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Special Exception

SPE-2023-004

First Learning Stages Day Care Center

REQUEST	STAFF RECOMMENDATION
Special Exception for a day care center, for up to 20 children, with a fenced outdoor play area.	With the conditions recommended herein: <ul style="list-style-type: none">• Approval of Special Exception SPE-2023-004

Location: On the north side of White Oak Drive, 200 feet west of the intersection with Livingston Road.

Gross Acreage: 0.35

Zone: CGO

Zone Prior: C-O

Dwelling Units: 0

Gross Floor Area: 1,352 sq. ft.

Lots: 1

Parcels: 0

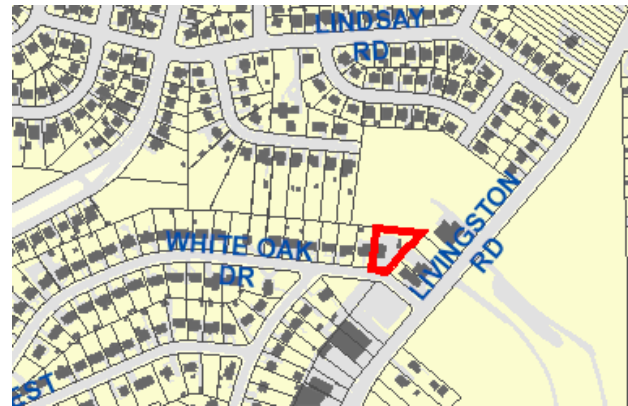
Planning Area: 76B

Council District: 08

Municipality: 0

Applicant/Address:
Karen Williamson
12417 Asbury Drive
Fort Washington, MD 20744

Staff Reviewer: Price, Todd
Phone Number: 301-952-3994
Email: Todd.Price@ppd.mncppc.org



Planning Board Date: 06/06/2024

Planning Board Action Limit: N/A

Staff Report Date: 05/21/2024

Date Accepted: 01/11/2024

Informational Mailing: 06/07/2023

Acceptance Mailing: 11/24/2023

Sign Posting Deadline: N/A

The Planning Board encourages all interested persons to request to become a person of record for this application. Requests to become a person of record may be made online at <http://www.mncppcapps.org/planning/Person of Record/>. Please call 301 952 3530 for additional information.

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THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

PRINCE GEORGE'S COUNTY PLANNING BOARD

TECHNICAL STAFF REPORT:

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

VIA: Jeremy Hurlbutt, Supervisor, Zoning Section,
Development Review Division

FROM: Todd Price, Planner II, Zoning Section,
Development Review Division

SUBJECT: Special Exception SPE-2023-004
First Learning Stages Day Care Center

REQUEST: Special exception for a day care center for up to 20 children, with a fenced outdoor
play area.

RECOMMENDATION: **APPROVAL, with conditions**

NOTE:

The Prince George's County Planning Board has scheduled this application on the consent agenda, for transmittal to the Zoning Hearing Examiner, on the agenda date of June 6, 2024.

You are encouraged to become a person of record in this application. Requests to become Persons of Record should be submitted electronically, by email to: ZHE@co.pg.md.us. 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.

The Zoning staff has reviewed the subject application and presents the following evaluation and findings leading to a recommendation of APPROVAL, with conditions, as described in the Recommendation section of this technical staff report.

I. EVALUATION CRITERIA

A. Prince George's County Zoning Ordinance. Special exceptions (SPEs) are reviewed and decided by the Prince George's County Zoning Hearing Examiner. Pursuant to Section 27-3604(e) of the Prince George's County Zoning Ordinance, SPEs may only be approved upon a finding that all of the following standards are met:

1. The proposed use and site plan are in harmony with the purpose of this Subtitle;
2. The proposed use is in conformance with all the applicable requirements and regulations of this Subtitle;
3. The proposed use shall be consistent with the General Plan and shall conform with the relevant goals, policies, and strategies of the applicable Area Master Plan, Sector Plan, or Functional Master Plan for the subject property and its surrounding area;
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; and
6. The proposed site plan is in conformance with an approved Type 2 Tree Conservation Plan; and
7. The proposed site plan demonstrates the preservation and/or restoration of the regulated environmental features in a natural state to the fullest extent possible in accordance with the requirements of Subtitle 24: Subdivision Regulations.

In addition, all SPE applications must comply with Section 27-5401 of the Zoning Ordinance, regarding setbacks, landscaping, buffering, and screening.

B. Prince George's County Woodland and Wildlife Habitat Conservation Ordinance. Pursuant to Section 25-119(a)(2)(B) of the Prince George's County Code, SPE applications shall include a Type 2 tree conservation plan (TCP2) or a standard letter of exemption (LOE). If a site requires approval of a TCP2, with an associated SPE application, the TCP2 is reviewed simultaneously with the associated plan. This application has an approved standard LOE from the Woodland Conservation Ordinance (S-092-2023), which is valid until June 2, 2025.

C. Prince George's County Tree Canopy Coverage Ordinance. Per Section 25-127(a)(1), "Building and grading permits that propose 5,000 square feet or

greater of gross floor area or disturbance shall be in compliance with this Division, except as provided in Section 25-127(b)". This application does not propose 5,000 square feet or greater of gross floor area or disturbance, therefore, it is exempt from the requirements of the Prince George's County Tree Canopy Coverage Ordinance.

II. BACKGROUND

- A. Summary and Request:** This application seeks a special exception for a day care center for up to 20 children, with a fenced outdoor play area. The day care center will occupy an existing commercial building in the Commercial, General and Office (CGO) Zone.

- B. Development Data Summary:**

	EXISTING	EVALUATED
Zone(s)	CGO	CGO
Use	Commercial	Day Care Center for Children
Lot(s)	1	1
Parcel(s)	0	0
Total Gross Acreage	0.35	0.35
Gross Floor Area	1,352 sq. ft.	1,352 sq. ft.

- C. Location and Site Description:** The subject property is located at 1004 White Oak Drive, Oxon Hill, Maryland, which is on the north side of White Oak Drive, 200 feet west of the intersection with Livingston Road. The property is located on Tax Map 105 in Grid B2 and identified as Lot 30 of Livingston Park, in Plat Book BB 8 Plat 14, recorded in the Prince George's County Land Records in 1940. The property is approximately 0.35 acre and is encumbered by an existing one-story, 1,352-square-foot brick building and associated paved parking. There are three parking spaces in front of the building, a two-way drive aisle to the east side of the building, and six parking spaces in the rear of the building. There is one Americans with Disabilities Act (ADA) van-accessible parking space included in the rear parking area. The site has three small sheds that are to be removed. An approximately 25-foot grass strip runs along the north rear property line, separating it from the parking lot. The northeast corner of the lot has a grassed area that will be used for the proposed 1,500-square-foot outdoor play area. This play area will be enclosed by a 6-foot-high wooden fence.
- D. Proposed Use(s):** The subject application is for an SPE for a day care center for children. The facility will care for a maximum of 20 children. The day care center will have a 1,500-square-foot outdoor, fenced play area. The applicant's statement of justification (SOJ) states that outdoor play shall be limited to the hours from 7:00 a.m. to 5:00 p.m.
- E. Neighborhood and Surrounding Uses:** The general neighborhood is a mix of residential and commercial properties. The neighborhood is bordered by Livingston Road to the east, Broderick Drive to the south, Maryland 210 (Indian Head Highway)

to the west, and Oxon Hill Road to the north. The immediate uses surrounding the subject property are as follows:

- North—** Vacant land owned by Potomac Electric Power Company in the Residential, Single-Family-65 (RSF-65) Zone.
- East—** A brick utility building owned by Potomac Electric Power Company in the RSF-65 Zone, a non-conforming single-family dwelling in the CGO Zone, and a day care center in the CGO-Zone.
- South—** Single-family dwellings in the RSF-65 Zone and commercial properties in the Commercial Service (CS) Zone.
- West—** Single-family dwellings in the RSF-65 Zone.

- F. History and Previous Approvals:** The subject property was recorded in the Prince George's County Land Records in 1940. Lot 30 was recorded on a final plat, prior to October 27, 1970, and has never been the subject of a preliminary plan of subdivision (PPS). There is no PPS approved for this site, and it has remained in its same platted configuration and acreage since it was recorded. The proposed use does not require the development of any additional square feet of gross floor area (GFA) and will not generate more than 50 trips. Therefore, a PPS or a new final plat is not required, in accordance with Section 24-3402(b)(1)(C) of the Subdivision Regulations.

The subject application included a Stormwater Management (SWM) Site Development Concept Approval (44024-2024-INC) from the Prince George's County Department of Permitting, Inspections, and Enforcement (DPIE) that was approved on April 4, 2024, and expires on April 4, 2027. This approval came with four conditions that must be met prior to permit issuance.

III. COMPLIANCE WITH APPLICABLE PROVISIONS OF THE ZONING ORDINANCE

This application, to permit a day care center for children use, through an SPE, is being reviewed in accordance with the Prince George's County Zoning Ordinance. The analysis of all required findings for approval are provided below.

- A. General Special Exception Findings—**Section 27-3604(e) of the Prince George's County Zoning Ordinance provides the following applicable findings:

(1) A Special Exception may be approved if:

(A) The proposed use and site plan are in harmony with the purpose of this Subtitle.

The purposes of Subtitle 27 of the Prince George's County Code, as set forth in Section 27-1300 of the Zoning Ordinance, are to protect the health, safety, and welfare of the public; to promote compatible relationships between various land uses; to guide orderly

development; and to ensure adequate public facilities and services. The proposed SPE is in harmony with these purposes as follows:

Staff find that the proposed use will not negatively impact the health, safety, and welfare of the public. The proposed hours of operation for the day care center are Monday through Friday, from 7:00 a.m. to 5:00 p.m. The outdoor play area will be fenced and will be at least 25 feet from the adjoining single-family uses.

The proposed use will be compatible with the surrounding land uses in that the proposed use will maintain the architectural character of the existing commercial building. As previously mentioned, the outdoor play area will be fenced and adequately distanced from adjoining uses. The day care center for children will provide a much-needed service to the surrounding neighborhood.

The proposed SPE use and site plan demonstrate harmony with the purposes of Subtitle 27 of the County Code.

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

The proposed use is in conformance with the requirements and regulations set forth in Subtitle 27.

The proposed use is being evaluated according to the general required findings of approval for all SPEs contained in Section 27-3604(e) of the Zoning Ordinance.

The application also demonstrates conformance with Section 27-5402(x), Additional Requirements for Specific Special Exception Uses pertaining to a Day Care Center for Children, as discussed in Section III.(C) of the Zoning Ordinance.

(C) The proposed use shall be consistent with the General Plan and shall conform with the relevant goals, policies, and strategies of the applicable Area Master Plan, Sector Plan, or Functional Master Plan for the subject property and its surrounding area;

The applicable master plan is the 2006 *Approved Henson Creek-South Potomac Master Plan and Sectional Map Amendment*. The master plan recommends commercial future land uses on the subject property. The application is consistent with the goals, policies, and strategies of the 2014 *Plan Prince George's 2035 Approved General Plan* (Plan 2035), because the proposed use provides a much-needed service within the context of supporting the existing nearby community.

In addition, the master plan recommends the following (policies and strategies) to help advance the intent and purpose of the plan:

Development Pattern Element Chapter

Developed Tier

Policy 1: Preserve and enhance existing suburban residential neighborhoods.

Strategies

- **Design institutional or special exception uses to – reflect the scale and character of the surrounding neighborhood.** (page 36)

The application conforms to the goals, policies and strategies of the master plan because the proposed day care center will be in a one-story brick structure that matches the scale and character of the surrounding single-family detached neighborhood to the west and commercial uses along Livingston Road to the east and south.

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

Staff find that the proposed use of a day care center for children will not adversely affect the health, safety, or welfare of residents or workers in the area.

(E) The proposed use will not be detrimental to the use or development of adjacent properties or the general neighborhood; and

The general neighborhood is residential and commercial. The proposed use does not propose any changes to the exterior of the existing commercial building, aside from the fenced, outdoor play area.

Given the modest improvements to the existing site, staff find the proposed use will not be detrimental to the use or development of adjacent properties or the general neighborhood.

(F) The proposed site plan is in conformance with an approved Type 2 Tree Conservation Plan; and

No Type 2 tree conservation plan is required with this application.

- (G) The proposed site plan demonstrates the preservation and/or restoration of the regulated environmental features in a natural state to the fullest extent possible in accordance with the requirements of Subtitle 24: Subdivision Regulations.**

No regulated environmental features (REF) exist on-site; therefore, none will be impacted by the proposed development. The site has already been graded and improved with a one-story brick building. The site has an approved standard LOE (S-092-2023) from the WCO, that was submitted for the proposed project, which is valid until June 2, 2025.

- (2) In addition to the above required findings, in a Chesapeake Bay Critical Area Overlay (CBCAO) Zone, a special exception shall not be granted:**

- (A) Where the existing lot coverage in the CBCAO exceeds that allowed by this Subtitle, or**

This criterion is not applicable, as the proposed development is not located within the Chesapeake Bay Critical Area Overlay (CBCAO) Zone.

- (B) Granting the special exception would result in a net increase in the existing lot coverage in the CBCAO.**

This criterion is not applicable, as the proposed development is not located within the CBCAO Zone.

- B. Special Exception General Required Findings—Section 27-5401 of the Zoning Ordinance provides the following applicable findings:**

- (a) Required Findings**

In addition to the required findings for the approval of a special exception specified in Section 27-3604(e), Required Findings, all special exception applications shall comply with Subsections (b) and (c), below, and all regulations applicable to the proposed use(s) as specified in Section 27-5402, Additional Requirements for Specific Special Exception Uses.

The subject application demonstrates conformance with the subsections regarding setbacks, landscaping, buffering, and screening as analyzed below.

- (b) Setbacks**

All setbacks shall be measured from the boundary line of the land for which the special exception is requested or approved, regardless of whether this boundary line is a lot, property, street, or other line. This Section applies to all setback requirements of this Subtitle which are specifically applicable to the special exception use.

The subject property is located in the CGO Zone. There are no required setbacks for this use in the CGO Zone, however, the submitted plan does dimension the existing building setback, to the nearest boundary line, to the north and east. A condition has been included herein requiring the applicant to provide building setbacks as measured from the boundary line of the requested SPE area.

(c) Landscaping, Buffering, and Screening

- (1) All landscaping required for a special exception, including any amendments to landscaping, buffering, and screening requirements which may be proposed by the applicant, shall be approved at the same time the special exception is approved. A special exception shall comply with the Landscape Manual through the approval of a landscape plan. 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.**
- (2) Amendments to landscaping, buffering, and screening required in an approved special exception shall be made in accordance with Section 27-3604(i), Changes to Approved Special Exceptions: Minor Changes.**

The subject application does not request any amendments to the landscaping, buffering, and screening requirements. The proposed development has been evaluated according to the requirements of the 2018 *Prince George's County Landscape Manual* (Landscape Manual).

C. Additional Requirements for Specific Special Exception Uses-Section 27-5402(x), Day Care Center for Children, provides the following applicable additional requirements:

- (1) A day care center for children may be permitted, subject to the following:**
 - (B) 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;**

The proposed outdoor play area is 1,500 square feet. This provides 75 square feet per child and, therefore, meets the minimum requirement.

- (ii) **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 proposed outdoor play area is at least 25 feet from any dwelling on an adjoining lot and is enclosed by a proposed 6-foot-high fence.

- (iii) **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;**

Staff find that the proposed setback and fence height is adequate to protect the health and safety of the children utilizing the play area.

- (iv) **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 proposed outdoor play area is located on the property and is safely accessible. It should be noted that the on-premises outdoor play area does cross the drive aisle that accesses the rear parking area. However, access to this parking area will be restricted during operating hours by an existing chain gate.

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

A note on the plan states that the outdoor play area shall be sufficiently shaded during the warmer months to afford protection from the sun. The shade structure should be a durable and quality structure, such as a canvas sunscreen, with permanent structural elements affixed to the ground. A condition has been included herein requiring the applicant to detail how the shade canopy will adhere to the ground and to show it on the final SPE site plan.

- (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**

The outdoor play area will not be used before or after daylight hours.

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

The outdoor play area will be limited to the hours between 7:00 a.m. and 5:00 p.m.

(2) In addition to the requirements of Section 27-3604(c), Special Exception Submittal Requirements, the site plan shall show:

(A) The proposed enrollment;

The proposed enrollment for this application is 20 children and is noted on the site plan.

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

The site plan shows the use of all buildings located on adjoining lots. However, a condition has been added to the Recommendation section of this report to show building locations.

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

The location and size of the outdoor play area is shown on the site plan.

D. Development Standards—Section 27-6, Development Standards, of the Zoning Ordinance provides the following applicable development standards. This SPE is consistent with the applicable standards, as described in the applicant's SOJ, incorporated herein by reference. The following discussion is offered:

1. Section 27-6300 Off-Street Parking and Loading

In accordance with the parking and loading regulations contained in Section 27-6300 of the Zoning Ordinance, a day care center for children requires 1.0 spaces per 10 children. This application proposes a limit of 20 children and, therefore, would require two parking spaces. The applicant is proposing nine spaces, one of which will be handicap-accessible. The submitted plan states that there are 10 spaces provided. A condition has been included in the Recommendation section of this staff report to correct this error.

No loading spaces are required for this use.

2. Section 27-6500 Landscaping

This application is exempt from the Landscape Manual per Section 1.1(b) which states that "Existing conditions on developed sites not in conformance with the requirements of this manual that were otherwise lawful on

April 1, 2022, and not the subject of any building or grading permit, may continue as a matter of right”.

3. Section 27-6600 Fences and Walls

This SPE proposes the installation of a 6-foot-high fence to enclose the outdoor play area, as shown on the plan. This fence meets the requirements of Section 27-6600.

4. Section 27-61200 Neighborhood Compatibility Standards

This SPE will have minimal impact on surrounding uses. The proposed use will make no changes to the exterior of the existing one-story brick building, apart from the addition of the fenced, outdoor play area. As such, it will protect the character of the existing neighborhood while providing a much-needed service to the community.

5. Section 27-61500 Signage

No signage is proposed with this application.

IV. COMPLIANCE WITH APPLICABLE PROVISIONS OF THE 2018 *PRINCE GEORGE’S COUNTY LANDSCAPE MANUAL*

This application is exempt from the Landscape Manual, per Section 1.1(b), which states that “Existing conditions on developed sites not in conformance with the requirements of this manual that were otherwise lawful on April 1, 2022, and not the subject of any building or grading permit, may continue as a matter of right”.

V. COMPLIANCE WITH APPLICABLE PROVISIONS OF THE 2010 PRINCE GEORGE’S COUNTY WOODLAND AND WILDLIFE HABITAT CONSERVATION ORDINANCE

This property has an approved standard LOE (S-092-2023) from the Woodland Conservation Ordinance, which is valid until June 2, 2025.

VI. COMPLIANCE WITH APPLICABLE PROVISIONS OF THE PRINCE GEORGE’S COUNTY TREE CANOPY COVERAGE ORDINANCE

Per Section 25-127(a)(1) of the Prince George’s County Code, the site is exempt from the Prince George’s County Tree Canopy Coverage Ordinance as it does not require a building or grading permit and does not propose 5,000 square feet or greater of gross floor area or disturbance.

VII. REFERRAL COMMENTS

The subject application was referred to the concerned agencies and divisions. The referral comments are incorporated herein, by reference, and major findings are summarized as follows:

- A. **Community Planning**—In a memorandum dated February 7, 2024 (Perry to Price), the Community Planning Division provided an analysis of the subject application and found no conformance issues.
- B. **Transportation Planning**—In a memorandum dated February 12, 2024 (Daniels to Price), the Transportation Planning Section provided an analysis of the subject application and found the vehicular, pedestrian, and bicycle access and circulation for this plan to be acceptable. The Transportation Planning Section did offer a condition that the applicant provide a minimum 5-foot-wide sidewalk along the property's frontage of White Oak Drive, unless modified by the operating agency with written correspondence. However, given that no sidewalk currently exists along either side of White Oak Drive or at its intersection with Livingston Road, staff find this condition to not be appropriate.
- C. **Environmental Planning**—In a memorandum dated February 12, 2024 (Schneider to Price), the Environmental Planning Section provided an analysis of the subject application and found it to be in conformance with Sections 27-6802, 27-6803, 27-6805, 27-6808, and 27-6809 within Section 27-6800 – Environmental Protection and Noise Control. It also noted that no specimen or REF exist on the property.
- D. **Subdivision**—In a memorandum dated February 12, 2024 (Bartlett to Price), the Subdivision Section provided an analysis of the subject application but offered no further comment or conditions of approval.
- E. **Historic Preservation**—In a memorandum dated January 29, 2024 (Smith, Chisholm, and Stabler to Price), the Historic Preservation Section noted that the subject property does not contain and is not adjacent to, any designated Prince George's County historic sites or resources.
- F. **Permit Review**—In a memorandum dated February 12, 2024 (Watkins to Price), the Permit Review Section provided technical comments, five of which have been included as conditions of approval in the Recommendation section of this report.
- G. **Prince George's County Fire/EMS Department**—In an email dated February 12, 2024 (Reilly to Price), the Fire/EMS Department reviewed the subject application and did not offer any comments.
- H. **Prince George's County Department of Permitting, Inspections and Enforcement (DPIE)**—In a memorandum dated March 18, 2024 (Guzman to Price), DPIE provided an analysis of the subject application, along with requirements to be met at permitting, and had no objection to SPE-2023-004.
- I. **Washington Suburban Sanitary Commission (WSSC)**—As of the writing of this technical staff report, WSSC did not offer any comments on this subject application.
- J. **Prince George's County Health Department**—In a memorandum dated January 11, 2024 (Adepoju to Price), the Health Department provided comments and recommendations, but had no objection to SPE-2023-004.

VIII. COMMUNITY FEEDBACK

As of the writing of this technical staff report, no correspondence has been received from the surrounding community.

IX. RECOMMENDATION

Based on the applicant's statement of justification, the analysis contained in the technical staff report, associated referrals, and materials in the record, the applicant has demonstrated conformance with the required special exception findings, as set forth in Section 27-3604(e) (in general) and the applicable findings of Section 27-5402(x), Day Care Center for Children, of the Prince George's County Zoning Ordinance. Staff find that the proposed application satisfies the requirements for approval, and that the application will be in conformance with the Prince George's County Zoning Ordinance requirements.

Therefore, staff recommend APPROVAL of Special Exception SPE-2023-004, First Learning Stages Day Care Center, subject to the following conditions:

1. Prior to certification of the special exception site plan, the following revisions shall be made, or information shall be provided:
 - a. The paved area between the two parking spaces and the proposed fence surrounding the outdoor play area in the northeast portion of the site shall be striped, to indicate that it is not a parking space.
 - b. The handicap-accessible marking and signage details for the handicap van-accessible parking space shall be demonstrated on the site plan.
 - c. Show and dimension all existing and proposed gates on the site plan.
 - d. Revise the parking tabulation to state nine parking spaces are provided, as shown on the plan.
 - e. Show the location of all adjacent buildings on the site plan.
 - f. Show a dimension from the fenced play area to the closest adjacent building on the site plan.
 - g. Provide details of the shade structure on the final special exception site plan including elevations, materials, and how it will adhere to the ground.
 - h. Provide building setback distances from the area of the special exception to the north and east property boundaries.