

**STEP ONE CHILDCARE GROUP DAY CARE
8801 HEMPSTEAD AVENUE, BETHESDA
CONDITIONAL USE NO. CU202208**

Description

Request to increase the capacity of an existing eight-child Family Day Care use to a Group Day Care use with up to twelve children.

PLAN TYPE: CONDITIONAL USE
NO. CU202208
COMPLETED: MAY 27, 2022

MCPB
Item No.
June 9, 2022

2425 Reddie Drive
Floor 14
Wheaton, MD 20902

**Exhibit 18
OZAH Case No: CU 22-08**

AB

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Elza

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LOCATION:

8801 Hempstead Avenue, Bethesda

PROPERTY SIZE

6,880 square feet

ZONE

R-60

MASTER PLAN:

1990 *Bethesda-Chevy Chase Master Plan*

APPLICANT

Aidin Hassanloo

ACCEPTANCE DATE:

March 9, 2022

REVIEW BASIS:

Chapter 59



Summary

- Staff recommends approval with conditions.
- An existing 8-child Family Day Care has operated on-site since 2019.
- The Applicant is requesting to increase capacity of the existing Family Day Care use to a Group Day Care use with up to twelve children.
- No exterior modifications are proposed with this Conditional Use.
- The Applicant is requesting a Parking Waiver from Section 59.6.2.4.B to allow one (1) parking space for the non-resident employee to be accommodated on an adjacent street as opposed to abutting the Site.
- At the time of posting the Staff Report no comments in opposition of the project have been received.
- Hearing Examiner Public Hearing: July 11, 2022

Staff Recommendation

Staff recommends approval of Conditional Use No. CU202208 subject to the following conditions:

1. The Group Day Care must be limited to a maximum of 12 children, with two (2) resident-employees and one (1) non-resident employee.
2. The hours of operation are limited to Monday through Friday from 7:00 a.m. to 6:00 p.m.
3. The Applicant must schedule staggered drop-off and pick-up of children with a maximum of six (6) vehicles dropping off or picking up children during any 30-minute period.
4. Visitors (excluding parents with children enrolled in the daycare) shall be instructed to visit the Site outside peak travel times, which are as follows:
 - a) 7:00 a.m. – 8:30 a.m.
 - b) 5:00 p.m. – 6:30 p.m.
5. No vehicular queuing can occur on adjacent roadways.

Site and Neighborhood Description

Site Description

The Subject Property (“Property” or “Site”) is located at 8801 Hempstead Avenue in Bethesda otherwise known as Lot 2, Block 16 of the Bradmoor Subdivision. The Site is improved with a detached single-family dwelling (Figures 1 and 2) and Applicant has operated an eight-child Family Day Care on the premises since 2019. Inside of the dwelling, the day care includes two (2) playrooms and a napping room. The rear yard of the Property is enclosed by a 6-foot-tall fence and serves as an outdoor play space for the daycare.



Figure 1: Vicinity Surrounding the Site

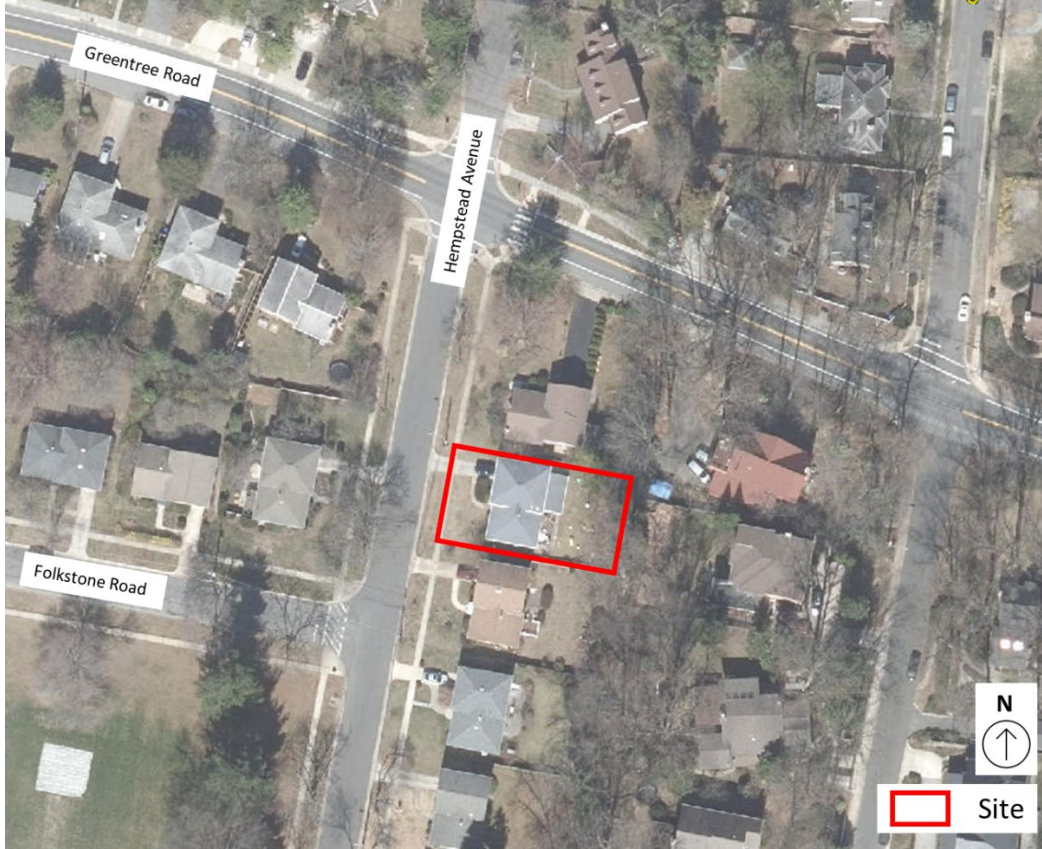


Figure 2: Aerial photo of the Subject Site (outlined in red)

The 6,880 square foot rectangular lot is located on the east side of Hempstead Avenue, approximately 130 feet south of its intersection with Greentree Road. The Property has an attached garage and 9-foot-wide driveway and can accommodate two vehicles. On-street parking is permissible on both sides of Hempstead Avenue adjacent to the Site but is limited to 2-hours on weekdays.

Neighborhood Description

The subject site is in the Bradmoor neighborhood (outlined in blue in Figure 3), which is generally bounded by Greentree Road to the north; Bradley Boulevard and Huntington Terrace to the south; Garfield Street to the east; and by Ewing Drive to the west.

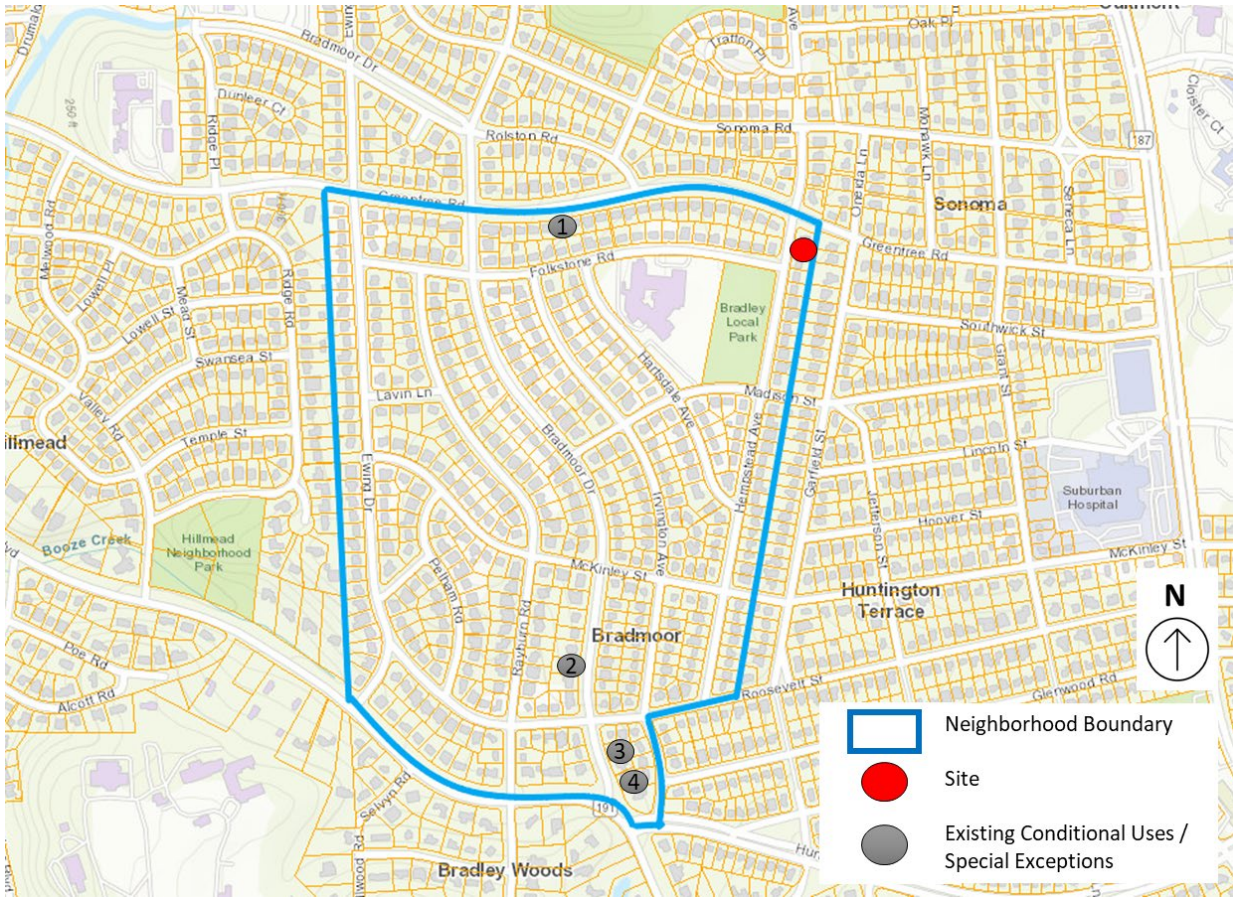


Figure 3: Staff Defined Neighborhood

The staff defined neighborhood is composed of detached houses in the R-60 Zone. Staff identified four approved special exceptions within the neighborhood:

1. S2037: Accessory apartment located at 5910 Greentree Road.
2. S2358: Accessory apartment located at 8506 Bradmoor Drive.
3. S979: Accessory apartment located at 8405 Bradmoor Drive.
4. S1150: Accessory Apartment located at 8401 Bradmoor Drive.

Project Description

Prior Approvals

The existing Family Day Care has been in operation on the Site since 2019. This is a permitted use in the R-60 Zone. There are no prior regulatory approvals associated with the Property.

Proposal

The Applicant is requesting to expand their Day Care Facility use from the existing 8-child Family Day Care to a 12-child Group Day Care. The proposed Group Day Care will occupy the same space in the home as the existing Family Day Care. No physical alteration of the existing site or facility are proposed (Figures 4 and 5). The current hours of operation are Monday through Friday from 7:00 a.m. to 6:00 p.m. and are not proposed to change with this Application. The Applicant and a non-resident staff person currently operate the Family Day Care. The proposed 12-child Group Day Care will be operated by two (2) resident-staff and one (1) non-resident staff.

Parent drop-off and pick-up times are staggered from 7:00 a.m. to 9:00 a.m. and 4:00 p.m. to 6:00 p.m. respectively. The Applicant has no existing or proposed signage included as part of this Application.



Figure 4: Front view of the Site looking northeast from Hempstead Avenue.



Figure 5: Rear yard outdoor play space.

Access and Circulation

Access to the Site is provided directly from Hempstead Avenue. Pedestrians access the Site from the established, buffered sidewalk along both sides of Hempstead Avenue. Bus transit is provided approximately 130 feet north of the Site on Greentree Road. The bus stop is served by Montgomery County RideOn route 47, which provides service between the Bethesda Metrorail Station and the Rockville Metrorail station all days of the week.

Parents and guardians picking up and dropping off students may park on Hempstead Avenue directly in front of the Site. Although parking is restricted on Hempstead Avenue along the Site frontage (between Greentree Road and Madison Street) to a maximum of two hours between 9:00 a.m. and 5:00 p.m., Mondays through Fridays, the Applicant has demonstrated that parents can easily make use of the on-street parking without exceeding the posted restrictions with the submitted dwell time analysis of current operations.

The Site meets the minimum parking requirements for both the residential and the proposed Group Day Care uses. Parking is available on-site and on the adjacent residential streets. The required parking spaces for the residential use are provided on-site in the garage and the driveway apron. Per the Zoning Ordinance, Group Day care uses are required to provide one (1) additional space for every non-residential employee. The Subject Application proposes one (1) non-resident employee and therefore one (1) additional space is required. Per Section 59.6.2.4.B., Group Day Care uses can make use of on-street spaces that abut the site to conform with the minimum parking requirements. However, due to the posted 2-hour parking restriction on Hempstead Avenue during the daycare's operational hours, the Applicant cannot provide necessary on-street parking abutting the site. As such, the Applicant is requesting a Parking Waiver in accordance with Section 59.6.2.10 to allow for the one (1) on-street parking space for the non-resident employee to be accommodated on an adjacent street. The adjacent street, Folkstone Road, has no posted parking restrictions and is located within eyesight of the Site. Staff supports the requested parking waiver.

The are no existing or master-planned bicycle facilities within the vicinity of the Site. No bicycle parking is required on-site for the residential or Group Day Care uses.

Environment

The Site contains no streams, wetlands, or their buffers, or known habitats of rare, threatened, or endangered species; thus, the project is in conformance with the *Environmental Guidelines*. On March 9, 2022, Planning Staff confirmed that this Application is not subject to Chapter 22A of the Forest Conservation Law (Attachment A) because the Property is less than 40,000 square feet in size, is not subject to a previously approved Forest Conservation Plan, and this Application will not impact any champion tree.

Findings

Conditions for Granting a Conditional Use- Section 59.7.3.1.E. Necessary Findings¹

1. *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.*

There are no previous approvals on the subject Site. The existing residential and family day care uses on the site are allowed by right. The Application conforms to this requirement.

- 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 Group Day Care- Section 59.3.4.4.D.2

- a. *Where a Group Day Care (9-12 Persons) is allowed as a limited use, it must satisfy the following standards:*
 - i. *The facility must not be located in a townhouse or duplex building type.*
 - ii. *In a detached house, the registrant is the provider and a resident. If the provider is not a resident, the provider may file a conditional use application for a Day Care Center (13-30 Persons) (See Section 3.4.4.E)*
 - iii. *In a detached house, no more than 3 non-resident staff members are on-site at any time*
 - iv. *In the AR zone, this use may be prohibited under Section 3.1.5, Transferable Development Rights.*

¹ Findings 59-7.3.1.E.4, 59-7.3.1.E.5 and 59-7.3.1.E.6 are not applicable to this Application because the application is for a Day Care use and is not in an Agricultural or Rural Residential Zone, and is not one of those uses specified in the aforementioned Findings.

The facility is in a detached single-family dwelling and not in a townhouse or duplex. Applicant is the provider and a resident on-site. One (1) non-resident staff member will be on-site at any time. The Site is not located in the AR Zone.

- b. *Where a Group Day Care (9-12 Persons) is allowed as a conditional use, it may be permitted by the Hearing Examiner under all limited use standards and Section 7.3.1, Conditional Use;*

Table 1: R-60 Zone Development Standards- Section 59.4.4.9.B – Requirements of the Zone

Section	Development Standard	Required/ Permitted	Existing¹
59.4.4.9.B.1	Minimum Lot Area	6,000 square feet	6,880 square feet
59.4.4.9.B.1	Minimum Lot Width at Front Building Line	60 feet	62.5 feet
59.4.4.9.B.1	Minimum Lot Width at Front Lot Line	25 feet	62.5 feet
59.4.4.9.B.1	Maximum Density	1 unit (7.26 dwelling units/acre)	1 unit
59.4.4.9.B.1	Maximum Lot Coverage	35 percent	1,644 square feet 23.9 percent
59.4.4.9.B.2	Minimum Front Setback	25 feet	28 feet
59.4.4.9.B.2	Minimum Side Street Setback	15 feet	N/A
59.4.4.9.B.2	Minimum Side Setback	8 feet	Northside – 10 feet Southside- 9 feet
59.4.4.9.B.2	Minimum Rear Setback	20 feet	40 feet
59.4.4.9.B.3	Maximum Height	30 feet	Existing home is 2 stories tall and is not more than 30 feet in height.

¹No exterior changes are proposed with the Subject Application. All measurements reflect existing conditions.

Table 2: General Development Standards- Division 59.6

Section	Parking	Required Spaces	Proposed
59.6.2.4.B	Vehicle Parking Requirement	Residential: 2 Group Day Care: 1 (1 space per non-residential employee) Total: 3	2 existing resident spaces on-site 1 non-resident employee space on-street ² Total: 3

² In accordance with Section 59.6.2.10, the Applicant has requested a Parking Waiver from a provision of Section 59.6.2.4.B.

Section 6.2.10, Parking Waiver

In accordance with Section 59.6.2.10, the Applicant has requested a Parking Waiver from a provision of Section 59.6.2.4.B, which allows Group Day Care uses to count on-street parking abutting the Site toward provision of the required minimum spaces. As parking along the Site frontage on Hempstead Avenue is restricted to two (2) hours on weekdays between 9:00 a.m. and 5:00 p.m., one necessary space cannot be provided abutting the Site. On-street parking is unrestricted on Hempstead Avenue north of Greentree Road, and on the northside of Folkstone Road, both of which are located less than 200-feet from the subject Site. The Applicant proposes a reasonable alternative to provide all parking spaces required by using on-street parking on Folkstone Road for non-residential employee parking. This alternative parking design ensures adequate parking is provided in a safe and efficient manner, consistent with Section 59.6.2.1. Staff supports the waiver.

Screening

The existing fencing in the rear and side yards provides sufficient screening between the proposed use and the adjacent homes.

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 Section 59- 6.7.

- c. *substantially conforms with the recommendations of the applicable master plan;*

Master Plan

The Site is located within the 1990 *Bethesda-Chevy Chase Master Plan* (“Master Plan”) area. The Master Plan does not specifically mention the Subject Property; however, it does provide guidance for the implementation of future special exceptions (now called “conditional uses”). The Master Plan discourages new special exceptions for offices or other institutional uses in residential zones proximate to Old Georgetown Road; where the subject Site is located. However, the Plan is supportive of special exceptions that are community-serving and do not detract from the residential character of the neighborhood. Child day care uses are supported. Additionally, page 60 of the Master Plan notes that special exceptions that require a resident dwell in the home (including the proposed Group Day Care use) are desirable.

The existing 8-child Family Day-Care care is in a single-family home which is screened on the north, south and east sides by privacy fencing and vegetation.

The existing and proposed staggered arrival and departure schedule of the day care minimizes traffic generation and is not expected to result in queuing on Hempstead Avenue. Two resident-employee parking spaces are provided on-site, and one on-street parking space will be utilized for the single non-resident employee. Parking on Hempstead Avenue is restricted to 2-hours but is unrestricted on nearby streets. The Applicant has requested a waiver from the parking standards to allow for the non-resident, on-street parking to occur on the nearby streets that have no parking restrictions. No construction or changes to the exterior of the Site are proposed. No signage or changes to existing lighting is proposed.

The proposal is a modest expansion of the capacity of an existing Day Care Facility, from the existing 8-child Family Day Care to a 12-child Group Day Care at an existing single-family dwelling. This will not change the character of the neighborhood. The Subject Site is an appropriate location for a Group Day Care and compatible with the neighborhood. Therefore, the proposal is in substantial conformance with the Master Plan.

Transportation

Master-Planned Roadways and Bikeway

Hempstead Avenue is classified as a secondary residential street, per Section 49-31(m) with a master-planned right-of way of 60 feet (Section 49-32(d)(4)). Per Plat 4010, recorded on March 24, 1955, the full 60-feet has been dedicated to public right-of-way. Per the 2018 *Bicycle Master Plan*, there are no designated bikeways master planned along the Site frontage.

Pedestrian Facilities

The pedestrian network on Hempstead Avenue is established by the existing 4-foot sidewalks with an 8-foot lawn panel. With these facilities, the Pedestrian Level of Comfort Score (PLOC) along the Site frontage is *very comfortable*, per the Planning Department's PLOC evaluation methodology.

- 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 four (4) approved conditional uses/special exceptions within the staff defined neighborhood, which are all for accessory apartments. This proposed expansion of the existing daycare operation is the only conditional use/special exception for a daycare in the neighborhood. Although approval of this Application will increase the number of conditional uses/special exceptions in the Bradmoor neighborhood, it will not adversely affect the area or alter its residential nature. In addition, the proposed use substantially conforms with the Master Plan as discussed above.

- 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**

The Property is a recorded lot so no preliminary plan of subdivision is needed.

Local Area Transportation Review

Under the 2021-2024 Growth and Infrastructure Policy, a transportation impact study is not required to satisfy the Local Area Transportation Review (LATR) because the proposed Group Day Care is estimated to generate fewer than 50 person-trips during the weekday morning and evening peak hours. Therefore, no further analysis is required.

The Applicant estimated the greatest number of trips that could be generated by the use during the morning and evening peak hours. The transportation analysis assumed both non-resident employees will arrive/leave the Site during the peak hour, and all 12 children will arrive and depart the Site within the peak morning and evening hours. The analysis also assumed that each child would be driven

individually. Based on these assumptions, the highest trip estimate for both peak hours would be a total of 25 trips to and from the Site. These results are summarized in Table3 below. Even with these conservative trip estimates, the roadways and transportation infrastructure are adequate for the proposed use.

Table 3: Estimated Site Trip Generation

	Morning Peak Hour			Evening Peak Hour		
	In	Out	Total	In	Out	Total
Staff	1	0	1	0	1	1
Parents/ Children	12	12	24	12	12	24
Total			25			25

The proposed conditional use will be served by adequate public services and facilities, including, police and fire protection, water, sanitary sewer, public roads, and storm drainage. In emails dated March and April 2022, staff from the Department of Permitting Services, Divisions of Fire Department Access and Water Supply, and Department of Transportation, noted no objection to this conditional use application.

- 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 must be determined. In addition, non-inherent effects must 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 review whether these effects are acceptable or would create adverse impacts sufficient to result in denial.

Staff has identified the following inherent impacts of the proposal:

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

As addressed in the previous finding, the total number of trips that will be generated by the use during the morning and/or evening peak hours is 25, which is significantly fewer than threshold for requiring a transportation impact study. Therefore, in accordance with the 2021-2024 GIP and the 2022 LATR, no further transportation analysis is required. The proposed traffic will not adversely impact the neighborhood. Further, the waiver of the one parking space for the non-resident employee to park on the neighboring streets will not negatively impact the neighbors as there is sufficient available parking.

The fenced-in outdoor play area is adequate and will continue to be in accordance with the noise ordinance. The use will not generate odors or dust.

The existing lighting and landscaping on the Site are residential in nature and no changes to these features are proposed.

Staff has determined that the proposal will not have any non-inherent effects at this location and that the health, safety and welfare of neighboring residents, visitors and employees are adequately protected.

- 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 in an existing single-family detached dwelling. No construction or physical alteration of the Site is proposed.

- 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 is consistent with general recommendations for conditional uses/special exceptions of the applicable master plan. Staff recommends approval with conditions.

Conclusion

The proposed conditional use complies with the general conditions and standards of a Group Day Care, subject to the recommended conditions of approval. The proposed use meets the required findings set forth in Section 59.7.3.1.E. of the Zoning Ordinance, is consistent with the goals and recommendations of the 1990 *Bethesda-Chevy Chase 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. Therefore, Staff recommends approval with conditions.

Attachments:

Attachment A: Forest Conservation Applicability Statement

Attachment B: Applicant arrival and departure schedule

Attachment C: Agency Email Comments