



PGCPB No. 13-23(A)

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Upper Marlboro, Maryland 20772
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File No. DSP-12045

AMENDED 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 March 14, 2013 regarding Detailed Site Plan DSP-12045 for First Beginnings Children's Center, the Planning Board ~~*[finds:]~~ reviewed and approved the project, with conditions; and

*WHEREAS, on April 4, 2013, the Planning Board adopted PGCPB Resolution 13-23, formalizing that approval; and

*WHEREAS, on May 13, 2013, the District Council elected to review the case; and

*WHEREAS, on June 17, 2013, the District Council heard oral argument on the case; and

*WHEREAS, on July 15, 2015, the District Council remanded the case to the Planning Board for an additional evidentiary hearing to address specific issues concerning the detailed site plan (DSP) in accordance with Section 27-132 and 27-290 of the Zoning Ordinance; and

*WHEREAS, in consideration of evidence presented at a public hearing on September 12, 2013 regarding the Remand of Detailed Site Plan SDP-12045 for First Beginnings Children's Center, the Planning Board finds:

1. **Request:** The detailed site plan is a request for approval of a day care center for 38 children in a 1,613-square-foot Unit E of the existing Shops at Silver Hill shopping center in the Commercial Shopping Center (C-S-C) Zone.
2. **Surrounding Uses:** The subject property is located in the northeastern quadrant of the intersection of Silver Hill and Old Silver Hill Roads. The site is bounded to the south by Old Silver Hill Road; to the north by Silver Hill Road; to the east by multifamily housing; and to the west by the Silver Hill Shopping Center.

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3. **Previous Approvals:** The proposed project is subject to the requirements of Preliminary Plan of Subdivision 4-97088, which was approved for the Shops at Silver Hill shopping center by the Planning Board on December 18, 1997. PGCPB Resolution No. 97-363 was subsequently adopted by the Planning Board on January 22, 1998, formalizing that approval. The project is also subject to the requirements of a Final Plat approved on November 8, 2007 and recorded in Plat Book PM 224-55 and Alternative Compliance AC-06016, approved November 17, 2006 together with a permit for fine grading.
4. **Development Data Summary:**

	EXISTING	APPROVED
Zone(s)	C-S-C	C-S-C
Use(s)	Shopping Center with Subject Unit Vacant	Shopping Center with Subject Unit occupied by a day care center
Acreage	4.02	4.02
Parcels	1	1
Square Footage of Shopping Center	23,640 sq. ft.	23,640 sq. ft.
Square Footage of subject unit	1,613 sq. ft.	1,613 sq. ft.
Dwelling Units	0	0

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Parking Required:

Shopping Center – Total	
(including subject Day Care)	163
Day Care Center	
(one space per 8 children)	5
Total:	163

Parking Provided:

Shopping Center – Total	168
(including subject Day Care)	
Day Care Center	10
Total:	168

Loading Spaces Required: 3
(one space for 10,000 – 100,000 s.f. of GFA)

Loading Spaces Provided: 3

Minimum Outdoor Play Area Required per Section 27-464.02 of the Zoning Ordinance:
38 children x 0.5 x 75 square feet = 1,425 square feet

Enclosed Play Area Provided: 1,425 square feet

5. **Design Features:** The site is located within an existing shopping center consisting of two retail buildings labeled on the site plan as “Building No. 1” and “Building No. 2.” The subject day care center is proposed to be located in 1,613-square-foot “Unit E” in the central portion of Building No. 1. Building No. 2 measures approximately 5,500 square feet. The play area for the day care center is proposed to be located to the rear of Building No. 1 where, as is noted on the site plan, an existing wooded area would be cleared to provide the required 1,475-square-foot outdoor play area. Plans for the project also note that the play area will be enclosed by either a minimum four-foot-tall white or a six-foot-tall white vinyl privacy fence. The Planning Board has conditioned that the applicant clarify the height of the fence prior to signature approval of the plans, and that the fence be constructed of a low-sheen vinyl. *On remand, however, in response to comments received from the Prince George’s Police Department’s comments the Planning Board modified that requirement to stipulate that a wrought iron (or similar metal) product be utilized for a six-foot fence to surround the play area.

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6. **Conformance to the requirements of Final Plat approved on November 8, 2007 and recorded in Plat Book PM 224-55:** A final plat was approved for minor lot line adjustments on November 8, 2007 and recorded in plat book PM 224-55. Two notes on that plat relevant to the subject project are included in **boldface** type below, followed by comment:
2. **Development is subject to restrictions shown on the approved Type I Tree Conservation Plan (TCP1/49/97) which precludes any disturbance or installation of any structure within specific areas. Failure to comply will mean a violation of an approved tree conservation plan and will make the owner subject to mitigation under the Woodland Conservation/Tree Preservation Policy and Subtitle 25.**

The Planning Board stated that the detailed site plan (DSP) and revised Type II tree conservation plan (TCP2) along with the conditions of this approval result in conformance to the Type I tree conservation plan (TCP1) as required by this condition. Note however, that as the subject project proposes to clear some woodland previously committed to conservation, a commensurate fee-in-lieu is required in compensation for this clearing by a proposed condition of this approval.

3. **Development of Lots 2 and 3 shall either be in general conformance with the preliminary site and landscape plan as revised or shall be subject to detailed site plan approval. The limited review will focus on pedestrian access, architecture, and crime prevention design alternatives. The detailed site plan, if necessary, shall be approved prior to issuance of any building permit for Lots 2 and/or 3.**

The subject detailed site plan (DSP) approval is for the daycare use only, not for the initial development of the lots. Additionally, as final plat has been approved for the site, conformance with it, rather than the preliminary plan, has been evaluated. Lastly, the Alternative Compliance Committee has determined that the subject application is in conformance with the prior Alternative Compliance approval AC-06016, although not all plant materials approved at that time appear to be installed. A condition of this approval requires that all plant materials approved at that time be shown on a landscape plan to accompany the DSP and subsequently be installed. The project is exempt from the requirements of the 2010 *Prince George's County Landscape Manual*, except Section 4.4, which is inapplicable as the approved project contains no loading spaces, mechanical equipment or dumpsters that would require screening. In any case, further analysis shows that the buffer to be impacted by construction of the outdoor play area will still provide the otherwise required Section 4.7 buffer regarding incompatible uses, including a 30-foot building setback and a 20-foot landscaped yard, along the rear property line shared with a multifamily housing complex. By separate condition of this approval crosswalks shall be striped at the site's ingress/egress point along Old Silver Hill Road, and the access to the adjacent bank from Silver Hill Road (MD 458), unless modified by the State Highway Administration (SHA), in the interests of safe pedestrian access to the site. The subject DSP shall by condition of this approval include the Parcel number, owner and zoning of a small strip of land along the subject site's northern boundary, and the correct lot numbers and configuration for the subject site and the adjacent bank.

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7. **Conformance to the Applicable Sections of the Zoning Ordinance:** The detailed site plan is in conformance with Section 27-454, C-S-C Zone, and Section 27-461, Uses Permitted in the C-S-C Zone. The proposed day care center is a permitted use in the C-S-C Zone. The detailed site plan is also in conformance with Section 27-462, Regulations in the C-S-C Zone.

The detailed site plan is in conformance with Section 27-464.02 of the Zoning Ordinance, which sets forth additional required findings for a day care center for children:

(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;**

The proposed play area provides 75 square feet per child for 19 children, which is 50 percent of the licensed capacity of the day care center, the greater of the two calculations required above. A condition of this approval requires that a maximum of 19 children will be permitted on the playground at one time.

- (ii) All outdoor play areas shall be located on the same lot as the center 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 located approximately 55 feet from an existing apartment complex building on the adjacent property, thus it is in accordance with the required 25-foot setback. As ~~*[plans for the project stipulate that]~~ the play area will *by condition of this approval be enclosed with a ~~*[minimally four]~~ six-foot-high ~~*[white]~~ wrought iron (or similar metal) fence, the project conforms to the second requirement, as well.

- (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;**

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The setback from the nearest residential structure is approximately 55 feet or approximately 30 feet in excess of the 25-foot required setback, which is sufficient. However, for greater security for the children in a somewhat isolated area, the Planning Board requires, by condition of this approval, a six-foot ~~*[fence rather than a four-foot-]~~ wrought iron or similar metal fence.

- (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;**

As the outdoor play area in this case is not off-premises, this requirement does not apply to the subject project.

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

In the Statement of Justification, the applicant asserted that shade would be provided by the trees immediately adjacent to the play area on its eastern and partially on its northern and southern sides. While this may be true for certain hours of the day and certain weeks of the year, it cannot be relied on for provision of shade. Therefore, a condition of this approval requires that the applicant provide a suitable shade structure in the outdoor play area, to be approved by the Planning Board or its designee prior to signature approval.

- (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**

A note on the project plans obligates the day care center to utilize the play area only during daylight hours. Therefore, the project conforms to this requirement.

- (vi) **Outdoor play shall be limited to the hours between 7 a.m. and 9 p.m.**

A note on the project plans states that the day care center will operate from 8:30 A.M. to 5:30 P.M., which falls within the allowed hours.

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(2) **Site plan**

- (A) **A Detailed Site Plan shall be approved for the center, in accordance with Part 3, Division 9, of this Subtitle, to insure compliance with the provisions of this Section.**

As the applied-for detailed site plan is hereby approved by the Planning Board, the application is in conformance with this requirement.

- (B) **In addition to the submittal requirements of Part 3, Division 9, the Detailed Site Plan shall show:**

- (i) **The proposed enrollment;**
- (ii) **The location and use of all buildings located on adjoining lots;**
- (iii) **The location and size of outdoor play or activity areas; and**
- (iv) **The location, quantity, and type of screening and landscaping.**

Notes on the detailed site plan state that the proposed enrollment shall be a maximum of 38 children. Further, the detailed site plan indicates the location of all buildings on adjoining lots, the location and size of the playground and the location, quantity and type of screening and landscaping in accordance with this requirement.

8. **Prince George's County Landscape Manual (Landscape Manual):** The approved project is exempt from all sections of the 2010 *Prince George's County Landscape Manual*, except Section 4.4, as it does not involve an addition to the existing buildings or parking area for the proposed project. Section 4.4 however does not then apply because the project is not adding any dumpsters, mechanical equipment or loading spaces to the site plan that are in need of screening. The subject site received approval of Alternative Compliance application AC-06016 for its northern boundary on November 17, 2006, in conjunction with a permit issued for fine grading. Though the aforementioned Alternative Compliance approval does not affect the subject approval, a condition of this approval requires that information regarding the approval be added to the general notes on the plan prior to signature approval, and that the prior approved landscape plan which reflects conformance to that alternative compliance (AC) approval be updated to reflect the outdoor play area approved as part of this application and submitted to become part of the certified plan set for the subject approval. In addition, the condition requires that all plant material indicated on the prior approved landscape plan be installed.
9. **Prince George's County Woodland and Wildlife Habitat Conservation Ordinance (WCO):** The property is subject to the 1993 Prince George's County Woodland Conservation and Tree Preservation Ordinance (WCO) because the site has a previously approved Tree Conservation Plan. A Tree Conservation Plan (TCP11-030-98) was approved for the site on April 21, 1998 and

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the site has been developed in conformance with that approval. The previous tree conservation plan had an overall requirement of 2.98 acres that was met with 2.54 acres of off-site woodland credits and 0.44 acres of on-site woodland preservation.

A revised TCP2 has been submitted. The TCP2 included a worksheet that was incorrect. The applicant has since submitted a revised worksheet. The revised TCP2 proposes to clear an additional 0.02 acres for the proposed play area, resulting in an overall requirement of 3.00 acres. The TCP2 proposes to meet the requirement with 0.38 acres of on-site preservation, 2.54 acres of woodland conservation previously obtained in an off-site woodland conservation easement, and 0.08 acres of fee-in-lieu.

The Planning Board by condition of this approval requires revisions to the TCP2 to include the following:

Revise the scale from 20 feet to 30 feet. Revise the worksheet on the plan by replacing it with the corrected worksheet submitted to the Planning Board on February 20, 2013. The woodland area behind the proposed outdoor play area is too narrow to be counted as woodlands. Label this 0.04 acre area as "woodlands preserved not counted as preservation" on the plan view and smaller detail (The corrected TCP worksheet has been revised to reflect this acreage). Add tree signs along the perimeter of the woodland preservation areas at a spacing of 50 feet. Revise the vicinity map to show the road names and site location. In the TCP approval block and title block, show the previous approval and add "01" to the TCPII number.

The subject project conforms to the requirements of the 1993 Prince George's County Woodland Conservation and Tree Preservation Ordinance.

10. **Tree Canopy Coverage Ordinance (TCC):** The project is not subject to the requirements of the Prince George's Tree Canopy Coverage Ordinance (TCC) as there is not more than 1,500 square feet of land disturbance contemplated by the application.
11. **Further Planning Board Findings and Comments from Other Entities:** The subject application was referred to the concerned agencies and divisions. The referral comments are summarized as follows:
 - a. **Historic Preservation**—The subject application for a day care center for 38 children will have no effect on identified Historic Sites, Resources, or Districts.
 - b. **Archeology**—A Phase I archeological survey is not be recommended on the subject property as it is currently developed as a shopping center and a search of current and historic photographs, topographic and historic maps, and locations of currently known archeological sites indicated that the probability of finding archeological artifacts within the subject property is low. The subject proposal will not impact any historic sites, historic resources, documented properties, or known archeological sites.

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- c. **Community Planning**—The subject application is consistent with the 2002 General Plan Development Pattern policies for the Developed Tier. The subject application conforms to the commercial land use recommendations of the November 2009 *Approved Marlboro Pike Sector Plan and Sectional Map Amendment (SMA)*.
- d. **Transportation Planning**—The site is located within an existing shopping center consisting of a bank, a building of 5,600 square feet for retail uses and a larger building of 23,640 square feet for retail uses. The proposed day care center for 38 children would occupy 1,613 square feet of the larger 23,640-square-foot building the site is served by a signalized intersection on Silver Hill Road (MD 458) and a commercial driveway on Old Silver Hill Road and parking and on-site circulation are adequate to accommodate the proposed use. The day care center is proposed to be located in an existing retail shopping center and that the use will generate less traffic than typical retail uses. Further, a review of the previously approved preliminary plan/final plat did not reveal any outstanding issues or conditions. The site has frontage on both Silver Hill Road (MD 458) and Old Silver Hill Road and that no further right-of-way is required. The site plan is acceptable from a transportation-related perspective.
- e. **Subdivision Review**—The subject property is known as Lots 4 and 5, located on Tax Map 81 in Grid B-4, and is 4.01 acres. Lots 4 and 5 are within the Commercial Shopping Center (C-S-C) Zone and the plat was approved on June 25, 1998 and recorded in plat book VJ 183-69. A minor final plat to adjust lot lines was approved on November 8, 2007 and was recorded in plat book PM 224-55. The site plan does not show the boundary of the parcels, bearings and distances, and the 10-foot-wide Public Utility Easement as reflected on the record plat. The property is improved with a bank and two retail buildings containing a total of 33,661 square-feet of gross floor area. A DSP has been submitted to allow a daycare center with a maximum enrollment of 38 children. This new use will not result in any additional gross floor area (GFA). Of the seven notes on the plat, notes number 2 and 3 relate to the subject approval. See Finding 6 of this approval for a detailed discussion of conformance to those requirements. The site is the subject of the approved Preliminary Plan of Subdivision 4-97088, and the resolution, containing seven conditions, was adopted by the Prince George's County Planning Board on January 22, 1998 (PGCPB Resolution No. 97-363) that have been met or are discussed in Finding 6 below. Pursuant to Section 24-111(c) (2) of the Subdivision Regulations, the application is exempt from the requirement of filing a preliminary plan of subdivision because no additional gross floor area (GFA) is proposed.

A condition of this approval addresses concerns regarding the correctness of the boundary of the parcels, the bearings and distances of the property and the indication of a ten-foot-wide public utility easement (PUE).
- f. **Trails**—The Planning Board stated that the subject DSP was reviewed for conformance with the 2009 *Approved Countywide Master Plan of Transportation (MPOT)* and/or the appropriate area master plan in order to provide master plan trails. Particularly, the type of

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Master Plan Bikeway or trail in this case involves both Maryland State Highway Administration (SHA) right-of-way and sidewalks. Further, the Planning Board reviewed the subject DSP for conformance to the 2009 *Approved Countywide Master Plan of Transportation* (MPOT) and the 2010 *Approved Subregion 4 Master Plan and Sectional Map Amendment* (SMA) in order to implement planned trails, bikeways, and pedestrian improvements.

The 2009 *Approved Countywide Master Plan of Transportation* (MPOT) includes a complete streets element that recommends that roads be designed to accommodate all modes of travel, including pedestrians and bicyclists. The following policies are included in the Complete Streets Section (page 33):

POLICY 1: Provide standard sidewalks along both sides of all new road construction within the Developed and Developing Tiers.

POLICY 2: All road frontage improvements and road capital improvement projects within the Developed and Developing Tiers shall be designed to accommodate all modes of transportation. Continuous sidewalks and on-road bicycle facilities should be included to the extent feasible and practical.

More specifically, both the MPOT and area master plan recommend continuous sidewalks and designated bike lanes along Silver Hill Road (MD 458). MD 458 is a major road within the Subregion 4 area, and provides access from surrounding residential communities to Metro and the Suitland Federal Center. The MPOT includes the following description of the master plan improvements:

Silver Hill Road Sidewalks and Designated Bike Lanes: These improvements will enhance access to the Suitland Metro, the Suitland Federal Center, several commercial areas, and Francis Scott Key Elementary School. Sidewalks exist along many segments of Silver Hill Road. Existing sidewalks are narrow and placed immediately behind the curb. Sidewalks shall be at least six feet wide and be incorporated into a pedestrian-friendly streetscape with amenities and safety features (MPOT, page 22).

The subject site includes existing sidewalks along its frontages of MD 458 and Old Silver Hill Road. The Silver Hill Shopping Center (where the application is located) also includes internal sidewalks and designated walkways along the frontage of the shopping center, at the pad sites, and between the main shopping center and pad sites. The approved play area is immediately behind the space to be used by the daycare center and no additional sidewalk connections are necessary. The existing sidewalk along MD 458 is buffered from the curb by a grass planting strip and meets the intent of the master plan and MPOT. Designated bike lanes can be considered by SHA at the time of road resurfacing. Currently wide outside curb lanes are provided to accommodate on-road bicyclists. No crosswalks are

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provided along the site's frontages of both MD 458 and Old Silver Hill Road. The striping of crosswalks at the site's two ingress/egress points is hereby required consistent with the Complete Streets Section of the MPOT, unless modified by the State Highway Administration.

The applicant is hereby required by condition of this approval to provide striped crosswalks at the site's ingress and egress points along both Silver Hill Road (MD 458) and Old Silver Hill Road, unless the Maryland State Highway Administration (SHA) modifies this requirement.

- g. **Permit Review**—Permit Review concerns have either been addressed by revisions to the plans or in the conditions of this approval.
- h. **Environmental Planning**—The Planning Board has reviewed the above referenced Detailed Site Plan DSP-12045 and Type II Tree Conservation Plan TCPII-030-98-01 for First Beginnings Children's Center received January 10, 2013.

Background

The site was previously reviewed and approved for a Preliminary Plan of Subdivision (4-97088) and Tree Conservation Plan (TCPI-049-97). Conditions of approval for 4-97088 can be found in PGCPB. 97-363. A Type II Tree Conservation Plan (TCPII-030-98) was subsequently reviewed and approved for the site.

The project proposes a day care center with an outdoor play area.

Grandfathering

With regard to the environmental regulations that became effective on September 1, 2010, the subject application is grandfathered under Subtitles 27 and 25, because the site has a previously approved Preliminary Plan of Subdivision

Site Description

The 6.67-acre site, in the C-S-C Zone, is located on the northwest side of Silver Hill Road (MD 458) approximately 880 feet southwest of the intersection with Old Marlboro Pike (MD 725). The site is currently developed with a strip shopping center with two pad sites and surface parking. No regulated environmental features are present on site. A wooded 0.44 acre buffer is located along the northeastern property line. According to the USDA NRCS Web Soil Survey for "Prince George's County" the principal soils on this site are Beltsville—Urban land complex and Woodstown—Urban land Complex. Marlboro clay and Christiana complex do not occur in this area. According to information obtained from the Maryland Department of Natural Resources Natural Heritage Program, the site is not within a Sensitive Species Protection Review Area. The site does not include forest interior dwelling species (FIDS) Habitat. There are no historic or scenic roads adjacent to the site. Silver Hill Road is a master planned arterial road that generates noise levels that are above the residential standard of 65 dBA Ldn. The project is a non-residential use, but

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a health impact assessment review of the detailed site plan submission for First Beginnings Children's Center and offered the following two comments:

- (1) The site is located approximately 300 feet from an arterial roadway where high traffic volumes can be expected, and therefore subject to the potential adverse health impacts associated with traffic-related noise. 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. Noise can also be detrimental to health with respect to hearing impairment, sleep disturbance, cardiovascular effects, psycho-physiologic effects and psychiatric symptoms, and fetal development. The applicant should consider modifications, adaptations and/or mitigation to be provided as necessary to minimize the potential adverse health impacts of noise on the susceptible population.
- (2) The site is located approximately 300 feet from an arterial roadway where high traffic volumes can be expected and therefore subject to the potential adverse health impacts associated with traffic-related air pollutants. There is an emerging body of scientific evidence indicating that exposure to traffic-related air pollution is a cause of and trigger for asthma; and that living, working, or going to school near a busy roadway or freeway increases the severity of asthma symptoms, especially in children. The applicant should consider modifications, adaptations and/or mitigation as necessary to minimize the potential adverse health impacts of air pollutants on the susceptible population.

Urban Design Comment: The applicant has been made aware of the Health Department Environmental Engineering Program's comments. However, no modifications, adaptations and/or mitigation have been recommended to minimize the potential adverse health effects of noise because the Environmental Planning Section staff has determined, based on their noise model, that noise will not be an issue for the outdoor play area in the location where it is proposed.

- l. **State Highway Administration (SHA)**—At the time of this approval the Planning Board has not received comment regarding the subject project from SHIA.
- m. **Verizon**—At the time of the writing of this approval the Planning Board has not received comment regarding the subject project from Verizon.
- n. **Potomac Electric Power Company (PEPCO)**—At the time of this approval the Planning Board has not received comment regarding the subject project from PEPCO.

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- o. **Maryland Department of Human Resources**—At the time of this approval the Planning Board has not received comment regarding the subject project from the Maryland Department of Human Resources.
12. *The District Council remanded the DSP for First Beginnings Children's Center LLC on July 15, 2013. The following Points of Remand in bold below are quoted directly from the Order of Remand.

***IT IS HEREBY ORDERED, after review of the administrative record, that the decision of the Planning Board in PGCPB No. 13-23, to approve with conditions a detailed site plan for of [sic] a day care center for 38 children in a 1,613-square-foot Unit E of the existing Shops at Silver Hill shopping center in the Commercial Shopping Center (C-S-C) Zone, is:**

***REMANDED, pursuant to §27-132 and §27-290 of the Zoning Ordinance, to the Planning Board to take further testimony, reconsider its decision, and to allow additional public comment.**

***Having reviewed the record, after oral argument, the District Council has determined that there has been, among other issues, a lack of referral of this site plan, pursuant to Section 27-284 of the Zoning Ordinance, to the Prince George's County Police Department for review and comment.**

***Section 27-284, Referral, provides as follows:**

(a) Prior to taking action on the Detailed Site Plan, the Planning Board shall refer the plan to the Historic Preservation Commission (Part 14), when appropriate, and to all agencies which the Planning Board deems appropriate for review and comment. The agencies shall include all of those whose action is likely to have a substantive effect on the plan under review. The Planning Board shall maintain a list of referral agencies. The plan shall also be referred to:

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***(1) the Prince George's County Police Department for review and comment at the time of Subdivision and Development Review Committee. The Police Department may comment on issues relevant to their mission, including opportunities to implement crime-prevention measures, and to enhance the safety and security of residents, employees and other users of a project through implementation of the principles of Crime Prevention Through Environmental Design (CPTED); and**

***(2) the Prince George's County Health Department at the time of the Subdivision and Development Review Committee. The Health Department shall perform a health impact assessment review of the proposed development identifying the potential effects on the health of the population, and the distribution of those effects within the population, including recommendations for design components to increase positive health outcomes and minimize adverse health outcomes on the community. (Emphasis added.)**

- *1. On remand, Planning Board shall refer this site plan to the Prince George's County Police Department for review and comment, take further testimony, reconsider its decision, and to allow additional public comment. The Planning Board shall amend its resolution to reflect the review and comment of the Prince George's County Police Department, and its impact on this site plan.**

*Pursuant to this Point of Remand, the Planning Board referred a full set of plans for the project to the Prince George's County Police Department. In response to this referral, a memorandum dated July 25, 2013 was received from the Police Department offering the following comment:

*"After reviewing the plans and visiting the site I have a few recommendations in reference to the proposed playground fence. The plans specify a four-foot high white vinyl privacy fence. I suggest utilizing a six-foot high wrought iron (or similar metal) fence to enhance the safety of all occupants of the playground. This type of fence would increase visibility of the children as well as intruders. The Crime Prevention Through Environmental Design (CPTED) principal of natural surveillance utilizes design features to increase visibility of a property or an area. By increasing visibility in the playground area, we also hope to deter would be offender's behavior since they know they could easily be seen by caring individuals."

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*The Planning Board has ensured that the project was referred to the Prince George's County Police Department, taken further testimony from them, reconsidered its decision and allowed additional public comment in accordance with this Point of Remand. The Planning Board is hereby amending its resolution to reflect the review and comment of the Prince George's County Police department, and its impact on the site plan, also in accordance with this Point of Remand. A condition of this approval will require a six-foot high wrought iron (or similar metal) product to be utilized for the fence to surround the play area in accordance with the Prince George's County Police Department's recommendation.

***2. On remand, First Beginnings Children's Center LLC shall provide proof, for the record, of registration and a certificate of good standing from the Maryland State Department of Assessment and Taxation.**

*On August 5, 2013, the applicant provided to the Planning Board an updated registration and certificate of good standing from the Maryland State Department of Assessment and Taxation in conformance with this Point of Remand. The Planning Board has added this document to the case file as additional back-up to ensure that it will become part of the record for the case also as required by this Point of Remand.

***3. On remand, the Planning Board's decision shall, pursuant to its Rules of Procedure, adopted in PGCPB Resolution No. 08-71, as amended, and §27-285 of the Zoning Ordinance, be embodied in a resolution adopted at a regularly scheduled public meeting, a copy of which shall be sent to all persons of record (in the Detailed Site Plan approval process) and the District Council.**

*In accordance with this Point of Remand, the Planning Board has prepared a resolution embodying the subject approval for Planning Board adoption on the same day as the public hearing on the project which is a regularly scheduled public meeting pursuant to its Rules of Procedure, adopted in PGCPB Resolution No. 08-71, as amended, and Section 27-285 of the Zoning Ordinance. A copy of that resolution will be sent to all persons of record in the Detailed Site Plan approval process and to the District Council.

***REMAND REFERRAL COMMENTS**

*The Prince George's County Police Department was provided a set of plans for the subject project and a copy of the Order of Remand dated July 15, 2013 from the District Council regarding the project and provided the following comments:

***Prince George's County Police Department—In a memorandum dated July 25, 2013, the Prince George's County Police Department offered the following:**

*Denotes Amendment

Underlining indicates new language

[Brackets] and strikethrough indicate deleted language

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*“After reviewing the plans and visiting the site I have a few recommendations in reference to the proposed playground fence. The plans specify a four-foot high white vinyl privacy fence. I suggest utilizing a six-foot high wrought iron (or similar metal) fence to enhance the safety of all occupants of the playground. This type of fence would increase visibility of the children as well as intruders. The Crime Prevention Through Environmental Design (CEPTED) principal of natural surveillance utilizes design features to increase visibility of a property or an area. By increasing visibility in the playground area, we also hope to deter would be offender’s behavior since they know they could easily be seen by caring individuals.”

*A condition of this approval requires that the previously approved four-foot-high, white, vinyl privacy fence be replaced with a six-foot-high, wrought-iron (or similar), metal fence to enhance the safety of all occupants of the playground. Final design of the fence be approved by the Planning Board or its designee.

*The Office of the General Counsel of M-NCPPC was also provided a set of plans for the subject project and a copy of the Order of Remand dated July 15, 2013 from the District Council regarding the project and provided the following comments:

*M-NCPPC Office of General Counsel—In a memorandum dated August 7, 2013, the M-NCPPC Office of General Counsel offered the following:

*“Issue 1.

“On remand, Planning Board shall refer this site plan to the Prince George’s County Police Department for review and comment, take further testimony, reconsider its decision, and to allow additional public comment. The Planning Board shall amend its resolution to reflect the review and comment of the Prince George’s County Police Department, and its impact on this site plan.”

*M-NCPPC Office of the General Counsel Comment: It is my understanding, per a conversation with staff, that this plan has been referred to the Prince George’s County Police Department for review and comment, satisfying this condition.

*“Issue 2.

“On remand, First Beginnings Children’s Center LLC shall provide proof, for the record, of registration and a certificate of good standing from the Maryland State Department of Assessment and Taxation.”

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*“After reviewing the plans and visiting the site I have a few recommendations in reference to the proposed playground fence. The plans specify a four-foot high white vinyl privacy fence. I suggest utilizing a six-foot high wrought iron (or similar metal) fence to enhance the safety of all occupants of the playground. This type of fence would increase visibility of the children as well as intruders. The Crime Prevention Through Environmental Design (CEPTED) principal of natural surveillance utilizes design features to increase visibility of a property or an area. By increasing visibility in the playground area, we also hope to deter would be offender’s behavior since they know they could easily be seen by caring individuals.”

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*The Office of the General Counsel of M-NCPPC was also provided a set of plans for the subject project and a copy of the Order of Remand dated July 15, 2013 from the District Council regarding the project and provided the following comments:

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*M-NCPPC Office of the General Counsel Comment: It is my understanding, per a conversation with staff, that this plan has been referred to the Prince George’s County Police Department for review and comment, satisfying this condition.

*“Issue 2.

“On remand, First Beginnings Children’s Center LLC shall provide proof, for the record, of registration and a certificate of good standing from the Maryland State Department of Assessment and Taxation.”

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*M-NCPPC Office of the General Counsel Comment: A certificate of registration and good standing from the State Department of Assessments and Taxation has been provided by the applicant, satisfying this condition.

*"Issue 3.

"On remand, the Planning Board's decision shall, pursuant to its Rules of Procedure, adopted in PGCPB Resolution No. 08-71, as amended, and §27-285 of the Zoning Ordinance, be embodied in a resolution adopted at a regularly scheduled public meeting, a copy of which shall be sent to all persons of record (in the Detailed Site Plan approval process) and the District Council."

*M-NCPPC Office of the General Counsel Comment: All Planning Board actions/decisions of this nature are embodied in a duly-adopted resolution.

*REMAND REFERRAL COMMENTS

*The Prince George's County Police Department was provided a set of plans for the subject project and a copy of the Order of Remand dated July 15, 2013 from the District Council regarding the project and provided the following comments:

*Prince George's County Police Department—In a memorandum dated July 25, 2013, the Prince George's County Police Department offered the following:

*"After reviewing the plans and visiting the site I have a few recommendations in reference to the proposed playground fence. The plans specify a four-foot high white vinyl privacy fence. I suggest utilizing a six-foot high wrought iron (or similar metal) fence to enhance the safety of all occupants of the playground. This type of fence would increase visibility of the children as well as intruders. The Crime Prevention Through Environmental Design (CEPTED) principal of natural surveillance utilizes design features to increase visibility of a property or an area. By increasing visibility in the playground area, we also hope to deter would be offender's behavior since they know they could easily be seen by caring individuals."

* A condition of this approval requires that the previously approved four-foot-high, white, vinyl privacy fence be replaced with a six-foot-high, wrought-iron (or similar), metal fence to enhance the safety of all occupants of the playground. Final design of the fence shall by condition of this approval be approved by the Planning Board or its designee.

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- *13. Based on the foregoing and as required by Section 27-285(b)(1) of the Zoning Ordinance, the detailed site plan represents a reasonable alternative for satisfying the site design guidelines of Subtitle 27, Part 3, Division 9, of the Prince George's County Code without requiring unreasonable cost and without detracting substantially from the utility of the proposed development for its intended use.
- *[13]14. Section 27-285(b)(4) of the Zoning Ordinance requires that a detailed site plan demonstrate that regulated environmental features have been preserved and/or restored to the fullest extent possible. Because the site does not contain any regulated environmental features this required finding does not apply.

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 *as augmented in response to the Order of Remand and *REAPPROVED the Type II Tree Conservation Plan (TCP11-030-98-01) and further *REAPPROVED Detailed Site Plan DSP-12045 for the above-described land, subject to the following conditions*[:].

*The conditions include all that were previously approved by the Planning Board in PGCPB Resolution No. 13-23 with modifications of the conditions indicated with [bracketed and strikethrough] text for deletions and underline text for insertions:

1. Prior to certification, the applicant shall revise the plans as follows or provide the specified documentation:
 - a. The detailed site plan (DSP)/landscape plan (LSP) and the Type II tree conservation plan (TCP2) shall be revised to show the location of the 65 dBA noise contour.
 - b. A note shall be added to the plans stating that "a maximum of 19 children are permitted to play in the outdoor play area at one time."
 - c. The DSP/LSP shall be revised to specify a six-foot-high, *[low-sheen vinyl] wrought iron (or similar metal) product to be utilized for the fence to surround the play area. *Final design of said fence is to be approved by the Planning Board or their designee.
 - d. The DSP/LSP shall be revised to include a shade structure in the outdoor play area and a detail of same shall be included on the plans. The Planning Board or their designee shall approve the design and location of said shade structure.

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- e. Note 13 under "Playground Notes" shall be amended to read: "Outdoor play shall be limited to the hours between 8:30 A.M. and 5:30 P.M or shall not be used after daylight hours, whichever is earlier."
- f. The parking schedule shall be amended to include the parking ratio for each use as identified in Part 11 of the Prince George's County Zoning Ordinance.
- g. A loading schedule, on a unit-by-unit basis, as required by Part 11 of the Prince George's County Zoning Ordinance, shall be included on the plans.
- h. The TCP shall be revised as follows:
 - (1) Show the original tree line per Type II Tree Conservation Plan TCPII-30-98.
 - (2) Show the corrected TCPII worksheet submitted to the Planning Board or its designee.
 - (3) Revise the title of the plan as "Shops at Silver Hill – New Beginnings Children's Center."
 - (4) Revise the plan scale from 1 inch equals 20 feet one inch equals 30 feet.
 - (5) Label the area of woodland north of the proposed clearing area as "woodland preserved area – not counted" on the plan and detail.
 - (6) Show the woodland conservation signage on the plan and provide the correct symbol in the legend.
 - (7) Revise the vicinity map to remove the aerial photo and show only the road map with names of the roads and the site location identified.
 - (8) Show the previous TCP approval and add "01" to the approval block.
 - (9) Revise the woodland worksheet as necessary.
 - (10) Have the revised plan signed and dated by the qualified professional preparing the plan.
- i. The plat reference (PM 224-55) and "Lots 4 and 5" shall be added to the notes and DSP.
- j. The preliminary plan number and approval date shall be added to the notes.
- k. The platted ten-foot-wide public utility easement (PUE) shall be indicated along both rights-of-way and the lot lines, and bearings and distances shall be corrected on the DSP.

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- l. Striped crosswalks shall be provided at the site's ingress and egress point along Old Silver Hill Road, and the access to the adjacent bank to Silver Hill Road (MD 458), unless modified by the Maryland State Highway Administration (SHA).
 - m. The prior approved landscape plan for the site which reflects conformance to the approval of Alternative Compliance AC-06016 shall be updated also to reflect the outdoor play area approved as part of the subject project and submitted to become part of the certified plan set for the subject approval. Any plant material shown on the previously approved landscape plan not currently installed shall be so installed.
 - n. The applicant shall add the Parcel number, owner's name, Liber and Folio and zoning of the small strip of land along the subject site's northern property line extending between the right-of-way of Silver Hill Road (MD 458) and the subject property.
 - o. The plans for the project shall be revised to clearly indicate the limits of the DSP, and portions not included therein shall be clearly marked "not included in this DSP."
2. Prior to issuance of a use and occupancy permit for the day care center, the applicant shall present to the Planning Board or its designee a receipt indicating payment of the required fee-in-lieu of \$784.08 in compensation for the clearing of .05 acres of woodland conservation on the site for provision of the required outdoor play area for the day care center for children.

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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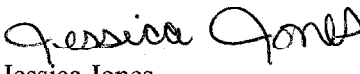
This is to certify that the foregoing is a true and correct copy of the action taken by the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission on the motion of Commissioner Geraldo, seconded by Commissioner Bailey, with Commissioners Geraldo, Bailey, Shoaff and Hewlett voting in favor of the motion, and with Commissioner Washington absent at its regular meeting held on Thursday, March 14, 2013, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 4th day of April 2013.

*This is to certify that the foregoing is a true and correct copy of the reconsideration 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 Geraldo, with Commissioners Washington, Geraldo, Bailey, Shoaff and Hewlett voting in favor of the motion at its regular meeting held on Thursday, September 12, 2013, in Upper Marlboro, Maryland.

*Adopted by the Prince George's County Planning Board this 12th day of September 2013.

Patricia Colihan Barney
Executive Director

By 
Jessica Jones
Planning Board Administrator

PCB:JJ:RG:arj

APPROVED AS TO LEGAL SUFFICIENCY


M-NCPPC Legal Department
Date 9/13/13

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