

# **Montgomery County Planning Board**

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB No. 22-083  
Preliminary Plan Amendment No. 11999083A  
Chevy Chase Center  
Date of Hearing: July 28, 2022

## **RESOLUTION**

WHEREAS, under Montgomery County Code Chapter 50, the Montgomery County Planning Board is authorized to review preliminary plan applications; and

WHEREAS, on May 31, 2001, the Planning Board, by Opinion mailed on December 20, 2001, approved Preliminary Plan No. 119990830, creating 1 lot on 8.22 acres of land in the CBD-1 and TS-M zones for up to 232,628 square feet of office and up to 179,372 square feet of retail development including a grocery store, located at 5425 Wisconsin Avenue, NE quadrant, intersection of Wisconsin Avenue and Wisconsin Circle (“Subject Property”), in the Bethesda/Chevy Chase Policy Area and 1998 Friendship Heights Sector Plan (“Sector Plan”) area; and

WHEREAS, on April 5, 2022, Bright Horizon’s Children’s Centers, LLP (“Applicant”) filed an application for approval of an amendment to the previously approved preliminary plan(s) to convert 12,336 square feet of previously approved retail and office spaces into a day care center for up to 147 children and up to 30 staff within an existing mixed-use development on the Subject Property; and

WHEREAS Applicant’s application to amend the preliminary plan was designated Preliminary Plan Amendment No. 11999083A, Chevy Chase Center (“Preliminary Plan,” “Amendment,” or “Application”); and

WHEREAS, following review and analysis of the Application by Planning Board staff (“Staff”) and other governmental agencies, Staff issued a memorandum to the Planning Board, dated July 18, 2022, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and

WHEREAS, on July 28, 2022, the Planning Board held a public hearing on the Application and voted to approve the Application subject to conditions, on the motion of Commissioner Rubin, seconded by Vice Chair Verma, with a vote of 5-0; Chair Anderson, Commissioners Cichy, Patterson, Rubin and Verma voting in favor.

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Approved as to  
Legal Sufficiency: /s/ Matthew T. Mills  
M-NCPPC Legal Department

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Preliminary Plan Amendment No. 11999083A to convert 12,336 square feet of previously approved retail and office spaces into a day care center for up to 147 children and up to 30 staff within an existing mixed-use development by modifying Condition 1 and adding Conditions 22 through 29 as follows:<sup>1</sup>

#### Development Ceiling

1. This Preliminary Plan is limited to one lot for a maximum of 227,460 square feet of office, 125,911 square feet of retail development including a grocery store, 46,293 square feet of restaurant and 12,336 square feet of daycare uses.

#### New Conditions

##### Adequate Public Facilities and Outside Agencies

22. The Adequate Public Facilities (“APF”) review for the Preliminary Plan will remain valid for five (5) years from the initiation date (as defined in Montgomery County Code Section 50.4.3.J.5).

##### Plan Validity Period

23. The Preliminary Plan will remain valid for three (3) years from its initiation date (as defined in Montgomery County Code Section 50.4.2.G).

##### Outside Agencies

24. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Transportation (“MCDOT”) in its letter dated June 9, 2022 and incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDOT if the amendment does not conflict with any other conditions of the Preliminary Plan approval.
25. The Planning Board has reviewed and accepts the recommendations of the Maryland State Highway Administration (“SHA”) in its letter dated May 18, 2022 and incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MDSHA if the amendment does not conflict with any other conditions of the Preliminary Plan approval.
26. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Services (“MCDPS”), Fire

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<sup>1</sup> For the purpose of these conditions, the term “Applicant” shall also mean the developer, the owner or any successor(s) in interest to the terms of this approval.

Department Access and Water Supply Section in its letter dated July 21, 2022, and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in the letter, which MCDPS may amend if the amendment does not conflict with other conditions of Preliminary Plan approval.

#### **Prior To Certified Preliminary Plan**

27. Prior to certification of the Preliminary Plan, an amended Preliminary/Final Forest Conservation Plan must be submitted to address the following items:

- a. Provide a tree save plan prepared by an ISA Certified Arborist who is also a MD Licensed Tree Care Expert.
- b. Revise the proposed playground design to minimize/avoid impacts of existing credited trees to the extent reasonably possible.
- c. Provide/restore the required overall credit for onsite plantings as applicable.
- d. Address fee-in-lieu requirements for any necessary credit previously achieved through afforestation and/or reforestation that can no longer be maintained or achieved onsite.

#### **Certified Preliminary Plan**

28. The certified Preliminary Plan must contain the following note:

Unless specifically noted on this plan drawing or in the Planning Board conditions of approval, the building footprints, building heights, on-site parking, site circulation, and sidewalks shown on the Preliminary Plan are illustrative. The final locations of buildings, structures and hardscape will be determined at the time of issuance of building permit(s) [or] site plan approval. Please refer to the zoning data table for development standards such as setbacks, building restriction lines, building height, and lot coverage for each lot.

29. Prior to submittal of the Certified Preliminary Plan, the Applicant must make the following changes:

- a) Show resolutions and approval letters on the certified set; and
- b) Include the approved Fire and Rescue Access plan in the certified set.

BE IT FURTHER RESOLVED that all other preliminary plan conditions of approval for this project remain valid, unchanged and in full force and effect.

BE IT FURTHER RESOLVED that having considered the recommendations of its Staff as presented at the hearing and/or as set forth in the Staff Report, which the Board hereby adopts and incorporates by reference (except as modified herein), and upon consideration of the entire record, the Planning Board FINDS, with the conditions of approval, that:

*Unless specifically set forth herein, this Amendment does not alter the intent, objectives, or requirements in the originally approved preliminary plan, and all findings not specifically addressed remain in effect.*

**1. *The layout of the subdivision, including size, width, shape, orientation and density of lots, and location and design of roads is appropriate for the subdivision given its location and the type of development or use contemplated and the applicable requirements of Chapter 59.***

**d) *The Lot(s) and Use comply with the basic requirements of Chapter 59***

There are no changes to the size, width, shape, orientation or density of lots, or the location and design of any roads. The existing layout and density are appropriate for the use and the area. Daycare use is permitted within the CBD-1 zone (and the current CR zone), as well as the Chevy Chase Neighborhood Retail Overlay Zone.

**2. *The Preliminary Plan substantially conforms to the Master Plan.***

The Preliminary Plan Amendment is consistent with the objective of the 1998 *Friendship Heights Sector Plan*, which had the long-term vision to, “[c]reate a vital, diverse urban center” in downtown Friendship Heights, (page 33), by concentrating development close to the Metro in the central business district, which includes the Subject Property. Among the objectives stated in the Sector Plan for the Subject Property (then designated as Chevy Chase Land Company Parcel 10B) are:

- No. 1. Encourage better use of the property, given its proximity to Metro.
- No. 2 Retain community retail, including a grocery store.
- No. 4. Provide a limited amount of additional office use next to Metro by encouraging redevelopment of part of the existing Chevy Chase Center using the optional method of development

- No. 5. Provide safe, convenient parking to serve both retail and office uses.
- No. 9. Enhance the pedestrian environment along Wisconsin Avenue and the pedestrian link to Metro. (page 41-42)

The proposed daycare center meets these objectives. First, inclusion of a daycare center diversifies the mix of uses provided in downtown Chevy Chase and takes advantage of the convenience of the nearby Metro station. Daycare centers provide a valuable option for local residents and employees and, in this way, support the continuation of community retail and office uses in the area. As discussed above, the proposed daycare center provides safe and convenient parking for those parents and staff who will access the center via car. It also supports the pedestrian environment by providing an important service that is centrally located in an area meant to be accessed by pedestrians, either from the immediately surrounding residential neighborhood or by using Metro or other public transit.

The Preliminary Plan Amendment does not involve the construction of a new building or external renovations to the existing building. Instead, it will reactivate existing ground floor and second floor space by replacing two vacant retail bays and vacant office space with a bustling daycare center. It will also replace existing surface parking with an attractive, landscaped play area. In addition, the proposed daycare center will integrate well with pedestrian connections in the area, as pedestrians will access the Site via the existing sidewalk – including parents or guardians who park in the garage to drop off or pick up a child.

***3. Public facilities will be adequate to support and service the area of the subdivision.***

***a) Local Area Transportation Review (LATR)***

The proposed change in use would result in greater than 50 net new peak hour person trips when compared to the previously approved uses. Accordingly, in compliance with the Montgomery County Growth and Infrastructure Policy (the “GIP”), the application contains a Transportation Impact Study (TIS) in compliance with the 2022 Local Area Transportation Review (LATR) Guidelines, and includes pedestrian, bicycle, and bus transit adequacy tests as well as a Vision Zero statement. Because the Subject Property is in a “Red” policy area (Friendship Heights), the Subject Application is exempt from the motor vehicle adequacy test. The TIS identified deficiencies under both the pedestrian and bicycle adequacy tests, as follows:

- *On Willard Avenue, missing sidewalk buffers result in a deficient Pedestrian Level of Comfort (“PLOC”) and a lack of bicycle facilities results in Bicycle Level of Traffic Stress (“BLTS”) greater than 2.0 (“Low”). Approximately 100 linear feet of separated bike lanes installed in the roadway would achieve adequacy for both PLOC and BLTS.*
- *Missing sidewalk buffers along Wisconsin Avenue result in deficient PLOC and a lack of bicycle facilities results in BLTS greater than 2.0. Approximately 400 linear feet of two-way or 800 linear feet of one-way separated bike lanes installed in the roadway would achieve adequacy for both PLOC and BLTS.*
- *A lack of bicycle facilities along Western Avenue results in BLTS greater than 2.0. Approximately 100 feet of separated bike lanes installed in the roadway would achieve adequacy for BLTS. Note that this area is located within the District of Columbia and any improvements would be subject to District of Columbia Department of Transportation approval.*

Per the 2021-2024 Growth and Infrastructure Policy (GIP) and LATR Guidelines, the maximum target for transportation mitigation costs for the proposed project to construct or fund improvements to address deficiencies identified in the multimodal review process, known as the LATR Proportionality Guide, is calculated using the formula shown below:

$$\text{LATR Proportionality Guide} = \left( \frac{\text{Extent of Development}}{\text{Development}} \right) \times \left( \frac{\text{LATR Proportionality Guide Rate}}{\text{Guide Rate}} \right) \times \left( \frac{\text{LATR Proportionality Guide Adjustment Factor}}{\text{Adjustment Factor}} \right)$$

Based on this calculation, for the proposed 12,336-square foot daycare in the Friendship Heights Transportation Management District, the maximum required cost of improvements for off-site improvements is \$7,217. The costs of the master-planned pedestrian/bicycle network improvements (or even effective portions thereof) identified above would far exceed the LATR Proportionality Guide amount of \$7,217 and are therefore not proportional with the estimated impacts of the proposed daycare. Therefore, the Applicant is not required to participate in off-site mitigation.

Further, the Subject Property is located in an area with ample transportation resources:

- *The Subject Property is surrounded by a well-connected regional and local transportation system that will accommodate the parents, children, and staff of the proposed daycare facility.*
- *The Subject Property is well-served by public transportation with access to the WMATA Metro Red Line and is close to the Friendship Heights Metro Station.*
- *The Subject Property is surrounded by a well-connected pedestrian environment.*

***b) Other Public Facilities and Services***

The Subject Property is non-residential and is adequately served by all necessary public services and facilities including water and sewer. It is extremely well-served by transit and a network of local and regional roadways. As a non-residential project, the proposed daycare center will have no impact on school capacity. The Subject Property is served by public water and sewer systems as well as electric, gas, and telecommunications services. The proposed project is expected to have no impact on the adequacy of other public facilities, such as police and fire stations.

The Fire Access plan was previously approved with Preliminary Plan No. 119990830, and this amendment will not substantially change the Fire Access on-site based on communications with DPS Fire Department Access and Water Supply staff. As conditioned, the final approval letter will be required prior to certification of the Preliminary Plan Amendment. Staff anticipates acquiring the letter prior to the Planning Board Public Hearing on July 28, 2022.

***4. All Forest Conservation Law, Chapter 22A requirements are satisfied.***

***a) Forest Conservation Plan***

As previously mentioned, the Site is subject to an existing forest conservation plan. The latest approved plan is FFCP #82001013E which shows most of the Forest Conservation requirements were met onsite through credit for 102 shade trees (including credited plantings occurring within the proposed play area) which provided 0.74 acres of overall forest conservation credit, and the remaining requirement of 0.50 acres was addressed offsite by a fee-in-lieu payment. As conditioned, a FFCP amendment along with a detailed tree save plan prepared by an ISA Certified Arborist who is also a MD Licensed Tree Care Expert will be submitted to minimize/avoid tree impacts where possible and provide the required mitigation plantings as applicable and will be approved prior to Certified

Site Plan(s). The Applicant intends to protect and retain the existing mitigation plantings, however limited impacts or removal may be required. Should this occur, the Applicant will prioritize onsite replacement for any of mitigation plantings removed. Furthermore, the overall onsite credit will be assessed and supplemented/restored as needed. Although it is anticipated the current level of plantings can be maintained, the fee-in-lieu requirements will increase if all the previous level of credit cannot be achieved onsite.

***5. All stormwater management, water quality plan, and floodplain requirements of Chapter 19 are satisfied.***

All stormwater management, water quality plan, and floodplain requirements of Chapter 19 are satisfied. Per the statement of justification, the project will disturb less than 5,000 square feet and is therefore not subject to SWM review. Furthermore, the application is not subject to a water quality and is not associated with a floodplain.



BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is SEP 21 2022 (which is the date that this Resolution is mailed to all parties of record); and

BE IT FURTHER RESOLVED that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

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**CERTIFICATION**

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission on the motion of Commissioner Rubin, seconded by Vice Chair Verma, with a vote of 5-0, Chair Anderson, Vice Chair Verma, and Commissioners Cichy, Patterson, and Rubin voting in favor at its regular meeting held on Thursday, September, 8 2022, in Wheaton, Maryland and via video conference.



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Casey Anderson, Chair  
Montgomery County Planning Board

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