

From: [Mike Bailey](#)
To: [MCP-Chair](#)
Subject: Complaint: Chevy Chase Land Company, The Collection II, Site Plan 82001013G, Zoned CBD-1
Date: Tuesday, April 21, 2020 11:50:42 AM

The Chevy Chase Land Company has an agreement with the County that should the required supermarket in this development be closed -- as it now, and has been, and is not due to Coronavirus -- that they will pay for a shuttle bus that local residents can take to the Giant Supermarket on Westbard Ave. The Chevy Chase Land Company has now petitioned the Planning Board to remove this requirement. That is not how this works; it is part of their contract with the community and the community is counting on them to live up to their commitment. Thanks.

Mike Bailey

Chevy Chase, MD 20815

(Please do not publish my email address)

From: [Lloyd Guerci](#)
To: [MCP-Chair](#); [Anderson, Casey](#); [Fani-Gonzalez, Natali](#); [Cichy, Gerald](#); [Patterson, Tina](#); [Verma, Partap](#)
Subject: Citizens Coordinating Committee"s comments on Chevy Chase Land Co."s proposed site plan amendments
Date: Monday, May 18, 2020 6:20:30 PM
Attachments: [CCCFH comments on ChCH LandCo site plan amend 5.18.20.pdf](#)

Dear Chair Anderson and Commissioners:

The Citizens Coordinating Committee on Friendship Heights is transmitting herewith our comments on Chevy Chase Land Co.'s proposed site plan amendments on the Collection I and the Collection II.

These proposed amendments are on the Planning Board agenda for this Thursday May 21, 2020.

Thank you in advance for your consideration of our views.

Lloyd Guerci
Vice-Chair
Citizens Coordinating Committee on Friendship Heights

Citizens Coordinating Committee on Friendship Heights

May 18, 2020

Casey Anderson, Chair
Natali Fani-González, Commissioner
Gerald R. Cichy, Commissioner
Tina Patterson, Commissioner
Partap Verma, Commissioner
Montgomery County Planning Board
8787 Georgia Avenue
Silver Spring, MD 20910

Re: CCCFH Comments on Proposed Site Plan Amendments, The Collection I, Site Plan No. 82001021H and The Collection II, Site Plan No. 82001013F,
Planning Board Agenda May 21, 2020, Item 4

Dear Chair Anderson and Commissioners:

The Citizens Coordinating Committee on Friendship Heights (CCCFH), which represents 18 communities, that collectively include over 20,000 residents in and around the site that is the subject of the proposed site plan amendments, hereby submits its comments on the proposed site plan amendments.

CCCFH objects to Chevy Chase Land Company's (CCLC or Land Co.) proposed site plan amendments pertaining to the reduction of the width of the sidewalks along Wisconsin Avenue and along Wisconsin Circle, and the associated reductions in public use and amenity space. **/* See generally, Staff Report for this Agenda item, at pp. 9-12, https://montgomeryplanningboard.org/wp-content/uploads/2020/05/82001013F-82001021H-StaffReport_Collection-Final-Consolidated.pdf, (herein referred to as the Staff Report). Previously, on March 30, CCCFH expressed its objections to the Planning Department., Staff Report Att. B, p. B-15, B-4 to B-8.

**/* Friendship Heights Village's (FHV) representative to CCCFH has recused herself from the instant matter. The Collections site is located outside and across Wisconsin Avenue from FHV. FHV sent a letter opposing the site plan amendments. Staff Report Att. B, pages B-9 to B-10. Unfortunately, these site plan amendments were but one of FHV's disputes with CCLC. Many of FHV's residents are quite old, do not own cars, and had shopped for groceries at a Giant supermarket in the Collections that closed in January of this year. With the closure of that supermarket, CCLC was obligated by a site plan condition, separate from the instant matter, to provide a shuttle bus from Friendship Heights to the Westbard Giant grocery store. CCLC failed and refused to provide the shuttle bus service. The Department of Permitting Services issued a Notice of Non-Compliance to CCLC (Attachment 1) but noted that its role is limited and site plan violations are prosecuted by the Planning Board. In a Resolution dated May 11, 2020, FHV stated that the Planning Board's refusal to enforce the shuttle bus condition and CCLC's refusal to provide a shuttle bus left it no alternative to file a lawsuit, which would take time to resolve, so FHV settled the matter, with CCLC providing FHV payment for limited bus service and FHV withdrawing its opposition to the pending site plan amendments. (Attachment 2). It is noteworthy that the broad CCCFH community did not withdraw its opposition to the site plan amendments.

Representing the Communities of Brookdale, Chevy Chase Village, Chevy Chase West, Drummond, Kenwood, Kenwood Condominium, Kenwood Forest II, Kenwood House Cooperative, Kenwood Place Condominium, Somerset, Somerset House Condominiums, Springfield, Sumner Village, Village of Friendship Heights, Westbard Mews, Westmoreland, Westwood Mews, and Wood Acres

In particular, CCCFH objects to the requested reduction of the width of the sidewalk on Wisconsin Avenue in front of the two Collections I buildings to 7 feet, and further objects to the associated reduction in public use space, amounting to an area about 7 feet wide along the lengths of the two Collection I buildings. (Site Plan No. 82001021H)

CCCFH also objects to the requested reduction of the width of the sidewalk on Wisconsin Circle to 6 feet, and further objects to the associated reduction in public use space. (Site Plan No. 82001013F)

THE SETTING

Background and The Collections

The site, referred to in the aggregate as the Collections, is very close to Metro's Friendship Heights station. The Friendship Heights station is bounded in part by the intersection of Wisconsin Avenue and Western Avenue, and is within Wisconsin Circle. At this station, there is a subway entrance/exit and many Metrobus and Ride-On bus stops, located under the Chevy Chase Metro Building, on Western Avenue and on Wisconsin Avenue. Other subway entrances/exits for the Friendship Heights metrorail station are located across Wisconsin Avenue in Montgomery County and in the District of Columbia. It is a busy station. On normal weekdays, there are about 8,000 average metrorail passenger boardings at Friendship Heights. https://wmata.com/about/records/public_docs/upload/2019_historical_rail-rideship_May-weekday-avg.pdf. See generally Staff Report p. 5.

Wisconsin Avenue Corridor

Proceeding northerly along the eastern side of Wisconsin Avenue from the Friendship Heights station, to the north of Wisconsin Circle is The Collection II, which is covered under Site Plan No. 82001013F. At this location, first there is a merging sidewalk that adjoins Wisconsin Circle and then there are steps to an area that has become outdoor seating for Clyde's restaurant. *Referred to* in Staff Report p. 10 Figure 5 as Johnson Park. Next, there is Clyde's. Continuing north, after Clyde's, is a private entrance/exit road that goes to shopping areas, a restaurant and parking.

Continuing north beyond the entrance/exit road, on the east side of Wisconsin Avenue is The Collection I, which is covered under Site Plan No. 82001021H. See Staff Report p. 9 Figure 4. The Collection I includes two buildings separated by an area that in part has outdoor restaurant seating for the Little Beet Table, a restaurant at the north end of the southmost building. *Referred to* in Staff Report p. 9 Figure 4 as Farr Park. The southmost building includes five storefronts. At the south end of this building was a Ralph Lauren store. Staff Report p. 11 Figure 6. See https://montgomeryplanningboard.org/agenda/2010/documents/20100513_DPA_Chevy_Chase_Company.pdf at 3.

The northmost Collection I building includes six storefronts, with Tiffany's at the northern end. The two Collection I buildings amount to a large frontage on Wisconsin Avenue; it is over 400

feet from the southern end of the southmost Collection I building to the far end of the northern building. To the north of The Collection I buildings is Montgomery Street. To the east of the two Collection I buildings is a private road sometimes referred to as Parkside Drive.

North of Montgomery Street, on the east side of Wisconsin Avenue, is the Saks store, with a very large parking lot. The sidewalk on the east side of Wisconsin Avenue continues to Bethesda. In fact, several years ago, the State spent millions of dollars constructing that sidewalk on the east side of Wisconsin Avenue all the way to Bradley Lane.

The Area Between The Collection I Buildings and Wisconsin Avenue

The area between the Wisconsin Avenue curb and The Collection I buildings has two principal features: (1) a buffer - landscaped area (tree panel) and (2) a brick sidewalk. Directly adjacent to the curb on Wisconsin Avenue is a buffer - landscaped area that is about 8 feet wide. This area contains trees, some flowers, street lamps, a half dozen benches and a fire hydrant. Most of the benches extend to brick sidewalk. The stone base associated with some benches extends eleven (11) feet from the curb. As explained in an April 10, 2010 memo to the Planning Board, “[a]ccording to the applicant, the streetscape along Wisconsin Avenue is lacking in greenery and it is the experience of the applicant and visitors that the [then] existing benches are located too close to Wisconsin Avenue traffic for pedestrians to feel comfortable using them. Therefore, the DPA proposes to retain the street trees along Wisconsin Avenue, but introduce additional greenery, through planters and pots, and realign the existing benches to allow for conversational seating angled away from traffic.”

https://montgomeryplanningboard.org/agenda/2010/documents/20100513_DPA_Chevy_Chase_Company.pdf at 2-3; see Staff Report p. 6.

The brick sidewalk is about 14 feet wide, more or less, from the eastern edge of the tree panel area to The Collection I buildings (the sidewalk width varies with the façades and for example is less than 14 feet at a base at the former Ralph Lauren store). Currently, the distance between the curb at Wisconsin Avenue and The Collection I buildings is about 22 feet more or less.

Wisconsin Circle

Wisconsin Circle, a 4-lane road, connects Wisconsin Avenue and Western Avenue. Proceeding from the Wisconsin Avenue sidewalk along the Circle, initially, to the north of the Wisconsin Circle sidewalk is an elevated stone patio and next to that is Clyde’s restaurant. Beyond that is a multistory building, with ten ground-floor storefronts facing Wisconsin Circle, that forms an arc toward Western Avenue. In front of the multistory building facing Wisconsin Circle, the streetscape and sidewalk are about 20 feet wide in total; the sidewalk is about 14 feet wide and the streetscape, including variously, vegetated areas, trees, benches and streetlamps, is about 6 feet wide.

THE FRIENDSHIP HEIGHTS SECTOR PLAN

The latest version of the Friendship Heights sector plan was adopted and approved in 1998. <https://montgomeryplanning.org/planning/master-plan-list/>. See <https://montgomeryplanning.org/wp-content/uploads/2016/09/FriendshipHeightsSectorPlan1998ocr300.pdf>. While much of this sector plan addressed areas beyond the Collections and Wisconsin Circle, generally the points below relate at least to the Collections or Wisconsin Circle. (From a terminology standpoint, at the time the sector plan was adopted, the Chevy Chase Land Company's Collections tract was known as the Chevy Chase Center.)

The Friendship Heights sector plan recognizes that Wisconsin and Western is the focal point of the transit system. p.83. Wisely, it noted the importance of alternatives to driving. pp. 95, 101-02

As observed in the sector plan, the Metro station and retail and office uses to the north attract a "large number of pedestrians" (p. 106) and "Friendship Heights residents and workers need a safe and attractive pedestrian environment." p. 102.

An objective of the sector plan is: "Encourage walking by creating an attractive pedestrian environment and improving pedestrian access to Metro and other parts of the community." p. 102

Wisconsin Avenue

The sector plan declared that "Wisconsin Avenue, the major commercial street within the CBD, . . . should offer a high level of pedestrian amenities to encourage and accommodate a significant level of pedestrian activity." p. 102.

A sector plan streetscape showed Wisconsin Avenue as an urban boulevard. Figure 41 p. 103. A street section in the plan showed wide sidewalks in the urban boulevard. Figure 43 p. 105 lower section. As explained in the plan's narrative, this called for the provision of "20 feet of public sidewalk within the right-of-way to adequately accommodate pedestrian activity and streetscape. (See sector plan Figure 43 for illustration.)" (emphasis added), p. 106. See, County Council's resolution (13-1148 (Jan. 27, 1998)) at 10.

Wisconsin Circle

The sector plan refers to the redesign of Wisconsin Circle to better accommodate pedestrians, and calls for improved pedestrian access to Metro and amenities and development of a public mixed street to accommodate both pedestrians and vehicles in a safe and attractive manner. Pp. 27, 44 (figure 23 element 7), 46 and 106.

It refers to encouragement and accommodation of a significant level of pedestrian activity. p. 102

The sector plan recommends: “Establish Wisconsin Circle as a Mixed Street—one that emphasizes pedestrian circulation while allowing limited, slow vehicular traffic. A portion of Wisconsin Circle should be upgraded with special paving such as brick, Washington Globe lights, tightly spaced street trees, and seating. Provide a minimum of 20 feet of public sidewalk within the right-of-way to adequately accommodate pedestrian activity and streetscape.” (emphasis added)
p. 106

CHEVY CHASE LAND COMPANY’S PROPOSED SITE PLAN AMENDMENTS
TO REDUCE SIGNIFICANTLY THE WIDTHS OF SIDEWALKS
ALONG WISCONSIN AVENUE AND WISCONSIN CIRCLE AND
TO CONVERT PUBLIC USE SPACE TO ITS PRIVATE SPACE

Site Plan No. 82001021H (The Collection I)

The requested site plan amendment for No. 82001021H (The Collection I) would narrow the width of the sidewalk to a 7-foot-wide minimum clear pedestrian path width along Wisconsin Avenue. Staff Report p. 3 ¶ 4; p.10, p. 11 Figure 6; p. 16 ¶ 3.

In addition, a retaining wall would be constructed in what is now the sidewalk and a raised patio would be constructed between the retaining wall and existing building façades. Staff Report p. 10. As above, the Staff Report states that at a minimum, the adjacent public sidewalk will measure seven (7) feet wide between the tree panel and raised patio retaining wall. *Ibid*.

As part and parcel of the sidewalk narrowing and other proposals, the applicant proposes to reduce the on-site public use space to the minimum required by the zone . . .:

- o **82001021H (The Collection I; TSM Zone):** Decrease the public use space from 13.1% of the Site area (27,235 square feet) to 10% of the Site area (20,820 square feet).

Staff Report pp. 8, 11, 15.

Site Plan No. 82001013F (The Collection II)

The requested site plan amendment for No. 82001013F (The Collection II), would narrow the width of the sidewalk to a 6-foot-wide minimum clear pedestrian path width along Wisconsin Circle (as an area other than Wisconsin Avenue). Staff Report p. 2 ¶ 4; see p.15, ¶ 3.

CCCFH'S POSITION

I.

The Planning Board Should Disapprove CCLC's Proposed Site Plan Amendments that Would Reduce the Width of The Sidewalk Along Wisconsin Avenue and Reduce Public Use Space that is Now a Sidewalk in 82001021H (The Collection I)

Chevy Chase Land Company's request would permanently reduce the width of the Wisconsin Avenue sidewalk in front of the Collections I buildings to about 7 feet. Six plus feet of sidewalk along its Collection I buildings would be removed from public use and amenity space. This proposal does not conform to the sector plan, is unsafe, inefficient and against the public interest.

The Application Does Not Conform to the Sector Plan

As explained below, this application does not substantially conform to the Friendship Heights sector plan.

An objective of the 1998 sector plan is: to encourage walking by creating an attractive pedestrian environment and improving pedestrian access to Metro and other parts of the community. p. 102

The sector plan (p. 106) calls for a 20-foot public sidewalk along Wisconsin Avenue in this area to adequately accommodate pedestrian activity and streetscape. CCLC's proposal would leave an 8-foot-wide tree panel and a 7-foot (84 inches) wide sidewalk between Wisconsin Avenue and the Collections I buildings' new retaining walls and raised patios. The Land Company's proposed space for streetscape and sidewalk, totaling about 15 feet, would not be anywhere close to the 20-foot wide sidewalk and streetscape the sector plan requires.

Wisconsin Avenue is not just a major pedestrian route to the Friendship Heights Metro station. It is also, as described in the 1998 sector plan (p. 102), an "Urban Boulevard" that should feature a high level of pedestrian amenities, including special paving, custom benches, landscaping features, and ornamental lighting on the sidewalks. CCLC's proposal would leave nothing like an urban boulevard.

The Staff Report does not address conformance with the sector plan, as it relates to pedestrians, sidewalks or the Chevy Chase Center (now referred to as the Collection), even though a citizen letter sent to staff over five weeks before the staff report was posted explained that CCLC's proposal does not substantially conform with the recommendations of the applicable sector plan. See letter from Julie Davis dated March 30, 2020. Attachment B to the Staff report, p. B-6

The zoning code requires that site plans, which includes amendments thereto, substantially conform with the recommendations of the applicable master or sector plan. CCLC's proposal to reduce the width of sidewalks along Wisconsin Avenue is clearly contrary to the 1998 sector plan. CCLC's plan should be rejected.

The Application is Inconsistent with Public Safety and is Inefficient

It is axiomatic that the width of a sidewalk must be consistent with the area it is in. Here, the site is less than a quarter mile from a Metro station and is in an area with many pedestrians.

The applicant's proposal of a 7-foot wide sidewalk along Wisconsin Avenue in front of the Collections I buildings' retaining walls would not provide enough space for the many forms of pedestrian and other sidewalk activities that take place on these sidewalks. These include families and friends walking several abreast and talking, people walking dogs on leashes, people pushing strollers and baby carriages, people using electric and conventional scooters, kids on skateboards, handicapped people traveling with walkers and wheelchairs, joggers, shoppers, employees, and commuters. There is more: all these people would be moving in different directions at different speeds in the same area. And, if CCLC's proposed wall is built, people on that side of the sidewalk would want space so not to rub against the wall.

While the problems of highly constrained sidewalks along Wisconsin Avenue in front of the Collections I buildings are evident, the following amplify spatial aspects of pedestrian and other activities. First, as to pedestrians, walking is a social activity and people walk abreast. How much space is required for two people to walk abreast? (although we believe that three (3) people is the appropriate number for an area like this). The mean breadth of a mid-sized adult male's shoulders is about 17.9 inches and a heavy set (95th percentile) male's shoulders are on the average 19.1 inches wide.

<https://www.bwc.ohio.gov/downloads/blankpdf/ErgoAnthropometricData.pdf>;

https://www.fsaeonline.com/content/FSAE%20Rules95th_2016.pdf. On top of this, people often wear coats, their arms swing somewhat outside their hips when they walk and they do not walk so close to one another that their shoulders bounce off one another as they walk. In short, as the Federal Highway Administration has observed, for any two people to walk together, 5 feet of space is the bare minimum required together.

https://safety.fhwa.dot.gov/ped_bike/univcourse/pdf/swless13.pdf

Consider parents with strollers. The vast majority of one-child strollers including jogging-type strollers, with one wheel in front and two in back, typically range from 20 to 27 inches wide.

<https://www.azcentral.com/story/travel/destinations/california/2019/04/01/disney-stroller-policy-which-strollers-fit-under-new-rules/3313837002/>. A tandem stroller typically is 32 inches wide.

<http://www.strollergy.com/tandem-vs-side-by-side-double-stroller/>. Consider bicyclists. Bicycle handlebars are 15 – 18 inches wide for road bikes, and 20 – 24 inches for mountain bikes and hybrids. For a static situation, storage, a minimum bicycle space is 2 feet wide.

<http://pccsc.net/bicycle-parking-info/> More than a two-foot wide space is needed for single bicycles in motion. In our county's (M-NCPPC) own bicycle master plan, representative photographs of bicyclists show groups of bicyclists offset from a straight line and semi-abreast, rather than single file, which requires a pathway wider than several feet.

<https://montgomeryplanning.org/wp-content/uploads/2019/09/Bicycle-Master-Plan-Web-Version.pdf> p. 12 (children on a path) p. 16 (adults on a sidewalk). As to people walking dogs, six feet is the most common length for dog leashes. Short leashes are four feet long, sometimes less.

<https://news.orvis.com/dogs/long-vs-short-dog-leashes-choose>.

Of course, people with disabilities must be considered. Most standard power wheelchairs are 25 inches wide. Heavy duty power wheelchairs can be as wide as 32 inches. As required by an Americans with Disabilities Act standard, doorways should have a clear width of 32 inches from the door's face to the opposite stop. <https://www.1800wheelchair.com/faq/how-wide-doorway-hallway-wheelchair>.

The above does not consider crowds, people passing one another, space between unassociated people engaging in different activities, and two-way traffic, all of which require more sidewalk width. There is simply not enough space to accommodate the many forms of activities that take place on these sidewalks on CCLC's proposed 7-foot wide sidewalk.

These concerns were raised clearly to Planning Department staff by Julie Davis in her letter of March 30, 2020 (Attachment B to the Staff report, p. B-5) but the Staff Report does not address them.

CCLC's proposal to reduce the width of sidewalks along Wisconsin Avenue at the expense of pedestrian and other sidewalk user's safety and efficiency, which is required, is unacceptable.

The Application Is Inconsistent with the Public Interest

This matter involves requested modifications to the site plans to accommodate merely "potential" restaurants. Staff Report p. 12. The staff report also refers to providing flexibility for new restaurants. p. 8, 15, 16. There are eleven storefronts in the Collection I.

CCLC's request to reduce the width of the sidewalk located between the Collection I buildings and Wisconsin Avenue and associated request to remove space from the site's public use space is overly broad. Several fatal flaws to this are apparent. To begin, the Land Co. might not have any or might have one or few tenants that would have restaurant seating along Wisconsin Avenue. In this case, the Wisconsin Avenue sidewalk and public use space adjoining both the Collection 1 buildings would still be reduced (the area would "run the length of the façade and wrap the building along a portion of the internal public use space and Wisconsin Avenue." Staff Report p. 8). There would be a wall significantly narrowing the sidewalk.

In addition, even restaurant tenants with outdoor seating reasonably would not have seating on Wisconsin Avenue. For example, the Little Beet Table restaurant, which is at the northern end of the southern Collection I building, has outside restaurant seating in the adjacent space on its the southern side. This was allowed under DPA-10 (DPA staff memo, infra, p.3), to which we did not object. That this interior area is far nicer for dining than one facing six-lane Wisconsin Avenue with its noise and trucks, and is where restaurant seating would be located by a lessor of the Little Beet unit, instead of along Wisconsin Avenue, requires no explanation.

Additionally, a possible non-Wisconsin Avenue outdoor seating location adjoins the former Ralph Lauren space at the southern end of the southern Collection I building, next to the entrance road. As we understand the application, CCLC proposes dining there, and we do not object to restaurant seating at that location. Other non-Wisconsin Avenue locations include part of the northern end of the space between the two Collection I buildings and the eastern sides of those

buildings. *See* Staff Report p. 9 Figure 4. At one time, there was outdoor seating for a restaurant called a Café M on that eastern side. These options are far preferable than CCLC's unacceptable proposal involving reduction of the width of the Wisconsin Avenue sidewalk.

Also, under the proposal, the maximum total amount of space for restaurant use would be limited. Staff Report p. 12. The Staff Report does not discuss how many restaurants there could be within that aggregate restaurant space limit (taking into account the existing Little Beet restaurant space) or how that relates to possible Wisconsin Avenue restaurant seating. Could the overall restaurant space limit effectively preclude some or much of the use of Wisconsin Avenue for restaurant seating?

Apart from the over breadth of the application, the reduction of the width of the sidewalk between Wisconsin Avenue and the Collection I buildings is totally inconsistent with the public interest. On the one hand there are the many pedestrians, parents pushing strollers, people walking dogs, bicyclists seeking to avoid using the congested Wisconsin Avenue and some people in wheelchairs. These many people need a wide sidewalk due to its extensive use.

On the other hand, this critical sidewalk space would be lost in order to provide merely potential restaurant(s) with possible shallow seating about 20 -22 feet from Wisconsin Avenue (a relatively unattractive location for dining), that might be used when outside temperatures are hospitable, i.e., only part of the year.

Unquestionably, the interests of the larger community outweigh narrowing (with walls) the sidewalk along the eastern side of Wisconsin Avenue outside the Collection I buildings to 7 feet and reducing the public use space, just to accommodate a restaurant(s) whose success or failure is unlikely to be determined by the availability a few outdoor tables and chairs located alongside the noise and fumes from traffic on Wisconsin Avenue. And, there are other locations for outdoor seating.

II.

The Planning Board Should Disapprove CCLC's Proposed Site Plan Amendments that Would Reduce the Width of The Sidewalk Along Wisconsin Circle in No. 82001013F (The Collection II)

Chevy Chase Land Company's request would permanently reduce the width of the Wisconsin Circle sidewalk in front of its building on the Circle to 6 feet.

It appears that the entire sidewalk area around Wisconsin Circle (except for the Clyde's patio area) would be converted to potential outdoor seating, subject to a six-foot sidewalk requirement. In Figures 4 and 5 in the Staff Report, pp. 9 and 10, the red lines around the peripheries of both Collection buildings (Figure 4) and the shopping center (Figure 5) show the areas that would be converted from what is now public use space to private space where there might be outdoor restaurant seating. Unlike other areas where the red line indicating outdoor seating appears, there is no green public use space left along the Wisconsin Circle side of the shopping center. This

leads to the conclusion that the sidewalk area around Wisconsin Circle would be converted to a CCLC area, subject to a six-foot sidewalk requirement.

This proposal does not conform to the sector plan, is unsafe and is against the public interest.

The Application Does Not Conform to the Sector Plan

This application does not substantially conform to the 1998 sector plan.

An objective of the sector plan is: to encourage walking by creating an attractive pedestrian environment and improving pedestrian access to Metro and other parts of the community. p. 102

The sector plan refers to the redesign of Wisconsin Circle to better accommodate pedestrians, and calls for improved pedestrian access to Metro and amenities, and development of a public mixed street to accommodate both pedestrians and vehicles in a safe and attractive manner. Pp. 27, 44 (figure 23 element 7), 46 and 106.

It speaks to encouragement and accommodation of a significant level of pedestrian activity. p. 102.

The sector plan enjoins the establishment of Wisconsin Circle as a mixed street that “emphasizes pedestrian circulation” while allowing limited, slow vehicular traffic. It says that a portion of Wisconsin Circle should be upgraded with special paving such as brick, Washington Globe lights, tightly spaced street trees, and seating. Significantly, it dictates “provide a minimum of 20 feet of public sidewalk within the right-of-way to adequately accommodate pedestrian activity and streetscape.” (emphasis added) p. 106

CCLC’s proposal does not accommodate a significant level of pedestrian activity or emphasize pedestrian circulation. It would do the opposite. It does not provide a minimum of 20 feet of public sidewalk area within the right-of-way to accommodate pedestrian activity and streetscape. It would leave a six-foot wide sidewalk for pedestrians inside the 6 feet of streetscape, i.e., a total of 12 feet.

The Staff Report does not address conformance with the sector plan, as it relates to pedestrians or sidewalks and streetscapes.

The zoning code requires that site plans, which includes amendments thereto, substantially conform with the recommendations of the applicable master or sector plan. CCLC’s proposal to reduce the width of sidewalks along Wisconsin Circle is clearly contrary to the 1998 sector plan. CCLC’s plan should be rejected.

The Application is Inconsistent with Public Safety, Inadequate and Inefficient

In general, we incorporate our points related to the reduction of the width of the sidewalk on Wisconsin Avenue, with the notation that under CCLC’s proposal, sidewalks along Wisconsin Circle would be 6 feet wide, instead of the 7-foot width CCLC proposes for Wisconsin Avenue.

The Application Is Inconsistent with the Public Interest

This application involves requested modifications to the site plans to accommodate merely "potential" restaurants. Staff Report p. 12. The staff report also refers to providing flexibility for additional restaurant spaces. pp. 8, 14.

CCLC's request to reduce the width of the sidewalk between its building on Wisconsin Circle and Wisconsin Circle to 6 feet and to remove site public use space between the proposed six-foot-wide sidewalk and the building is overly broad. Over breadth was discussed above and is incorporated by reference.

Apart from the over breadth of CCLC's application, the reduction of the width of the sidewalk adjoining Wisconsin Circle is totally inconsistent with the public interest. As explained above, pedestrians and others need ample sidewalk space.

On the one hand, pedestrians and other people need a wide sidewalk. On the other hand, this critical sidewalk space would be lost in order to provide merely potential restaurant(s) with possible narrow seating about 15-20 feet from Wisconsin Circle (a not particularly attractive location for outside dining), that might be used when outside temperatures are hospitable, i.e., only part of the year.

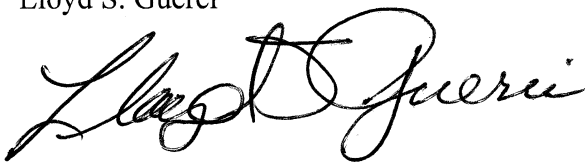
Unquestionably, the interests of the larger community outweigh narrowing the sidewalk along the northern side of Wisconsin Circle to 6 feet and reducing the public use space, just to accommodate a restaurant(s) whose success or failure is unlikely to be determined by the availability a few outdoor tables and chairs located alongside the noise and fumes from traffic including buses associated with the transit facility immediately within Wisconsin Circle. And, there are other locations for outdoor seating.

CONCLUSION

For the foregoing reasons, the Planning Board should disapprove Chevy Chase Land Company's proposed amendments to the site plans at the Collections insofar as they would (1) reduce the width of the sidewalk along Wisconsin Avenue in front of the two Collections I buildings, (2) reduce public use space between the two Collections I buildings and Wisconsin Avenue, (3) reduce of the width of the sidewalk along Wisconsin Circle and (4) reduce public use space along Wisconsin Circle.

Respectfully submitted,

Lloyd S. Guerci

A handwritten signature in black ink, appearing to read "Lloyd S. Guerci", written in a cursive style.

Vice-Chair

Citizens Coordinating Committee on Friendship Heights, Inc.



MONTGOMERY COUNTY
DEPARTMENT OF PERMITTING SERVICES
255 Rockville Pike, 2nd Floor
Rockville, Maryland 20850-4166

NOTICE OF NON-COMPLIANCE

Case# 421231
SITE PLAN

Site Plan
Number
820010130

FOR MONTGOMERY COUNTY, MARYLAND the undersigned issuer, being duly authorized, states that: On April 24, 2020 the recipient of this NOTICE: Steven Robins of Lerch, Early & Brewer, Chtd who represents the owner/applicant, Tom Regnell of Chevy Chase Land Company, is notified that a violation of Montgomery County Code, Section(s) as noted below exists at: Chevy Chase Center aka The Collection

VIOLATION

CORRECTIVE ACTION

Violation 1:
59-7.6.3

Failure to comply with approved site plan.

Comply with approved site plan.

Violation Comments / Remarks:


1. Chevy Chase Land Company has failed to provide a shuttle service per site plan Condition B.4 while grocery store on site is closed/under construction.

Corrective Action / Remarks:

1. Provide shuttle service per Condition B.4 until grocery store on site is operational - OR -
2. Successfully make application to MNCPPC to amend/modify Condition B.4.

Compliance Time: 05/15/2020 Re-Inspection Date(s): 05/15/2020

Failure to comply with this notice may result in the issuance of one or more civil citations seeking fines of \$500.00.

ISSUED BY:	Greg Nichols		04/24/2020
	Printed Name	Signature	Date
Phone No:	240-678-1787		
RECEIVED BY:	Steven Robins		
	Printed Name	Signature	Date
Phone No:		Sent by Email On:	4/24/2020

VILLAGE OF FRIENDSHIP HEIGHTS

VILLAGE COUNCIL

MELANIE ROSE WHITE, *Mayor*
MICHAEL MEZEY, *Chairman*
CAROLINA ZUMARAN-JONES, *Vice Chairman*
PAULA DURBIN, *Secretary*
KATHLEEN G. COOPER, *Treasurer*
BRUCE R. PIRNIE, *Parliamentarian*
MICHAEL J. DORSEY
JULIAN P. MANSFIELD, *Village Manager*

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Website: www.friendshipheightsmd.gov



RESOLUTION OF THE VILLAGE COUNCIL

WHEREAS, by its letter of March 24, 2020, to the Montgomery County Planning Board ("Planning Board"), The Village of Friendship Heights ("The Village") filed an objection to the Chevy Chase Land Company's ("Land Company") Application for Site Plan Amendments 82001013F and 82001021H ("Site Plan Amendments") for the reasons stated in the letter and for the reasons stated in the letters to the Planning Board dated March 18, 2020, and March 21, 2020, from Julie Davis, Esq., of the Somerset House Condominiums community, incorporated by reference; and,

WHEREAS, by its letter of March 30, 2020, to the Planning Board, The Village supplemented the reasons for its objection based upon newly acquired information summarized in the letter of March 30, 2020, from Julie Davis, Esq., to the Planning Board. Ms. Davis' letter on behalf of the Somerset House Condominiums Community noted in detail, and objected to, among other things, (1) the significant reduction in Public Use Space, (2) the creation of conditions unsafe for pedestrians resulting from the conversion of a substantial part of sidewalk to an area for private outdoor restaurant dining, and (3) the conversion of the sidewalks in front of the site formerly occupied by the Giant grocery store for use as a private restaurant dining area. The Village's letter references Ms. Davis' letter and expressly states that the Village objects for the "reasons set forth in Julie Davis' letter"; and,

WHEREAS, on April 8, 2020, a meeting was held via Internet between staff of the Planning Board and representatives of communities objecting to the Site Plan Amendments, including The Village. The Village participated through Michael Mezey, Chair of the Village Council of Friendship Heights, and its attorney, Norman Knopf, along with representatives of the Citizens Coordinating Committee on Friendship Heights, the Town of Somerset, and Julie Davis, appearing on behalf of the Somerset House Condominiums Community. Most of the meeting involved the explanation by representatives of the Village and other communities of their numerous objections as well as explanation of the merits of those objections as summarized in Julie Davis' letter of March 30; and,

WHEREAS, with the closure of the Giant grocery store on the Land Company's property in January 2020, and a replacement grocery store not anticipated to open until early 2021, the applicable condition in the approved site plan required the Land Company to provide shuttle bus service to the Giant located in the Westbard Shopping Center during the closure period. The Land Company refused to do so. The Planning Board, per Chair Anderson's letter of February 20, 2020, refused to enforce the condition until any pending application to amend this condition had been decided, a process that could take most, if not all, of the time period the grocery store was to remain closed; and,

WHEREAS, the closure of the Giant grocery store created a hardship for many Village residents, particularly the elderly, the disabled and others who do not drive and therefore cannot easily access the Westbard Giant, the nearest grocery store comparable to the closed Giant in terms of range of goods, services and pricing; and

WHEREAS, with the Planning Board's refusal to enforce the condition of the site plan requiring the Land Company to provide a shuttle bus and the Land Company's refusal to provide a shuttle bus, the Village was left with no alternative but to file a lawsuit against the Land Company to enforce the private Contract and Covenant between the Land Company and The Village, executed in 1998, pursuant to which the Land Company is obligated to maintain a grocery store on its property and to provide shuttle bus service to the nearest comparable grocery when the grocery store is closed; and

WHEREAS, a lawsuit to enforce busing under the Village's private Contract and Covenant with the Land Company is unlikely to be decided prior to the opening of the replacement store, The Village entered into settlement negotiations in an effort to obtain, without litigation, the immediate bus service that the Village Council considers so essential for Village residents. The Land Company offered The Village payment for limited bus service, which The Village was willing to accept given the limited duration or the closure of the grocery store and the likelihood that the current coronavirus pandemic will reduce demand for the service at present and in the near future. In order for The Village to obtain any implementation of the Contract and Covenant by settlement, the Land Company required The Village to withdraw its opposition to the Site Plan Amendments, even though those Amendments are unrelated to and independent of the issue of busing under the Contract and Covenant as well as unrelated to and independent of the busing condition of the approved site plan. The Land Company also required The Village to encourage individuals and organizations not to file or pursue objections to the Site Plan Amendments. In order to obtain some busing to avoid hardship to Village residents, The Village agreed to these terms in the settlement and anticipates that the reasons for its opposition previously raised with the Planning Board Staff orally and in writing by The Village and neighboring communities will result in modifications to those Site Plan Amendments as approved by the staff or the Planning Board.

THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF FRIENDSHIP HEIGHTS that The Village withdraws its previously filed opposition to the Site Plan Amendments and shall so advise the Planning Board by submitting to it a copy of this Resolution.

The above Resolution was adopted at the regularly scheduled meeting of the Friendship Heights Village Council on May 11, 2020, by a vote of 7-0.


Melanie Rose White, Mayor

From: [Julie Davis](#)
To: [MCP-Chair](#)
Subject: Fwd: Somerset House Memo to Planning Board re CCLC Proposed Site Plan Amendments (5.18.20)
Date: Tuesday, May 19, 2020 3:32:09 PM
Attachments: [Memo to Planning Board re CCLC Amendments \(5.18.20\).pdf](#)

To Chair Anderson and Commissioners Fani-Gonzales, Cichy, Patterson and Verma,

The Memorandum attached hereto supplements the Objections, dated March 30, 2020, submitted by the Somerset House Condominiums to the site plan amendments for Collections I and II filed by the Chevy Chase Land Company. The matter is on the Planning Board's agenda for its May 21, 2020 meeting. We will appreciate your consideration of our comments and concerns.

Julie Davis
Somerset House Condominiums

TO: Montgomery County Planning Board: Chair Casey Anderson, Commissioners
Natali Fani-González, Gerald R. Cichy, Tina Patterson, Partap Verma

FROM: Julie W. Davis, Somerset House Condominiums

RE: Proposed Site Plan Amendments to Collection I, Site Plan 82001021H, and Collection II, Site
Plan 82001013F, Planning Board May 21, 2020 Agenda

DATE: May 18, 2020

I am submitting this memorandum on behalf of the Somerset House Condominiums community to supplement the Objections set forth in my March 30, 2020 letter to Planning Board Staff to the site plan amendments referenced above proposed by the Chevy Chase Land Company ("CCLC"). I also support and incorporate by reference the submissions of the Citizens Coordinating Committee on Friendship Heights (CCCFH) on this matter.

The May 11, 2020 Staff Report recommends "approval with conditions" of CCLC's proposed site plan amendments. However, the Staff Report does not analyze or consider in detail the numerous substantive Objections filed by our community with respect to the proposed amendments.

The Report mentions - almost in passing - our Objections to two elements of the proposed amendments: (1) the proposed decrease in the current public use space on the CCLC site from 71,820 square feet to 50,820 square feet, a total decrease of 21,000 square feet, and (2) the proposed decrease in parking spaces on the CCLC site by 61 spaces. Those Objections are then summarily rejected on the ground that the remaining public use space and parking will meet the minimum requirements of the CBD-1 and TS-M zones.

Nowhere in the Staff Report is there any qualitative consideration of whether the remaining public use space meets the definition of public use space required by those zones. There is similarly no quantitative discussion of whether the remaining parking is adequate to serve the patrons of the new restaurants and retail stores CCLC seeks to attract to its Collection I (TS-M) parcel, or to the new grocery store and other restaurant and/or retail activities it intends to locate on its Collection II (CBD-1) parcel.

We believe that the failure of the Staff Report to give any meaningful consideration to our Objections renders the Staff's recommendation for approval meaningless. We thus ask the Planning Board to consider the following concerns regarding CCLC's proposed site plan amendments.

1. The Proposed Site Plan Amendments to Locate Public Outdoor Restaurant Space on the Sidewalks Along Wisconsin Avenue Violate Provisions of the 1998 Friendship Heights Sector Plan and Create Extremely Dangerous Pedestrian Conditions.

Nowhere in the May 11th Staff Report is the 1998 Sector Plan for Friendship Heights discussed, notwithstanding that the Plan includes provisions and requirements directly relevant to CCLC's proposed site plan amendments that are now before the Board.

For example, the Plan (p. 106) calls for a 20-foot public sidewalk or “Urban Boulevard” along Wisconsin Avenue from Western Avenue to Somerset Terrace to adequately accommodate pedestrian activity. The Plan (p. 102) also calls for the sidewalk to feature a high level of pedestrian amenities, including special paving, custom benches, landscaping features, and ornamental lighting on the sidewalks.

The Staff Report, however, recommends approval of CCLC’s proposal to locate outdoor dining space along the Wisconsin Avenue sidewalks in front of the Collection I buildings so long as the adjacent public sidewalk is a minimum of seven (7) feet wide. That space is totally inadequate to accommodate the myriad pedestrian activities that those sidewalks currently handle.

As the submission by CCCFH explains in detail, these sidewalks are a major pedestrian route the surrounding communities use to travel to and from the Friendship Heights Metro Station as well as to and from the restaurants and shopping in the current Collection I buildings, as well as the Collection II shopping center which, according to CCLC, will include a new grocery store by the end of 2020.

Examination of the regulations for sidewalk cafes and outdoor restaurant space adopted by other local jurisdictions is instructive. For example, **the New York City Department of Consumer Affairs requires the wider of 8 feet or 50 percent of the sidewalk next to the sidewalk café to be clear and unobstructed.**

Under District of Columbia Department of Transportation (DDOT) regulations, sidewalk cafes must have a clear, adjacent and unobstructed passageway no less than 10 feet in width at all points measured from the farthest extended portion of the sidewalk café frontage to the curb line or the nearest obstruction, whichever is nearest the sidewalk café. For purposes of the determining clear sidewalk space, trees, streetlight poles, traffic sign poles, fire hydrants and other objects located on the surface space are considered obstructions.

As noted in the CCCFH submission, the sidewalk area along the Wisconsin Avenue Collection I buildings is approximately 22 feet wide, which includes approximately 8 feet of landscaped areas with benches, trees, lighted and special paving adjacent to the Wisconsin Avenue curb.

This leaves 14 feet of clear sidewalk space between the frontage of the buildings and the landscaped areas. Under the both the District of Columbia and the New York sidewalk café regulations, 10 to 11 feet of that remaining 14 feet of sidewalk space would have to be clear and unobstructed, leaving only 3 to 4 feet of space for outdoor café tables and chairs.

Attached are photos of the Wisconsin Avenue sidewalk looking north and south in front of the two Collection I buildings. Although these photos were also attached to our March 30, 2020 Objections, Staff did not include them in its report. However, the photos show clearly that there is simply not enough space to accommodate both private dining space and the many forms of pedestrian activities that take place on these sidewalks.

These include families and friends walking several abreast and talking, people walking dogs on leashes, people pushing strollers and baby carriages, people using electric and conventional scooters, kids on skateboards, handicapped people traveling with walkers and wheelchairs, joggers, shoppers, employees, and commuters, all moving in different directions at different speeds in the same area.

We urge the Board to deny the proposed site plan amendments that would convert the Wisconsin Avenue sidewalks from public use space to private space on which outdoor restaurant and café dining would be located. The dangerous pedestrian conditions that would result from reducing the width of the sidewalks from 14 feet to 7 feet to provide space for outdoor dining tables and chairs should not be approved by this Board. There is plenty of room for outdoor dining on the sidewalks behind the Collection I buildings.

2. The Public Use Space Requirements of the CBD-1 and TS-M Zones Have Not Been Met.

The conversion of sidewalk space throughout the CCLC site to private restaurant dining areas, including the Wisconsin Avenue sidewalk space, similarly violates the public use space requirements of the CBD-1 and TS-M zones in the pre-2014 Zoning Code.

CCLC's proposed site plan amendments would convert over 21,000 square feet of existing public use space to private space reserved for outdoor restaurant dining. According to the Staff Report, CCLC is required by the pre-2014 Zoning Code to provide a minimum of 30,000 square feet and 20,820 square feet of public use space on its CBD-1 and TS-M parcels, respectively.

The Staff Report finds that the public use space remaining after the conversion will still meet the Code's minimum requirements. However, included in the remaining public use and amenity space on each parcel (Sheet No. C-5 in each application) are so-called "parks" that have long since been converted to private restaurant use by prior site plan amendments and by physical changes implemented by CCLC.

Public use space is defined in Section 59-A-2 of the pre-2014 Zoning Code as **"Space devoted to public enjoyment such as but not limited to, green areas, gardens, plazas, walks, pathways, promenades, arcades, urban parks, public plazas with elements such as water features, and passive and active recreational areas . . ."**

This definition is effectively incorporated into the Sector Plan (pp. 47-48), which describes "Johnson Park" on the TS-M parcel as an "urban park" with 9,000 square feet of "public use space" featuring tables and chairs, shade trees, special paving and lighting, and other elements such as fountains and art work.

This "urban park," however, is currently a wide-open space with half a dozen small trees, several planters, and outdoor seating for the adjacent "Little Beet Table" restaurant. Consistent with the Sector Plan, the space originally featured outdoor art installations as well as a large "water wall," but these were removed by CCLC several years ago. The "park" is now not much more than a concrete passageway between the two buildings to the parking lots behind with tables and chairs for commercial outdoor dining.

According to the Sector Plan (p. 46), "Farr Park" on the CBD-1 parcel south of Clyde's was supposed to be a space of approximately 8,000 square feet, with shade trees, special paving and lighting, fountains and artwork. It is currently a treeless concrete open space with outdoor seating for Clyde's bar and restaurant.

This space originally also had outdoor art installations and a large fountain with a "splash pool" that visiting children (including my grandchildren) thoroughly enjoyed. However, CCLC removed the art installations and the splash pool around the time that Clyde's opened its outdoor bar and dining areas. Now the "park" is just a sterile, bare area with some tables and chairs adjacent to Clyde's restaurant operations.

Attached to this memorandum are photos of "Johnson Park" and "Farr Park," which were also attached to my March 30, 2020 Objections. For whatever reason, these photos were not included in the Staff Report.

When CCLC originally converted these two “parks,” which total 17,000 square feet, to private use space, our community did not object because the remaining public use space after the conversions still met the minimum requirements of the Zoning Code without including the square footage of the “parks.”

However, in determining whether the public use space remaining after the proposed conversion of an additional 21,000 square feet to private use space would meet the minimum requirements of the CBD-1 and TS-M zones, the Staff clearly erred in giving full credit to the 17,000-square feet of space in these so-called “parks.”

That 17,000 square feet should not be included in the calculation of public use space for either parcel, because neither “park” meets the definition of public use space in the pre-2014 Code. And, if the 17,000 square feet of these “parks” is deleted from the calculation, neither parcel will meet the minimum public use space requirements of these zones. The amendments should be denied on this basis alone.

3. The Planning Board Cannot Make the Findings Required in the Zoning Code for Site Plan Approval.

Section 7.3.4.E.2 of the 2014 Zoning Code states that to approve a site plan, the Planning Board must find that the proposed plan . . .

“d. satisfies applicable use standards, development standards and general requirements in this Chapter; . . .

f. Provides safe, well-integrated parking, circulation, building massing, and, where required, open space and site amenities;

g. Substantially conforms with the recommendations of the applicable master plan and any guidelines approved by the PB that implement the applicable plan . . .”

The findings required for site plan approval in sections 59-D-3.4(c)(2) and (3) of the pre-2014 Zoning Code similarly state that the site plan must meet all the requirements of the zone in it is located, and that the location of buildings and structures, open spaces, landscaping, recreation facilities, and circulation systems must be “adequate, safe, and efficient.”

As discussed above, the site plan amendments proposed by CCLC do not meet the minimum public open space standards of the pre-2014 Zoning Code for parcels zoned either CBD-1 or TS-M; they do not provide an “adequate, safe and efficient” circulation system on the Wisconsin Avenue sidewalks; and they do not conform -- much less substantially conform -- with the recommendations of the 1998 Friendship Heights Sector Plan for the CCLC site.

That being the case, the Planning Board should not approve the CCLC proposed site plan amendments unless conditions are also imposed that (1) prohibit CCLC from converting any portion of the Wisconsin Avenue sidewalks to private dining space, (2) delete from CCLC’s calculation of public use space the 17,000 square feet included in the two so-called “parks” that do not meet the definition of “public use space” in the pre-2014 Zoning Code, and (3) require CCLC to demonstrate that the parking available after a reduction of 61 spaces will be adequate to support all the additional restaurant and retail activities CCLC seeks to attract to its site.



— Wisconsin Avenue Looking North —



— Wisconsin Avenue Looking South —



— "Johnson Park" —



— "Farr Park" —