

# Montgomery County Planning Board

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

Date Mailed:

November 19, 2024

MCPB No. 24 -107  
Preliminary Plan Amendment No. 12006056A  
Shaare Tefila Congregation  
Date of Hearing: October 31, 2024

## **RESOLUTION**

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

WHEREAS, on October 26, 2006, the Planning Board, by Resolution MCPB No. 16-109, approved Preliminary Plan No. 120060560, creating one (1) lot on 4.09 acres of land in the R-200 zone, located on the west side of Georgia Avenue, approximately 800 feet north of Emory Lane at 16620 Georgia Avenue (“Subject Property”), in the Olney Policy Area and *2005 Olney Master Plan* (“Master Plan”) area; and

WHEREAS, on May 29, 2024, Trustees of Shaare Tefila (“Applicant”) filed an application for approval of an amendment to the previously approved preliminary plan to eliminate a condition that prohibits a Day Care Center, void approval of a nursery school and K-9 school, while continuing the operation of a Religious Assembly use on the Subject Property; and

WHEREAS, Applicant’s application to amend the preliminary plan was designated Preliminary Plan Amendment No. 12006056A, Shaare Tefila Congregation (“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 October 18, 2024, providing its analysis and recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and

WHEREAS, on October 31, 2024, the Planning Board held a public hearing on the Application and voted to approve the Application subject to conditions, on the motion of Commissioner Hedrick, seconded by Vice Chair Pedoeem, with a vote of 4-0; Chair Harris, Vice Chair Pedoeem and Commissioners Bartley and Hedrick voting in favor. Commissioner Linden was necessarily absent.

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Approved as to  
Legal Sufficiency:           /s/ Emily Vaias            
M-NCPPC Legal Department

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Preliminary Plan Amendment No. 12006056A to eliminate a condition that prohibits a Day Care Center, void approval of a nursery and K-9 school, while continuing the operation of a Religious Assembly use by modifying and replacing in their entirety Condition Nos. 1, 2 and 8 and adding the following new conditions:<sup>1</sup>

### **Modified Conditions**

1. Development on the Subject Property is limited to a Religious Assembly use with a 500-seat sanctuary, a 300-seat social hall, and a 128-person Day Care Center with no more than 35 staff members.
2. The hours of operation for the Day Care Center are restricted to 7:30 AM to 6:00 PM, Monday through Thursday, and 7:30 AM to 4:00 PM Friday. On-site activities other than those of the Day Care Center shall be scheduled to either start, or end, at least 30 minutes prior to, or subsequent to, the standard weekday peak-periods of 6:30 AM to 9:30 AM and 4:00 PM to 7:00 PM to minimize the impact of site-related traffic at intersections adjacent to the site.
8. The Applicant shall provide a minimum of three (3) long-term and five (5) short-term bicycle parking spaces as shown on the Certified Plan.

### **New Conditions**

16. The Day Care Center must be operated by a non-profit organization and located in a structure owned or leased by a religious organization used for worship, unless a Conditional Use is approved for a for-profit Day Care Center.
17. The Certified Preliminary Plan must contain the following notes:
  - a. “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). Please refer to the zoning data table for development standards such as setbacks, building restriction lines, building height, and lot coverage for each lot.”

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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.

- b. “The Applicant must schedule an on-site preconstruction meeting with M-NCPPC inspection staff before any demolition, clearing, or grading occurs on-site. The Applicant, along with their representatives, must attend the pre-construction meeting with the M-NCPPC inspector. A copy of the approved Certified Preliminary Plan is required to be on-site at all times.”

18. Before submittal of the Certified Preliminary Plan, the Applicant must make the following changes:

- a. Show approved Resolutions on the certified plan set.
- b. Show a minimum of three (3) long-term and five (5) short-term bicycle parking spaces.

BE IT FURTHER RESOLVED that all other preliminary plan conditions of approval for this Property 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;***

The subdivision design was established when the Subject Property was first developed in 2006. The Preliminary Plan Amendment does not change the approved size, width, shape, orientation and density of the lot, or the design of the roads. The existing circulation pattern was evaluated by State Highway Administration (SHA), Montgomery County Department of Permitting Services (MCDPS) and MCDPS Fire and Rescue, which continues to meet current standards. Therefore, the Amendment continues to be appropriate for the subdivision given its location and the type of development and use contemplated and the applicable requirements of the Zoning Ordinance.

As shown in the Data Table below, the Amendment satisfies all applicable development standards for the R-200 zone.

**Data Table for R-200 Zone, Section 59-4.4.7.B**

<b>Development Standard</b>	<b>Permitted/ Required</b>	<b>Approved Preliminary Plan No. 120060560</b>	<b>Approved Preliminary Plan Amendment No. 12006056A</b>
Lot Area, minimum	20,000 square feet	178,088 square feet (4.09 acres)	No change
Lot width at front building line, min.	100 feet	210 feet	No change
Lot width at front lot line, min.	25 feet	207.18 feet	No change
Frontage on street or open space	Street or open space	Street	No change
Density, maximum	2.18 acres per unit	N/A, not a residence	N/A, not a residence
Gross square feet	N/A	55,665 square feet	No change
Lot coverage, 25% max.	44,522 square feet	35,568 square feet (0.817 acres)	No change
Front setback, min.	40 feet	174 feet	No change
Side setback, min.	12 feet	12.6 feet	No change
Sum of side setbacks, min.	25 feet	77.74 feet	No change
Rear setback, min.	30 feet	148.25 feet	No change
Total vehicle parking spaces, minimum, 0.25 spaces per fixed seat <sup>2</sup>	125 spaces	125 spaces	No change <sup>3</sup>
Total bicycle parking, minimum <sup>4</sup>	5 short-term 3 long-term	8 short-term	5 short-term 3 long-term

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

The Amendment substantially conforms to the 2005 *Olney Master Plan*. There are no specific recommendations in the Master Plan for the Subject Property. The Amendment continues to be consistent with the Master Plan recommendation of a 100-foot setback from Georgia Avenue. The *Master Plan of Highways and Transitways* envisions Georgia Avenue with a minimum 150-foot right of way. The 2018 *Bicycle Master Plan* recommends a sidepath along the Georgia Avenue access road on the east side (opposite the Subject Property) of the median separating the access road from the primary portion of Georgia Avenue opposite the site frontage. The Subject Property fronts on a service road along Georgia Avenue, which functions as a Neighborhood Residential Street. The existing sidewalk on the east side of the service road is in substantial conformance with

<sup>2</sup> Day Care Center is accessory to the Religious Assembly use.

<sup>3</sup> The applicant must provide the minimum number of parking spaces required for handicapped persons under State law.

<sup>4</sup> Day Care Center (1 space per 5,000 SF, 85% long-term, 5 spaces max.), Religious Assembly (greater of 1 space per 2,000 SF or 1 space per 200 fixed seats, 15% long-term, 25 spaces max.).

the recommended pedestrian facilities for a Neighborhood Residential Street, and no further improvements are required on behalf of the Applicant.

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

All public facilities continue to be adequate to support and service the Subject Property. The Amendment reduces the impact on the surrounding vicinity because there is no increase in density and the total person vehicle trips are reduced from current operations. The replacement of the existing nursery and school operations with a Day Care Center, and the continued operation of the Religious Assembly use, is estimated to result in an overall net reduction of trips entering and leaving the Subject Property during peak hours.

As shown in the Transportation Exemption Statement submitted by the Applicant and the Trip Generation Table below, the Amendment generates fewer net new trips for the Day Care Center than was approved for the nursery school and religious school. The existing Religious Assembly use will continue to operate with no changes to the existing approval. The previous use is a 150-student nursery school and 272 student religious school. The proposed 128-person Day Care Center use generates 22 fewer person trips in the AM peak hour (12 fewer inbound and 10 fewer outbound) and no new net person trips in the PM peak hour (one fewer inbound and one new outbound). Therefore, the Amendment is exempt from further traffic study and the Local Area Transportation Requirements (“LATR”) are satisfied.

**Trip Generation Table**

	Land Use	ITE Trip Generation Vehicle Rates		Adjusted Vehicle Rates Olney Policy Area		Total Person Trips	
		AM	PM	AM	PM	AM	PM
Existing	150 Student Nursery and 272 Student Religious School (afterschool program <sup>5</sup> )	117	101	117	101	153	132
Proposed	128 Person Day Care	100	101	101	101	131	132
Net Change						-22	0

<sup>5</sup> The Religious School use was approved for an afterschool program that only operated in the afternoon. Trip generations for that use were only calculated for evening peak hour and were combined with the nursery school evening peak hour trips.

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

A Final Forest Conservation Plan was approved with Preliminary Plan No. 120060560. The Amendment does not propose any alterations to the approved Final Forest Conservation Plan. Therefore, Chapter 22A is satisfied.

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

Pursuant to Sec. 19-2 of Chapter 19, the Amendment is exempt from Chapter 19 of the County Code because there is no land-disturbing activity greater than 5,000 square feet. Additionally, activities that disturb ground solely for maintenance, such as parking lot maintenance, are exempt from Chapter 19.

**6. *Any burial site of which the applicant has actual notice or constructive notice or that is included in the Montgomery County Cemetery Inventory and located within the subdivision boundary is approved under Subsection 50-4.3.M.***

There are no known burial sites of which the Applicant has actual notice or constructive notice or that is included in the Montgomery County Cemetery Inventory.

**7. *Any other applicable provisions specific to the property and necessary for approval of the subdivision is satisfied.***

There is no other applicable law specific to the Property for this Amendment.

BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is

November 19, 2024

(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 consistent with the Maryland Rules for the judicial review of administrative agency decisions.

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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 motion of Commissioner Hedrick, seconded by Vice Chair Pedoeem, with a vote of 4-0-1; Chair Harris, Vice Chair Pedoeem, and Commissioners Bartley, and Hedrick, voting in favor of the motion, Commissioner Linden abstaining, at its regular meeting held on Thursday, November 14, 2024, in Wheaton, Maryland and via video conference.



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Artie Harris, Chair  
Montgomery County Planning Board