



Note: Staff reports can be accessed at www.mncppc.org/pgco/planning/plan.htm.

SPECIAL EXCEPTION

SE-4607

Application	General Data
Project Name: Ashton Property Location: 50' ft Southwest of the intersection of Holly Road & Holly Way; also off the 16000 Block of MD 210/Indian Head Highway Applicant/Address: Cori D. & Danon Ashton 16702 Federal Hill Court Bowie, MD 20716	Date Accepted: 6/29/2007
	Planning Board Action Limit: N/A
	Plan Acreage: 0.758
	Zone: R-R
	Dwelling Units: N/A
	Square Footage: 2,345
	Planning Area: 83
	Tier: Developing
	Council District: 09
	Municipality: N/A
	200-Scale Base Map: 222SW01

Purpose of Application	Notice Dates
Day Care Facility For Up To 56 Children in the R-R Zone	Adjoining Property Owners Previous Parties of Record Registered Associations: (CB-12-2003)
	Sign(s) Posted on Site and Notice of Hearing Mailed:

Staff Recommendation		Staff Reviewer: Cynthia Fenton	
APPROVAL	APPROVAL WITH CONDITIONS	DISAPPROVAL	DISCUSSION
	X		

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

PRINCE GEORGE'S COUNTY PLANNING BOARD

STAFF REPORT

December 26, 2007

TECHNICAL STAFF REPORT:

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

VIA: Jimi Jones, Acting Zoning Supervisor

FROM: Cynthia Fenton, Planner Coordinator

SUBJECT: **Special Exception Application No. 4607**

REQUEST: **Day care center for 56 children**

RECOMMENDATION: **Approval with conditions**

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 a triangular shaped lot located at 16900 Holly Road, 50 feet southeast of the intersection of Holly Road and Holly Way, on the west side of Indian Head Highway (MD 210) in Accokeek. The site is improved with a one-story, 2,345 square-foot rambler style single-family home; an asphalt circular driveway; and two wooden storage sheds located along the northern property line. A chain-link fence encloses the entire property with the exception of the parking area. The fence is generally six feet high as it extends along the northern property line; the remaining fencing, which encloses the play area, is four-feet high. A driveway off Holly Road leads to the front of the property and the circular drive. Two masonry walls flank the driveway at the entrance to the site.

- B. **Development Data Summary:**

	EXISTING	PROPOSED
Zone(s)	R-R	R-R
Use(s)	Single-family dwelling	Day care center
Acreage	0.758	0.758
Lots	1	1

- C. **History:** The 1993 Sectional Map Amendment for the Subregion V Study Area retained the subject property in the R-R Zone. The property is currently used as a single-family dwelling.
- D. **Master Plan Recommendation:** This application conforms to the land use recommendations of the 1993 Subregion V Study Area Master Plan. The property is located in the Developing Tier. The vision for the Developing Tier is to maintain a pattern of low- to moderate-density suburban residential communities, distinct commercial centers, and employment areas that are increasingly transit serviceable. The 2002 General Plan Development Pattern policies for the Developing Tier do not address a group day care facility as proposed by this application.
- E. **Request:** The applicant is proposing the conversion of a single-family residence into a day care center for up to 56 children. The proposal includes nine parking spaces including one handicap accessible space.
- F. **Neighborhood and Surrounding Uses:** The neighborhood is defined by the following boundaries:

North— Holly Way and Pine Lane
South—Landing Drive
East— Indian Head Highway (MD 210)
West— Livingston Road

The neighborhood is residential in nature with single-family homes in the R-R Zone adjacent to the subject property and across Indian Head Highway.

- G. **Specific Special Exception Requirements for a Daycare Center:**

- (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;**

Based on a proposed enrollment of 56 children, a total of 4,200 square feet would be required for a play area to accommodate the full enrollment at one time. However, a play area of 50 percent of the enrollment (28 children) may be provided as long as only half the children are in the play area at a given time. For 28 children, a play area at least 2,100 square feet is required. Two proposed outdoor play areas (Play Area A, with 6,112 square feet and Play Area B with 3,374 square feet) total 9,486 square feet in area, which exceeds the minimum requirement for the proposed enrollment.

- (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 play area will be located 49 feet from the nearest dwelling, which is located on the adjoining lot to the north, and will be enclosed by a four-foot-high fence. A six-foot high chain-link fence runs along the northern property line.

- (C) **A greater setback 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;**

Staff finds the existing setbacks are adequate given the nature of surrounding uses. The Urban Design Section, in a memorandum dated September 24, 2007, recommends replacing the existing six-foot-high chain-link fence with a six-foot-high sight-tight privacy fence along the north and northwest property line adjacent to the existing single-family dwelling. The Urban Design Section further recommends the applicant provide bollards along the western portion of the fence along Holly Road for an additional measure of safety. The bollards will assist in protecting the safety of the children utilizing that play area. Staff generally concurs with these recommendations, though does not find the recommendation for a privacy fence along a portion Holly Road to be practical, as the outdoor play area will still be visible from the street. Moreover, staff finds that such a fence would have negative visual appeal from the roadway, since it would be located along the property line, rather than set back from the roadway.

- (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 the use of an off-premise outdoor play area.

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

The applicant is proposing to plant a Scarlet Oak in Play Area A and two Japanese Pagoda trees in Play Area B. An existing mature Red Maple will provide additional shade in Play Area B. Staff finds that, given the size of the play area, additional shade should also be provided in Play Area A, and recommends that a second Oak tree be located in the play area.

- (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; and**

Play area hours will take place only during daylight hours; therefore, lighting will not be required.

- (G) **Outdoor play shall be limited to the hours between 7am and 9pm.**

Outdoor play hours will be limited from 10:30 a.m. to 11:00 a.m. and from 3:00 p.m. to 3:30 p.m.

- H. **Landscape Manual Requirements:** The proposed use is exempt from the *Landscape Manual* per Section 27-328.02 of the Zoning Ordinance which states that uses which do not require the construction, enlargement or extension of a building are not subject to *Landscape Manual* requirements. The applicant's proposal does not require the construction, enlargement or extension of a building.

- I. **Sign Regulations:** A freestanding sign is located on the subject property. This sign must meet all area, height and setback requirements. A detail of the sign is provided on the sign plan indicates it meets area and height requirements; however, the sign must be relocated 10 feet from the front street line or a departure will be required.

- J. **Referral Comments:**

The property is located in the Accokeek Development Review District. The Accokeek Development Review District Commission, in a letter dated July 16, 2007, indicated they had no objection to the proposal as presented to them by a representative for the applicant. None of the referral replies received by staff had any objection to the application.

- 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 purposes of Subtitle 27 are set forth in Section 102. The proposed uses and accompanying site plan are not in harmony with the purposes of this subtitle. The site plan must be revised to conform to Section 27-296(c) and Section 27-348.01(b) of the Zoning Ordinance in order to protect and promote the health, safety, morals, comfort, convenience and welfare of the present and future inhabitants of the county. The conditions of approval require that these sections be met.
- (2) **The proposed use is in conformance with all the applicable requirements and regulations of this Subtitle.**

The proposed use is exempt from *Landscape Manual* requirements. No variances, waivers or departures are necessary to implement this proposed special exception. Because the site plan shows structures within a proposed right-of-way, approval from the District Council is required. The applicant has submitted a request to the District Council, dated November 1, 2007, to build within a proposed right-of-way.

(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.

This application is subject to the 1993 Subregion V Study Area master plan. The subject property is located within the Rural Residential (R-R) Zone, which allows up to 2.6 dwelling units per acre. The use is compatible within the current zone. Thus, 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.

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

None of the responses from any referring agencies received by staff indicate that the proposed day care center, with the included conditions, will adversely affect the health, safety or welfare of residents or workers in the area. The Transportation Section, in a memorandum dated August 2, 2007, recommends that a standard sidewalk be provided along the site's entire frontage along Holly Road, subject to review by DPW & T. The memo notes that most roads in the vicinity of the subject property are open section; however, where frontage improvements have occurred, a standard sidewalk has been provided. DPW& T requires Site Concert Plan approval prior to Special Exception approval.

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

Transportation staff anticipate the proposed use will generate a total of 45 AM and 46 PM peak-hour trips, with approximately 65 percent of those trips assumed to be already on the road as pass-by trips. The Transportation Section had the following comment included in their August 2, 2007 memorandum:

“The day care facility would be operated within a residential building, with no new construction occurring as a result of the proposal. The vehicle trips generated by the proposed use on the subject property would utilize the MD 210/Pine Lane and the Livingston Road/Pine Lane intersections. In 2006, the transportation staff determined that the unsignalized intersection of MD 210 and Pine Lane operated with excessive delay, and recommended that the application (4-05120 for Naz Auto Body) conduct a signal warrant study to determine if a signal would be warranted at this location. Given that the condition was imposed in relation to an adequacy (delay) issue and not a safety issue, it could be arguable whether such a condition should be imposed on this site. To staff's knowledge, that study has not been conducted to date. Given that most, if not all, of the trips using this site would utilize the MD 210/Pine Lane intersection, in view of the unique location of the site it is recommended that this applicant be responsible for performing a signal warrant study at this location and installing the signal if warranted. If

other evidence is provided indicating the State Highway Administration determines that warrants will not be met or that a signal is not appropriate at this location, the requirement should be waived.”

In view of the above finding, transportation staff recommended approval of the special exception subject to the following condition:

1. Prior to the issuance of any permits to operate the day care facility within the subject property, the following road improvements shall (a) have full financial assurances through either private money or full funding in the County’s capital program, (b) have been permitted for construction through the operating agency’s access permit process, and (c) have an agreed-upon timetable for construction with the appropriate operating agency:
 - a. Submission of an acceptable traffic signal warrant study to SHA for the intersection of MD 210 and Pine Drive. The applicant should utilize a new 12-hour count and should analyze signal warrants under total future traffic as well as existing traffic at the direction of SHA. If a signal is deemed warranted by SHA, the applicant shall bond the signal prior to the release of any building permits within the subject property and install it at a time when directed by SHA. The requirement for this signal warrant study may be waived by SHA if that agency determines in writing that there are sufficient recent studies available to make a determination regarding a signal, or otherwise determines that a signal is not appropriate at this location.

In consideration of the above, staff finds proposal for a day care facility will not pose unanticipated capacity or safety issues on adjacent roadways and thus will not be detrimental to the use or development of adjacent properties or the general neighborhood. In addition, Transportation staff had the following comment with regard to the proposed day care being located in the ultimate right-of-way of MD 210:

“The site is adjacent to MD 210, which is a master plan expressway facility. The master plan indicates a right-of-way of 250 feet at this location, which would consume virtually all of the subject property. The width of the master plan right-of-way would provide for the main travel lanes of MD 210 plus a service roadway along the northwest side of MD 210. However, Holly Road is built to function as a service roadway southwest of Pine Lane, and actually is the service roadway to the southwest of the subject site. Therefore, it is determined that the right-of-way requirement at this location is erroneous, and that no additional right-of-way is needed regarding this site.”

Because evidence suggests that additional right-of way to widen MD 210 will not be required, staff supports the applicant’s request to build within a proposed right-of-way.

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

This property is exempt from the provisions of the Prince George’s County Woodland Conservation Ordinance because the site is less than 40,000 square feet in area and contains less than 10,000 square feet of woodland.

CONCLUSION:

Based on the preceding analysis and findings, staff recommends that this application be APPROVED, based on the following conditions:

1. Prior to review by the Zoning Hearing Examiner, this site plan shall be revised as follows:
 - a. A second oak tree shall be located in Play Area “A”.
 - b. A six-foot-high, non-wood, natural color, sight-tight privacy fence shall be provided along the north property line adjacent to the existing single-family dwelling.
 - c. Bollards shall be provided along the western portion of the fence, along Holly Road, as an additional safety measure to protect the children in the play area.
 - d. Accessory buildings shall either be relocated two feet from side property line or the applicant shall obtain a variance to validate the existing locations.
 - e. The proposed sign must be relocated at least 10 feet from the front street line.
 - f. A standard sidewalk shall be provided along the site’s entire frontage along Holly Road, subject to review by DPW & T.
2. Prior to the issuance of any permits to operate the day care facility within the subject property, the following road improvements shall (a) have full financial assurances through either private money or full funding in the county’s capital program, (b) have been permitted for construction through the operating agency’s access permit process, and (c) have an agreed-upon timetable for construction with the appropriate operating agency:
 - a. Submission of an acceptable traffic signal warrant study to SHA for the intersection of MD 210 and Pine Drive. The applicant should utilize a new 12-hour count and should analyze signal warrants under total future traffic as well as existing traffic at the direction of SHA. If a signal is deemed warranted by SHA, the applicant shall bond the signal prior to the release of any building permits within the subject property and install it at a time when directed by SHA. The requirement for this signal warrant study may be waived by SHA if that agency determines in writing that there are sufficient recent studies available to make a determination regarding a signal, or otherwise determines that a signal is not appropriate at this location.

Staff further supports the applicant’s request to the District Council to build within a proposed right-of-way.