



## SPECIAL EXCEPTION APPLICATION NO. 4422

Application	General Data	
<b>Project Name:</b> <b>Chris• Learning Center</b>  <b>Location</b> <b>West side of Dalmatia Drive, approximately 514' north of Piscataway Road, known as 9701 Dalmatia Drive.</b>  <b>Applicant/Address</b> <b>Christine D. Bland</b> <b>3204 Accolade Drive</b> <b>Clinton, Maryland 20735</b>  <b>Correspondent</b> <b>Christine D. Bland</b> <b>3204 Accolade Drive</b> <b>Clinton, Maryland 20735</b>	Date Accepted	6-15-01
	Planning Board Action Limit	N/A
	ZHE Hearing Date	Not Scheduled
	Plan Acreage	0.3646
	Zone	R-R
	Dwelling Units	N/A
	Square Footage	N/A
	Planning Area	81A
	Council District	08
	Municipality	N/A
	200-Scale Base Map	213SE5

Purpose of Application	Notice Dates	
<b>Day Care Center for Children (24)</b>	Adjoining Property Owners (CB-15-1998)	6-19-01
	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			<b>Staff Reviewer:</b> Elsabett Tesfaye
APPROVAL	APPROVAL WITH CONDITIONS	DISAPPROVAL	DISCUSSION

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October 17, 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: Elsabetts Tesfaye, Senior Planner

SUBJECT: **Special Exception Application No. 4422**

REQUEST: **Day Care Center for 24 Children**

RECOMMENDATION: **DENIAL**

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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.

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## FINDINGS:

- A. Location and Field Inspection: The subject property is located on the west side of Dalmatia Drive, approximately 514 feet north of Piscataway Road, known as 9701 Dalmatia Drive. The site comprises approximately .36 acre (15,884 square feet) of land and is improved with a two-story dwelling with a two-car garage. The rear portion of the property is enclosed with a six-foot-high, board-on-board fence. There are some mature trees in the side and front yards of the property. The site is triangularly shaped with approximately 255 feet of frontage on Dalmatia Drive, from which it is accessed.
- B. History: The 1993 Sectional Map Amendment for Subregion V retained the property's R-R zoning.
- C. Master Plan Recommendation: The 1993 Master Plan for Subregion V recommends the site for Low-Suburban residential density at a maximum of 2.17 dwelling units (average 1.6 units) per acre with R-R zoning.
- D. Request: The applicant proposes to establish a day care center for 24 children in an existing two-story dwelling. The applicant will continue to reside on the first floor of the residence. The existing structure will be renovated to accommodate the proposed facility. The day care facility will occupy 1,400 square feet of gross floor area on the first floor and basement portion of the structure. The center will have two to three employees. No new construction or addition to the existing house is proposed.
- E. Neighborhood and Surrounding Uses: The neighborhood is generally defined by the following boundaries:

<u>North</u> :	Temple Hill Road
<u>West</u> :	Tinkers Creek and Tinker Creek Stream Valley Park
<u>East and Northeast</u> :	Piscataway Road and Temple Hill Road
<u>South</u> :	Steed Road

The site abuts a single-family home to the north and west and an approximately 300-foot-wide PEPCO power line easement to the south (rear) in the R-R Zone. To the east across Dalmatia Drive are single-family dwellings also in the R-R 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 O-S Zones. The Washington Executive Airport (Hyde Field) is located across Steed Road, approximately 2,500 feet from the subject site.

- F. Specific Special Exception Requirements: **A day care center for children is permitted in the R-R 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 applicant proposes 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 4,200 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 southern portion of the subject property behind the facility. The adjoining property to the south is the PEPCO power line easement, that is wooded. The outdoor play area is located at least 61 feet from the dwelling located on the adjoining property to the north. 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 (north and northwest), six-foot-high, board-on-board fence (south) and the proposed facility (east).

- (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 evergreen trees along the boundary lines on the northern portion of the property and a combination of evergreen trees and shrubs along the property's frontage on Dalmatia Drive. The site plan also

shows six existing trees and some shrubs. The applicant's Statement of Justification refers to a large shade tree within the fenced area. The tree is identified as a 20-inch (caliper) oak tree and is located on the northern portion of the play area. The lone tree by itself does not provide adequate shade for the 4,200 square feet of area. In addition to the existing tree, the proposed play area should contain a gazebo or at least one more shade tree (3- to 4-inch caliper in size) 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. The site plan includes a note indicating 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 is included in 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.**

Five (5) parking spaces are 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, including one van-accessible space for the physically handicapped.

One of the four spaces that is depicted on the plan does not meet the requirements of Section 27-560 (22-foot drive aisle requirement) and Section 27-563 (connection to a street), unless it is specifically designated for use in conjunction with the dwelling as opposed to the day care center. Otherwise, a departure is required. Moreover, the applicant must identify the two parking spaces designated for the residential use. Also, if the garage is to be used by the day care, then a note must be added to the site plan that the garage door will be left open during the hours of operation.

- 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 northern boundary line that is shared with the adjoining residential property. Landscaping is also provided in the front yard of the property. The proposed landscaping will enhance the appearance of the site while providing screening to benefit the adjoining property.

- I. Zone Standards: The site plan conforms to all other development standards of the R-R 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. The applicant's statement of justification indicates that there will be no standing sign posted for advertisement purposes.
- K. 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 protect and promote the health, safety, morals, comfort, convenience, and welfare of the present and future inhabitants of the county.

**Purpose No. 6** 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:

### Airport Compatibility

- Since 1997, the Planning Department has been engaged in a work program, Airport Regulations and Legislation, to examine risk and land use compatibility issues around the county's four general aviation (GA) airports: Potomac Airfield in Friendly, **Washington Executive Airpark** in Clinton, Freeway Airport in Mitchellville, and College Park Airport in College Park. This community planning project is an outgrowth of several aircraft accidents in the neighborhoods around Potomac Airfield during the mid-1990s and resulting residents' concerns.
- The subject property is located in an area that is underneath the air traffic/aerial approaches for Washington Executive Airpark, which is approximately 2,500 feet to the south. This small, private, public use airport has been in operation since 1939 and was originally known as Hyde Field. Aircraft associated with flights to and from Washington Executive Airpark are primarily lightweight, single-engine planes; a few are twin engine aircraft. A significant community planning issue is whether the proposed day care center is compatible with this airport.

### Noise

- Aircraft noise is one impact of the nearby airport operations on the subject location. It should be noted that general aviation airports are busiest on evenings and weekends and these busiest times for air traffic do not coincide with the hours of operation of a typical day care center. That said, a single engine aircraft, although not highly noisy, is noticeable when flying at low altitudes or when ambient noise is low, such as would be presumed during the children's nap time. 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.

### Safety

- To help the staff further understand the issues and risks involved at Potomac Airfield and the other airports in the county, the Planning Department hired a team of aviation consultants to examine safety and land use compatibility issues around each airport, to research what is being done in other jurisdictions, and to recommend state-of-the-art approaches to address 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, entitled the *Airport Land Use Compatibility and Air Safety Study for the M-NCPPC* (hereinafter referred to as the ■Report■).
- The Report contains an inventory of aircraft accidents reported to the National Transportation Safety Board (NTSB) for each of the general



aviation airports in the county since 1974 and a risk analysis projecting probabilities for future accidents and their locations. This analysis reveals areas of higher and lower risk in proximity to airport runways. In general, risk increases in direct proportion to the number of operations (flights in and out of the airport). The report also indicates that higher levels of risk are associated with locations closer to the ends of the runway where aircraft operations are concentrated at lower altitudes, and lower levels of risk at locations farther away where aircraft are at higher altitudes and more dispersed. Studies conducted in other states recommend prohibiting or discouraging residential development and concentrations of people on land underneath aerial approaches.

- The Report identifies a recommended model of six standard safety zones and a land use compatibility matrix for the county to consider applying around each general aviation airport to enhance the safety and compatibility of future land uses within approximately a one-mile radius. The safety zones (Report, pp. 35-39), identified by the consultant as **Accident Potential Zones 1 - 6** (APZ 1-6), were based on a survey of planning policies and standards in use across the country. The proposed day care center is located along the extended centerline of the runway at the nexus of APZ-2 (Inner Safety Zone), APZ-3 (Inner Turning Zone), and APZ-4 (Outer Safety Zone). (See attached map.) Aircraft in normal flight are descending for landing or ascending from take-off at relatively low altitudes over this location, roughly one-half mile from the end of runway. Based on nationwide survey data reported in the consultant's report, the historical percentage of general aviation aircraft accidents that occur in each APZ is: APZ-2: 10 percent; APZ-3: 13 percent; APZ-4: 2 percent.
- The consultant further identifies specific land uses considered to be compatible or incompatible with airport operations within each of the APZs. **While the proposed land use is not specified in the report's land use compatibility matrix, it is comparable to the categories of "nursing home" and "school" which, in APZs 2, 3, and 4, are both deemed: "Clearly Unacceptable: Specified use should not be allowed. Potential safety or overflight nuisance impacts are likely in this area"** (Report, p.46).
- Draft regulations proposing to implement recommendations in the Report 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 county Zoning Ordinance.

#### Conclusion

- Staff's conclusion is based on the assumption that people and land uses on the ground can be protected from catastrophic airplane accidents by land

use regulations that minimize exposure to that risk. Staff is not comfortable with exposing this particular land use to the level of risk documented in the consultant's report. We conclude that the subject location of the proposed day care center for children is not compatible with the airport operations at Washington Executive Airport.

**(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-R Zone that permits the proposed day care facility as a special exception. With the exception of providing sufficient shade within the play area, the proposal meets most of the specific special exception requirements of Section 27-348.01 for day care centers. 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 Low Suburban residential density at a maximum of 2.17 dwelling units (average: 1.6 units) per acre. The 1993 Sectional Map Amendment for Subregion V retained the property's R-R 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 and proposed improvements on the 0.36-acre property are adequately distanced from the closest residential dwellings. 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 property.

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*, 6<sup>th</sup> 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, probably from MD 223.

The majority of vehicle trips generated by the use on the subject property would gain access via Dalmatia Drive onto MD 223. The nearest significant intersections north and south of the site are the intersections of MD 223/Temple Hill Road and MD 223/Steed Road. By examination of recent counts, the MD 223/Steed Road intersection currently operates acceptably in accordance with the Planning Board's *Guidelines*; however, staff has no recent counts at MD 223/Temple Hill Road. The size of the use is not sufficiently large to have a significant impact on the operations at MD 223/Steed Road. Lacking specific data, we might expect the same to be true at MD 223/Temple Hill Road. There are no improvements which are programmed with 100 percent construction funding within the next 6 years in the current Maryland Department of Transportation Consolidated Transportation Program or the Prince George's County Capital Improvement Program along the nearby portion of MD 223 or Dalmatia Drive or in the general area.

Dalmatia Drive is a county-operated secondary residential roadway. For purposes of safety, parking for pick-ups and drop-offs within the site should be sufficient and configured in a way to allow easy access for patrons so that on-street parking is minimized. While this single semi-commercial use on a secondary residential street is probably acceptable, due to the narrow pavement width (26 feet) such uses should not be allowed to proliferate on such a street. The presence of parking on both sides of the street does not allow easy movement of two-way traffic, resulting in a safety concern.

The Transportation Planning Section finds that there are no significant transportation impacts which would result from the approval of the proposed Special Exception. This finding is based on limited traffic information in the area. It is also based on a presumption that no other day care facilities or slightly higher trip generating uses currently exist along Dalmatia Drive, which is a secondary residential street with a 26-foot pavement width within a 50-foot right-of-way width.

**(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 June 15, 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.

The site plan as proposed does not conform with all the specific requirements for the use and the parking facilities. In addition, the proposed use at this specific location conflicts with two specific purposes of the Ordinance. These purposes include 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. Due to the location of the property in close proximity (approximately 2,500 feet) 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. Therefore, it is recommended that Special Exception Application No. 4422 be DENIED.