

GILMOURE-BRUNETT LLC/CHILDWAY
CHILD DAY CARE

Montgomery County, Maryland

Land Planning Report

In support of a

Child Day Care Facility Special Exception Application

Prepared for:

Gilmoure Brunett, LLC

Prepared by:



**John Sekerak, Jr., ASLA, AICP
GREENHORNE & O'MARA, INC.
20410 Century Boulevard, Suite 200
Germantown, Maryland 20874**

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I. INTRODUCTION

This Land Planning and Zoning Report is prepared in support of an amended Petition for Special Exception on property in the R-60 zone. Gilmore Brunett, LLC (the “Applicant”) intends to establish a 94 (maximum) child day care facility to serve the residents of the Four Corners community and the greater service areas in Montgomery County. The property address is 220 West University Boulevard, identified on tax map JP43 and more particularly described as part of Lot 13, Block P of Plat 14272 (the “Property”). The proposed use includes the day care building with ancillary play area and parking. The child day care is a permitted use by special exception in the R-60 zone (Section 59-G-2.13.1 of the Montgomery County Code).

The purpose of this report is to demonstrate that the application, as assured by the supporting documents, 1) meets the general (59-G-1.21(a)) and specific (59-G-2.13.1) special exception requirements for a child day care facility, 2) is consistent with the applicable Master Plan, and 3) advances the public interest.

This report supplements the required documents (59-A-4.22) that accompany the petition for special exception. Those documents include the Statement of Operations, Site Plan for Special Exception, Landscape Plan for Special Exception, Natural Resources Inventory/Forest Stand Delineation Map, Preliminary Architecture, and other supporting documents.

This report was initially prepared for a child day care center for a maximum of 120 children. After receiving input from representatives of the neighborhood, MNCPPC Staff and the Planning Board, the Applicant has revised the proposed Special Exception to reduce the maximum enrollment to 94 children in order to reduce the size and scale of the building and the general activity of trips, parking spaces, staff, children playing, etc. This report makes the corresponding revisions to the text to reflect the reduction and takes the opportunity to expand upon a number of those issues identified by the review up to this point and include to updates such as the approval of LATR and the Stormwater Management Concept.

II. DESCRIPTION OF THE SITE AND SURROUNDING PROPERTIES

The Property is a square-shaped lot with frontage along three streets and located on the south side of West University Boulevard (Maryland Route 193), east side of Brunett Avenue and north side of Gilmoure Drive. The 37,987 s.f. lot is currently vacant. A former home/office that occupied the Property was razed in mid-2008.

The site is gently sloping from north to south. With the exception of a single, multi-stemmed American Holly, the limited existing vegetation present is non-descript, in poor condition and/or invasive (Bamboo) and there is no forest on the Property. The Property is within the Northwest Brach Watershed (a Use IV stream classification) and no rock outcroppings were observed on the site. There are no significant views from the site from existing conditions. There are no historic resources within, adjacent to, or relatively nearby the Property. For additional information concerning the physical and cultural characteristics of the Property, see the Natural Resource Inventory/Forest Stand Delineation Map that accompanies the Special Exception application.

The Property is within the Kemp Mill/Four Corners planning area (PA 32) and the Kensington/Wheaton Transportation Policy Area. The site is designated as Water and Sewer Categories W-1 and S-1 (existing public service) respectively in the Montgomery County 10-year Water Supply and Sewerage Systems Plan.

Immediately surrounding properties to the site include the following land uses:

- To the north: The confronting neighborhood of single-family detached homes is located directly across the University Boulevard right-of-way in the R-60 zone. Diagonally to the northwest is land owned by the Maryland National Capital Park and Planning Commission (M-NCPPC).
- To the south and east: Single-family detached homes in the R-60 zone.
- To the west: A place of worship owned by the Nichiren Shoshu Temple also in the R-60 zone.

The commercial center of the Four Corners community surrounds the intersection of West University Boulevard and Colesville Road (Maryland Route 29) approximately 1,300 feet (1/4 mile) east of the Property.

The general neighborhood of the proposed special exception, for the purpose of analysis of character, compatibility and effects, is the area delineated on the Surrounding Neighborhood Exhibit (see Appendix A). The entirety of this defined neighborhood is in the R-60 zone. It includes the immediately confronting properties to the north along University Boulevard and the residential properties to the south and west within approximately 400 to 600 feet from the site. It is limited to the east by the Four Corners commercial district and to the west by HOC senior housing and by a medical office special exception complex on the north and south, respectively, of West University Boulevard.

Although the neighborhood predominantly contains single-family homes, the area includes the use of the place of worship directly across Brunett Avenue from the Property. The neighborhood also includes a portion of the former Yeshiva High School site (more particularly discussed in Section III of this report). That site is designated in the Master Plan as a possible future expansion of the adjacent North Four Corners Local Park and was acquired by M-NCPPC for that purpose in 1998.

There could be a tempting convenience of simply using the South Four Corners neighborhood delineated in the Four Corners Master Plan, approved and adopted in December 1996 (the “Master Plan”) as the effected neighborhood. However, that neighborhood was identified for purposes of a broader Master Plan discussion, not a special exception application. The Master Plan neighborhood includes a portion of the Four Corners Commercial Center and is far too expansive considering the nature and scope of the proposed use. Using that neighborhood would also disregard those properties directly across University Boulevard that have direct views of the Property. For these reasons, the neighborhood defined above is the appropriate neighborhood when considering the effects of the proposed Special Exception.

The neighborhood defined by MNCPPC staff in the Staff Report dated December 6, 2010 (the “Staff Report”) varies slightly from the applicant’s defined neighborhood to the north, west and south with most of the differences being subtle departures that would not alter the conclusions of compatibility to the neighborhood. However staff-defined neighborhood includes a number of homes to the east on the other side of Route 193 along Timberwood Avenue. Those homes along Timberwood Avenue bear little relationship to the Property considering the intervening highway and the limited nature of the proposed use and those properties should not be included in the defined neighborhood.

III. MASTER PLAN AND ZONING HISTORY

The Property lies within the area of the Four Corners Master Plan dated December 1996. The Master Plan is a comprehensive amendment to the 1986 Sector Plan for Four Corners and Vicinity and constitutes an amendment to the General Plan for Montgomery County.

The Property is currently zoned R-60, One-family Residential. That zoning was initially enacted and mapped by the 1954 Regional District zoning. The zoning was subsequently confirmed by Sectional Map Amendments E-995 in 1969, G-527 in 1986, G-743 in 1997 and most recently by SMA G-795 in 2002.

The Property has not been the subject of a previous special exception application. (The previous dental office use that was discontinued and razed in 2008 was presumably grandfathered or nonconforming.)

There is only one approved special exception use within the previously defined neighborhood. Board of Appeals Case No. S-75 is a Home Occupation (flower arrangements) across Route 193 at 209 West University Boulevard. The use does not have on-site sales and includes no employees and no customer parking.

Of particular interest regarding this application is the former special exception uses associated with the neighborhood. The now vacant property across University Boulevard from the Property and now owned by M-NCPPC had special exception approval for a private educational institution (PEI) originally granted in 1947 for The Alexander School (Board of Appeals Case No. 692) (the "School Property"). The approval was amended in 1955 to construct additional buildings for a maximum of 250 students (Case No. 340). In 1978, an associated special exception on the School Property was granted to allow a 100 child day care center use in association with the then-existing school (Case No. S-611). In 1981, the special exception was amended to expand the child day care use to a maximum of 225 children with 25 staff (the school was moved to the surplus Burnt Mills Elementary) (Case No. S-765). These cases further evolved in the 1980's including a substitution of the special exception holder to the Yeshiva High School of Greater Washington (maintaining a maximum of 225 students). The Board of Appeals revoked the child day care special exception use in 2001 due to the use being abandoned. The formal disposition of the PEI use approval is not clear due to the former ownership by a parochial school (Yeshiva) and the subsequent acquisition of the site by M-NCPPC for park use. However, this history demonstrates that the neighborhood has a long-standing experience of a considerably-sized child day care and/or PEI use as a significant element of the neighborhood characteristic. The proposed child day care would actually return a measure of that previously-established characteristic by providing the day care service to and within the immediate community.

IV. THE PROPOSED LAND USE

Through this special exception application, Gilmoure Brunett, LLC seeks approval to construct and operate a Child Day Care Facility on the Property. The proposed physical improvements include the construction of an approximately 5,608 s.f. GFA building, outdoor play area and associated parking.

The proposed day care center, as amended, will serve a maximum of 94 children in a one story building carefully designed to provide a residential appearance in the context of the surrounding neighborhood and to internally provide the appropriate spaces for the various age groups of the children enrolled in the day care.

The Applicant proposes to construct the facility in full conformance with the general and specific special exception requirements for a day care facility in the existing R-60 zone. As illustrated on the Site Plan for Special Exception, the proposed facility is strategically situated in a location to buffer the play area from the nearest residences to the east. The Landscape Plan illustrates how this facility and parking is additionally buffered to blend into the existing surroundings using residential design elements. As shown on the Site Plan and the Architectural Plans, the building has been designed in character with the homes in the neighborhood with the room on the west side of the building resembling a sunroom addition on a home, and the reduced footprint of the building and appearance from Gilmoure Drive with an eastern wing now set back from the front of the Property. Both break down the mass of the building for a more residential character and now create a greater overall setback. In light of the proposed use's nature, sensitive design and strategic location, it will be compatible with the surrounding neighborhood and the Master Plan.

Parking for the proposed use will utilize a proposed surface parking facility which is efficiently designed to limit its visual and impervious area impacts. The parking facility has been revised to eliminate the underground garage and ramp to the garage to just surface parking spaces in a slightly reconfigured arrangement. The number of spaces on the Gilmoure Drive side of the site have been reduced to add a landscape area with a shade tree and pedestrian access.

Stormwater management is proposed to be provided by utilizing Environmental Site Design features appropriate for infill development. The Montgomery County Department of Permitting Services has reviewed and approved a Stormwater Management Concept Plan to assure the protection of water runoff quality and quantity. The recent reduction of proposed overall impervious area for the proposed use while maintaining the same amount of treatment for runoff further assures of the adequacy of stormwater treatments.

Due to the size of the Property and the absence of forest, the proposed project is exempt from Article II of the Forest Conservation Laws of Chapter 22A. The lack of any sensitive environmental features and the previous service land use lends this site as particularly appropriate for its adaptive reuse as community-serving day care.

The Applicant will strategically plant trees for shade and shrubs as a visual buffer within the perimeter area of the proposed use (see the Landscape Plan for Special Exception). Fencing will consist of two treatments corresponding to two different needs. A six foot high board-on-board fence along the side Property line will buffer the parking area from the adjoining residence in accordance with Section 59-E-2.83(c). A four foot high fence will secure the play areas. Both fences are consistent with residential fencing and are designed to fit in the context of the area. The proposed fences, buffer trees and plantings will ultimately result in the condition of the day care facility in harmony within its neighborhood setting.

Proposed identification/wayfinding signs will be provided along each of the site's three frontages along public roads. A ground sign will be located at the intersection of University Boulevard (Route 193) and Brunett Avenue identifying the day care center and providing a street address for the traveling public looking for the center. Smaller signs (two square feet each maximum) will be located at the Brunett Avenue and Gilmoure Avenue driveways to identify/differentiate the entrance and exit-only locations.

Please see the entire special exception application package describing the operations for the proposed day care program.

V. MASTER PLAN CONSISTENCY

The 1996 Four Corners Master Plan does not contain specific reference in text to the Property; however, the site is identifiable on the Master Plan maps of the area. The Master Plan text does provide general guidance regarding special exception uses. The applicable text and maps are included among the Master Plan excerpts reproduced in Appendix B of this report.

Most significant is the specific recommendation of the Master Plan for an office use on the Property, not a single-family residential use.

The Master Plan goes on to state the objective to:

“...maintain the character and integrity of the existing, well-established Four Corners residential neighborhoods as the foundation of the community by assuring that new development, infill development, and special exception uses are compatible with the existing residential character.” (Page 25)

To achieve this objective, the Master Plan gives the following guidance:

- Recommends the existing R-60 zone for the neighborhoods including the Subject Property (page 25 and Figure 12, page 28):

No change of zone is proposed with this application and the proposed use is a permitted special exception use in the R-60 zone (see Section 59-C-1.3 of the Montgomery County Code).

- Recommends improving pedestrian access, circulation and safety through the construction of sidewalks:

The proposed plan includes reconstructing the existing sidewalks that are currently located directly abutting University Boulevard and Brunett Avenue. The new sidewalks will be set back from the roads with a green panel between the vehicular travelways and the pedestrian walkways to improve pedestrian comfort and safety. A new sidewalk along Gilmoure Avenue will be constructed along the site frontage despite this not being identified as a need on Figure 19, page 48. This will provide an off-road pedestrian way in a location where no walkway currently exists.

Additionally, a “bump-out” (aka “neck-down” or “choker”) is proposed at the intersection of Gilmoure and Brunett Avenues to reduce the travel time for pedestrians to cross the streets and to act as a traffic-calming device.

Combined with a clearly delineated crosswalk where none currently exist on the southern leg of the University Boulevard/Brunett Avenue intersection, these

elements will markedly improve the safety, function and appearance of the pedestrian network.

- Discourages special exceptions in areas immediately adjacent to the commercial district:

The proposed use is on a property recommended for an office use and that is approximately 500 feet from the commercial district with five intervening residential properties and uses along the south side of West University Boulevard. As noted in the Planning Board's January 21, 2011 recommendation on the previous building and enrollment proposal, the Board was not convinced that the Plan's guidance to discourage special exceptions in some areas amounts to a prohibition of a child day care use on the property.

- Recommends reuse of existing structures for special exception uses or, alternatively, new buildings that are residential in character and scale:

The previous structure that was used as a dentist office was necessarily razed prior to the filing of this special exception and was not suitable for retention due to decay and mold. The reuse of the derelict structure was not possible and the removal of that attractive nuisance was a benefit to the neighborhood. The proposed building is designed to be residential in character and in scale, particularly as redesigned with the elimination of the underground garage and associated ramp and the reduction of the footprint to create an east wing of the building that is set back and creates greater overall setback. The redesigned structure is still only one story which creates a reduced appearance, but maintains the pitched residential roof character and sunroom and addition character on each side like a single-family home. As noted in the Staff Report, the average two-story homes in the area have a 16.6% building coverage area on the lots. The redesigned building is only 15% building coverage, which is less than the surrounding properties (and significantly less than 35% coverage permitted). Further, the density of the one-story structure, a 0.11 FAR, is significantly less than a typical two-story home.

- Recommends landscape plans to integrate the use into the community:

The proposed Landscape Plan included in this application demonstrates how the design has been carefully prepared to use plant, lighting and fence elements that integrate the proposed day care into the surrounding community.

The Master Plan includes a number of other elements throughout the document that relate to the Property and/or use:

- The Plan designates University Boulevard (MD Route 193) as a Major Highway roadway classification. Brunett Avenue and Gilmore Street are not Master Plan

designated streets and would be considered Secondary Residential in roadway classification.

- The Master Plan recognizes Brunett Avenue as an existing Class III (on-road) bikeway and recommends that University Boulevard also be designated as a Class III bikeway.
- The Plan recommends the acquisition of the confronting 315 University Boulevard site (the former Yeshiva school) for parkland.
- The Master Plan identifies two child day care services in the Master Plan area that were in operation at the time the Plan was prepared. Neither is in the defined neighborhood for the Property.
- The Plan recommends noise-compatible land uses and site design to address the noise source of University Boulevard.

The Master Plan also recognizes the value of community facilities in general and specifically including day care as one of those “building blocks of community” (page 55). The specific Community Facilities Goal is to “Provide community facilities to meet the human service, recreation, security, educational, and other needs of the community”. The proposed child day care will be a valuable contribution to this specific Master Plan goal and recommendation. The center will actually re-establish this community-serving use in the very neighborhood that previously contained an approved, and much larger, care/educational use at the time of the Master Plan adoption that no longer exists.

VI. SPECIAL EXCEPTION STANDARD FOR EVALUATION

Section 59-G-1.2.1 of the Zoning Ordinance provides the following Standard for evaluation of Special Exception applications:

A special exception must not be granted without the findings required by this Article. In making these findings, the Board of Appeals, Hearing Examiner, or District Council, as the case may be, must consider the inherent and non-inherent adverse effects of the use on nearby properties and the general neighborhood at the proposed location, irrespective of adverse effects the use might have if established elsewhere in the zone. Inherent adverse effects are the physical and operational characteristics necessarily associated with the particular use, regardless of its physical size or scale of operations. Inherent adverse effects alone are not a sufficient basis for denial of a special exception. Non-inherent adverse effects are physical and operational characteristics not necessarily associated with the particular use, or adverse effects created by unusual characteristics of the site. Non-inherent adverse effects, alone or in conjunction with inherent adverse effects, are a sufficient basis to deny a special exception.

The proposed use has no identifiable adverse non-inherent effects on the nearby properties. As recognized in the Staff Report, the Hearing Examiner has established certain inherent physical and operational characteristics necessarily associated with a child day care special exception use: the building mass for physical building, parking areas, lighting, noise generated by children, drop-off and pick-up areas, outdoor play areas, long hours of operation, employees of the facility, vehicular trips to and from the site, signage, deliveries and trash pick-up.

The proposed use on this particular Property does not have any noninherent characteristics or adverse effects. In fact, the atypical characteristic of having 3 frontages, including frontage on a major highway and frontage facing a surface parking lot of an existing, institutional use, reduces the impact of the inherent characteristics of the use that may impact residential properties.

VII. SPECIAL EXCEPTION GENERAL CONDITIONS CONFORMANCE

Section 59-G-1.21 of the Zoning Ordinance states:

- (a) *A special exception may be granted when the Board, the Hearing Examiner, or the District Council as the case may be, finds from a preponderance of the evidence of the record that the proposed use:*
- (1) *Is a permissible special exception in the zone.*

A child day care facility is a permitted use by special exception in the R-60 zone (Montgomery County Code Section 59-C-1.3).

- (2) *Complies with the standards and requirements set forth for the use in Division 59-G-2. The fact that a proposed use complies with all specific standards and requirements to grant a special exception does not create a presumption that the use is compatible with nearby properties, and in itself is not sufficient to require a special exception to be granted.*

As later outlined in Section IX of this report, the proposed use complies with the standards and requirements of Section 59-G-2.13.1 for child day care facilities.

- (3) *Will be consistent with the general plan for the physical development of the District, including any master plan adoption by the Commission. Any decision to grant or deny a special exception must be consistent with any recommendation in a master plan regarding the appropriateness of a special exception at a particular location. If the Planning Board or the Board's technical staff in its report on a special exception concludes that granting a particular special exception at a particular location would be inconsistent with the land use objectives of the applicable master plan, a decision to grant the special exception must include specific findings as to master plan consistency.*

As previously described in Section V of this report, the proposed use is consistent with the Four Corners Master Plan and its land use objectives. The Master Plan recognizes the Property's previous non-residential use as an office and the proposed plan is consistent with the general recommendations to improve pedestrian facilities, provide a structure that is residential in character and to utilize an integrated landscape plan.

The Master Plan's recommendation of discouraging Special Exceptions adjacent to the commercial district should not be misinterpreted to apply to this site which is not immediately adjacent to the commercial district, is specifically identified and recommended for a non-residential use, and is in an area that included much more intensive day care and school uses at the time the adopted Master Plan made that recommendation. As noted by the Planning Board, the design, scale, and buffering of the use on the Property is more relevant than a general discouragement of special exceptions near commercial areas to avoid the overall

transformation of a residential character of a neighborhood. The location of this use along University Boulevard actually protects the neighborhood by improving the Property with a carefully designed and landscaped building with residential massing and features with a compatible, community-serving use forming the transition to the neighborhood from University Boulevard.

- (4) *Will be in harmony with the general character of the neighborhood considering population density, design, scale, and bulk of any proposed new structures, intensity and character of activity, traffic and parking conditions, and number of similar uses.*

Gilmoure Brunett, LLC has identified this remarkably appropriate site for the proposed use considering the context of the setting relative to the surrounding neighborhood. The adjacent highway separates the Property from properties to the north and provides convenient access to the facility. The surface parking lot of the institutional use of a place of worship is confronting the site to the west. The homes on the residential properties to the east and the south of the Property are substantially buffered from the proposed activities, particularly with the increased setbacks with the reduced building design.

The proposed one-story structure with a residential appearance is located approximately 65 feet from the nearest single-family home to the east of the Property on University Boulevard and approximately 85 feet to the single-family home to the east along Gilmoure Drive.

The proposed enrollment and staff have been reduced along with the building reduction to a maximum of 94 children and 20 staff. This 21% reduction in enrollment eliminates the need for the underground garage and associated ramp entrance that was of concern to the community, and will further reduce the trips and activity to the Property.

The reduced building footprint increases the distance of the building from the homes along Gilmoure Drive and reduces the scale of the building appearance from Gilmoure Drive to further resemble the residential character of a single-family home. The additional overall setback area will provide further buffering for the building from the single-family homes.

The parking lot for the day care center is conveniently accessed one block from University Boulevard via Gilmoure Drive and has egress on both Brunett Avenue and Gilmoure Drive. The conveniently located parking spaces will be available for parents/caretakers and eliminate any queuing off the Property during the drop off and pick up periods. The number of proposed spaces has been reduced to an amount that has been accepted as appropriate for a child day care center of this size considering the ratios experienced by other centers and approved in similar Special Exception cases. The parking lot design has been revised with the elimination of the ramp to the underground garage and to reduce the spaces along the Gilmoure Drive side of the parking lot to add a shade tree and sidewalk to increase the screening along the front side of the Property.

The intersection of Gilmore and Brunett is proposed to be narrowed with a bump-out at the corner of the Property to both provide an improved pedestrian connection and to provide speed calming along Brunett Avenue. A detailed description of other traffic considerations and related transportation planning elements can be found in the LATR Traffic Impact Analysis and the Transportation Management Program (TMP) to be submitted in support of the instant application.

In regards to the number similar uses, there are no other child day care facilities identified in the neighborhood. The confronting place of worship and the nearby floral arrangement home occupation use are the only currently approved non-residential uses identified in the neighborhood. The proposed child day care would actually return a measure of that child day care characteristic to the immediate community that was previously provided by the Yeshiva day care service.

- (5) *Will not be detrimental to the use, peaceful enjoyment, economic value or development of surrounding properties or the general neighborhood at the subject site, irrespective of any adverse effects the use might have if established elsewhere in the zone.*

The revised building for the proposed day care use is carefully designed to respect the surrounding properties. Accordingly, the use will not be a detriment to the surrounding properties and, considering the quality of the proposed facility and site improvements and the service nature of the day care use that will serve the immediate area, is expected to enhance the value of area. While the views of this entrance site to the neighborhood with the carefully designed building, play area, landscaping, and the pedestrian improvements will enhance the appearance, the convenience aspect of the child care use in a neighborhood that is attractive to young families will further add value and strengthen neighborhood amenities. Further, the active use of the Property during the daytime hours and the buffer the use creates from the activity of University Boulevard provide an increased sense of security for the neighborhood.

- (6) *Will cause no objectionable noise, vibrations, fumes, odors, dust, illumination, glare, or physical activity at the subject site, irrespective of any adverse effects the use might have if established elsewhere in the zone.*

The proposed use will operate in a manner that results in noise levels below County standards at the limits of the Property line. There will be no amplified sound system for the outdoor uses. HVAC equipment will be located in the cellar of the building to contain those noises. There are no expected vibrations or dust associated with the proposed use. Refuse removal will be scheduled daily in order to eliminate the need for outdoor dumpsters. The lunch services will utilize off-site food preparation facilities so fumes or odors will not be objectionable. The Applicant's photometric study indicates that light levels will be 0.1 footcandles or less at the side Property line of adjoining residential properties (see Lighting/Photometric Plan). The play area has been designed to be oriented away from the single-family homes, and the number of children outside at any one time is limited such that noise from children at play will not be at objectionable levels (if considered objectionable).

- (7) *Will not, when evaluated in conjunction with existing and approval special exception in any neighboring one-family residential area, increase the number, intensity or scope of special exception uses sufficiently to affect the area adversely or alter the predominantly residential nature of the area. Special exception uses that are consistent with the recommendations of a master plan do not alter the nature of an area.*

The proposed use will actually *replace* a recently existing, non-residential use operating on the Property. There is only one approved, currently-operating special exception use in the defined neighborhood. Significant day care and private educational institutions have operated nearby for decades and are now a missing, historically-established characteristic of the area. All together, these elements are remarkably consistent with the nature of the neighborhood therefore not adversely affecting or altering the residential nature of the area, particularly given the Property location on University Boulevard that forms a boundary for the larger neighborhood as defined in the Master Plan and in effect today.

- (8) *Will not adversely affect the health, safety, security, morals, or general welfare of residents, visitors, or workers in the area at the subject site, irrespective of any adverse effects the use might have if established elsewhere in the zone.*

There are no attributes of the proposed use that will adversely affect the health, safety, security, morals, or general welfare of the residents, visitors, or workers in the area and, again, the use is a contributing element supporting the general welfare of residents and workers in the area.

- (9) *Will be served by adequate public services and facilities, including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage and other public facilities.*

The use will be adequately served by public services and facilities. The proposed use: 1) does not impose additional students on the public schools and will complement the public schools by providing pre-K and after-school care, 2) will include on-site supervision and the nearest police substation is approximately two miles north at New Hampshire Avenue and Lockwood Drive and the District 3 Station is in Silver Spring, 3) the Silver Spring Company 16 Fire Station is approximately 2/3 of a mile from the site along Route 193, 4) is currently served by public sewer and water service, 5) is determined to be adequately served by the road system as demonstrated by the referenced Traffic Impact Analysis, 6) provides on-site stormwater quantity and quality control and, 7) will be a contributing element to the County's child care network.

- (i) *If the special exception use requires approval of a preliminary plan of subdivision, the adequacy of public facilities must be determined by the Planning Board at the time of subdivision review. In that case, subdivision approval must be included as a condition of granting the special exception. If the special exception does not*

require approval of a preliminary plan of subdivision, the adequacy of public facilities must be determined by the Board of Appeals when the special exception is considered. The adequacy of public facilities review must include the Local Area Transportation Review and the Policy Area Transportation Review, as required in the applicable Annual Growth Policy.

The Property will not require further subdivision approval. The lot was recorded as 38,043 s.f. in 1983 as Lot 13, Block “P” by Plat 14272. The Maryland State Highway Administration acquired 56 s.f. of the Property by deed 14433 in 1996 and identified on SHA Plat 54178. The purpose of the acquisition was to construct the large highway directional sign at the north east corner of the Property. This public taking is considered an exemption to further platting requirements of the 37,987 s.f. Net Lot Area (NLA) remaining part of lot by Section 50-9(c) of the County Code.

The materials included in the special exception application include all of the information necessary for the Board of Appeals to make a determination of adequate public facilities. The Applicant’s Traffic Study (including LATR/PAMR Analysis) and Transportation Management Plan have been reviewed by the Maryland State Highway Administration, the Montgomery County Department of Transportation, and the MNCPPC Transportation Planning Division. MNCPPC TPD staff, with the input of SHA and DOT concluded that the study complied with the LATR/PAMR Guidelines for the original 120 child center, prior to the reduction to 94 children. The Traffic Study addendum outlines the decrease in the peak hour trips generated with the reduced enrollment and staff.

- (ii) *With regard to finding relating to public roads, the Board, the Hearing Examiner, or the District Council, as the case may be, must further determine that proposal will not reduce the safety of vehicular or pedestrian traffic.*

The driveway locations for the site have been tested and determined to have sight distance well in excess of the minimum necessary to provide safe stopping distance. Existing sidewalks located directly abutting University Boulevard and Brunett Avenue will be reconstructed with a green panel between the vehicular travelways and the pedestrian walkways. A new sidewalk along Gilmore Avenue will be constructed along the site frontage providing an off-road pedestrian way in a location where no walkway currently exists.

Additionally, the proposed “bump-out” at the intersection of Gilmore and Brunett Avenues will reduce the travel time for pedestrians to cross the streets and to act as a traffic-calming device. Combined with a proposed, clearly delineated crosswalk across Brunett Avenue at University Boulevard where none currently exist, these elements will markedly improve the safety, function and appearance of the pedestrian and vehicular network.

In summary, the proposed development is a permitted use by Special Exception in the R-60 zone that fully conforms to the general conditions necessary for any special exception

use

in

that

zone.

VIII. SPECIAL EXCEPTION GENERAL DEVELOPMENT STANDARDS

Section 59-G-1.23 of the Zoning Ordinance provides the following general development standards for granting a special exception:

(a) Development Standards. Special exceptions are subject to the development standards of the applicable zone where the special exception is located, except when the standard is specified in Section G-1.23 or in Section G-2.

The following table provides the pertinent development standards for the R-60 zone and how those standards are quantitatively complied by the proposed application:

<u>Development Standard</u>	<u>Req'd/Permitted</u>	<u>Proposed</u>
Lot Area (59-C-1.322(a)):	6,000 s.f. min.	37,987 s.f. NLA
Lot Area (59-G-2.13.1(b)(2)):	250 s.f./child min.*	404 s.f./child
- Resulting capacity:	151 children max.	94 children max.
Lot Width (59-C-1.322(b)):		
- At Front Building Line:	60 ft. min.	178 ft. min.
- At Street Line:	25 ft. min.	146 ft. min. (Rt. 193)
Setback from Street (59-C-1.323(a)):	25 ft. min. ** (29 ft. EBL for Rt. 193)	35 ft. min. (Rt. 193)
Building Setback from Adjoining Lot:		
- One Side (59-C-1.323(b)(1)):	8 ft. min.	18 ft. min.
- Rear (59-C-1.323(b)(2)):	20 ft. min.	n/a
Building Height (59-A-2.1 and C-1.327):		
- Method 1 (to highest point of roof):	35 ft. max.	31.3 ft.
- Method 2 (to mean of roof & ridge):	30 ft. max.	22.8 ft.
Building Coverage (59-C-1.328):	35% max. of NLA	15%
Parking Setbacks:		
- From Street (59-E-2.83(b)):	25 ft. min.	25 ft. min.
- Side Yard (59-E-2.83(b)):	16 ft. min.	16 ft. min.
Shading of Paved Parking (59-E-2.83(d)):	30% min.	30% min.

*See 59-G-2.13.1(b)(2) regarding more particular density criteria.

** Subject to a possibly more restrictive Established Building Line (EBL) to be determined at Building Permit.

The proposed use meets all applicable development standards and, in fact, is considerably less intense than what is permitted for residential homes in terms of building coverage, building height, setbacks, and green area.

*(b) **Parking requirements.** Special exceptions are subject to all relevant requirements of Article 59-E.*

Section 59-E-3.7 defines the number of spaces typically required to serve the proposed day care facility as follows:

Parking Spaces Required:

One parking space per non-resident staff member @ 20 staff =	20 spaces min.
+ 1 space per 6 children @ 94 children =	<u>16 spaces min.</u>
Total parking spaces required =	36 spaces min.

The proposed day care will utilize a combination of surface and underground parking to serve the use.

Parking Spaces Provided:

Total parking spaces provided = 28 spaces *

* including 2 accessible spaces. Facilities for securing bicycles will also be provided.

The number of typically required spaces can be reduced by the Hearing Examiner under certain circumstances as is provided for in Section 59-G-1.13.1(a)(2) and is discussed later in Section X. of this report.

*(c) **Minimum frontage.** In the following special exceptions the Board may waive the requirement for a minimum frontage at the street line if the Board finds that the facilities for ingress and egress of vehicular traffic are adequate to meet the requirements of section 59-G-1.21:*

- (1) Rifle, pistol and skeet-shooting range, outdoor.*
- (2) Sand, gravel or clay pits, rock or stone quarries.*
- (3) Sawmill.*
- (4) Cemetery, animal.*
- (5) Public utility buildings and public utility structures, including radio and T.V. broadcasting stations and telecommunication facilities.*
- (6) Equestrian facility.*
- (7) Heliport and helistop.*

Not applicable. The proposed use is not one of the uses listed for the special provisions regarding frontage.

*(d) **Forest conservation.** If a special exception is subject to Chapter 22A, the Board must consider the preliminary forest conservation plan required by that Chapter when approving the special exception application and must not approve a special exception that conflicts with the preliminary forest conservation plan.*

Due to the size of the Property and the absence of any forest, the proposed project is exempt from Article II of the Forest Conservation Laws of Chapter 22A. Confirmation of that exemption has been provided by the M-NCPPC Environmental Planning Department.

A Tree Save Plan has been included in the application materials. While there are no trees on the subject Property identified as being particularly worthy of saving, the plan does provide the details of how trees on adjacent properties will be protected to minimize impacts of construction. A variance application accompanies the Tree Save Plan requesting Planning Board approval for the removal of one tree over 30 inches in diameter in accordance with recently enacted State Bill 666. All new proposed plantings are shown on the Landscape Plan.

*(e) **Water quality plan.** If a special exception, approved by the Board, is inconsistent with an approved preliminary water quality plan, the applicant, before engaging in any land disturbance activities, must submit and secure approval of a revised water quality plan that the Planning Board and department find is consistent with the approved special exception. Any revised water quality plan must be filed as part of an application for the next development authorization review to be considered by the Planning Board, unless the Planning Department and the department find that the required revisions can be evaluated as part of the final water quality plan review.*

Not applicable. The Property is not within a Special Protection Area with the associated requirements of Chapter 19, Article V.

*(f) **Signs.** The display of a sign must comply with Article 59-F.*

The proposed signs are illustrated on the Landscape Plan for Special Exception submitted as part of the instant application. The Property is rather unusual in that it has frontage on three streets, therefore the Applicant is requesting three (3) signs to provide signage on each street. A sign variance will be pursued since the sign package design exceeds the maximum of one sign typically allowable number for a single property in the R-60 zone. The request will also include a variance for the size and illumination of the sign along University Boulevard due to the context of practical function along a highway. Gilmore Brunett, LLC will seek such approval in accordance with Section 59-F-12.1 upon the granting of the requested special exception. See section IX below on sign variance.

*(g) **Building compatibility in residential zones.** Any structure that is constructed, reconstructed or altered under a special exception in a residential zone must be well*

related to the surrounding area in its siting, landscaping, scale, bulk, height, materials, and textures, and must have a residential appearance where appropriate. Large building elevations must be divided into distinct planes by wall offsets or architectural articulation to achieve compatible scale and massing.

The building has been carefully designed to reflect the residential character of the single-family homes in the neighborhood. The building is one-story with a pitched roof and has been designed with a smaller multi-purpose room alcove to the side of the building to break down the mass, as well as mimic the residential character of a sun room addition typical of homes in the larger neighborhood area. The recent revision to further reduce the footprint and scale of building continues this residential character with additional overall setback created and a portion of the building set back as a rear wing, similar to an addition to a single-family home.

Building materials reflect the neighborhood by using red brick for the main structure, siding for the ‘sunroom’ and shingles for the pitched roofs. Windows have a residential appearance with a 6 over 1 sash design and are articulated with a soldier course header.

*(h) **Lighting in residential zones.** All outdoor lighting must be located, shielded, landscaped, or otherwise buffered so that no direct light intrudes into an adjacent residential property. The following lighting standards must be met unless the Board requires different standards for a recreational facility or to improve public safety:*

- (8) Luminaires must incorporate a glare and spill light control device to minimize glare and light trespass.*
- (9) Lighting levels along the side and rear lot lines must not exceed 0.1 foot candles.*

The Lighting Plan has been carefully designed to provide adequate lighting for the proposed use while not negatively impacting surrounding residential property and residences. The Applicant’s photometric study indicates that light levels will be 0.1 footcandles or less at the side property line of adjoining residential properties (see Lighting/Photometric Plan).

IX. SIGN VARIANCE

To provide signage on the three street frontages of the Property, the Applicant proposes three, freestanding signs that are in excess of the standard number of one sign for a single lot in a residential zone (59-F-4.2(a)(1)(A)). The sign package also proposes that the sign on University Boulevard exceed the maximum size typically permitted of two square feet (59-F-4.2(a)(1)(B)) and that same sign to be illuminated (59-F-4.2(a)(1)(D)) to address the need for better identification on this frontage of a major highway classification.

In regards to these standards, Section 59-F-12 of the Zoning Ordinance states:

(a) The Director of Permitting Services, or the Director's designee, may:

- (1) after a hearing, approve an application for a variance from the sign requirements of this Article if:
 - (A) the strict application of those requirements would result in a particular or unusual practical difficulty, exceptional or undue hardship, or significant economic burden on an applicant;**

The sign variance is necessary due to the Property's unusual context of frontage on three streets and one of those streets being a major highway. The three signs are necessary as way-finding for the traveling public on these multiple streets and to direct visitors to the correct entrance. The context of the major highway would render a two square foot sign without illumination as ineffective in communicating the identification of the day care center. The inability to obtain the requested signage creates practical difficulties and potential economic burden with respect to adequate identification of the use on University Boulevard with a larger sign, and also would create practical difficulties for drivers without the small scale signage on Gilmore Drive and Brunett Avenue to direct them.

- (2) approve a variance for a sign on property subject to a special exception issued by the Board of Appeals if:
 - (A) The elements of subparagraph (a)(1)(A) have been satisfied;*
*and**

The satisfaction of those elements is discussed above.

- (B) the Board of Appeals has approved the sign. Nothing in this paragraph precludes the Director or designee from imposing more restrictive conditions than the Board of Appeals, but the Director or designee must not approve a variance which is less restrictive than any condition set by the Board of appeals;*

Pursuant to Section 59-F-12(a)(1)(B) above, the Applicant requests Board of Appeals approval of the sign package as part of the approval of the special exception. The Applicant will then seek the sign variance approval by DPS in accordance with Section 59-F-12.1 upon the granting of the requested special exception by the Board of Appeals.

- (b) In each variance decision the Director or designee must consider:*
- (1) the sign's size, shape, color, design elements, location, or cost;*

Two of the signs will individually comply with the maximum two square foot size of a single sign for the proposed use in a residential zone. All three signs will meet the typical location requirements of Section 59-F-4.1(b). The shape, color, and other applicable design elements of the signs will be consistent with the architecture of the building.

- (2) compatibility of the proposed sign with the surrounding property, the proximity of other signs, and the characteristics of the area;*

The signs will be aesthetically coherent with the surroundings. The larger sign is designed to be compatible with and complimentary to the existing sign for the confronting place of worship on University Boulevard. The signs are designed to avoid any conflict with traffic signs. The only other existing sign along the site frontage is a large, elevated highway sign along University Boulevard.

- (3) any recommendation of the Planning Board or its technical staff.*

As part of the Special Exception process, the application will go through M-NCPPC's technical staff and Planning Board review for their recommendation.

X. SPECIAL EXCEPTION SPECIFIC STANDARDS AND REQUIREMENTS

Section 59-G-2.13.1 of the Zoning Ordinance states:

- (a) *The Hearing Examiner may approve a child day care facility for a maximum of 30 children if:*

The proposed child day care facility will serve a maximum of 94 children. A facility of this size also needs to meet the requirements of Section 59-G-2.13.1(a) as stated in Section 59-G-2.13.1(b) further below.

- (1) *a plan is submitted showing the location of all buildings and structures, parking spaces, driveways, loading and unloading areas, play areas and other uses on the site;*

The Site Plan for Special Exception illustrates all of those proposed features. A full-sized plan is a component to the Special Exception application materials and a reduced version is included in Appendix A of this report.

- (2) *parking is provided in accordance with the Parking Regulations of Article 59-E. The number of parking spaces may be reduced by the Hearing Examiner if the applicant demonstrates that the full number of spaces required in Section 59-E-3.7 is not necessary because:*

- (A) *existing parking spaces are available on adjacent property or on the street abutting the site that will satisfy the number of spaces required; or*
- (B) *a reduced number of spaces would be sufficient to accommodate the proposed use without adversely affecting the surrounding area or creating safety problems;*

Similar to other recent approved day care special exception uses, the Applicant seeks a reduction of spaces (8 spaces or 22%) from the Code requirements since the Code requirements are not applicable to the current nature of the use, particularly given the downcounty location of this particular Property located on a major highway and in a dense single-family neighborhood. The day care center will provide sufficient on-site parking that will not require the use of on-street parking leaving those existing spaces available to the neighborhood. Convenient and safe drop-off and pick-up of the children at the center and visitor parking is provided by the parking facility immediately in front of the center. Staff parking will be limited to the spaces across the parking lot to leave the spaces in front open for convenient drop-off and pick-up.

Additionally, an existing Metrobus/Ride-on bus stop is conveniently located along University Boulevard at its intersection with Brunett Avenue. The public transportation

opportunities, with 11 bus routes with 8-30 minute headways and all connecting to nearby Metro stations, will provide a convenient alternative to auto-dependent travel to/from the day care without imposing on the nearby on-street parking. Childway's extensive empirical evidence with its existing sites indicates that the employees utilize transit to commute to the facility, and that such convenience will attract employees (and ideally parents). Further, the Property is conveniently located on the border of a neighborhood of single-family homes, where a short walk is also an attractive option to parents for drop-off and pick-up of children.

These parking accommodations satisfy all the parking needs for the facility and will be monitored as described in the Transportation Management Plan. The substantial amount of on-street parking in the area will remain available for the convenience of the nearby residents.

(3) *an adequate area for the discharge and pick up of children is provided;*

Parents/caretakers will park in one of the available spots in the morning and walk the child into the building for a safe and secure transfer of the responsibility of care for the child. Similarly, the parent/caretaker will pick up the child from within the building and escort him/her to their parked car. Curbside drop-off and/or pick-up will not be allowed.

(4) *the petitioner submits an affidavit that the petitioner will:*

(A) *comply with all applicable State and County requirements;*

(B) *correct any deficiencies found in any government inspection;*
and

(C) *be bound by the affidavit as a condition of approval for this special exception; and*

The affidavit is included in the Special Exception application materials.

(5) *the use is compatible with surrounding uses and will not result in a nuisance because of traffic, parking, noise or type of physical activity. The hearing examiner may require landscaping and screening and the submission of a plan showing the location, height, caliper, species, and other characteristics, in order to provide a physical and aesthetic barrier to protect surrounding properties from any adverse impacts resulting from the use.*

As stated in the Traffic Impact Analysis submitted with the Application materials, the proposed special exception will not adversely impact traffic conditions in the surrounding area and the intersections will operate within CLV thresholds for the Kensington/Wheaton Policy Area. Further, the proximity of the Property to University Boulevard and the by-pass intercept nature of the trips for this use will significantly reduce the impact on any residential streets. The proximity to University Boulevard and bus routes and the pedestrian improvements proposed will also help reduce impacts by providing transit as an attractive transportation option to the Property, particularly for staff.

The adequacy of the proposed parking was previously discussed and demonstrated above. The parking will be self-contained on the Property and is designed to allow for the majority of the spaces for convenient drop-off and pick-up. The considerable amount of on-street parking in the area will remain available for the convenience of the residents of the neighborhood.

The proximity of University Boulevard (Maryland Route 193) will be the primary noise generator/consideration affecting this site and the nearby properties. The building's strategic orientation will help buffer the nearby community from road noise. While playing children may or may not be considered objectionable noise, the outdoor play area is strategically located at the furthest location on the site from the adjoining residences. The small scale of the facilities will not require an amplified outdoor PA system. Daily trash removal by small containers will eliminate the need for large dumpsters that can be noisy while being emptied by large trucks.

A detailed Landscape Plan is included in the Special Exception application materials. The plan shows how appropriate and effective landscape treatments in the significant buffer areas protect the interests of the surrounding properties.

(b) *A child day care facility for 31 or more children may be approved by the Board of Appeals subject to the regulations in subsection (a), and the following additional requirements:*

(1) *a landscaping plan must be submitted showing the location, height or caliper, and species of all plant materials; and*

A detailed Landscape Plan showing the location, height or caliper, and species of plant materials is included in the Special Exception application materials.

(2) *in the one-family residential zones, facilities providing care for more than 30 children must be located on a lot containing at least 500 square feet per child. The Board may reduce the area requirement to less than 500 square feet, but not less than 250 square feet, per child if it finds that:*

(A) *the facility will predominantly serve children of an age range that require limited outdoor activity space;*

The proposed use and maximum enrollment of 94 children has an area ratio of 404 square feet per child on the Property. The age groups served by the proposed day care are from infants up to children 12 years of age with the majority (two-thirds) of the maximum number of children being four years and under in age. The outdoor play area on the site provides an area of approximately 6,000 s.f. This ratio is in considerable excess of the Maryland State criteria of 3,525 square feet (75 s.f. per half of the capacity served [COMAR 13A.16.05.12]). The number of children using the play area at any time is further reduced due to the limitations of age groups that can be in the play area simultaneously.

(B) the additional density will not adversely affect adjacent properties;

As previously discussed, any additional noise and parking typically associated with additional density are effectively addressed by the proposed plan, operations, and by the unique nature of the site location itself on a property that has one frontage along a major highway and one facing the parking lot for an institutional use. The facility is in walking distance for a considerable number of households yet the site is also conveniently and efficiently served by University Boulevard for visitors from outside of the immediate neighborhood. The additional children will be within a well-designed building facility for the majority of the day and the location for the times of outdoor play is strategically oriented away from the adjoining residences. The building size has been reduced with the proposed reduction in enrollment, which further breaks down the scale of the building, increases setbacks, and creates more buffer and landscaped areas. The parking lot has additionally been revised with the elimination of the underground garage and ramp access to the garage, with a parking lot of a size that is typical for a child care facility, although this lot still has 2 means of egress for ease of circulation and the row of parking along the Gilmoure Drive frontage has been reduced to add a curb island with a shade tree. For purposes of the enrollment density, it is critical to note that the parking lot is smaller than could be required by Code for an enrollment of 500 square feet of property area per child.

(C) additional traffic generated by the additional density will not adversely affect the surrounding streets; and

As previously discussed, any additional traffic typically associated with additional density is effectively addressed by the proposed plan, operations and by the nature of the site location itself proximate to University Boulevard, by the nature of the pass-by intercept trips for this use, and the staggered nature of the trips for this type of use (e.g., portion of children not at facility for full day, carpooling for after-care play dates, etc.). The Traffic Impact Analysis and Addendum demonstrates that the proposed use with the reduced maximum of 94 children and 20 staff will not adversely impact the area intersections and notes the benefits of the pedestrian improvements. The Applicant has also proposed a Traffic Mitigation Plan to further communicate the traffic circulation and parking objectives to staff and caregivers.

(D) adequate provisions for drop-off and pick-up of students will be provided.

Parents/caretakers will park in one of the available on-site parking spots in the morning and walk the child into the building for a safe and secure transfer of the responsibility of care for the child. Similarly, the parent/caretaker will pick up the child from within the building and escort him/her to their parked car. Curbside drop-off and/or pick-up will not be allowed.

The Board may limit the number of students outside at any one time.

The number of children using the outdoor play area at one time is limited and not expected to exceed one-half of the total enrollment at any one time.

(c) The requirements of Section 59-G-2.13.1 do not apply to a child day care facility operated by a nonprofit organization and located in:

- (1) a structure owned or leased by a religious organization and used for worship;*
- (2) a structure located on premises owned or leased by a religious organization that is adjacent to premises regularly used as a place of worship;*
- (3) a structure used for private parochial educational purposes which is exempted from the special exception standards under Section 59-G-2.19(c); or*
- (4) a publicly owned building.*

Not applicable. The proposed building does not fall into any of the categories stated above.

XI. CONCLUSIONS

The proposed child day care facility, as demonstrated by the revised Site Plan for Special Exception and other supporting documents:

- Is a permitted use by special exception in the R-60 zone and is in conformance with the development standard requirements of the zone,
- Is in conformance with both the general and specific finding requirements for special exceptions for a child day care facility,
- Is consistent with recommendations, goals and objectives of the 1996 Four Corners Master Plan,
- Will be compatible and in harmony with the surrounding land uses by providing a well-designed use at a remarkably appropriate location, and;
- Advances the public interest by providing child day care serving the surrounding community in conformance with the recommendations of the Master Plan.

APPENDIX A: MAPS AND PLANS (reductions of full-sized documents)

- Aerial Photograph
- Neighborhood Delineation Map
- Revised Site Plan for Special Exception
- Site Details for Special Exception
- Revised Building Elevations and Floor Plan
- Revised Landscape Plan for Special Exception
- Stormwater Management Concept Plan
- Approved Natural Resource Inventory / Forest Stand Delineation
- Tree Save Plan
- Property Subdivision Plat
- Zoning Vicinity Map

APPENDIX B: 1996 MASTER PLAN EXCERPTS

APPENDIX C: PROJECT TEAM MEMBERS

Applicant:

Gilmoure Brunett, LLC
751 Rockville Pike, Suite 14-A
Rockville, Maryland 20852

Contact: Mr. Craig Kay

Child Day Care Operator:

Childway
4058 Blackburn Lane
Burtonsville, Maryland 20866

Contact: Ishrat N. Memon

Land Use Attorney:

Linowes and Blocher
7200 Wisconsin Avenue, Suite 800
Bethesda, Maryland 20814

Contact: Anne Mead, Esquire

Land Use Planner / Landscape Architect / Civil Engineer / Surveyor:

Greenhorne & O'Mara, Inc.
20410 Century Boulevard, Suite 200
Germantown, Maryland 20874-1187

Contacts: John Sekerak, Jr., ASLA, AICP
Surina Singh, RLA, LEED AP
Kim Currano, P.E.
W. Joseph Hines, RLS

Architect:

Nelson Architects, PC
1003 K Street NW, Suite 835
Washington, DC 20001

Contact: Jane Nelson

Transportation Planner:

Street Traffic Studies, Ltd.
400 Crain Highway, NW
Glen Burnie, Maryland 21061

Contact: Carl F. Starkey, P.E.

Construction Consultant:

Eichberg Construction
16010 Industrial Drive
Gaithersburg, Maryland 20877

Contacts: Mr. Jay Eichberg
Mr. Dan Kolakoski