

RESOLUTION

WHEREAS, the Prince George's County Planning Board is charged with the approval of Detailed Site Plans pursuant to Part 3, Division 9 of the Zoning Ordinance of the Prince George's County Code; and

WHEREAS, in consideration of evidence presented at a public hearing on December 20, 2012, regarding Detailed Site Plan DSP-87115/09 for Advantage Care Daycare Center, the Planning Board finds:

1. **Request:** The subject detailed site plan (DSP) application is for approval of a 2,600-square-foot daycare center for 44 children in an existing shopping center in the C-S-C Zone.
2. **Development Data Summary:**

	EXISTING	APPROVED
Zone(s)	C-S-C	C-S-C
Use(s)	Integrated Shopping Center	Integrated Shopping Center
Acreage	6.06	6.06
Parcel	1	1
Total Gross Floor Area (sq. ft.)	48,227	48,227
Of which Daycare Center	-	2,600

OTHER DEVELOPMENT DATA

	REQUIRED	EXISTING
Total Parking Spaces for the Center	243	274
Of which Daycare Center (1 space per 8 children)	6	6
Loading spaces	3	3

3. **Location:** The subject site is located within an existing shopping center known as Woodberry Square Shopping Center, which is on the north side of Allentown Road, in the northeast quadrant of its intersection with Temple Hill Road, in Planning Area 76B, Council District 8 and the Developing Tier.
4. **Surrounding Uses:** The property is bounded on the south by the right-of-way of Allentown Road, to the west by the right-of-way of Temple Hill Road, to the north by existing subdivisions in the R-80 (One-family Detached Residential) Zone and to the east by properties in the C-S-C Zone.

5. **Previous Approvals:** The larger shopping center site known as Woodberry Square, Lot 1, has a previously approved Preliminary Plan of Subdivision 4-87107 and a Detailed Site Plan DSP-87115. The shopping center was constructed in accordance with the approved DSP in the late 1980s. The DSP was subsequently revised eight times, of which only the fifth revision was approved by the Planning Board, and the rest of the revisions were approved administratively because all the changes to the previously approved DSP were minor in nature. The most recent revision (DSP-87115-08) was approved administratively by the Planning Director on March 26, 2012 to add a concrete walkway behind the existing building and a dumpster enclosure. The proposed daycare center is located within one unit of the existing shopping center and the development will have minimal impact on the stormwater management of the existing shopping center. However, an approved stormwater management plan has not been provided with the application. A condition has been included in this resolution to require the applicant to provide the stormwater management concept approval prior to certification of this DSP.

6. **Design Features:** The subject site has an irregular linear shape with its long side fronting on Allentown Road. The site has been improved with an existing shopping center consisting of four buildings. The site has two access drives off Allentown Road and a third access off Temple Hill Road. The large, long main building where the proposed daycare center will be located is in the middle of the site and occupies most of the linear site. The three small buildings are located on the two ends of the larger building. All buildings are one-story in height and are finished with brick and glass. A 1,920-square-foot outdoor play area enclosed with a six-foot high wooden fence is proposed between the rear of the daycare center and the rear property line of the existing shopping center. The outdoor play area is immediately behind the proposed daycare center unit without crossing any driveway.

There is no new signage included in this DSP.

COMPLIANCE WITH EVALUATION CRITERIA

7. **Zoning Ordinance:** The subject application has been reviewed for compliance with the requirements of the C-S-C Zone, the site plan design guidelines and the requirements of Section 27-464.02 Daycare Center for Children of the Zoning Ordinance.
 - a. The subject application is in conformance with the requirements of Section 27-461(b) of the Zoning Ordinance, which governs development in all commercial zones. The proposed daycare use is permitted in the C-S-C Zone if it is consistent with the requirements of Section 27-464.02, Daycare Center for Children.
 - b. The DSP shows a site layout that is consistent with Section 27-462 Regulations, regarding building setbacks from streets. The proposed daycare center is located within one unit of the existing larger building in the shopping center. No new building and no alteration of the existing gross floor area (GFA) of the shopping center building has been proposed in this application.

- c. Section 27-464.02 of the Zoning Ordinance provides additional regulations for the proposed daycare center as follows:

Sec. 27-464.02. Day care center for children.

- (a) **A day care center for children permitted (P) in the Table of Uses I shall be subject to the following:**

(1) Requirements.

- (A) 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;**

A 1,920-square-foot outdoor play area has been provided at the rear of the proposed daycare center to be enclosed with a wooden fence. For 44 children, no less than a 1,650-square-foot outdoor play or activity area is required. This DSP meets the square footage requirement for the outdoor play or activity area.

- (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 located at the rear of the existing shopping center between the existing building and the rear property line of the site. According to information provided on the site plan, the proposed outdoor play area is located at least 25 feet away from any residential dwelling on the adjoining lot. In fact, the closest residential dwelling unit is located more than 300 feet from the rear property line of the existing shopping center. In addition, a six-foot-high wooden fence has been proposed to enclose the proposed outdoor play area. The DSP meets this requirement.

- (iii) A greater set back from adjacent properties or uses or a higher fence may be required by the Planning Board if it determines that it is needed to protect the**

health and safety of the children utilizing the play area;

A wooden fence with trellis has been proposed to enclose the play area.

- (iv) An 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;**

This requirement is not applicable to this DSP because the proposed outdoor play area is located on the premises of the proposed daycare facility immediately behind the existing building.

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

A ten-foot-high wooden trellis has been provided along both longer sides of the rectangular outdoor play area. The trellis is mounted on the top of ten-foot-high posts integrated with the proposed wooden fence and has six feet of overhead projection toward the play area that will provide sufficient shade during the warmer months of the year to protect children from the sun. However, the trellis along the property line will cause setback problems because it is placed on top of the six-foot-high fence. In accordance with Section 27-462 of the Zoning Ordinance, setback requirements, a structure which is higher than six feet must meet the setbacks of the C-S-C Zone. In this case, the proposed fence along with the integrated trellis is right on the property line. The Planning Board decided removal of the trellis from the top of the proposed wooden fence along the property line side of the center, and retention of the proposed trellis along the existing shopping center building side to provide sufficient shade to protect children from the sun in the summer. A condition has been included in this resolution.

- (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**

According to the applicant, the outdoor area will not be used after daylight hours.

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

As discussed above, the outdoor play area will not be used after daylight hours. However, daylight hours vary greatly from summer to winter in this area. The Planning Board decided that a site plan note be provided on the site plan prior to certification to meet the requirements stating the following:

“Outdoor play shall be limited to the hours between 7 A.M. and 9 P.M, but shall in no event be allowed after daylight hours.”

- d. The DSP does not propose any additional exterior improvements to the existing building except for a 1,920 square-foot outdoor play area and is in conformance with the applicable site design guidelines.
8. **Preliminary Plan of Subdivision 4-87107:** The Planning Board approved 4-87107 for Woodberry Square Shopping Center on July 30, 1987 with five conditions. The preliminary plan of subdivision was recorded in final plat book NLP 130 as Plat 100. Two conditions of approval were relevant to the review of the detailed site plan that were fulfilled at time of the original DSP-87115 approval as follows:
2. **Detailed Site Plan approval prior to final plat to address; adequate landscaping and buffering, with special attention to be paid to the portion of the site adjacent to residential uses; locations for ingress/egress; additional dedication that may be required for turning lanes and sidewalks; and compliance with CR-100-1984. This shall be a limited site plan as governed by Section 27-286 of the Zoning Ordinance.**
 5. **Applicant shall install a fence as shown on the preliminary plan between the subject property and adjacent residential property and shall maintain it in a constant state of good repair. This condition shall be placed on any subsequent owner of the property as long as it remains in commercial use and be enforced by the Department of Environmental Resources.**

The fence, among other requirements in the above two conditions that are related to the site, has been implemented with the development of the entire shopping center. The subject revision to the previously approved detailed site plan does not propose any improvements that trigger any compliance issues with the previous conditions of approval. The proposed daycare center for children within a unit of the existing shopping center conforms to the previously approved preliminary plan of subdivision for the larger site.

9. **Detailed Site Plan DSP-87115 and its eight revisions:** A Detailed Site Plan DSP-87115 for the entire shopping center was approved by the Planning Board on October 29, 1987 with three conditions. All three conditions were fulfilled with the development of this site. Subsequent to the approval of this DSP, eight revisions were filed and only one revision (the fifth one) was approved by the Planning Board with one condition. The condition attached to Detailed Site Plan

DSP-87115-05 has been fulfilled. The remaining seven revisions to DSP-87115 were all approved administratively by the Planning Director as the designee of the Planning Board. No conditions are attached to administrative approvals.

10. **Prince George's County Landscape Manual:** The DSP proposes to use 2,600 square feet of the gross floor area (GFA) within an existing shopping center building for a daycare center for 44 children and does not involve a change of use from a lower- to a higher-intensity use category or from a residential use to a nonresidential use, and does not involve an increase in the gross floor area of the existing building. Therefore, the subject DSP is not subject to the requirements of the 2010 *Prince George's County Landscape Manual*.
11. **Prince George's County Woodland and Wildlife Habitat Conservation and Tree Canopy Coverage Ordinance:** The proposed daycare center for 44 children will use the existing shopping building space and does not have previously approved tree conservation plans associated with this property. Therefore, this application is not subject to the Woodland and Wildlife Habitat Conservation Ordinance. A letter of exemption was issued on August 10, 2012 and will be valid through August 10, 2014.

The Tree Canopy Coverage Ordinance came into effect on September 1, 2010. All activities that require a grading permit after September 1, 2010, must provide the tree canopy coverage percentages required by Section 25-128 of the Prince George's County Woodland and Wildlife Habitat Conservation and Tree Canopy Coverage Ordinance. This DSP will need a grading permit for the proposed outdoor play area and therefore is subject to the tree canopy coverage requirement. A tree canopy coverage schedule has been provided on the Landscape Plan that demonstrates the site's conformance with the requirement. The required tree canopy for this site is ten percent of the site area or a total of 26,397 square feet. The existing landscaping on the site provides 26,465 square feet of tree canopy coverage, which exceeds the requirement for the site.

12. **Further Planning Board Findings and Comments from Other Entities:** The subject DSP application was referred to the concerned agencies and divisions. The referral comments are summarized as follows:
 - a. **Permit Review**—The Planning Board attached conditions regarding parking size and a drafting error in this resolution to require the applicant to address them prior to certification of this DSP.
 - b. **Prince George's County Health Department**—The Health Department in a memorandum dated November 5, 2012, provided the following comments:
 - The proposed site is located at the intersection of a major collector roadway and an arterial roadway where high traffic volumes can be expected. Published scientific reports have found that road traffic, considered a chronic environmental stressor, could impair cognitive development in children, such as reading

comprehension, speech intelligibility, memory, motivation, attention, problem-solving, and performance on standardized tests.

- The proposed site is located at the intersection of a major collector roadway and an arterial roadway where high traffic volumes can be expected. There is an emerging body of scientific evidence indicating that exposure to traffic-related fine particulate air pollution is a cause of and trigger for asthma; and living, working or going to school near a busy roadway or freeway increases the severity of asthma symptoms, especially in children.

The Planning Board found that the Zoning Ordinance requirements for a day care center located in a shopping center do not provide any mechanism for taking the comments above from the Health Department into account in the evaluation of the application.

- c. **Department of Public Works and Transportation (DPW&T)**—DPW&T had not provided any comments on this application at the time of the writing of this technical staff report.
- d. **Maryland Department of Human Resources**—The Child Care Licensing Office of Maryland Department of Human Resources had not responded to the referral request at the time of the writing of this technical staff report.

13. Based upon the foregoing analysis and as required by Section 27-285(b)(1) of the Zoning Ordinance, the subject detailed site plan satisfies the site design guidelines as contained in Section 27-274 and represents a reasonable alternative for satisfying the site design guidelines, without requiring unreasonable costs and without detracting substantially from the utility of the proposed development for its intended use. In addition, as required by Section 27-285(b)(4) of the Zoning Ordinance, the Planning Board must also find that the regulated environmental features on a site have been preserved and/or restored in a natural state to the fullest extent possible in accordance with the requirements of Subtitle 24-130(b)(5). Since the entire site has been developed and been used as a shopping center since the 1980s, there are no regulated environmental features of any kind located on the subject site.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to Subtitle 27 of the Prince George's County Code, the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission adopted the findings contained herein and APPROVED the Detailed Site Plan DSP-87115/09, subject to the following conditions:

- 1. Prior to certificate approval of this detailed site plan, the applicant shall:
 - a. Provide a stormwater management concept approval
 - b. Remove the proposed trellis from the top of the proposed wooden fence along the existing property line.

- c. Provide size of parking spaces on the plan.
- d. Remove "not included" text from the plan.
- e. Provide site plan notes as follows:

"Outdoor play shall be limited to the hours between 7 A.M. and 9 P.M, but shall in no event be allowed after daylight hours."

"Resilient flooring in accordance with the standards of the American Society for Testing and Materials (ASTM) shall be provided in the proposed outdoor play area where play equipment will be installed."

"Grading of the outdoor play area shall ensure a complete drainage of any stormwater from the play area."

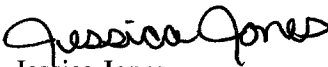
BE IT FURTHER RESOLVED, that an appeal of the Planning Board's action must be filed with the District Council of Prince George's County within thirty (30) days following the final notice of the Planning Board's decision.

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This is to certify that the foregoing is a true and correct copy of the action taken by the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission on the motion of Commissioner Washington, seconded by Commissioner Shoaff, with Commissioners Washington, Shoaff, Bailey and Hewlett voting in favor of the motion, and with Commissioner Geraldo absent at its regular meeting held on Thursday, December 20, 2012, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 10th day of January 2013.

Patricia Colihan Barney
Executive Director

By 
Jessica Jones
Planning Board Administrator

PCB:JJ:HZ:arj

APPROVED AS TO LEGAL SUFFICIENCY.


M-NCPPC Legal Department

Date 1/2/13