

Staff identified the following physical and operational characteristics necessarily associated with (i.e., inherent to) a Day Care Center use:

- vehicle trips to and from the Property
- drop-off and pick-up areas
- noise generated by children playing outdoors
- lighting for safety and security

The vehicle trips will utilize the existing entrance from the service road currently used by the antique store. The parking lot and drop-off areas are well screened from the neighboring residential houses to the north by the proposed screening and the existing forested HOA parcel. The building and proposed landscaping will screen the parking lot and drop off areas from the properties to the south of the Property. The children are required to be walked into the building; therefore, the proposed parking spaces will be used for all children's drop-off and pick-up. The outdoor play area will be enclosed with a six-foot-high screen fence to buffer noise from the children within the play area. At no time will there be more than 40 children in the outdoor play area at any one time. The outdoor play areas will also be screened with landscaping to help reduce noise. The photometric plan shows that the lighting at the Property lines will be 0.1 footcandles or less, so the lighting will not bleed over to neighboring properties.

Staff did not identify any non-inherent characteristics of the proposed use on the Property.

The proposed use will not cause undue harm to the neighborhood as a result of non-inherent adverse effects alone or the combination of inherent and non-inherent adverse effects.

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

The surrounding neighborhood is largely residential, except for the Property itself, which is developed with multiple commercial structures associated with the antique shop. There is also a small strip shopping center located to the north of the Property. Due to the siting of the proposed Day Care Center building behind the existing antique shop buildings, the visual impact to the surrounding neighborhood will be minimal. The new parking areas and traffic circulation will not be visible from the nearby residential uses. Lastly, the landscaping,

fencing, forest retention, specimen tree retention, and reforestation will be utilized to further screen the Day Care Center from the surrounding properties.

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

As described in this Staff Report, the Applicant is meeting all the requirements of the findings for a Day Care Center (Over 30 Persons) per Section 59-3.4.4.E of the Zoning Ordinance, as well as the general requirement for Conditional Uses per Section 59-7.3.1.E. The Applicant has demonstrated that the proposed use is compatible with the surrounding properties. The proposed use as described above will not cause adverse effects on the surrounding neighborhood.

- 4. *In evaluating the compatibility of an agricultural conditional use with surrounding Agricultural or Rural Residential zoned land, the Hearing Examiner must consider that the impact does not necessarily need to be controlled as stringently as if it were abutting a Residential zone.***

An agricultural use is not proposed; therefore, this section does not apply.

- 5. *The following conditional uses may only be approved when the Hearing Examiner finds from a preponderance of the evidence of record that a need exists for the proposed use to serve the population in the general neighborhood, considering the present availability of identical or similar uses to that neighborhood:***

- a) *Filling Station;***
- b) *Light Vehicle Sales and Rental (Outdoor);***
- c) *Swimming Pool (Community); and***
- d) *the following Recreation and Entertainment Facility use: swimming pool, commercial.***

None of the aforementioned uses are proposed; therefore, this section does not apply.

- 6. *The following conditional uses may only be approved when the Hearing Examiner finds from a preponderance of the evidence of record that a need exists for the proposed use due to an insufficient number of similar uses presently serving existing population concentrations in the County, and the uses at the location proposed will not result in a multiplicity or saturation of similar uses in the same general neighborhood:***

- e) *Funeral Home; Undertaker;***
- f) *Hotel, Motel;***

- g) Shooting Range (Outdoor);**
- h) Drive-Thru**
- i) Landfill, Incinerator, or Transfer Station; and**
- j) a Public Use Helipad, Heliport or a Public Use Helistop.**

None of the aforementioned uses are proposed; therefore, this section does not apply.

SECTION 6: PRELIMINARY PLAN 120250090 FINDINGS AND ANALYSIS

The Preliminary Plan would create one (1) lot, measuring approximately 2.12 acres of Site area, for a Day Care Center with up to 165 students and an existing 10,552 square foot existing non-conforming Antique Store. This Application has been reviewed for compliance with the Montgomery County Code, Chapter 50, the Subdivision Regulations. The Application has been reviewed by other applicable State and County agencies.

- 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.**

The lot size, width, shape and orientation are appropriate for the location of the subdivision, taking into account the recommendations of the Master Plan, proposed Day Care center, and existing antique store, a non-conforming structure and use². Day Care Center (Over 30 Persons) is an allowed use in the R-200 zone as a conditional use, and the proposed lot provides sufficient space to accommodate the proposed development, applicable easements, and the infrastructure necessary to support it, such as utilities, parking, stormwater management, landscape screening and open space, while respecting the established setbacks, as modified.

With the modified parking lot setback, shared parking agreement and parking waiver are requested as part of the Conditional Use, the proposed lot will meet all dimensional requirements for area, frontage, width, and setbacks in the R-200 zone. A summary of this review is included in Conditional Use Table 1.

- 7. The Preliminary Plan substantially conforms to the Master Plan.**

² The Antique Store was not reviewed for compliance because the use is a Certified non-conforming use.

As discussed above in the Master Plan section of the Conditional Use findings the Project substantially conforms to the 2005 *Olney Master Plan*.

8. Public facilities will be adequate to support and service the area of the subdivision.

a) Roads and other Transportation Facilities

i. Existing Facilities

As previously mentioned in the Conditional Use findings section, there are no pedestrian facilities along the Site's frontage. On the opposite side of Georgia Avenue, there is an existing substandard concrete sidewalk.

ii. Proposed public transportation infrastructure

As stated above in the Conditional Use findings section, the Applicant will provide a ten-foot-wide (10 ft) asphalt sidepath separated from traffic by a six-foot-wide (6 ft) street buffer along the Property frontage.

iii. Proposed private transportation infrastructure

As part of this Project, the Applicant is required to provide a minimum of three (3) long-term and two (2) short-term bicycle parking spaces. The long-term bicycle parking spaces will be located in a protected and sheltered bicycle cage adjacent to the parking area, in compliance with Section 6.2.6.B of the Montgomery County Zoning Ordinance. An inverted "U-Rack" will be provided to satisfy the requirement for short-term bicycle parking spaces and will be located adjacent to the daycare building.

b) Local Area Transportation Review (LATR)

c) Travel Mode Adequacy Test

The Proposed Development falls under the Olney Policy Area, a Yellow Policy Area under the 2020-2024 *Growth and Infrastructure Policy (GIP)*. Projects that generate more than 50 net new person-trips are required to submit a full Transportation Impact Study (TIS) that addresses the Local Area Transportation Review (LATR) Guidelines. The Proposed Development is expected to generate 162 net new person-trips during the morning peak hours and 153 net new person-trips during the afternoon peak hours (Table 3).

Use	Quantity	AM ITE Vehicle Rates	PM ITE Vehicle Rates	AM Adjusted Policy Area Rates	PM Adjusted Policy Area Rates	AM Person Trips	PM Person Trips
Proposed Day Care Center ITE-565	165 students	127	122	127	122	166	160
Existing Strip Retail Plaza (ITE-822) + Warehouse (ITE-150)	658 SF + 5,929 SF	3	5	3	5	4	7
Net Change						162	153

Table 3: Trip Generation for the Proposed Use, provided by Lenhart Traffic on September 16, 2024.

For Yellow Policy Areas, the GIP requires motorized and non-motorized adequacy tests. The Project’s estimated transportation impact necessitates that the Transportation Impact Study (TIS) evaluate all four (4) travel mode adequacy tests: Motor Vehicle System, Pedestrian System, Bicycle System, and Bus Transit System. The Applicant performed capacity analyses at three (3) key identified intersections to compare the future street conditions with and without the Proposed Development. The results showed that two (2) key intersections will exceed the Critical Lane Volume (CLV) threshold during the morning peak hours³: Georgia Avenue (MD-97) and Emory Church Road, and Georgia Avenue and Emory Lane (Table 4 below).

Intersection	Delay Standard	AM Existing Conditions	PM Existing Conditions	AM Background Conditions	PM Background Conditions	AM Total Conditions	PM Total Conditions
1. Georgia Avenue (MD-97) and Emory Church Road	1350 CLV	1418	1524	1185	1247	1524	1247
2. Georgia Avenue (Service Road) and Emory Church Road	1350 CLV	101	225	107	225	225	225
3. Georgia Avenue (MD-97) and Emory Lane	1350 CLV	1383	1400	1284	1303	1400	1303

Table 4: Existing and Future Traffic Impact, Intersection CLV Delay Results

³ The CLV threshold for Yellow Policy Areas is 1,350 or less. If an intersection exceeds this threshold, additional analysis is required.

The GIP and the LATR Guidelines state that intersections that exceed the CLV threshold are subject to additional analysis using the Highway Capacity Manual (HCM) methodology. Therefore, the aforementioned intersections that exceeded the CLV threshold were studied during the morning peak hours using HCM analysis. The results of the HCM analysis concluded that both intersections will operate under the 55-second delay threshold (Table 5 below). As such, all intersections are adequate to support the Proposed Development, and no further analysis or mitigation is required.

Intersection Number and Name	Existing and Background AM	Total Future AM	Exceeds HCM Threshold?
1. Georgia Avenue (MD-97) and Emory Church Road	37.2	53.5	No
3. Georgia Avenue (MD-97) and Emory Lane	43.8	43.6	No

Table 5: Existing and Future Traffic Impact, Intersection HCM Results

In addition to the motor vehicle adequacy test, as part of this Application, non-motorized adequacy analyses were completed consistent with the LATR Guidelines.

- The pedestrian system adequacy was evaluated within 400 feet of the Site. Based on the Pedestrian Level of Comfort (PLOC) review performed by the Applicant, several sections of pathway and crossings within the 400-foot walkshed did not meet the PLOC standards. Potential improvements were identified to improve the PLOC standards. Given the cost constraints established with the proportionality guide, most of these improvements were deemed unfeasible. However, within the established proportionality amount, the Applicant is able to provide two (2) high-visibility crosswalks: one (1) on the south leg of the intersection of Georgia Avenue Service Road and Emory Church Road, and one (1) on the east leg of the intersection of Georgia Avenue (MD-97) and Emory Church Road.

An ADA compliance review was also conducted within 200 feet of the Site. Results showed that all sidewalks, crossings, and ramps comply with ADA requirements.

The street lighting review was conducted within 400 feet of the Site. Results showed that the existing street lighting does not meet the adequacy requirements of Montgomery County, specifically regarding the spacing of the light poles. The Applicant identified potential improvements. However, given the cost constraints established with the proportionality guide, most of these improvements were deemed unfeasible, and priority is given to the pedestrian off-site improvements outlined above.

- The bicycle system adequacy was evaluated within 400 feet of the Site. Based on the Bicycle Level of Traffic Streets (BLTS) review performed by the Applicant, several sections of the bicycle system do not meet the BLTS adequacy standards. However, along the frontage of the Site, BLTS adequacy standards are met. As part of this Application, an eleven (10)-foot-wide asphalt sidepath, separated from traffic by a six (6)-foot-wide street buffer, is being constructed, which will contribute to improving BLTS adequacy in the area.
- The transit adequacy system was evaluated within 1,000 feet of the Site. There are two (2) bus stops located within the study area, neither of which includes benches, bus shelters, or real-time information. Given the cost constraints established with the proportionality guide, most of these improvements were deemed unfeasible. As mentioned below, the set dollar amount will prioritize pedestrian improvements, including the installation of two (2) high-visibility crosswalks.

The Applicant is responsible for providing off-site improvements, as set forth under the GIP and LATR Guidelines. Based on the LATR Proportionality Guide, a maximum cost of improvements of \$4,752.00 was established for this Application. As previously mentioned, the Applicant will be providing two (2) high-visibility continental crosswalks: one (1) on the south leg of the intersection of Georgia Avenue Service Road and Emory Church Road, and one (1) on the east leg of the intersection of Georgia Avenue (MD-97) and Emory Church Road.

Map ID	Project Location	Project Description	Construct	Project Cost
1	South leg of the intersection of Georgia Avenue Service Road and Emory Church Road	Install a high-visibility crosswalk	Yes	\$1,313.66
2	East leg of the intersection of Georgia Avenue (MD-97) and Emory Church Road	Install a high-visibility crosswalk	Yes	\$2,101.86
Total Cost of Off-Site Improvement Projects				\$3,415.52
Set Dollar Amount by the LATR Proportionally Guide				\$4,752.00
Remaining Dollar Amount for the Project				\$1,336.48

Table 6: LATR Mitigation Project List

Based on the analyses performed, public transportation facilities will be adequate for the Proposed Development, and the aforementioned off-site mitigation projects are sufficient to fulfill their responsibility to mitigate the impact this Project will have on the area.

d) Other Public Facilities and Services

The Property is served by public water and sewer and is classified as W-1 and S-3 categories. Public water and sewer mains currently serve the Property, which will be adequate to serve the proposed subdivision. The Applicant has an approved Hydraulic Planning Analysis (HPA) through WSSC to install a grinder pump to connect to the sewer system.

The Application has been reviewed by the Montgomery County Department of Permitting Services, Fire Department Access and Water Supply Section. The Application has received an approved Fire Access Plan based on the letter dated March 19, 2025 (Attachment G).

Dry utilities, including electricity, gas, and telephone are also available to the Property. Other utilities, public facilities and services, such as electric, telecommunications, police stations, firehouses and health services are currently operating within the standards set by the Growth and Infrastructure Policy currently in effect.

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

The Application satisfies all of the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A, and is in compliance with the Montgomery County Planning Department’s Environmental Guidelines, as further discussed in the findings for the accompanying Forest Conservation Plan F20240890.

10. 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. MCDPS Water Resources Section approved a Combined Stormwater Management Concept/ Site Development Stormwater Management Plan on January 24, 2025 (Attachment G). The Application proposes to meet the required stormwater management goals using micro-bioretenion facilities. A partial waiver has been granted by MCDPS due to site constraints and environmentally sensitive features throughout the Property, the required ESD volume cannot be fully provided via ESD practices. Structural practices were explored, and the available vertical fall and utilities make them infeasible.

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

There is no evidence, actual notice, or constructive notice of a burial site on the Subject Property. The Subject Property is not included in the Montgomery County Inventory.

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

As mentioned, the accompanying Conditional Use (CU202504) must be approved by the OZAH before the Preliminary Plan can be certified. .

SECTION 8: FOREST CONSERVATION PLAN F20240890 FINDINGS AND ANALYSIS

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

The Application meets the requirements of Chapter 22A, the Montgomery County Forest Conservation Law (“FCL”) and the Montgomery County Planning Department’s *Guidelines for Environmental Management of Development in Montgomery County* (“Environmental Guidelines”). As required by

Chapter 22A, an FCP was submitted with Conditional Use No. CU202504 and Preliminary Plan No. 120250090 (“Accompanying Plans”).

FOREST CONSERVATION

Natural Resource Inventory/Forest Stand Delineation Plan

The Natural Resource Inventory/Forest Stand Delineation (“NRI/FSD”) No. 420240770 for this Property was approved on January 2, 2024. The NRI/FSD identifies the environmental features and forest resources on the Subject Property. The Subject Property is located within the Upper Rock Creek watershed, classified as a Use Class III-P watershed by the State of Maryland. The NRI/FSD identified 0.08 acres of forest, no wetlands, no streams, no floodplains, and 0.20 acres of Stream Valley Buffers on the Subject Property. The site contains five specimen trees and 10 significant trees.

Forest Conservation Plan

The Applicant has submitted a Final Forest Conservation Plan No. F20240890 (“FFCP”) (Attachment D) for concurrent review with the Preliminary Plan No. 120250090 and Conditional Use CU No.202504. The Application satisfies the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A and is in compliance with the Montgomery County Planning Department’s approved Environmental Guidelines.

The Subject Property is zoned R-200 and is assigned a Land Use Category of Institutional Development Area (“IDA”) as defined in Section 22A-3 of the Montgomery County Forest Conservation Law (“FCL”) and in the Land Use Table of the Trees Technical Manual. This results in afforestation and conservation thresholds of 20% and 25% of the Net Tract Area, respectively.

The Net Tract Area for forest conservation purposes is 2.35-acres (2.11 net tract area plus 0.24 acres of offsite improvements. There is 0.08 acres of existing forest on the Subject Property, and the Applicant is proposing to remove 0.04 acres. This results in a total afforestation/reforestation requirement of 0.46 acres within the same watershed, or Priority Area or 0.48 acres outside of the same watershed or Priority Area. The Applicant proposes to meet this planting requirement by planting 0.14 acres of onsite planting which will be given landscape credit and 0.34 acres offsite via an offsite bank. Landscaping credit was applied to meet the afforestation requirements and is permitted under the Trees Technical Manual. The areas of onsite landscape credited plantings planting will be placed in a Category I conservation easement because they are also Stream Valley Buffer.

PRIORITY FOREST REMOVAL

The Subject Property includes .08 acres of forest designated as a high priority for retention, as the Property is located within a Priority Urban Forest area, as mapped by the Maryland Department of

Natural Resources (DNR). FCP No. F20240890 proposes clearing .04 acres of forest and meeting Forest Conservation requirements off-site. Per Sec. 22A-12(b) of Forest Conservation Law, the forest conservation plan must retain certain vegetation and specific areas in an undisturbed condition unless specific findings are made.

Priority Forest Removal Findings

The following determinations are based on the required findings for the removal of priority forest:

1. *The development would make maximum use of any available planning and zoning options that would result in the greatest possible forest retention.*

The Property is already developed with an antique mall/shop at the front (east) edge of the Property. The proposed development locates all the proposed development to the rear (west) side. The Applicant is balancing site requirements for stormwater management, transportation, and fire access, with the need of the new day care center (over 30 persons) use, including parking and outdoor play areas. There are no other planning and zoning options available to minimize additional forest loss.

2. *Reasonable efforts have been made to protect the specific areas and vegetation listed in the plan.*

The active forest clearing within the LOD has been minimized with only 0.04 acres of forest clearing. Although the disturbance has been minimized, the forest setting and location made it impossible to achieve the project's goals and protect the entire forest.

3. *The development proposal cannot be reasonably altered.*

The utilities, stormwater management and storm drains are designed and proposed in the locations they are shown based on where they are needed by existing structures, tie ins, and existing grades of the site and cannot be avoided.

Recommendation On The Removal of Priority Forest

Staff recommends approval of the request to remove 0.04 acres of priority forest as the Applicant cannot avoid the forest loss while still meeting the day care play area, stormwater management, storm drain, and ADA requirements.

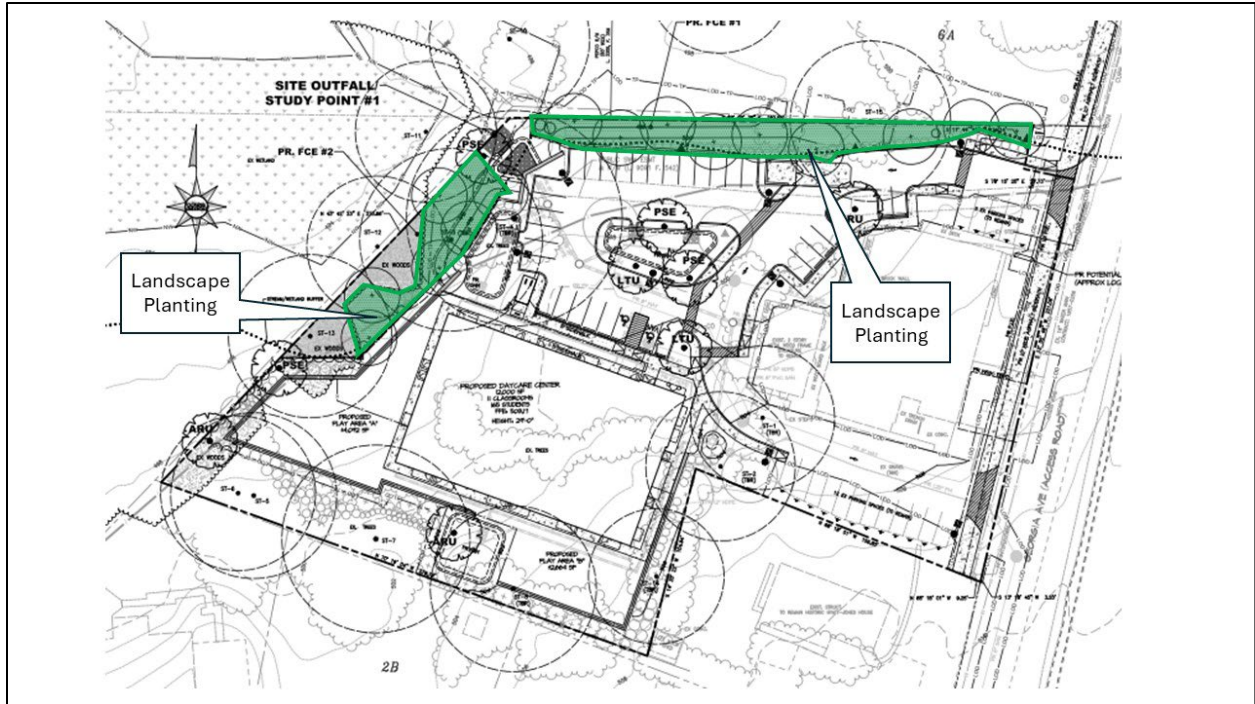


Figure 12- Onsite planting in Stream Valley Buffer

FOREST CONSERVATION VARIANCE

Section 22A-12(b)(3) of Montgomery County Forest Conservation Law provides criteria that identify certain individual trees as high priority for retention and protection (“Protected Trees”). Any impact to these trees, including removal of the subject tree or disturbance within the tree’s critical root zone (“CRZ”), requires a variance under Section 22A-12(b)(3) (“Variance”). Otherwise, such resources must remain undisturbed. 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 or greater DBH; are part of an historic site or designated with an historic structure; are designated as a national, State, or County champion trees; are at least 75 percent of the diameter of the current State champion tree of that species; or trees, shrubs, or plants that are designated as Federal or State rare, threatened, or endangered species.

Variance Request

The Applicant submitted a variance request in a letter dated March 20, 2025 (Attachment D). In the request, the Applicant proposes to impact two (2) trees and remove three (3) trees with DBH of 30

inches or greater, which are considered high priority for retention under Section 22A-12(b)(3) of the County Forest Conservation Law (Tables 7 and 8).

Table 7 – Protected Trees to be Removed

Tree ID	Scientific Name	Common Name	DBH	Condition
ST-3	Acer rubrum	Red Maple	33	Good
ST-4	Quercus palustris	Pin Oak	39	Good
ST-8	Acer rubrum	Red Maple	30	Good

Table 8 – Protected Trees to be Impacted

Tree ID	Scientific Name	Common Name	DBH	Condition
ST-5	Quercus rubra	Northern Red Oak	30	Good
ST-7	Acer rubrum	Red Maple	34	Good

Unwarranted Hardship Basis

Per Section 22A-21, a variance may be considered only if the Planning Board finds that leaving the requested trees undisturbed would result in unwarranted hardship.

The site is atypically L-shaped, with the front portion developed as a rural antique shop. The majority of the specimens and/or significant trees are located along the perimeter of the site, with a couple of trees located more internally. While every effort has been made to reduce the footprint of the development, specifically access points, parking requirements, stormwater management requirements, and an outdoor play area, which needs to be level (less than 5%) and shaped in a way to accommodate play equipment for the children enrolled in the day care center all contribute to the need to impact Variance trees. It is not feasible to retain all of the specimens and/or significant trees nor avoid impacts to any of the existing specimens and/or significant trees and reasonably develop the site with the proposed day care center use.

The Applicant has demonstrated that the denial of the Variance request would cause an unwarranted hardship because it would prevent the reasonable and significant development of this Property. 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.

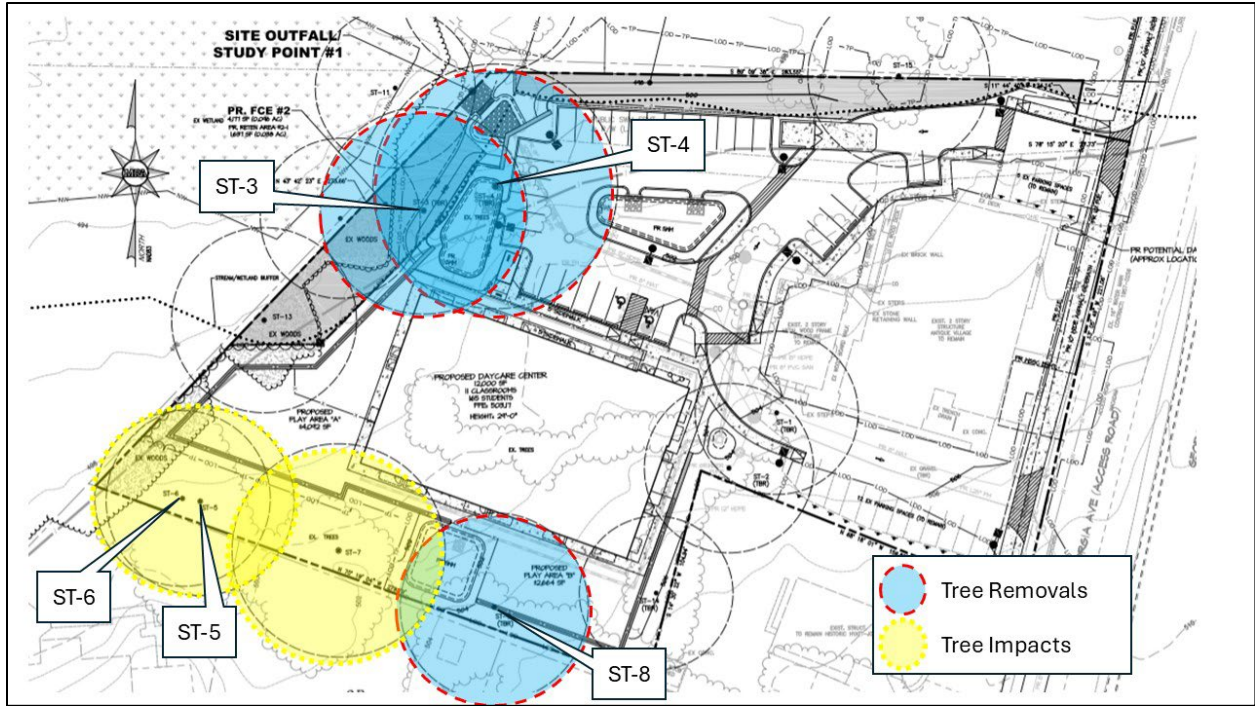


Figure 13 - Variance Trees

Variance Findings

The following determinations are based on the required findings for granting the requested variance:

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

Granting the variance will not confer a special privilege on the Applicant, as the removal and disturbance to the specified trees are due to the development of the Property as allowed by the Master Plan and Zoning Ordinance. The Property contains numerous large trees. Granting a variance request to allow land disturbance within the developable portion of the site is not unique to this Applicant. The granting of this variance is not a special privilege that would be denied to other applicants.

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

The requested variance is not based on conditions or circumstances resulting from actions by the Applicant. The requested variance is based upon the existing site conditions, development standards of the zone, and the necessary design requirements of this Application.

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

The requested results from the existing conditions and the proposed site design and layout of the Subject Property, and not from land or building use on a neighboring property.

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

The variance will not violate State water quality standards or cause measurable degradation in water quality. Therefore, the Application will not violate State water quality standards or cause measurable degradation in water quality.

Mitigation for Trees Subject to the Variance Provisions

There are three Protected Trees proposed for removal in this variance request, resulting in a total of 102 inches of DBH being removed.

The Applicant has proposed onsite mitigation on the plans.

The Applicant includes mitigation at a rate that approximates the form and function of the trees removed. These trees will be replaced at a ratio of approximately one inch caliper for every four inches removed, using trees that are a minimum of three caliper inches in size. This results in a total mitigation of 25.5 inches of trees using a minimum 3-inch caliper overstory trees native to the Piedmont Region of Maryland on the Property outside of any rights-of-way and outside of any utility easements.

Although these trees will not be as large as the trees lost, they will be planted on the Subject Property and provide some immediate benefit, ultimately replacing the canopy lost by the removal of these trees. There is some disturbance within the CRZ of two of the variance trees; however, they will receive adequate tree protection measures, their roots will regenerate, and the functions they currently provide will continue. Therefore, no mitigation is recommended for trees that are impacted but retained.

Recommendation on the Variance

Staff recommends approval of the variance request subject to planting the mitigation trees.

SECTION 9: CONCLUSION

The proposed Conditional Use complies with the findings required for approval of a Day Care Center (Over 30 Persons), subject to the recommended conditions of approval. The proposed use is consistent with the goals and recommendations of the 2005 *Olney Master Plan*, will not alter the residential character of the surrounding neighborhood, and will not result in any unacceptable noise, traffic, or environmental impacts on surrounding properties. Staff recommends approval of the Conditional Use with conditions and transmittal of comments to the Hearing Examiner

As conditioned, the Preliminary Plan and Forest Conservation Plan applications each satisfy the findings under Chapter 50, Subdivision Regulations and the applicable standards of the Zoning Ordinance, substantially conform to the recommendations of the 2005 *Olney Master Plan* and satisfy the findings of the Subdivision Regulations. The Forest Conservation Plan satisfied the findings under Chapter 22A, including the priority forest removal and tree variance provisions. Staff recommends approval of the Preliminary Plan and the Forest Conservation Plan with the conditions specified at the beginning of this report.

ATTACHMENTS

Attachment A: Antique Store Information

Attachment B: Preliminary Plan

Attachment C: Conditional Use Plan and Land Use Report

Attachment D: Forest Conservation Plan

Attachment E: Affidavit Regarding Community Meeting and Meeting Minutes

Attachment F: Shared Parking Analysis

Attachment G: Agency Letters

Attachment H: HOA Letter