

108 E. MELBOURNE AVENUE

NO. CU2023-01

Description

Request for Conditional Use approval to expand an existing child Group Day Care for 12 children to a Day Care Center with up to 18 children and one non-resident employee.

No. CU2023-01

Completed: 10-21-2022

MCPB

Item No. X

11-03-2022

2425 Reedie Drive

Floor 14

Wheaton, MD 20902

Planning Staff



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LOCATION/ADDRESS

108 E. Melbourne Avenue,
Silver Spring

MASTER PLAN

2000 East Silver Spring Master Plan

ZONE

R-60

PROPERTY SIZE

8,494 square feet

APPLICANT

Jawairia Iqbal

ACCEPTANCE DATE

July 29, 2022

REVIEW BASIS

Chapter 59

HEARING EXAMINER PUBLIC HEARING

November 28, 2022



Summary:

- Staff recommends approval of the Conditional Use with conditions and transmittal to the Hearing Examiner.
- Applicant is requesting to expand a previously approved child Group Day Care with up to 12 children to a Day Care Center with up to 18 children and one (1) non-resident employee.
- The owner and operator of the daycare currently lives and will continue to live on the Site.
- The Site is less than 40,000 square feet and is therefore exempt from Forest Conservation Plan requirements under Section 22A-(q)(1).
- Staff has not received any public correspondence as of the date of this Staff Report.

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SECTION 1: RECOMMENDATIONS AND CONDITIONS

CONDITIONAL USE NO.CU2023-01

Staff recommends approval of 108 E. Melbourne Avenue, Conditional Use No. CU2023-01, for a Day Care Center with up to 18 children, subject to the following conditions:

1. The use is limited to a Day Care Center with up to 18 children and one (1) non-resident employee.
2. The hours of operation are limited to Monday through Friday, 7:00 AM to 5:30 PM, which is consistent with the current hours of operation.
3. The Applicant must provide five (5) total on-site parking spaces which includes the four (4) off-street parking spaces in the existing driveway on Walden Road and one (1) additional off-street parking space in the proposed new driveway to be accessed from E. Melbourne Avenue Site that measures a minimum width of 8.5 feet and a minimum length of 18 feet.
4. The Applicant must schedule staggered drop-off and pick-up of children with a maximum of eight (8) vehicles dropping off or picking up children during any 30-minute period.
5. Visitors (excluding parents enrolled in the daycare) shall be instructed to visit the Site outside peak travel times, which are as follows:
 - a. 7:00 AM – 9:00 AM
 - b. 4:30 PM – 5:30 PM
6. Prior to issuance of the use and occupancy permit the Applicant must receive approval from the Department of Permitting Services Fire and Rescue on required plans and interior modifications, as needed.

SECTION 2: NEIGHBORHOOD & SITE DESCRIPTION

VICINITY

The Subject Property (“Property” or “Site”) is located at 108 E. Melbourne Avenue in Silver Spring, otherwise known as Lot 8, Block B of the Brookside Forest Subdivision.

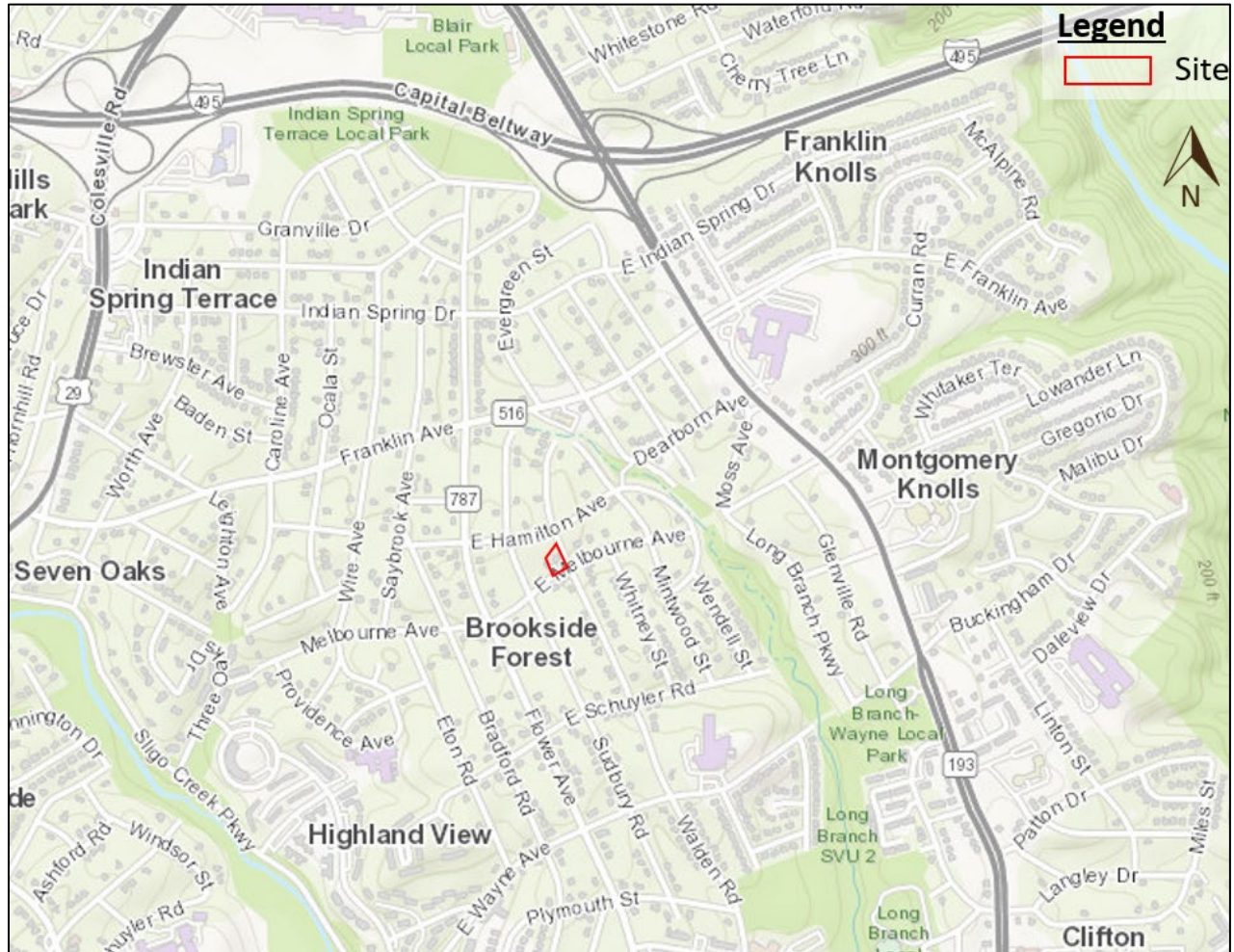


Figure 1: Vicinity Map

The Staff-defined Neighborhood (outlined in blue in Figure 2) is generally bounded by Franklin Road to the north; E. Schuyler Road to the south; Mintwood Road and Upper Long Branch Neighborhood Park to the east; and by Flower Avenue to the west.



Figure 2: Staff-defined neighborhood highlighted in blue

The Neighborhood is composed of detached houses in the R-60 Zone. Staff identified two (2) approved conditional uses/special exceptions within the defined neighborhood (shown in Figure 1):

1. S64: A non-resident medical practitioner's office (dentist) 9417 Flower Avenue
2. S1190: Accessory Apartment, located at 9320 Walden Road

PROPERTY DESCRIPTION

The Site is improved with a detached house (Figure 2) and the Applicant has been operating an eight-child Family Day Care on the premises from 2008 until it was approved for expansion in 2020 for up to 12 children. The existing Group Day Care provides care for newborns and children up to four (4) years in age. The Group Day Care use occupies three (3) rooms on the first floor of the house (approximately 750 square feet). The Applicant proposes expanding the daycare use to one (1) additional room on the first floor (for a total of 1,306.98 square feet). The owners of the home and the daycare will continue to live on the Site.

The 8,494 square-foot lot is located on the northwest corner of the intersection of E. Melbourne Avenue and Walden Road. The Property has one driveway located on Walden Road that is

approximately 25 feet wide and 32 feet long that has space for up to four (4) cars. A concrete walkway connects the entrance of the day care on the east side of the house, accessed from Walden Road. An unenclosed porch covers the entrance on the west side of the house with an additional walkway to E. Melbourne Avenue.



Figure 3 – Subject Property

Seasonal landscaped beds are located along the walkway to the day care and in front of the house. The house has two (2) residential-type lighting fixtures in the front and a covered, unenclosed porch outside the entrance to the day care.

The outdoor play area is located in the rear yard of the house and is enclosed by fencing approximately 4.5 feet in height along the west side of the Property and approximately 6.5 feet in height along the rear and east side of the Property. A partially enclosed porch also provides screening of the backyard play area from view from E. Melbourne Avenue. The majority of the play area surface is mulch and other natural soft surface with a variety of playground equipment installed.

On-street parking is allowed and unrestricted on both sides of E. Melbourne Avenue. E. Melbourne Avenue is a Secondary Residential Road, 26 feet in width. The existing street section provides ample parking capacity for parents dropping-off or picking-up children attending the day care, as well as on-site parking for the proposed one (1) non-resident staff and the members of the household.

SECTION 3: PROJECT DESCRIPTION

PREVIOUS APPROVALS CU2020-04

In February of 2020 the Applicant filed an application with the Planning Department to expand the then existing by-right Family Day Care use for up to eight (8) children on the Site to a Group Day Care use for up to 12 students. The Planning Board heard a presentation from staff on the application on June 4, 2020, and voted 5-0 in favor of the expansion (with conditions).

The Hearing Examiner held a public hearing on the application on June 29, 2020. No other witnesses were called, and no letters of support or opposition were submitted or received into the record. The Hearing Examiner approved the requested expansion with the conditions and issued the final report on August 11, 2020.

PROPOSAL

The Applicant is requesting to expand the existing Group Day Care use for a maximum of 18 children and one (1) non-resident employee. If approved, the Applicant would increase the current daycare on the Site by six (6) children. The day care has been operating on the main level of the existing home for over 10 years and in the summer of 2020, the Applicant was approved for a request to expand the family day care of up to eight (8) children to 12 total.

The existing day care occupies three (3) rooms on the first floor of the house (approximately 750 square feet). The Applicant proposes expanding the day care use to one (1) additional room on the first floor (for a total of 1,306.98 square feet). The Day Care Center will continue to care for children

ages 4 months up to 4 years. The Applicant is not proposing any major modifications to the indoor or outdoor day care space and the current hours of operation, Monday through Friday from 7:30 a.m. to 5:30 p.m., will remain the same. The Applicant and four (4) other family members live on the Property and staff the existing day care. One (1) non-resident employee may be hired for the proposed day care expansion.



Figure 4 – Layout of Daycare activities on ground floor of the home

Weather permitting, the children will play outside similar to the current operation. Outdoor play is typically limited to eight (8) children at a time. Parent drop-off and pick-up times are staggered from 7:30 a.m. to 9:00 a.m. and 4:00 p.m. to 5:30 p.m. As conditioned, no more than eight (8) children will be scheduled to arrive or be picked-up during a 30-minute period.

There are a total of eight (8) parking spaces available for the Site. This includes four (4) tandem parking spaces in the existing driveway on Walden Road and an additional parking space in a driveway to be constructed by the Applicant on E. Melbourne Avenue (see Figure 8). This driveway will be 8.5 feet in width and 18 feet in length and will be designed in such a way that it will uphold the residential character of the neighborhood while meeting the minimum design standards for a perpendicular parking space. Up to three (3) on-street spaces are available along the front of the home on E. Melbourne Avenue¹.

The Applicant has no existing or proposed signage included as part of this Application.

¹ Staff confirmed that based on the linear footage along the Site frontage, three (3) on-street spaces are available after the construction of the driveway.



Figure 5 – Northwest corner of E. Melbourne Avenue and Walden Road

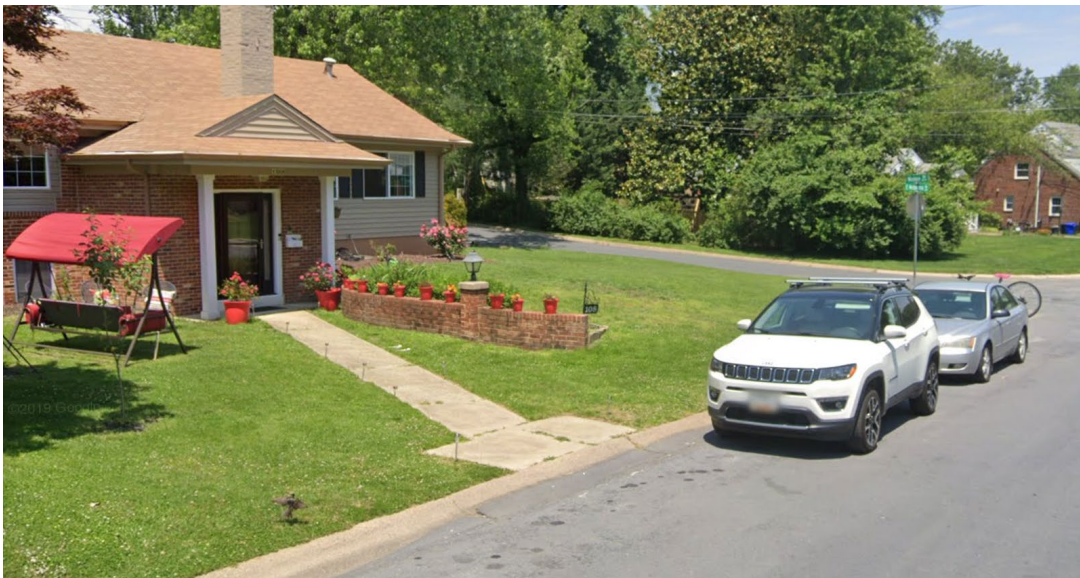


Figure 6 – North side of E. Melbourne Avenue



Figure 7: West side of Walden Road showing entrance to day care



Figure 8: Outdoor play area in rear of the yard



Figure 9 – On-site and on-street parking



Figure10 – Rendering showing potential one-car off-street parking space to be accessed from E. Melbourne Avenue with creation of secondary driveway

ENVIRONMENT

Forest Conservation

This Project is not subject to the requirement to submit a Forest Conservation Plan under Article II of Chapter 22A (Forest Conservation) because (1) the application applies to a property of less than 40,000 square feet, (2) The Property is not subject to a previously approved Forest Conservation Plan, and (3) The Conditional Use proposal will not impact any champion tree as defined by the Montgomery County Forestry Board. This was confirmed via the Forest Conservation Applicability Form, signed by Intake staff on July 29, 2022.

Environmental Guidelines

The Site contains no streams or stream buffers, wetlands or wetland buffers, 100-year floodplains, hydraulically adjacent steep slopes, or known occurrences of Rare, Threatened and Endangered species.

SECTION 4: ANALYSIS AND FINDINGS

CONDITIONAL USE NO. CU2023-01

- 1. Per Section 59.7.3.1.E., to approve a conditional use application, the Hearing Examiner must find that the proposed development:**

- a) satisfies any applicable previous approval on the subject site or, if not, that the previous approval must be amended.**

The Site is approved for a Group Day Care in a residence with up to 12 students (CU2020-04) and one (1) non-resident employee. The Site is in compliance with the requirements for a residence and a Group Day Care. Expanding the day care use to up to 18 children requires a new conditional use application because day care uses with enrollment between 13-21 are categorized as a Day Care Center. Therefore, if approved, the previous conditional use approval for a Group Day Care (9-12 students) would be extinguished and replaced by the Subject Conditional Use (CU 2023-01) for a Day Care Center with up to 18 children.

- b) satisfies the requirements of the zone, use standards under Article 59-3, and to the extent the Hearing Examiner finds necessary to ensure compatibility, meets applicable general requirements under Article 59-6;**

Use Standards for Day Care Center (13-30 Persons)- Section 59.3.4.4.E.2

- 2. Where a Day Care Center (13-30 Persons) is allowed as a conditional use, it must satisfy the following standards:**
 - a. The facility must not be located in a townhouse or duplex building type.**
 - b. An adequate area for the discharge and pick up of children is provided.**
 - c. The number of parking spaces under Division 6.2 may be reduced if the applicant demonstrates that the full number of spaces is not necessary because:**
 - i. existing parking spaces are available on abutting property or on the street abutting the site that will satisfy the number of spaces required; or**
 - ii. a reduced number of spaces would be sufficient to accommodate the proposed use without adversely affecting the surrounding area or creating safety problems.**
 - d. For a Family Day Care where the provider is not a resident and cannot meet the non-resident provider requirement, screening under Division 6.5 is not required.**

e. In the AR zone, this use may be prohibited under Section 3.1.5, Transferable Development Rights

The facility is not located in a townhouse or duplex.

There is adequate space for pick-up and drop-off for the Site. The Site can accommodate four (4) off-street spaces in the existing driveway on Walden Road. Two (2) of those spaces accommodate the minimum required for the residential uses and the remaining two (2) spaces will be available for pick-up and drop-off. In addition to the off-street parking spaces, there are three (3) available parallel parking spaces on E. Melbourne Avenue that can be used for pick-up and drop-off. The Applicant currently upholds a staggered arrival schedule and will continue to do so, as conditioned. As part of the Subject Application, the Applicant conducted a dwell time analysis of the existing pick-up and drop-off activity and determined that the longest dwell time recorded was approximately 4.5 minutes. The staggered schedule for arrival and dismissal results in no more than eight (8) vehicles arriving/leaving within a 30-minute period. With three (3) spaces available along E. Melbourne Avenue², and two (2) additional spaces in the existing driveway on Walden Road the Site has sufficient capacity for pick-up and drop-off.

Per Section 59.6.2.4.B. of the County Code, the Day Care Center is required to provide three (3) spaces per 1,000 square feet of day care use. The Applicant is proposing a Day Care Center use that would cover 1,306.98 square feet of the home and must therefore provide a minimum of four (4) spaces for the day care use. On-street parking spaces can count towards the required parking for the Day Care Center use³. As previously stated, the Applicant can accommodate the daycare with three (3) off-street parking spaces within the two driveways (two (2) existing on Walden Road and one (1) new driveway proposed on E. Melbourne Avenue) and three (3) on-street parking spaces on E. Melbourne Avenue. The Site must also provide two (2) parking spaces for the residential use. Therefore, the minimum total parking spaces required for the Site is six (6), and the Site can accommodate five (5) on-site and three (3) on-street for a total of eight (8).

There are additional on-street parking spaces on the west side of Walden Road opposite the Site, and on the east side of Walden Road, north of the Site. Both of these segments are free of driveways or other curb cuts and have no parking restrictions. None of the adjacent or confronting homes face these roadways segments. There are also three (3) spaces on the south side of E. Melbourne Ave opposite the Site that is unrestricted. Staff is not officially including these as on-street parking spaces or spaces for pick-up and drop-off for the Site because they are beyond the Site frontage, but they are

² Parking is currently unrestricted on both sides of East Melbourne Avenue.

³ Section 3.4.4.E.2.c.i states that for Day Care Centers proposing up to 30 persons, the number of parking spaces required under Division 6.2. may be reduced if the applicant demonstrates that the full number of spaces is not necessary because existing parking spaces are available on the abutting property or on the street abutting the site that will satisfy the number of spaces required. In this case at least three (3) on-street parking spaces are available along the Site's frontage on E. Melbourne Avenue.

mentioned to demonstrate that there is available overflow short-term parking in the rare occurrence that it is needed during pick-up and drop-off times.

The facility is not a Family Day Care and the Site is not located in the AR Zone.

Development Standards for the R-60 Zone

The Applicant proposes no changes to the exterior of the existing building. The Applicant does propose to install a new driveway (residential in character) with access from E. Melbourne Avenue to accommodate off-street parking requirements. The Site will continue to comply with the development standards for the R-60 Zone in place when the dwelling was constructed. A summary of the required development standards is included in Table 1.

Table 1: Conditional Use Development and Parking Standards (R-60)

| Development Standard Section 59.4.4.9.B | Permitted/ Required | Existing/Proposed ¹ |
|---|---|---|
| Minimum Lot Area | 6,000 sq. ft. | 8,494 sq. ft. |
| Minimum Lot Width at Front Building Line | 60 feet | 76 feet |
| Minimum Lot Width at Front Lot Line | 25 feet | 58 feet |
| Maximum Density | 1 unit (7.26 dwelling units/acre) | 1 unit |
| Maximum Lot Coverage | 35 percent | 20.5 percent |
| Minimum Front Setback (E. Melbourne Avenue) | 25 feet | 20 feet ² |
| Minimum Side Street Setback (Walden Road) | 15 feet | 27 feet |
| Minimum Side Setback | 8 feet | 8 feet |
| Minimum Rear Setback | 20 feet | 20 feet |
| Maximum Height | 30 feet | 25 feet |
| Vehicle Parking Requirement (Section 59.6.2.4.B) | Day Care Center: 4 (3 per 1,000 square feet of GFA) ³ Dwelling: 2 Total: 6 | 4 spaces in driveway on Walden Road. 1 space in proposed driveway on E. Melbourne Avenue Additional parking permitted and available on E. Melbourne Avenue frontage (3 spaces) ⁴ . Total: 8 |

¹With the exception of the proposed driveway, there are no changes to the exterior of the existing home are proposed with the Application.

²The lot was recorded in 1948 and is conforming under Section 59.7.7.1.A. (pursuant to Section 59.B-5.3 in the Zoning Ordinance in effect prior to October 30, 2014). The porch vestibule extends approximately 5-feet into the front setback, which was permitted by MCDPS.

³Section 59-6.2.4.A. If the proposed intensity of the use is less than the metric in the tables in Subsections B and C, the baseline minimum is calculated using a fraction of that metric.

⁴Section 3.4.4.E.2.c.i states that for Day Care Centers proposing up to 30 persons, the number of parking spaces required under Division 6.2. may be reduced if the applicant demonstrates that the full number of spaces is not necessary because existing parking spaces are available on the abutting property or on the street abutting the site that will satisfy the number of spaces required.

Encroachment

As shown in the table, the existing lot meets or exceeds the minimum development standards of the R-60 Zone, with the exception of the front setbacks. The minimum front setback for the R-60 zone is 25 feet and the plat shows that the distance between the property line and the front vestibule of the house is 20 feet. In accordance with Section 59-4.1.7.B.viii, any vestibule 10 feet in width or less, may project a maximum of 3 feet into any setback. Staff notes that a portion of the vestibule encroaches

into the front setback, but the majority of the house is set back approximately 28 feet from the property line⁴. However, The SDAT property records demonstrate that the house was built in 1948. Furthermore, Section 59.7.7.1.A.1 states, “A legal structure or site design existing on October 30, 2014 that does not meet the zoning standards on or after October 30, 2014 is conforming and may be continued, renovated, repaired, or reconstructed if the floor area, height, and footprint of the structure are not increased, except as provided for in Section 7.7.1.C for structures in Commercial/Residential, Employment, or industrial zones, or Section 7.7.1.D.5 for structures in Residential Detached zones”. Therefore, the existing condition of the lot, which is not proposed to change as part of the Subject Application, is in conformance with the Zoning Ordinance.

Screening

The existing fencing in the rear yard provides sufficient screening between the proposed use and the adjacent homes. The current fencing was previously approved by MCDPS and meets all requirements for height, location, materials and opacity.

Lighting

The existing lighting is residential in nature and will not cause any unreasonable glare on neighboring properties.

Signage

No signage is proposed as part of this Application, but any signage added in the future must satisfy Division 6.7.

c) substantially conforms with the recommendations of the applicable master plan;

The Site is located within the 2000 *East Silver Spring Master Plan* (Master Plan) area. Although the Master Plan does not specifically discuss this Property, one of the generalized planning goals is to “preserve existing residential character, encourage neighborhood reinvestment, and enhance the quality of life throughout East Silver Spring” (page 21).

The Master Plan recommends retention of R-60 zoning for the majority of the Plan area, while recognizing that the Zone allows certain uses in addition to single-family residential that may be non-residential but are considered compatible (page 26).

The Applicant has operated a Family Day Care with up to eight (8) children on the Site for over ten (10) years and was granted permission to expand to a Group Day Care for up to 12 children two (2) years ago. The Subject Application proposes a modest expansion which will not change the character of the neighborhood. The Subject Site is an appropriate location for a Day Care Center and is compatible with the neighborhood. Therefore, the proposal is in substantial conformance with the Master Plan.

⁴ The vestibule is 13.1 feet by 8.3 feet. Per the Code, the vestibule can project a maximum of 3 feet into any setback (Section 59-4.1.7.B.5.a.viii), however this is an existing condition as shown on Plat 1278 and was approved by DPS prior to 2004, which predates the current Zoning Ordinance approved in 2014.

- d) is harmonious with and will not alter the character of the surrounding neighborhood in a manner inconsistent with the plan;***

The proposal is harmonious with, and will not alter the character of, the surrounding neighborhood. No physical changes are proposed on the Property. Therefore, the proposed expansion of the existing day care use will not alter the character of the neighborhood.

- e) will not, when evaluated in conjunction with existing and approved conditional uses in any neighboring Residential Detached zone, increase the number, intensity or scope of conditional uses sufficiently to affect the area adversely or alter the predominantly residential nature of the area; a conditional use application that substantially conforms with the recommendations of a master plan does not alter the nature of an area;***

Staff identified two (2) approved conditional uses within the Staff-defined neighborhood, a home medical practice and an accessory apartment. Although approval of this Application will increase the number of conditional uses in the Staff-defined Neighborhood, the proposed day care expansion will not affect the area adversely or alter the area's predominantly residential nature. The existing day care has been operating on the Site since 2008 and has demonstrated that the Site can accommodate the proposed increase of six (6) children. The Applicant is also not proposing any physical changes to the building, with the exception of a new driveway to provide additional off-street parking for the day care use. Therefore, the finding can be made that the Application, as conditioned, will not alter the nature of the surrounding area.

- f) 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. If an approved adequate public facilities test is currently valid and the impact of the conditional use is equal to or less than what was approved, a new adequate public facilities test is not required. If an adequate public facilities test is required and:***
- i. if a preliminary subdivision plan is not filed concurrently or required subsequently, the Hearing Examiner must find that the proposed development will be served by adequate public services and facilities, including schools, police and fire protection, water, sanitary sewer, public roads, and storm drainage, or***
 - ii. if a preliminary subdivision plan is filed concurrently or required subsequently, the Planning Board must find that the proposed development will be served by adequate public services and facilities including schools, police and fire protection, water, sanitary sewer, public roads, and storm drainage, and***

There are adequate public services and facilities to serve the proposed use schools, police and fire protection, water, sanitary sewer, public roads, and storm drainage. A Preliminary Plan of Subdivision is not required because the Site is already a recorded lot (Plat 1278).

Transportation

Master-Planned Roadways and Bikeway

E. Melbourne Avenue is designated as a secondary residential street with a 60-foot-wide right-of-way. Walden Road is a secondary residential street with a 50-foot-wide right of way.

The 2018 *Bicycle Master Plan* recommends a neighborhood greenway east of the Site along Sudbury Road between East Franklin Avenue and Plymouth Street. No designated or separated bicycle facilities are recommended on Sudbury Road.

Pedestrian Facilities

A four-foot-wide lead-in sidewalk connects the day care entrance to Walden Road, along the southern side of the driveway. Several children are expected to be walked to the day care by their parents or guardians.

Transit Service

Although no public transit routes operate on E. Melbourne Avenue or Walden Road, two RideOn routes operate on Franklin Avenue (RideOn Routes 14 and 19) connecting Dallas Avenue, the Takoma Park Metro Station and the Silver Spring Transit Center. RideOn Route 19 also runs along Flower Avenue and stops approximately two blocks from the Site.

Parking and Drop-Off/Pick-Up

The Site contains five (5) off-street parking spaces, and three (3) on-street parking spaces are available on E. Melbourne Avenue along the Property frontage, which exceed the total minimum needed for the Site which is six (6) parking spaces. As discussed in the earlier findings, the Site meets the minimum parking requirements for the residence (2) and the Day Care Center (4) with the existing driveway, proposed driveway, and on-street parking on E. Melbourne Avenue. The staggered schedule ensures that no more than eight (8) vehicles will arrive on the Site within a 30-minute period and can be accommodated with the three (3) on-street parking spaces along the Melbourne Avenue frontage and two (2) off-street parking spaces in the Site driveway.

Local Area Transportation Review

Table 2: Trip Generation for the Proposed Use

| | Morning Peak Period | | | Evening Peak Period | | |
|--------------|---------------------|-----|-----------|---------------------|-----|-----------|
| | In | Out | Total | In | Out | Total |
| Students | 18 | 18 | 36 | 18 | 18 | 36 |
| Employees | 1 | 0 | 1 | 0 | 1 | 1 |
| Total | 19 | 18 | 37 | 18 | 19 | 37 |

Source: Transportation Exemption Statement Provided by the Applicant July 29, 2022, modified by staff

As a conservative measure the transportation analysis assumed that all students arrive in separate vehicles. No children were assumed to walk to the Site, and none were assumed to be driven together as siblings or a carpool. The transportation analysis also did not factor in the staggered schedule. Under these assumptions, the transportation analysis provided that the conditional use would generate 37 weekday morning peak period person trips and 37 evening peak period person trips.

Under the 2020-2024 *Growth and Infrastructure Policy*, a transportation study is not required to satisfy the Local Area Transportation Review (LATR) because the proposed Day Care Center generates fewer than 50 person-trips during the weekday morning or evening peak hours.

- g) ***will not cause undue harm to the neighborhood as a result of a non-inherent adverse effect alone or the combination of an inherent and a non-inherent adverse effect in any of the following categories:***
- i. ***the use, peaceful enjoyment, economic value or development potential of abutting and confronting properties or the general neighborhood;***
 - ii. ***traffic, noise, odors, dust, illumination, or a lack of parking; or***
 - iii. ***the health, safety, or welfare of neighboring residents, residents, visitors, or employees.***

An analysis of inherent and non-inherent adverse effects considers size, scale, scope, light, noise, traffic, and environment. Every conditional use has some or all of these effects in varying degrees. Thus, inherent effects associated with the use have to be determined. In addition, non-inherent effects have to be determined as these effects may, by themselves, or in conjunction with inherent effects, form a sufficient basis to deny a conditional use. It must be determined during the course of review whether these effects are acceptable or would create adverse impacts sufficient to result in denial.

The inherent physical and operational characteristics necessarily associated with a Day Care Center include: (1) vehicular trips to and from the Site; (2) outdoor play areas; (3) noise generated by children; (4) drop-off and pick-up areas; and (5) lighting.

Adequate parking and drop-off/pick-up areas are available on-site and adjacent to the Property. The drop-offs and pick-ups will be limited by the conditions of approval of the proposed use to minimize impacts to the neighborhood.

The play area is adequate, and their hours of operation are Monday through Friday, 7:00 AM to 5:30 PM. Children playing outside is an inherent characteristic of a daycare and is not expected to adversely impact the surrounding residential neighborhood.

The existing lighting and landscaping on the Site are adequate for the proposal. The existing lighting fixtures are residential in nature and will not intrude on neighboring properties.

Staff has determined that the proposal will not have any non-inherent effects at this location. Rather, the fact that the Property is a corner lot, with two frontages presents an advantage for pick-up and

drop-off, as the Applicant can install a second driveway on the Site and make use of on-street parking spaces.

- 2. Any structure to be constructed, reconstructed, or altered under a conditional use in a Residential Detached zone must be compatible with the character of the residential neighborhood.**

The proposal is for the expansion of an existing day care facility within an existing house; no construction, reconstruction or alteration of any structure is proposed. A new driveway is proposed, but it will be designed in such a way as to be compatible with the residential character of the surrounding neighborhood.

- 3. The fact that a proposed use satisfies all specific requirements to approve a conditional use does not create a presumption that the use is compatible with nearby properties and is not sufficient to require conditional use approval.**

The proposed use will be compatible with the nearby residential properties and Staff recommends approval with conditions.

- 4. In evaluating the compatibility of an agricultural conditional use with surrounding Agricultural or Rural Residential zoned land, the Hearing Examiner must consider that the impact does not necessarily need to be controlled as stringently as if it were abutting a Residential zone.**

The Application is for a Day Care Center and not an agricultural conditional use. This finding is not applicable to the Application.

- 5. The following conditional uses may only be approved when the Hearing Examiner finds from a preponderance of the evidence of record that a need exists for the proposed use to serve the population in the general neighborhood, considering the present availability of identical or similar uses to that neighborhood:**

- a) Filling Station;**
- b) Light Vehicle Sales and Rental (Outdoor);**
- c) Swimming Pool (Community); and**
- d) the following Recreation and Entertainment Facility use: swimming pool, commercial.**

This finding does not apply because the Subject Application is for a Day Care Center, which is not included in the listed uses.

6. The following conditional uses may only be approved when the Hearing Examiner finds from a preponderance of the evidence of record that a need exists for the proposed use due to an insufficient number of similar uses presently serving existing population concentrations in the County, and the uses at the location proposed will not result in a multiplicity or saturation of similar uses in the same general neighborhood:

- a) Funeral Home; Undertaker;**
- b) Hotel, Motel;**
- c) Shooting Range (Outdoor);**
- d) Drive-Thru**
- e) Landfill, Incinerator, or Transfer Station; and**
- f) a Public Use Helipad, Heliport or a Public Use Helistop.**

This finding does not apply because the Subject Application is for a Day Care Center, which is not included in the listed uses.

SECTION 5: COMMUNITY CORRESPONDENCE

As of the date of this Staff Report, Staff has not received any letters of correspondence from the community.

SECTION 6: CONCLUSION

The proposed conditional use complies with the general conditions and standards of a Day Care Center in the R-60 Zone, subject to the recommended conditions of approval. The proposed use is consistent with the goals and recommendations of the 2000 *East Silver Spring Master Plan* and the 2018 *Bicycle Master Plan*, will not alter the residential character of the surrounding neighborhood, and will not result in any unacceptable noise, traffic, or environmental impacts on surrounding properties. Staff recommends approval of the Conditional Use with conditions and transmittal of comments to the Hearing Examiner.

ATTACHMENTS

Attachment A: Subdivision Plat

Attachment B: Statement of Case

Attachment C: Arrival/Dismissal Schedule, Dwell Times Analysis, Transportation Exemption Statement

Attachment D: Forest Conservation Applicability Form July 29, 2022