



SPECIAL EXCEPTION APPLICATION No. 4418

Application	General Data
Project Name: TLC Learning Center Location West side of Piscataway Road approximately 400' south of Delancey Street, known as 11121 Piscataway Road. Applicant/Address Tracy L. Crawford Correspondent D•Antoinette Rassoull P.O. Box 804 Temple Hills, MD 20757	Date Accepted 5-16-01
	Planning Board Action Limit N/A
	ZHE Hearing Date Not Scheduled
	Plan Acreage 1.1786Acre
	Zone R-E
	Dwelling Units N/A
	Square Footage N/A
	Planning Area 81A
	Council District 09
	Municipality N/A
	200-Scale Base Map 214SE4

Purpose of Application	Notice Dates
Day Care Center for Children.	Adjoining Property Owners (CB-15-1998) 7-19-01
	Previous Parties of Record (CB-13-1997) N/A
	Sign(s) Posted on Site N/A
	Variance(s): Adjoining Property Owners N/A

Staff Recommendation			Staff Reviewer: Elsabett Tesfaye
APPROVAL	APPROVAL WITH CONDITIONS	DISAPPROVAL	DISCUSSION

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September 19, 2001

TECHNICAL STAFF REPORT:

TO: The Prince George's County Planning Board
The Prince George's County District Council

VIA: Arie Stouten, Zoning Supervisor

FROM: Elsabet Tefaye, Senior Planner

SUBJECT: **Special Exception Application No. 4418**

REQUEST: **Day Care**

RECOMMENDATION: **DENIAL**

NOTE:

This application is on the agenda for the Planning Board to decide whether or not to schedule a public hearing. If the Planning Board decides to hear the application, it will be placed on a future agenda.

Any person may request the Planning Board to schedule a public hearing. The request may be made in writing prior to the agenda date or in person on the agenda date. All requests must specify the reasons for the public hearing. All parties will be notified of the Planning Board's decision.

You are encouraged to become a person of record in this application. The request must be made in writing and sent to the Office of the Zoning Hearing Examiner at the address indicated above. Questions about becoming a person of record should be directed to the Hearing Examiner at 301-952-3644. All other questions should be directed to the Development Review Division at 301-952-3530.

FINDINGS:

- A. Location and Field Inspection: The property is located on the west side of Piscataway Road, approximately 400 feet south of Delancey Street, known as 11121 Piscataway Road. The site comprises approximately 1.18 acres of land and is improved with a one-story, residential structure and a wooden shed. The one-story structure is currently used as a single-family dwelling and a day care facility for eight children. The site has 207 feet of frontage on Piscataway Road from which it is accessed. The applicant's Statement of Justification and application incorrectly identify the subject property as ■Lot 12, Rollee Estates. The Subdivision Section has indicated that the property should be correctly identified as only ■Parcel 26.
- B. History: The 1993 Sectional Map Amendment for Subregion V retained the property's R-E zoning.
- C. Master Plan Recommendation: The 1993 Master Plan for Subregion V recommends the site for a Suburban Estate density at a maximum of 1.08 dwelling units (average .85 units) per acre with R-E Zoning.
- D. Request: The applicant proposes to expand the existing home day care (a permitted use) by increasing the number of children from 8 to 24. The applicant will continue to reside on the first floor of the residence. The existing structure will be renovated to accommodate the proposed increase in the facility's enrollment. The day care facility will occupy the basement portion of the structure, including the attached garage that will be converted to become part of the proposed use. The center will have two to three employees. The proposal also includes the relocation of an existing fenced area and a wooden shed to provide for an outdoor play area. No new construction or addition to the existing house is proposed.
5. Neighborhood and Surrounding Uses: The neighborhood is generally defined by the following boundaries:

<i>North:</i>	Steed Road
<i>West and Northwest:</i>	Tinkers Creek
<i>Southwest:</i>	Gallahan Road and Piscataway Road
<i>Southeast:</i>	Piscataway Road

The site abuts a single-family home to the northeast in the R-R Zone, a single-family dwelling to the southwest in the R-E Zone, and undeveloped and partially wooded land to the west (rear) in the R-E Zone. The neighborhood is characterized by single-family residential development on large parcels of land in the R-R and R-E Zones and a vast area of undeveloped land in the R-E and E-I-A Zones. The Washington Executive Airport is located in the northeast portion of the neighborhood in the E-I-A Zone.

- F. Specific Special Exception Requirements: **A day care center for children is permitted in the R-E Zone as a special exception. Section 27-348.01 sets forth the specific requirements:**
- (a) **A day care center for children may be permitted, subject to the following:**

- (1) **The District Council may specify the maximum number of children to be enrolled, which may not be increased by state or local health, education, or fire regulations;**

The applicants propose a maximum of 24 children to be enrolled in the day care center.

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

- (A) **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.**

Based on the proposed capacity of 24 children, 1,800 square feet of play area are required and 2,600 square feet are provided.

- (B) **All outdoor play areas shall be located 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.**

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

The proposed play area is located at the southwestern portion of the subject property, 20 feet (bufferyard) inside of both the southern and western property lines. The adjoining property to the northwest is currently undeveloped. The play area is located at least 60 feet from the dwelling located on the adjoining property to the southwest and at least 195 feet from the closest dwelling to the northeast. Therefore, the play area is well over 25 feet from any dwelling on an adjoining property. The play area will be enclosed by a four-foot-high, chain-link fence and the main building on the property.

- (D) **Any 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, such as a street or driveway.**

The applicant does not propose an off-premises outdoor play area.

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

The site plan shows several shrubs and shade trees along the boundary lines on the northwestern portion of the property. Some of these plants already exist on the property. Existing plants must be identified as such on the site plan. The applicant's Statement of Justification refers to a large shade tree within the fenced area. However, the site plan does not show a shade tree within the proposed outdoor play area. In view of this, it is recommended that the applicant install a gazebo or at least one shade tree (3- to 4-inch caliper in size) in the proposed outdoor play area to provide protection from the sun during the warmer months.

(F) Sufficient lighting shall be provided on the play area if it is used before or after daylight hours to ensure safe operation of the area.

The site plan indicates hours of operation from 6:00 a.m. to 6:00 p.m. At certain times of the year, it is dark during these hours. A note on the site plan indicates that the play area will only be used during daylight hours.

(G) Outdoor play shall be limited to the hours between 7:00 a.m. and 9:00 p.m.

A note to this effect should be added to the site plan.

(b) In addition to the requirements of Section 27-296(c), the site plan shall show:

- (1) The proposed enrollment;**
- (2) The location and use of all buildings located on adjoining lots; and**
- (3) The location and size of outdoor play or activity areas.**

The site plan complies with these requirements.

G. Parking Regulations: Section 27-568 of the Zoning Ordinance requires one parking space for every eight (8) children. The Ordinance also requires two parking spaces for a single-family dwelling.

A total of five (5) parking spaces is required for both the day care (three spaces) and residential uses (two spaces). The proposed day care will have a maximum enrollment of 24 children. A total of three parking spaces $(24 \div 8 = 3)$ are required. The parking schedule indicates that five parking spaces are provided, but only four spaces are shown on the site plan. One of the four spaces that is depicted on the plan is a van-accessible space for the physically handicapped. One additional space must be provided on the site plan; otherwise, a departure is required.

H. Landscape Manual Requirements Section 27.328.02(a) - Landscaping, Buffering and Screening: Except for uses which do not require the construction, enlargement, or extension of a building, all land uses requiring the approval of a Special Exception shall comply with the landscaping, buffering and screening requirements set forth in the Landscape Manual through the approval of a landscape plan. In approving a Special Exception, the District

Council may require additional landscaping, screening or buffering if it determines that the amount required by the *Landscape Manual* is insufficient to adequately protect adjacent uses.

The site is exempt from the general requirements of the *Landscape Manual* since no new building or outdoor parking areas are to be constructed. There is no proposed addition in gross floor area and/or relocation of buildings. Although not required, the applicant has provided bufferyard planting along the property's southwest, northwest, and northeast boundary lines that are shared with the adjoining residential properties. The proposed bufferyard landscaping will enhance the appearance of the site while providing screening to benefit adjoining properties.

- I. Zone Standards: The site plan conforms to all other development standards of the R-E Zone.
- J. Sign Regulations: No sign is shown on the site plan. If the applicant intends to place a freestanding sign on the site, its location must be shown on the site plan prior to approval. All signs must meet the area, height, and setback standards in accordance to the provisions of Part 12 of the Zoning Ordinance.
- K. Right-of-Way: Piscataway Road at the subject location is proposed for a 120-foot right-of-way (60 feet from center line). The site plan needs to be revised to show this right-of-way line. Moreover, a permit must be obtained from the State Highway Administration (SHA) for improvements along the property's frontage within the Piscataway Road right-of-way. (See attached SHA comments.)
- L. Required Findings:

Section 27-317(a) of the Zoning Ordinance provides that a special exception may be approved if:

- (1) The proposed use and site plan are in harmony with the purposes of this Subtitle.**

The fundamental purposes of the Zoning Ordinance, as found in Section 27-102, are to protect the health, safety and welfare of the public and promote compatible relationships between the various types of land uses. According to the *Airport Land Use Compatibility and Air Safety Study for the M-NCPPC*, November 10, 2000, the location of the proposed facility in close proximity to the Washington Executive/Hyde Field Airport poses a risk of exposure to low-flying aircraft noise and potential small aircraft accidents. In view of this, review of the applicant's site plan for conformance with the requirements of the Zoning Ordinance indicates potential conflicts with the following fundamental purposes:

Purpose No. 1 ~~To~~ **to protect and promote the health, safety, morals, comfort, convenience, and welfare of the present and future inhabitants of the county.**
Purpose No. 6 ~~To~~ **to promote the most beneficial relationship between the uses of land and buildings and protect landowners from adverse impacts of adjoining development.**

The Community Planning Section has offered the following comments:

- The proposed day care center in an area planned for low density residential development (■Suburban Estate-Low Density Residential Land Use●) will not impair the integrity of the master plan recommendations.
- The most significant community planning issue is whether the proposed day care center is compatible with the operation of the general aviation airport located to the northeast. This site is located in an area that is underneath the air traffic/flight pattern for Washington Executive Airport, which is a small, private, general aviation airport approximately 3,000 feet to the northeast. This airport has been in operation since 1939 and was originally known as Hyde Field. Aircraft associated with flight to and from Washington Executive Airport are primarily small, light-weight, single-engine planes; a few are twin-engine small aircraft.
- To help the staff understand the compatibility issues involved around the four general aviation airports in the county, the Planning Department hired a team of aviation consultants to examine safety and land use compatibility around each airport to research what is being done in other jurisdictions and to recommend approaches for addressing these issues in Prince George's County. The aviation consultant, William V. Cheek and Associates of Prescott, Arizona, conducted research and field study during the summer of 2000 and prepared a detailed report which was submitted to the Planning Department on November 10, 2000. This study revealed that the land area underneath airport traffic patterns have a slightly elevated risk of exposure to aircraft accidents. Studies conducted in other states recommend discouraging concentrations of people in areas underneath airport traffic patterns.
- The consultant identifies a recommended model of six standard safety zones and a land use compatibility matrix for the county to consider applying within approximately a one-mile radius around each general aviation airport to enhance the future safety and compatibility of surrounding land uses. The described safety zones (pp. 35-39), identified by the consultant as accident potential zones (APZ), were based on a survey of airport compatibility planning policies and standards across the country. The consultant further identifies land uses considered to be compatible or noncompatible with airport operations depending on the location of the land use within the identified accident potential zones. The proposed land use is located in APZ 6. **Although a day care center for children is not a specific land use category in the report's compatibility matrix, it is comparable to the matrix categories of "nursing home" and "school."** **In APZ 6, both of these uses are deemed by the consultant: "Normally Unacceptable: Specified use should be allowed ONLY if no reasonable alternative exists. Disclosure of airport proximity and aviation easements should be required as a condition of development."** (p.45). It is worth noting that in the other five accident potential zones, where aircraft are generally lower and closer to the ground, these kinds of land uses are

identified as: ■Clearly Unacceptable: Specified use should not be allowed. Potential safety or overflight nuisance impacts are likely in this area•(p. 45).

- Draft regulations proposing to implement recommendations of the airport consultant have been prepared in a *Manual of Regulations for Land Use Around General Aviation Airports in Prince George's County* and were transmitted from the Planning Board to the County Council in June 2001. We anticipate that the County Council will review these regulations for adoption as part of the Zoning Ordinance before the end of this legislative session.
- Noise exposure is another effect of the proximity of the proposed development to airport operations and air traffic patterns. Single-engine aircraft, although not highly noisy are noticeable when flying at low altitudes or when ambient noise is low, such as would be presumed during naptime. It is understood that general aviation airport operations are busiest on evenings and weekends; these busiest times for air traffic do not coincide with the hours of operation of the proposed day care center. However, noise from other more distant aircraft bound for Reagan National Airport, Andrews Air Force Base, or just air traffic passing through the area may also be heard at this location.

CONCLUSION:

- The proposed site underneath a general aviation traffic pattern is not a desirable location for a day care center for children based on the available information. Although, there are presently no county regulations that address this use relative to air traffic in the area.
- There are many more suitable sites in the Clinton area (beyond a one-mile radius of this airport) to locate day care centers for children.

However, if this application is approved, staff suggests the following to ensure awareness of the issues described above:

- The applicant should inform any future enrollees at this center of the proximity of Washington Executive Airport and where the airport traffic pattern is located, the possibility of low flying aircraft, the exposure to aircraft noise, and a slightly elevated risk of exposure to small aircraft accidents.
- In designing this center, the applicant should give special attention to emergency exit routes and to the use of acoustically sound building materials to mitigate aircraft noise.

For further information, the applicant can obtain a copy of the *Airport Land Use Compatibility and Air Safety Study for the M-NCPPC*, dated November 2000.

- (2) **The proposed use is in conformance with all the applicable requirements and regulations of this Subtitle.**

The subject property is located in the R-E Zone that permits the proposed day care facility as a special exception. The proposal generally meets the specific special exception requirements of Section 27-348.01 for day care centers. However, the proposal is not in harmony with the above noted purposes of the Zoning Ordinance that focus on the protection of the health, safety and welfare of the public and the promotion of compatible and beneficial relationships between the various types of land uses. Thus, the proposal is not in conformance with all the applicable requirements and regulations of this Subtitle.

- (3) **The proposed use will not substantially impair the integrity of any validly approved Master Plan or Functional Master Plan, or in the absence of a Master Plan or Functional Master Plan, the General Plan.**

The 1993 Master Plan for Subregion V recommends the site for a Suburban Estate density at a maximum of 1.08 dwelling units (average .85 units) per acre. The 1993 Sectional Map Amendment for Subregion V retained the property's R-E zoning. The proposed use will not substantially impair the integrity of the approved Master Plan recommendations for the residential areas.

- (4) **The proposed use will not adversely affect the health, safety or welfare of residents or workers in the area.**

- (5) **The proposed use will not be detrimental to the use or development of adjacent properties or the general neighborhood.**

The proposed use will not adversely affect the health, safety or welfare of residents or workers in the area, or be detrimental to the use or development of adjacent properties or the general neighborhood. The proposal meets all setback requirements, including the requirements for front, rear and side yards. The existing developments on the 1.18-acre property are adequately distanced from the closest residential developments. Existing and proposed vegetation on the property provides buffers to protect the privacy and mitigate potential adverse noise and traffic impacts to the adjacent residential properties.

The Transportation Planning Section has offered the following comments:

... The *Guidelines for the Analysis of the Traffic Impact of Development Proposals* do not contain trip rates for day care facilities. However, the Institute of Transportation Engineers' *Trip Generation Manual*, 6th edition, indicates that a 24-student day care facility would generate a total of 19 AM (10 in, 9 out) and 21 PM (10 in, 11 out) peak-hour vehicle trips. Many of these trips are usually made by persons already on roadways in the immediate vicinity of the site, and the *Trip Generation Manual* suggests that up to 65 percent of day care peak-hour trips are pass-by trips (i.e., already on the adjacent roadway). Therefore, 6 AM (3 in, 3 out) and 7 PM (3 in, 4 out) vehicle trips are new trips in the immediate area, while the remainder are pass-by trips.

The majority of vehicle trips generated by the use on the subject property would gain access via a driveway directly onto MD 223. The nearest significant intersections north and south of the site are the intersections of MD 223/Steed Road and MD 223/Mary Catherine Drive. By examination of recent counts, both intersections currently operate acceptably in accordance with the Planning Board's *Guidelines*, and the size of the use is not sufficiently large to have a significant impact on the operations at either location. There are no improvements which are programmed with 100 percent construction funding within the next six years in the current Maryland Department of Transportation Consolidated Transportation Program or the Prince George's County Capital Improvement Program at this location or in the immediate area.

MD 223 adjacent to the site is a Master Plan arterial facility. The plan should reflect future right-of-way needs of 60 feet from the existing center line. A portion of the landscaping within the site is shown within the planned right-of-way, but the plans do not indicate whether this is new or existing plant material. In any case, no buildings or additions to buildings are shown within the planned right-of-way. However, if the day care will require modifications to the driveway entering the site from MD 223, the needed modifications must be coordinated with the State Highway Administration's Engineering Access Permit Division prior to their construction.

The Transportation Planning Section finds that there are no significant transportation impacts which would result from the approval of the proposed Special Exception. . . .

(6) The proposed site plan is in conformance with an approved Tree Conservation Plan.

A Tree Conservation Plan is not required because the property contains less than 10,000 square feet of woodland, and it does not have a previously approved Tree Conservation Plan (per Letter of Exemption from the Environmental Planning Section dated May 17, 2001).

CONCLUSION

There are currently no specific county regulations directed to compatibility of land uses such as day care centers near and around airports. Nevertheless, the findings contained in the *Airport Land Use Compatibility and Air Safety Study for the M-NCPPC* are so compelling and warrant decisive measures to ensure that the health and safety of the public are not compromised by allowing day care centers and similar uses in close proximity to airports.

With respect to the subject application, the proposal is in conflict with the first of the six required findings (Section 27-317(a)(1)) for special exception which calls for the proposed use to be in harmony with the 15 purposes of the Zoning Ordinance as found in Section 27-102. Due to the location of the property in close proximity to the Washington Executive/Hyde Field Airport, the safety of 24 children attending the center would be compromised, due to an elevated risk of exposure to potential aircraft accidents. As such, the proposal fails to address the two fundamental purposes of the Zoning Ordinance, specifically, the protection of the health, safety and welfare of the public and the promotion of compatible and beneficial relationships between the various types of land uses. Therefore, it is recommended that Special Exception Application No.4418 be DENIED.