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4449

Application	General Data	
Project Name	Date Accepted	11/27/01
Elder Child Development Center	Planning Board Action Limit	N/A
	Tax Map & Grid	097 C-4
Location	Plan Acreage	0.24
South side of Buck Creek Rd. approximately 150 feet west of Carrick Place and 100 feet north of Brinkley Road, known as 3907 Buck Creek Road.	Zone	R-80
	Dwelling Units	N/A
	Square Footage	N/A
Applicant	Planning Area	76B
Annie & Daroyld Elder 3907 Buck Creek Road Temple Hills, Maryland 20748	Council District	08
	Municipality	None
	200-Scale Base Map	209SE4

Purpose of Application		Notice Dates	
Day Care Center for 30 Children - 27-317 & 27-348.01		Adjoining Property Owners (CB-15-1998)	12/28/01
		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: Catherine H. Wallace	
APPROVAL	APPROVAL WITH CONDITIONS	DISAPPROVAL	DISCUSSION
		X	

August 28, 2002

TECHNICAL STAFF REPORT:

TO: The Prince Georges County Planning Board
The Prince Georges County District Council

VIA: Arie Stouten, Zoning Supervisor

FROM: Catherine H. Wallace, Planner Coordinator

SUBJECT: **Special Exception Application No. 4449**

REQUEST: **Day Care Center for 30 Children**

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 subject property is located on the south side of Buck Creek Road, approximately 150 feet west of Carrick Place and 100 feet north of Brinkley Road. The subject property is a 4-acre lot developed with a single-family residence. The residence is a brick and frame rambler with a basement. The site is surrounded by single-family detached homes in the R-80 Zone.
- B. History: There have been no previous zoning applications filed for this property. In 1996 the applicant was issued a license to operate a family day care business on the property. Family day care is permitted without a special exception and is limited to no more than eight children. On May 18, 2001, the Prince George's County Child Care Administration suspended her Certificate of Registration to operate a day care center, which suspension was upheld by the Office of Administrative Hearings on June 6, 2001. At the time of the suspension, the applicant was caring for 29 children. See attached decision.
- C. Master Plan Recommendation: The 1981 *Master Plan for Subregion VII* recommends suburban residential land uses with a density of 2.7 to 3.5 units per acre.
- D. Request: The applicants propose to operate a day care center for 30 children on the property.
- E. Neighborhood and Surrounding Uses: The neighborhood for this application is defined by the following boundaries:

Northeast - Temple Hill Road

South - Brinkley Road

Northwest - Henson Creek and Henson Creek Neighborhood Park

The applicant's Statement of Justification suggests a larger neighborhood, extending north to the Beltway; however, the Henson Creek Neighborhood Park is a substantial facility which effectively separates this neighborhood from development and activities to the north and west. The neighborhood is composed of single-family detached residential development, a church and the recreation center. These latter uses are generally oriented to Temple Hill Road, and the uses surrounding the subject site are limited to single-family detached residences.

- F. Specific Special Exception Requirements—Sec. 27-348.01. Day care center for children.

(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;**
- (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;**

The proposed play area contains 3,750 square feet of play area, which exceeds the 2,250-square-foot area required for a maximum of 30 in the play area at one time.

- (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;**

The outdoor play area is shown 60 feet from the residence to the rear of the property. It is about 33 feet from the home adjoining the site to the east and 25 feet from the adjoining residence to the west. It is enclosed by a four-foot-high chain-link fence.

- (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;**

There is no indication that a greater setback or higher fence is warranted for the safety of the children.

- (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;**

Not applicable.

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

The play area contains three shade trees.

- (F) **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;**

Five spotlights are located on the building to provide light for after-dark use of the play area; however, the applicant's letter of July 29, 2002, indicates that the play area is not to be used after dark.

- (G) **Outdoor play shall be limited to the hours between 7 A.M. and 9 P.M.;**

The Statement of Justification indicates this requirement will be met. The proposed hours of operation should be noted on the site plan, however.

- (3) In the C-W, C-M, I-1, I-2, and I-4 Zones, a Special Exception for a day care center for children shall be allowed only if the Council finds that existing development and uses in the neighborhood (particularly on adjacent properties) will not adversely affect the proposed use.

Not applicable.

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

- (1) The proposed enrollment;

The site plan notes a maximum of 30 children proposed for the day care center.

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

The homes to the east and west of the site are depicted on the site plan. Although the distance from the property lines are indicated from the remaining adjoining lots, the homes on those lots are not shown. A site plan revision would be required to meet this requirement.

- (3) The location and size of outdoor play or activity areas.

The location and size of the outdoor play area is depicted on the plans and meets size and location criteria of the Zoning Ordinance.

- (c) Any day care center for children which has, on or before the effective date of this Ordinance, fully complied with the provisions of this Subtitle in effect at the time the use commenced shall not be required to meet the requirements of this section, provided that the use has not been expanded or changed since that time. Any expansion or change shall be governed by the provisions of this section, or of Sections 27-445.03, 27-464.02, 27-475.02, or 27-541.02.

Not applicable.

- (d) For the purposes of this section, enrollment shall mean the largest number of children enrolled in the center in any one (1) session.

- G. Parking Regulations: The Zoning Ordinance requires one parking space per eight children in a day care center; therefore, the applicant correctly shows four parking spaces, including one space for the handicapped, on the proposed site plan. The parking spaces are correctly dimensioned, however, the access driveway is shown as 20 feet in width. The design standards for access driveways require the driveway to be 22 feet in width. The site plan should be revised to show a 22-foot-wide driveway. In addition, the site plan should show how the building is to be accessed by the handicapped.
- H. Landscape Manual Requirements: Because no increase in square footage is proposed, the use is exempt from compliance with the requirements of the *Landscape Manual*. However, in approving a special exception the District Council may impose landscaping requirements to assure the compatibility of the proposed use with surrounding uses. In a memorandum dated January 28, 2001, Laxmi Srinivas of the M-NCPPC Urban Design Section recommends that if the proposed special

exception is approved, a sight-tight fence or landscaping be installed to screen the view of the play area from neighboring properties.

- I. Zone Standards: The proposed use meets the standards of the R-80 Zone.
- J. Sign Regulations: The applicant proposes to install a sign on a four-foot-high brick wall proposed to screen the parking spaces from the street. The wall is shown approximately five feet from the proposed right-of-way line. This sign is considered a free-standing sign, which is subject to the requirement of a ten-foot setback from the proposed street line. The sign will require relocation or the approval of a departure from sign design standards.
- K. Other Issues: Impacts of the proposed special exception use.

The property is a ¼-acre lot. The requirement for 4 parking spaces and a 22-foot-wide access driveway will result in the paving of a majority of the front yard, creating a substantial difference between this property and its surrounding neighbors. Staff field inspections found that none of the surrounding residents had paved significant portions of their front yards to provide for parking. The proposed addition of a parking lot in the small front yard of the subject property will significantly alter its residential appearance.

There is a substantial amount of on-street parking in the neighborhood, due to the presence of single-car garages or driveways. The relatively small lot sizes and use of on-street parking leave few on-street parking spaces available in the event that the parking spaces on the subject property are occupied. The memorandum from Faramarz Mokhtari of the M-NCPPC Transportation Planning Section notes that on-site circulation is poor, given the nature of the turnover of vehicles at drop-off and pick-up times. This would tend to increase the potential use of on-street parking and the possibility of blocking neighbors' driveways, as was experienced during the previous operation of the family day care business.

Although the play yard meets the minimum 25-foot setback from the nearest residence, a maximum of 30 children playing in the yard, even if at staggered intervals, creates a substantial noise impact upon next door neighbors. The evidence in the record suggests that many of the neighbors are retired; therefore, daytime noise disturbances are more significant than they might be in other neighborhoods.

- 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 not in harmony with the purposes of this Subtitle.**

The purposes of the Zoning Ordinance listed in Section 27-102 follow in relevant part:

- a. To protect and promote the health, safety, morals, comfort, convenience and welfare of the present and future inhabitants of the County.**

b. To promote the most beneficial relationship between the uses of land and buildings and protect landowners from the adverse impacts of adjoining development.

Day care centers are intended to provide a healthy and safe environment for youngsters needing day care and before- and after-school care. The Zoning Ordinance provides for such institutional uses to be located in residential zones and residential areas by special exception, because it is presumed that they are generally compatible with residential neighborhoods. Although this application can meet the minimum technical requirements for approval, its size and impact at this location are not in harmony with the above-listed purposes of the Zoning Ordinance.

The proposal to care for 30 children at this residential site creates an impact due to noise and activity in the play area, the addition of traffic into the interior of this neighborhood, and the necessity to pave significant portions of the front yard so as to diminish the residential character of the property. These factors will not promote the welfare of surrounding neighbors nor maintain a beneficial land use relationship with adjoining properties.

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

The proposal meets most of the applicable requirements. However, the proposed driveway must be widened to 22 feet, handicap access to the building must be provided, and the proposed sign must be located 10 feet behind the proposed street line.

(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 Map Plan, the General Plan.

The 1981 *Master Plan for Subregion VII* recommends suburban-residential land uses for the subject property. Guideline 19 of the Living Areas Chapter states that "Living areas should contain no uses or activities which are incompatible with the residential activities." In a January 10, 2002 memorandum, Chidi Umeozulu of the Community Planning Division raised a concern that the location of 30 children on a small residential lot with its attendant noise impacts and the paving of the front yard could compromise this guideline. However, the impacts of the proposed use are limited to the immediately surrounding area and do not constitute a substantial impairment of the master plan.

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

The introduction of a day care center of the size proposed by the applicant on this small residential lot will adversely affect the welfare of surrounding residents. The proposed play area meets the minimum standards for setbacks from adjoining residences; however, the use of the play area by up to 30 children, even if at staggered intervals, will have noise impacts that cannot be sufficiently mitigated by screening. Many of the nearby residents are retired and would be more significantly impacted by noise and activity on the property than would other residents.

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

The use of the adjoining yards will be compromised by the size of the day care facility and its outdoor activities. Furthermore, the paving of much of the front yard will diminish the residential character of the subject property and be detrimental to the residential character of the rest of the homes surrounding the property.

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

The applicant has not provided documentation that the use conforms to an approved Tree Conservation Plan or that it is otherwise exempt from this requirement.

CONCLUSION:

The size and scale of the proposed use at this location has impacts above and beyond those typically associated with a day care center. This site is located in the middle of a residential block on a small residential lot where neighboring homes are located 16 to 18 feet from the subject property line. A small family day care center would be appropriate at this location. The noise and activity associated with the 30 proposed children is excessive, based on the testimony of neighbors in the record. The paving of a significant portion of the front yard substantially alters the residential character of this property and has a negative impact on surrounding homes. We therefore recommend DENIAL of this application.