

Montgomery County Planning Board

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB No. 22-085

Site Plan No. 82001021J

Chevy Chase Center/Collection I

Date of Hearing: July 28, 2022

RESOLUTION

WHEREAS, under Section 59-7.1.2 of the Montgomery County Zoning Ordinance, the Montgomery County Planning Board is authorized to review site plan applications; and

WHEREAS, under Section 59-7.7.1.B.3, the Planning Board reviewed this site plan under the procedures and standards of the Zoning Ordinance in effect on October 29, 2014; and

WHEREAS, on May 31, 2001, the Planning Board, approved Site Plan No. 820010210 for 24,000 gross square feet of office, 71,000 gross square feet of retail, and 17,000 gross square feet of restaurant use on 4.78 net acres of TS-M zoned-land, located at the northeast quadrant of the intersection with Wisconsin Avenue and Wisconsin Circle ("Subject Property"), in the 1998 Friendship Heights Sector Plan ("Sector Plan") area; and

WHEREAS Site Plan No. 82001021A was approved administratively as an amendment to the previously approved site plan for minor changes to the Subject Property, and Site Plan No. 82001021B was filed but withdrawn; and

WHEREAS, on October 20, 2010, the Planning Board approved Site Plan No. 82001021C, a further amendment for modifications of Farr Park to include a private dining area; upgrades to the streetscape, including plantings, paving, and street furniture; reconfiguration of former taxi stand; and a waiver of limits for ground floor uses required by the overlay zone on the Subject Property; and

WHEREAS Site Plan No. 82001021D was approved administratively as an amendment to the previously approved site plan to convert a portion of the restaurant's outdoor dining area to public use space and add some square footage to the vestibule; and

WHEREAS, on September 8, 2016, the Planning Board approved an amendment to the previously approved site plan, designated Site Plan No. 82001021E, modifications

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Approved as to

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

to the public use and amenity space, on-site pedestrian and vehicular circulation, architecture, and calculation of on-site parking; and

WHEREAS, on August 1, 2017, the Planning Board approved an amendment to the previously approved site plan, designated Site Plan No. 82001021F, for minor modifications to the site design, internal circulation, and a reduction in parking; and

WHEREAS Site Plan No. 82001021G was approved administratively as an amendment to the previous approved site plan for minor modifications to the site design, landscaping, lighting, and parking; and

WHEREAS, on May 21, 2020, the Planning Board approved an amendment to the previously approved site plan, designated Site Plan No. 82001021H, for a reduction in public use space, increased private outdoor dining space, associated hardscape & landscape modifications, reallocation of retail and restaurant square footage, a reduction in parking and minor parking layout changes; and

WHEREAS Site Plan No. 82001021I was approved administratively as an amendment to the previously approved site plan to remove existing pavers and provide a new concrete pad and handrail in front of an existing ATM, located along Wisconsin Circle; 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 site plans for the reallocation of up to nine parking spaces to an on-site playground to support a daycare center on the adjacent Site on the Subject Property; and

WHEREAS Applicant's application to amend the site plan was designated Site Plan No. 82001021J, Chevy Chase Center/Collection I ("Site 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.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves Site Plan No. 82001021J for the reallocation of up to nine parking spaces to an on-site playground to support a daycare center on the adjacent Site by adding the following conditions. In the event of a conflict between the following conditions and those of previous approvals, the conditions as amended shall control:¹

Density, Height & Housing

1. Density

The Site Plan is limited to a maximum of 112,000 square feet of total development on the Subject Property, including up to 24,000 square feet of office uses, up to 69,220 square feet of retail uses (including a grocery store), and up to 18,780 square feet of restaurant uses. The combination of retail and restaurant uses within the limits described above must not exceed 88,000 square feet.

Environment

2. Forest Conservation & Tree Save

- a. Prior to the start of any demolition, clearing, grading or construction for the proposed outdoor playground, whichever comes first, pursuant to this development Application, the Applicant must submit the forest conservation fee-in-lieu payment to the M-NCPPC Planning Department to satisfy any necessary credit previously achieved through afforestation and/or reforestation that can no longer be maintained or achieved onsite.
- b. Prior to the start of any demolition, clearing, grading or construction for the proposed outdoor playground, whichever comes first, for this development Application, the Applicant must submit financial surety, in a form approved by the M-NCPPC Office of the General Counsel, to the M-NCPPC Planning Department for any new mitigation trees and maintenance, including invasive species management controls, credited toward meeting the requirements of the FCP.
- c. If any mitigation tree plantings are required under the FCP, then prior to the start of any demolition, clearing, grading or construction for the proposed outdoor playground, whichever comes first, pursuant to this development Application, the Applicant must execute a five-year Maintenance and Management Agreement ("MMA") in a form approved by the M-NCPPC Office of the General Counsel. The MMA is required for all mitigation tree plantings, including variance tree mitigation plantings, and landscape plantings credited toward meeting the requirements of the FCP.

¹ 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.

The MMA includes invasive species management control measures as deemed necessary by the M-NCPPC Forest Conservation Inspection Staff.

- d. The Applicant must schedule the required site inspections by M-NCPPC Forest Conservation Inspection Staff per Section 22A.00.01.10 of the Forest Conservation Regulations.
- e. The Applicant must comply with all tree protection and tree save measures shown on the approved Final Forest Conservation Plan. Tree save measures not specified on the Final Forest Conservation Plan may be required by the M-NCPPC Forest Conservation Inspection Staff.
- f. The Limits of Disturbance ("LOD") shown on the Final Sediment and Erosion Control Plan must be consistent with the LOD shown on the approved Final Forest Conservation Plan.
- g. Prior to certification of the Final Forest Conservation Plan, the Applicant must make the following changes:
 - i. Update plans/notes to clarify minor CRZ impacts to existing trees to remain and/or trees to be removed.
 - ii. Provide notes on the proposed installation of playground equipment to demonstrate the feasibility of proposed tree save measures.
 - iii. Update FCP Sheet 2 to indicate that, due to the preservation of existing mitigation trees, there are no further mitigation requirements to be met.

Site Plan

3. Certified Site Plan

Before approval of the Certified Site Plan the following revisions must be made and/or information provided subject to Staff review and approval:

- a) Include all prior Site Plan resolutions on the approval or cover sheet(s).
- b) Add the following notes:
 - i. "M-NCPPC Staff must inspect all tree-save areas and protection devices before clearing and grading."
- c) Update the Landscape Plans to reflect the ultimate layout of the playground, existing trees/landscape to remain and new plantings.
- d) Ensure consistency of all details and layout between Site and Landscape plans.

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

BE IT FURTHER RESOLVED that all site development elements shown on the latest electronic version of Chevy Chase Center/Collection I, 82001021J, submitted via ePlans to the M-NCPPC as of the date of the Staff Report, are required, except as modified by the above conditions of approval; and

BE IT FURTHER RESOLVED that having considered the recommendations of its Staff as presented at the hearing and/or 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 site plan, as revised by previous amendments, and all findings not specifically addressed remain in effect.

Table 2: Site Plan No. Plan Amendment No. 82001013H (CBD-1 Zone) Site Plan Amendment No. 82001021J (TS-M Zone) Parking Data Table

Development Standard	Required/ Permitted	Prevoiusly Approved 82001013G and 82001021H	Proposed 82001013H and 82001021J
Vehicle Parking³			
<u>CBD-1 Zone</u>			
56,691 SF Retail	199 (min.) / 341 (max.)	--	--
16,508 SF Restaurant	67 (min.) / 199 (max.)	--	--
203,460 SF Office	407 (min.) / 611 (max.)	--	--
12,336 SF Daycare Center	30 (min.)/49 (max.)		--
Subtotal CBD-1 Zone	710 (min.) / 1200 (max.)	--	--
<u>TS-M Zone</u>			
72,957 SF Retail	256 (min.) / 438 (max.)	--	--
11,268 SF Restaurant	46 (min.) / 136 (max.)	--	--
24,000 SF Office	48 (min.) / 72 (max.)	--	--

Subtotal TS-M Zone	349 (min.) / 645 (max.)	--	--
Subtotal Combined Site Vehicle	1,057 (min.) / 1,862 (max.)	--	--
20% NADMS Reduction⁴	- 211 (min.) / - 0 (max.)	--	--
Total Combined Site	846 (min.) / 1,862 (max.)	1,186⁵	1,177⁶
Combined Site Loading Spaces	3	3	No change
Bicycle Parking			
Combined Site (Long-term/ Short-term)	(47/ 19) 66 Total	(47/ 19) 66 Total	No change

³ Parking in accordance with Section 59.7.7.1.B.3.b. of the Zoning Ordinance; Restaurant parking requirements based on 60% patron area.

⁴ 20% Non-Auto Driver Mode Share Reduction as per Section 59.6.2.3.1.7.a.i.

⁵ In accordance with previous approvals, 30 parking spaces must be for "Kiss & Ride" (no change).

⁶ Site Plan Amendment 82001021J proposes repurposing 9 parking spaces for the private playground.

(C) In reaching its decision the Planning Board must require that:

(1) the site plan conforms to all non-illustrative elements of a development plan or diagrammatic plan, and all binding elements of a schematic development plan, certified by the Hearing Examiner under Section 59-D-1.64, or is consistent with an approved project plan for the optional method of development, if required, unless the Planning Board expressly modifies any element of the project plan;

The Site Plan amendments conform to all non-illustrative elements Project Plan 919990020.

(2) the site plan meets all of the requirements of the zone in which it is located, and where applicable conforms to an urban renewal plan approved under Chapter 56;

A private playground is a permitted use in the TSM zone under the 2004 Montgomery County Zoning Code (the "2004 Code"). See 2004 Code Sec. 59-C-6.22. It is also permitted within the Chevy Chase Neighborhood Overlay Zone.

(3) The locations of buildings and structures, open spaces, landscaping, recreation facilities, and pedestrian and vehicular circulation systems are adequate, safe, and efficient.

The proposed modification has no effect on height, density, building location and massing, or lighting. Proposed changes include the construction of an on-site playground in a corner of the parking lot and internal renovations to the premises. The current circulation system is adequate, safe, and efficient, and will remain as such with the Subject Application.

The Fire Access plan was previously approved, 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 Site Plan Amendment. Staff anticipates acquiring the letter prior to the Planning Board Public Hearing on July 28, 2022.

(4) Each structure and use is compatible with other uses and other site plans and with existing and proposed adjacent development.

The proposed private playground is compatible with the adjacent and surrounding development. It will convert a very small portion of the surface parking and some perimeter landscaping to an outdoor play area focused on trees, landscaping, and other natural features, making it at least equally attractive to passersby as the existing combination of deciduous trees, groundcover, and asphalt.

(5) the site plan meets all applicable requirements of Chapter 22A regarding forest conservation, Chapter 19 regarding water resource protection, and any other applicable law.

There are certain trees within the proposed playground area that were counted towards landscaping credit on the forest conservation plan previously approved for the Subject Property. The Applicant intends to preserve all existing credited trees within the playground area and has submitted an amendment to the forest conservation plan to that effect. Any unavoidable impacts to existing mitigation trees will be reviewed as part of the plan certification process. As conditioned, the Applicant will meet all applicable requirements of Chapter 22A Forest Conservation Law.

As discussed above, all stormwater management, water quality plan, and floodplain requirements of Chapter 19 are satisfied as 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 plan and is not associated with a floodplain.

BE IT FURTHER RESOLVED that this Resolution incorporates by reference all evidence of record, including maps, drawings, memoranda, correspondence, and other information; and

BE IT FURTHER RESOLVED that this Site Plan shall remain valid as provided in Montgomery County Code § 59-D-3.8; and

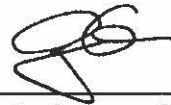
BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is SEP 21 2022 (which is the date that this resolution is mailed to all parties of record); and

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).

* * * * *

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.



Casey Anderson, Chair
Montgomery County Planning Board

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