

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

PGCPB No. 12-72

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File No. DSP-11004

RESOLUTION

WHEREAS, the Prince George's County Planning Board is charged with the approval of Detailed Site Plans pursuant to Part 3, Division 9 of the Zoning Ordinance of the Prince George's County Code; and

WHEREAS, in consideration of evidence presented at a public hearing on July 12, 2012, regarding Detailed Site Plan DSP-11004 for Palmer Park Boys and Girls Child Care Center, the Planning Board finds:

1. **Request:** The subject application requests approval of a day care center with a maximum enrollment of 51 children within an existing integrated shopping center (Palmer Park Shopping Center) located on a 2.46-acre portion of a 5.45-acre property in the Commercial Shopping Center (C-S-C) Zone.
2. **Surrounding Uses:** The overall neighborhood is defined by Landover Road (MD 202) to the north, Martin Luther King, Jr. Highway (MD 704) to the west, and Sheriff Road to the south. The site is located in Palmer Park, an older unincorporated area within the Kent Community. The proposed day care location is Unit 2 of the Palmer Park Shopping Center, which is a commercial condominium. The shopping center is adjacent to Victory House, a senior housing facility to the east. Further to the east and south of the subject property are existing single-family and duplex homes along Palmer Park Road and Bender Road in the One-Family Triple-Attached Residential (R-20) Zone. To the northeast of the subject property is an existing gas station on approximately one-third of an acre in the C-S-C Zone. West of the subject property, across Barlowe Road, is a county police station in the One-Family Semidetached, and Two-Family Detached, Residential (R-35) Zone. North and across Barlowe Road is a park owned by The Maryland-National Capital Park and Planning Commission (M-NCPPC) in the R-O-S Zone.
3. **Previous Approvals:** The western 2.46-acre portion of the site is developed as an integrated shopping center that was originally constructed in the 1950s. The eastern 2.99-acre portion of the site was redeveloped as a three-story, 69-unit, rental apartment building for the elderly pursuant to Special Exception SE-4450, which was approved in 1992.

4. **Development Data Summary:**

	EXISTING	APPROVED
Zone(s)	C-S-C	C-S-C
Use(s)	Integrated Shopping Center	Day Care Center within Integrated Shopping Center
Acreage	2.46	2.46
Square Footage	25,000	25,000

Parking Required:

Integrated Shopping Center

25,000 square feet (one space per 250 feet) 100 spaces

Parking Provided:

Integrated Shopping Center

25,000 square feet (one space per 250 feet) 100 spaces

Loading Spaces Required: 3

(3 spaces for less than 100,000 GLA)

Loading Spaces Provided: 4

5. **Design Features:** The subject detailed site plan proposes a day care center for children with a maximum total enrollment of 51 children within Unit 2 of the existing integrated shopping center. A 1,931-square-foot play area is proposed on the northwestern side of the existing shopping center building on condominium-owned property, which is to be fully enclosed by a six-foot-high fence with a wrought iron appearance. A letter from the Palmer Park Condo Association Board of Directors dated August 13, 2010 has been provided with the subject application in support of the location of the play area on condominium-owned property.
6. **Conformance to Record Plat WWW 24@84:** The property is known as Block 1, Section Two, Palmer Park, was recorded in Plat Book WWW 24@84 on September 30, 1954, and is 5.81 acres in size. The current configuration of the property was the result of a conveyance of 5.45 acres of the property to Prince George's County by deed on March 28, 1978 and recorded in Liber 4906 at Folio 416. Section 24-107(c)(5) of the Subdivision Regulations exempts the conveyance of land to a governmental agency for public use from the requirement of filing a preliminary plan of subdivision. Saving the conveyance, Block 1 remains in conformance with the record plat (WWW 24@84).
7. **Conformance to the applicable sections of the Zoning Ordinance:** As approved with conditions, the Planning Board finds that the detailed site plan is in conformance with Section 27-454, C-S-C Zone; Section 27-461, Uses Permitted in the C-S-C Zone; Section 27-462, Regulations in the C-S-C Zone; Section 27-447, Fences and Walls; and Part 11, Off-Street Parking and

Loading, of the Zoning Ordinance. The proposed day care center is a permitted use in the C-S-C Zone.

- a. The Planning Board finds that, as approved with conditions, the detailed site plan is in conformance with Section 27-464.02(a) of the Zoning Ordinance, which sets forth additional required findings for a day care center for children:

(1) Requirements.

(A) An ample outdoor play or activity area shall be provided, in accordance with the following:

- (i) All outdoor play areas shall have at least seventy-five (75) square feet of play space per child for fifty percent (50%) of the licensed capacity or seventy-five (75) square feet per child for the total number of children to use the play area at one (1) time, whichever is greater;**

According to this requirement, a 1,950-square-foot play area is required for 26 children, approximately 50 percent of the proposed licensed capacity of the proposed 51-child center. The provided statement of justification indicates that the applicant proposes a 1,931-square-foot play area, which does not meet the zoning requirement. Prior to certificate approval of the detailed site plan, the square footage of the play area shall be provided on the site plan and within the general notes, in accordance with the requirements of Section 27-464.02(a)(1)(A)(i) of the Zoning Ordinance. A minimum 1,950-square-foot play area is required.

- (ii) All outdoor play areas shall be located on the same lot as the center at least twenty-five (25) feet from any dwelling on an adjoining lot, and shall be enclosed by a substantial wall or fence at least four (4) feet in height;**

The outdoor play area is located on the same lot as the day care center, and it is not located within 25 feet of any dwelling. The closest dwelling is approximately 160 feet from the play area. The play area is proposed approximately 250 feet west of Unit 2. Access to the play area is proposed via an existing covered walkway in front of the commercial storefronts within the shopping center. The applicant proposes to enclose the play area with a six-foot-high metal fence. The statement of justification indicates that a black, powder-coated, metal, estate-style fence with a gate is proposed. The materials and colors of the fence shall be provided on the detailed site plan prior to certificate of approval.

- (iii) A greater set back from adjacent properties or uses or a higher fence may be required by the Planning Board if it determines that it is needed to protect the health and safety of the children utilizing the play area;**

The applicant originally proposed a four-foot-high fence around the play area. During review of the subject application, referral comment was provided by the Prince George's County Police Department, which requested that a six-foot-tall fence be provided to protect the safety of children utilizing the play area. The applicant has since proffered a six-foot-tall fence to address the safety concerns. The Planning Board finds that the proposed six-foot-tall fence is appropriate given the location of the play area adjacent to the public right-of-way.

- (iv) An off-premises outdoor play or activity area shall be located in proximity to the day care center, and shall be safely accessible without crossing (at grade) any hazardous area;**

The Planning Board finds that there are no proposed off-site play or activity areas. The day care center will be in close proximity to the Palmer Park Community Center. The applicant's statement of justification indicates that these facilities may be used occasionally for field trips. The Palmer Park Community Center and associated park land are accessible via existing sidewalks and crosswalks located along and across Barlowe Road and Matthew Henson Avenue.

- (v) The play area shall contain sufficient shade during the warmer months to afford protection from the sun;**

Aerial imagery indicates that there are three existing trees in proximity to the play area, while no trees are located within the fenced play area. The shade provided by the existing trees will be somewhat indirect. The applicant shall locate one additional shade tree or shade structure within the play area outside of the fall zones of the play equipment. This additional shade tree or shade structure shall be located on the site and landscape plans prior to certificate of approval.

- (vi) Sufficient lighting shall be provided on the play area if it is used before or after daylight hours to insure safe operation of the area; and**

Lighting of the play area is not proposed, as the outdoor play area will not be used at night. The play area will be fenced with a six-foot-tall fence

with a gate. When the play area is not in use, the gate shall be secured and locked.

- (vii) **Outdoor play shall be limited to the hours between 7 a.m. and 9 p.m.**

The applicant's statement of justification indicates that the use of the outdoor play area will be restricted to the hours of 7:00 a.m. and 6:00 p.m. The hours of operation shall be provided on the site plan prior to signature approval.

(2) **Site plan**

- (A) **A Detailed Site Plan shall be approved for the center, in accordance with Part 3, Division 9, of this Subtitle, to insure compliance with the provisions of this Section.**

The Planning Board finds that this application has been filed to fulfill this requirement.

- (B) **In addition to the submittal requirements of Part 3, Division 9, the Detailed Site Plan shall show:**

- (i) **The proposed enrollment;**

The proposed enrollment of 51 children shall be provided on the site plan prior to certificate of approval.

- (ii) **The location and use of all buildings located on adjoining lots;**

The Planning Board finds that this information has been provided on the plans.

- (iii) **The location and size of outdoor play or activity areas; and**

The location and size of the proposed outdoor play area are generally shown on the plans. Site plan notes shall be provided to indicate the size of the fenced play area.

- (iv) **The location, quantity, and type of screening and landscaping.**

In general, landscaping information is provided on the submitted site and landscape plans. There are existing evergreen shrubs that are located between the play area and the Barlowe Road right-of-way. All existing plant material around the play area shall be located accurately on the site plan prior to certificate of approval.

The review of the play area does not include a review of the proposed play equipment. A note shall be provided on the site plan under the provided play area details indicating that proposed play equipment is not approved as a part of the subject DSP, and it is provided for informational purposes only. The Planning Board finds that the play area design shall meet applicable safety regulations.

- b. The detailed site plan shall be revised to indicate conformance with Section 27-447 of the Zoning Ordinance, which contains requirements for fences and walls in commercial zones as follows:

- (a) **Unless otherwise provided, fences and walls (including retaining walls) more than six (6) feet high shall not be located in any required yard, and shall meet the setback requirements for main buildings.**

The plan shall be revised to indicate that the proposed six-foot-tall fence will be set back ten feet from the right-of-way of Barlowe Road as required by Section 27-462. The proposed six-foot-high fence shall meet the setback requirements for main buildings.

- c. The application is subject to Section 27-568, Schedule of [parking] spaces required. The renovated Palmer Park Shopping Center was planned as a 25,000-square-foot integrated shopping center. Exactly 100 parking spaces are provided to serve the integrated shopping center, which is the minimum required. Integrated shopping centers generally have smaller parking and loading requirements than uses not located within an integrated shopping center. Section 27-107.01(a)(208) of the Zoning Ordinance defines an integrated shopping center as a group of three or more retail stores planned and developed under a uniform development scheme and served by common and immediate off-street parking and loading facilities. The submitted site plan indicates that the shopping center currently contains eight tenant spaces. Two of the tenant spaces contain retail uses, and one tenant space is vacant. Existing non-retail uses include a beauty salon, a doctor's office, the Sugar Ray Leonard Boxing Center, and a church. If the center is unable to maintain three retail uses, the shopping center will lose its categorization as an integrated shopping center, and parking and loading must be provided on a unit by unit basis. Such a change in tenant mix that results in the Palmer Park Shopping Center no longer being considered an integrated shopping center would create the need for departures from the number of parking and loading spaces required. The status of the integrated shopping center will be monitored by M-NCPPC during the review of use and occupancy permits for new tenants within the center. A note shall be provided on the site plan to indicate that, at no time should there be less than three retail tenants within the shopping center.

8. **Prince George's County Landscape Manual:** The Planning Board finds that this application is not subject to the requirements of the 2010 *Prince George's County Landscape Manual* (Landscape Manual). The subject proposal does not propose an increase in any building's gross floor area, a change of use from a lower to higher intensity use category, or an increase in impervious surface. A note stating the site's exemption from the requirements of the Landscape Manual shall be provided on the site plan prior to signature approval.

A note shall also be provided to indicate that the landscape schedules provided on the site plan are relevant to the area of the special exception.

9. **Prince George's County Woodland and Wildlife Habitat Conservation Ordinance:** The Planning Board finds that the subject application is exempt from the requirements of the Prince George's County Woodland and Wildlife Habitat Conservation Ordinance (WCO) because the property contains less than 10,000 square feet of woodland on-site, and has no previous tree conservation plan (TCP) approvals. A letter of exemption was issued on April 26, 2012. That exemption remains valid for two years from the date of issuance.
10. **Tree Canopy Coverage Ordinance:** The installation of a fence and play equipment within an existing landscaped area is not subject to a grading permit; therefore, the Planning Board finds that the subject application is exempt from the requirements of the Tree Canopy Coverage Ordinance. While a tree canopy coverage (TCC) schedule has been provided on the site plan, it shall be removed prior to signature approval of the plan.
11. **Further Planning Board Findings and Comments from Other Entities:** The subject application was referred to the concerned agencies and divisions. The referral comments are summarized as follows:

- a. **Community Planning**—The Planning Board adopts the following:

This application is not inconsistent with the 2002 *Prince George's County Approved General Plan* Development Pattern policies for the Developed Tier.

The 2010 *Approved Subregion 4 Master Plan and Adopted Sectional Map Amendment* does not include specific goals, policies, and recommendations pertaining to the location and functions associated with a child care center. Child care centers are permitted by right in the Commercial Shopping Center (C-S-C) Zone in accordance with Section 27-464.02(1)(2) of the Zoning Ordinance.

- b. **Subdivision Review**—Pursuant to Section 24-111 of the Subdivision Regulations, the Planning Board finds that the application is exempt from the requirement of filing a preliminary plan of subdivision because no new gross floor area is proposed.
- c. **Permit Review**—The Planning Board adopts the following:

- (1) Special Exception SE-4450 was approved for the senior housing building located on the same property. Therefore, the site plan shall match the approved special exception site plan.
- (2) The general notes and parking notes from Special Exception SE-4450 shall be provided since the shopping center and senior housing share the same parking lot.
- (3) If the shopping center is still an "integrated shopping center" with three or more retail stores per Section 27-107.01(208) of the Zoning Ordinance, then the parking requirement for the entire shopping center, including the day care, is one parking space for every 250 square feet of gross leasable area. The loading schedule would also be revised to calculate loading solely as an integrated shopping center. However, if this not an integrated shopping center, then parking and loading must be calculated on a unit by unit basis.
- (4) The addresses of each of the units in the shopping center shall be provided on the site plan.
- (5) The shopping center was constructed prior to 1970; therefore, the loading spaces must be dimensioned at the grandfathered size of 15 feet by 25 feet. If current design standards are used for the loading spaces then the loading spaces and their access must be set back a minimum of 50 feet from any residential zone in accordance with Section 27-579 of the Zoning Ordinance. The adjoining property along the southern property line is zoned R-20, therefore a departure would be required.
- (6) The unit containing the proposed day care center shall be clearly identified on the site plan with gross floor area provided.
- (7) Play area calculations must be provided on the site plan in accordance with Section 27-464.02(a)(1)(A)(i) of the Zoning Ordinance.
- (8) The site plan must clearly label the location and height of the proposed fence for the outdoor play area, as well as, provide the setback of the play area from any dwelling on an adjoining lot in accordance with Section 27-464.02(a)(1)(A)(ii) of the Zoning Ordinance.

Conditions addressing all of the plan deficiencies described have been incorporated as conditions of approval in the subject resolution.

- d. **Trails**—There is an existing sidewalk along the subject site's entire frontage of Barlowe Road. The subject application proposes an outdoor play area and this site is connected to the proposed day care by a continuous sidewalk along the front of the commercial space.

In addition, a sidewalk links the playground to the proposed day care with the existing sidewalk along Barlowe Road. The Planning Board finds that no additional sidewalk or master plan recommendations are needed at this time.

- e. **Maryland Department of Human Resources**—At the time of the writing of this resolution, the Maryland Department of Human Resources had not provided comments on the subject application.
- f. **Prince George's County Health Department**—The Prince George's County Health Department stated that there is an increasing body of scientific research suggesting that artificial light pollution can have lasting adverse impacts on human health. The Health Department also requested that the subject application demonstrate that all proposed light fixtures be shielded and positioned to minimize light trespass caused by spill light.

The subject application proposes a day care use within an existing tenant space. No new site lighting is proposed by the subject application; therefore, the Planning Board finds that no further action by this applicant shall be required at this time.

- g. **Prince George's County Police Department**—The Prince George's County Police Department provided comment on the subject application. The Police Department stated that this area currently experiences a large volume of pedestrian traffic. A six-foot-high fence is recommended with a gate as an added safety measure for the children using the play area.

The requested six-foot-high fence is indicated on the site plan.

- 12. Based on the foregoing and as required by Section 27-285(b)(1) of the Zoning Ordinance, the Planning Board finds that the detailed site plan represents a reasonable alternative for satisfying the site design guidelines of Subtitle 27, Part 3, Division 9, of the Prince George's County Code without requiring unreasonable cost and without detracting substantially from the utility of the proposed development for its intended use.
- 13. Section 27-285(b)(4) of the Zoning Ordinance requires that a detailed site plan demonstrate that regulated environmental features have been preserved and/or restored to the fullest extent possible. Because the site does not contain any regulated environmental features, the Planning Board finds that this required finding does not apply.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to Subtitle 27 of the Prince George's County Code, the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission adopted the findings contained herein and APPROVED the Detailed Site Plan DSP-11004, subject to the following conditions:

- 1. Prior to signature approval of the detailed site plan, the applicant shall revise the plans as follows or provide the specified information:

- a. The square footage of the play area shall be provided on the site plan and within the general notes.
- b. The materials and colors of the fence shall be provided on the detailed site plan.
- c. The applicant shall locate one additional shade tree or a shade structure within the play area outside of the fall zones of the proposed play equipment.
- d. The plan details shall indicate that the gate to the play area shall be secured and locked when not in use.
- e. The hours of operation of the play area shall be provided on the site plan.
- f. Revise the parking schedule calculations for required spaces to indicate one space for any fraction of parking which is required.
- g. The proposed enrollment of the day care (51 children) shall be provided on the site plan.
- h. All existing plant material around the play area shall be located accurately on the site plan.
- i. The plan shall be revised to indicate that the proposed six-foot-tall fence will be set back ten feet from the right-of-way of Barlowe Road.
- j. A note stating the site's exemption from the requirements of the 2010 *Prince George's County Landscape Manual* shall be provided on the site plan.
- k. The provided tree canopy coverage schedule shall be removed from the site plan and a note of exemption shall be provided.
- l. The general notes and parking notes from Special Exception SE-4450 shall be provided on the site plan.
- m. The addresses of each of the commercial units in the shopping center shall be provided on the site plan.
- n. The loading spaces shall be dimensioned at the grandfathered size of 15 feet by 25 feet.
- o. The site plan shall clearly label the location and height of the proposed fence for the outdoor play area and provide the setbacks of the play area from any dwelling on an adjoining lot.
- p. A note shall be provided on the site plan to indicate that, to remain an "integrated shopping center," the Palmer Park Shopping Center must maintain at least three retail

tenants. If the center is unable to maintain three retail tenants, the parking and loading must be provided on a unit by unit basis.

- q. A note shall be provided on the site plan to indicate that the proposed play equipment is illustrated for informational purposes only. The play area design shall meet applicable safety regulations.

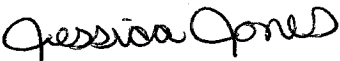
BE IT FURTHER RESOLVED, that an appeal of the Planning Board's action must be filed with the District Council of Prince George's County within thirty (30) days following the final notice of the Planning Board's decision.

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This is to certify that the foregoing is a true and correct copy of the action taken by the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission on the motion of Commissioner Washington, seconded by Commissioner Bailey, with Commissioners Washington, Bailey, Shoaff, Geraldo and Hewlett voting in favor of the motion at its regular meeting held on Thursday, July 12, 2012, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 26th day of July 2012.

Patricia Colihan Barney
Executive Director

By 
Jessica Jones
Planning Board Administrator

PCB:JJ:MF:arj

APPROVED AS TO LEGAL SUFFICIENCY.


M-NCPPC Legal Department
Date 7/17/12