



**MONTGOMERY COUNTY PLANNING BOARD**  
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

**APPROVED**  
**MINUTES**

The Montgomery County Planning Board met in regular session on Thursday, June 28, 2018, at 9:00 a.m. in the Montgomery Regional Office in Silver Spring, Maryland, and adjourned at 4:50 p.m.

Present were Chair Casey Anderson and Commissioners Natali Fani-González, Gerald R. Cichy, and Tina Patterson. Vice Chair Norman Dreyfuss joined the meeting at 9:02 a.m.

Items 1 through 7 are reported on the attached agenda.

Item 1C2 was removed from the Planning Board agenda.

Commissioner Fani-González left the meeting at 11:31 a.m. during discussion of Item 4, and returned at 12:11 p.m. during discussion of Item 7.

The Board recessed for lunch at 12:36 p.m. and reconvened in the auditorium at 1:40 p.m.

Items 8 through 13 are reported on the attached agenda.

There being no further business, the meeting was adjourned at 4:50 p.m. There is no Planning Board meeting scheduled for Thursday, July 5, 2018. The next regular meeting of the Planning Board will be held on Thursday, July 12, 2018, in the Montgomery Regional Office in Silver Spring, Maryland.

A handwritten signature in blue ink, appearing to read "M. Clara Moise".

M. Clara Moise  
Sr. Technical Writer/Editor

A handwritten signature in black ink, appearing to read "James J. Parsons".

James J. Parsons  
Sr. Technical Writer/Editor

**Montgomery County Planning Board Meeting**  
**Thursday, June 28, 2018**  
8787 Georgia Avenue  
Silver Spring, MD 20910-3760  
301-495-4600

**1. Consent Agenda**

**\*A. Adoption of Resolutions**

1. Luxmanor Elementary School FCP No. MR2017203 - MCPB No. 18-047
2. Clarksburg Premium Outlets-Cabin Branch Site Plan 82014016B – MCPB No. 18-046

**BOARD ACTION**

**Motion: CICHY/FANI-GONZÁLEZ**

**Vote:**

**Yea: 4-0**

**Nay:**

**Other: DREYFUSS ABSENT**

**Action: Adopted the Resolutions cited above, as submitted.**

**\*B. Record Plats**

**Subdivision Plat No. 220090180, Griffith's Addition to Muncaster Estates**

RE-1 zone, 1 lot; located on the east side of Muncaster Road, 200 feet north of Annamarie Court; Upper Rock Creek Master Plan.

*Staff Recommendation: Approval*

**Subdivision Plat No. 220161010, Glenmoor Reserve**

TF-12 zone, 16 lots and 2 parcels; located on east side of Kensington Parkway adjoining the Capital Beltway (I-495); Kensington - Wheaton Master Plan.

*Staff Recommendation: Approval*

**BOARD ACTION**

**Motion: FANI-GONZÁLEZ/PATTERSON**

**Vote:**

**Yea: 4-0**

**Nay:**

**Other: DREYFUSS ABSENT**

**Action: Approved staff recommendation for approval of the Record Plats cited above, as submitted.**

**\*C. Other Consent Items**

**1. Mateny Hill Road Property: Site Plan Amendment No. 82016002A**---Minor modifications to retaining walls, addition of new retaining walls, new monument sign, new fence, and minor revisions to landscaping. Located approximately 200 ft. north of the intersection with Dawson Farm Road; 5.86 acres, R-200 and RT-12.5 Zones; 1989 Germantown Master Plan.

*Staff Recommendation: Approval with Conditions and Adoption of Resolutions*

~~**2. Poplar Pointe, Preliminary Plan No. 120180080, Regulatory Extension Request**—Request to extend the regulatory review period from July 19, 2018 to October 18, 2018; subdivision of four unplatted parcels into twelve single family detached lots and associated open space and HOA parcels, and retain an existing dwelling on one of the twelve lots; utilizing the Cluster Optional Method Development Standard located on Alderton Road 150 feet north of Night Sky Drive on approximately 6.28 acres of land zoned in the 1989 Kensington/Wheaton Master Plan~~

~~*Staff Recommendation: Approval of the Extension Request*—REMOVED~~

**3. 4915 Auburn Avenue**

**A. Extension of Sketch Plan No. 320180170, 4915 Auburn Avenue**---CR 3.0, C 3.0, R 2.75, H110, 0.73 acres, Request to extend the review period, until October 5, 2018, for a mixed-use development for up to 175,000 square feet of mixed-use development (up to 180 units) and up to 12,500 square feet of non-residential uses, located in the southwest quadrant of the intersection with Norfolk Avenue and Auburn Avenue; 2017 Bethesda Downtown Sector Plan.

*Staff Recommendation: Approval of the Extension*

**B. Extension of Preliminary Plan No. 120180210, 4915 Auburn Avenue**---CR 3.0, C 3.0, R 2.75, H110, 0.73 acres, Request to extend the review period, until October 5, 2018, for a mixed-use development for up to 175,000 square feet of mixed-use development (up to 180 units) and up to 12,500 square feet of non-residential uses, located in the southwest quadrant of the intersection with Norfolk Avenue and Auburn Avenue; 2017 Bethesda Downtown Sector Plan.

*Staff Recommendation: Approval of the Extension*

**4. Adoption of Corrected Resolution for Site Plan Amendment 81980017A Cabin John Auto Park (N. Bethesda Home Depot)**

**BOARD ACTION**

**Motion:** 1. PATTERSON/FANI-GONZÁLEZ  
3A. & 3B. FANI-GONZÁLEZ/CICHY  
4. PATTERSON/CICHY

**Vote:**  
**Yea:** 1., 3., & 4. 4-0

**Other:** DREYFUSS ABSENT

**Action:** 1. Approved staff recommendation for approval of the Site Plan cited above, subject to conditions, and adopted the attached Resolution.

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**\*C. Other Consent Items**

CONTINUED

**2. This Item was removed from the Planning Board agenda.**

**3A. Approved staff recommendation for approval of the Sketch Plan  
Extension request cited above.**

**3B. Approved staff recommendation for approval of the Preliminary Plan  
Extension request cited above.**

**4. Adopted the corrected Resolution cited above, as submitted.**

**\*D. Approval of Minutes**

Planning Board Meeting Minutes of June 14, 2018

**BOARD ACTION**

**Motion: FANI-GONZÁLEZ/PATTERSON**

**Vote:**

**Yea: 4-0**

**Nay:**

**Other: DREYFUSS ABSENT**

**Action: Approved Planning Board Meeting Minutes of June 14, 2018, as submitted.**

**2. Offutt Estates**

**A. Preliminary Plan No. 120150040**---Request to subdivide the property into one single family detached lot, four attached townhouses, and a private road, stormwater management, and HOA parcel(s); located on Hillery Way approximately 440 feet west of Rockville (MD 355); on 0.5 acres of land zoned RT-12.5; within the 2010 White Flint Sector Plan area.

*Staff Recommendation: Approval with Conditions*

**B. Site Plan No. 820150140**---Request to subdivide the property into one single family detached lot, four attached townhouses, and a private road, stormwater management, and HOA parcel(s); located on Hillery Way approximately 440 feet west of Rockville (MD 355); on 0.5 acres of land zoned RT-12.5; within the 2010 White Flint Sector Plan area.

*Staff Recommendation: Approval with Conditions*

**BOARD ACTION**

**Motion: A. & B. FANI-GONZÁLEZ/CICHY**

**Vote:**

**Yea: A. & B. 5-0**

**Nay:**

**Other:**

**Action: A. Approved staff recommendation for approval of the Preliminary Plan cited above, subject to revised conditions discussed during the meeting, and as stated in the attached adopted Resolution.**

**B. Approved staff recommendation for approval of the Site Plan cited above, subject to revised conditions discussed during the meeting, and as stated in the attached adopted Resolution.**

Planning Department staff offered a multi-media presentation and discussed the proposed Preliminary Plan and Site Plan requests to subdivide a 0.5-acre property, identified as Lot 3, located on the north side of Hillery Way, approximately 660 feet east of its intersection with Rockville Pike (MD355), and zoned Residential/Townhouse in the White Flint Sector Plan area. The property is accessed from Hillery Way via an existing paved driveway, and is improved with a single-family detached residence that is currently served by public water and sewer. Located within the Lower Rock Creek watershed, the site contains no forest, streams, wetlands, floodplains, or any associated buffers.

According to staff, the applicant submitted Preliminary and Site Plan applications in October 2014 and May 2016, respectively, to subdivide the property and build six townhouse units. However, the 2014 proposal was not supported due to a rear-yard setback requirement waiver request, a front-loaded design for the townhouses, and difficulties meeting the Green

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**2. Offutt Estates**CONTINUED

Area requirement for the zone. Following a meeting with staff on June 8, 2017, the applicant now proposes to demolish the existing single-family residence and create five lots, proposed Lots 4 through 8, to accommodate four single-family semi-detached duplex units and one single-family detached residence. A private alley from Hillery Way will provide vehicular access to the duplexes, the detached house, which will be located on the northern portion of the site on proposed Lot 4, and adjoining properties for potential future redevelopment. Parking will be provided through ten spaces within five two-car garages. Two additional visitor spaces will be located along the private alley. In addition to an off-site sidewalk along Hillery Way to connect with the existing sidewalk along MD355, the applicant will provide a five-foot wide sidewalk with a five-foot wide tree-panel along the north side of Hillery Way, a five-foot wide sidewalk along the west side of a proposed private alley, and three-foot wide lead-in sidewalks. Hillery Way will terminate to the west in an Americans with Disabilities Act compliant hammerhead turn-around. The applicant will also provide 10,893 square feet of green space for the residents, including a usable common open area between proposed Lot 4 and Lots 5 and 6 to the south, and an access easement for an adjacent property owner to allow vehicular access from the proposed private alley to connect to the property to the north. Stormwater management will be provided by a bio-swale to be located along the Hillery Way right-of-way.

Staff received two letters from two neighborhood associations raising questions and concerns regarding design, traffic, parking, maintenance, the height of the proposed duplex units, the protection of existing trees, the replanting of vegetation, the design of a fence proposed for the western boundary of the development, the design of a proposed barricade at the Hillery Way western terminus, and maintenance of the stormwater management infrastructure. Staff has addressed each of these issues, as detailed in the June 18 Technical Staff Report. To address additional concerns raised by neighboring property owners, staff also included an additional condition of approval for the Preliminary Plan that requires the applicant, for the benefit of the adjacent property owners, to record an access easement in the Land Records of Montgomery County to allow vehicular access from the private alley to connect to the adjacent properties for potential future redevelopment, and an additional condition in the Site Plan that requires the applicant to either relocate or replace the metal fence within the right-of-way (ROW) of Hillery Way onto Lot 5 with either a metal fence or board-on-board fence to be determined by the owner of Lot 5.

Staff then discussed the proposed Forest Conservation Plan, noting that while there is no forest onsite, there is a 0.15-acre afforestation requirement that the applicant proposes to meet at an offsite forest mitigation bank. The applicant has also submitted a variance request to remove seven trees and to impact, but not remove, three. As mitigation, the applicant will plant a total of 18 trees onsite. Staff supports the variance request.

Mr. Dean Packard, engineer from Packard & Associates, LLC., representing the applicant, offered comments and requested more flexibility regarding materials and design of the proposed duplex units.

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**2. Offutt Estates**CONTINUED

Ms. Miry Livnat, member of the applicant's team, also offered comments.

The following speakers offered testimony: Mr. David Almy, architecture consultant for a neighboring property owner; Mr. Tony Huniak of Oldfield Drive; Mr. James Bennett of Hillery Way; Ms. Lisa Bennett of Hillery Way; and Mr. Laurance Kupperberg of Middleshire Place.

There followed extensive Board discussion with questions to staff and some of the speakers, during which the Board recommended that staff allow flexibility regarding the design and materials for the proposed project. The Board also instructed staff to include the phrase "subject to staff approval" in the new Site Plan condition; a note in the record plat that states that if the adjacent property is redeveloped, a potential future bicycle/pedestrian connection from Hillery Way west to Waycroft Way should be preserved; and an additional condition of approval that states that while a sidewalk and stormwater management facilities must be provided, their location is subject to approval by staff and the Montgomery County Department of Permitting Services.

**3. Roundtable Discussion**

- Parks Director's Report

**BOARD ACTION****Motion:****Vote:****Yea:****Nay:****Other:****Action: Received briefing.**

**Parks Department Director's Report** – Parks Department Director Mike Riley briefed the Board on the following ongoing and upcoming Parks Department events and activities: the recent tour of County champion trees led by Joe Howard of the Montgomery County Forestry Board held on June 25; the recent graduation of Lieutenants Jeffrey Coe and Christopher Tippery of the Montgomery County Park Police from the School of Police Staff and Command leadership course at the Northwestern University Center for Public Safety; the recent promotion of Lieutenants Shibu Philipose and Nicole Adams of the Montgomery County Park Police to Captain; the recent recognition of the Black Hill Visitor Center and Nature Programs, Meadowside Nature Center, and Brookside Gardens as 2018 Maryland Green Centers by the Maryland Association for Environmental and Outdoor Education; the recent community meeting regarding the Capital Crescent Trail (CCT) crossing at Little Falls Parkway held on June 13; the recent Mudfest event held on June 23 at Woodstock Equestrian Park; the recent opening of summer camp season at the Cabin John Ice Rink and Wheaton Ice Arena, with the Cool Summer, Figure Skating, and Hockey Camps having begun on June 18; the recent summer opening of the SplashPark and Mini-Golf at the South Germantown Recreational Park on June 18; the recent purchase of an 18-seat covered pontoon boat, which was launched on Lake Needwood at Rock Creek Regional Park on June 21; the recent final performance for the Brookside Gardens Summer Twilight Concert Series held on June 26; the upcoming Food Matters: Foodie Fridays events scheduled for July 27 and August 24 at Brookside Gardens; and the upcoming Parks Department tour of urban parks in Philadelphia, Pennsylvania, which will be attended by some of the Planning Board members, scheduled for June 29.

There followed extensive Board discussion with questions to Mr. Riley.

**4. Urban Parks & Public Spaces Design Guidelines, Planning Board Briefing---**  
Overview of the Urban Parks & Public Spaces Design Guidelines content and approach.

*Staff Recommendation: Provide Guidance*

**BOARD ACTION**

**Motion:**

**Vote:**

**Yea:**

**Nay:**

**Other:**

**Action: Received briefing followed by discussion.**

Parks Department staff offered a multi-media presentation and discussed the proposed Urban Parks and Public Spaces (UPPS) Design Guidelines. According to staff, monthly UPPS Design Guideline meetings with Parks and Planning Departments staff and an Urban Parks Advisory Group, which consists of citizen or community group representatives, property owners, developers, attorneys, designers, and Montgomery County Government staff and officials, began earlier this year in conjunction with the approval and adoption of the Energized Public Spaces Functional Master Plan (EPS FMP). As a companion document to the EPS FMP, the Guidelines will provide design guidance for the urban park typologies established in the 2017 Parks, Recreation, and Open Space (PROS) Plan, including civic green, plaza, urban greenway, urban recreational park/parklet, neighborhood green, pocket green, and temporary/interim park, and will focus on the design quality of existing and proposed parks and public spaces in the EPS Plan Study Area. They will also offer guidance to stakeholders, including planners, designers, decision-makers, developers, land owners, and the public, on how to design the network of privately and publicly owned parks and public spaces within the previously adopted EPS Plan Study Area. The UPPS Design Guidelines will also give overall direction for urban park typology design elements, including the function, types of experiences, key features, size, context, and site access and connectivity, with the goal of creating inviting, easily accessible, attractive, comfortable, and safe urban parks and public spaces through the development of flexible guidelines, the creation of a common language for urban parks to align expectations of a diverse group of stakeholders, and the integration of lessons learned from case studies.

Staff then discussed the application of the UPPS Design Guidelines, which will be implemented at urban parks and other parks in the EPS study area that function as urban parks, and used in conjunction with the 2017 PROS Plan, EPS FMP, Sector Plan and Sector Plan Design Guidelines, streetscape standards, and the 2017 Recreation Guidelines, when reviewing development.

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**4. Urban Parks & Public Spaces Design Guidelines, Planning Board Briefing**

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The next steps for Guidelines include the release of the Working Draft, the public comment period, a Planning Board worksession, and the input of public comments, all scheduled for fall 2018; and a Planning Board worksession and Planning Board approval, scheduled for winter 2018.

There followed extensive Board discussion with questions to staff.

**5. Gomes Property (aka Peterson Property) Limited Preliminary Plan Amendment No. 11991045C (In response to a Forest Conservation Violation) - Request to release 1.33 acres of M-NCPPC Conservation Easement consisting of 0.27 acres of Category I Conservation Easement and 1.06 acres of Category II Conservation Easement. Request to create 1.80 acres of Category I Conservation Easement on the property. Located at 811 Norwood Road, 1010 feet northwest of Norbeck Road; RE-2C Zone; Cloverly Master Plan.**

*Staff Recommendation: Approval with Conditions*

**BOARD ACTION**

**Motion: CICHY/PATTERSON**

**Vote:**

**Yea: 4-0**

**Nay:**

**Other: FANI-GONZÁLEZ ABSENT**

**Action: Approved staff recommendation for approval of the Limited Preliminary Plan Amendment cited above, subject to conditions, as stated in the attached adopted Resolution.**

Planning Department staff offered a multi-media presentation and discussed a proposed Limited Preliminary Plan Amendment request to release 1.33 acres of existing conservation easement from a 3.12-acre property, identified as Lot 1, Block A, located on the northeast side of Norwood Road (MD182), and zoned Residential Estate in the Cloverly Master Plan area. The site is currently developed with a single-family house, two sheds, and a barn; and is accessed via a shared private driveway from MD182. The property is located within the Northwest Branch watershed and contains some onsite forest. Approximately 2.14 acres of the property is within a Maryland-National Capital Park and Planning Commission conservation easement that includes 1.08 acres of Category I Conservation Easement and 1.06 acres of Category II Conservation Easement.

Staff noted that in March 2017, the Forest Conservation inspector observed the owner constructing a foundation for a new garage within the existing Category I Easement. Staff noted that no forest was present in the easement area that was impacted by the construction. It was also evident that mowing of the easement area had been ongoing. The inspector also noted an existing outbuilding and an expanded driveway within the Category II Easement. A Notice of Violation was issued that required the owner to either comply with the conservation easements or to file for amendments to the Preliminary Plan and Forest Conservation Plan. The applicant is proposing to release 1.33 acres of the M-NCPPC conservation easement consisting of 0.27 acres of Category I Conservation Easement and 1.06 acres of Category II Conservation Easement, and to create 1.80 acres of Category I Conservation Easement, onsite, which includes 1.51 acres of new forestation

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**5. Gomes Property (aka Peterson Property) Limited Preliminary Plan Amendment No. 11991045C (In response to a Forest Conservation Violation)**

CONTINUED

planting and the protection of 0.29 acres of existing forest. Staff noted that while the proposal results in a loss of 0.34 acres of total easement area, it increases the Category I Easement from 0.99 acres to 1.51 acres and requires replanting of all areas not currently forested, with the applicant proposing to plant 151 trees in four areas of the conservation easement.

Mr. Mike Norton, landscaping consultant for the applicant, offered comments.

There followed a brief Board discussion with questions to staff and Mr. Norton.

**6. Sahady Property (aka Fairhill) Forest Conservation Plan Amendment No. 11996071B (In response to a Forest Conservation violation) -Request to release 1.57 acres of Category I Conservation Easement. Request to provide 3.14 acres of forest mitigation bank credit at an approved M-NCPPC forest conservation bank. Located at 21533 Ripplemead Drive, Gaithersburg; 2500 feet east of Riggs Road; AR Zone; Olney Master Plan.**

*Staff Recommendation: Approval with Conditions and Adoption of Resolution*

**BOARD ACTION**

**Motion: DREYFUSS/CICHY**

**Vote:**

**Yea: 4-0**

**Nay:**

**Other: FANI-GONZÁLEZ ABSENT**

**Action: Approved staff recommendation for approval of the Limited Preliminary Plan Amendment cited above, subject to conditions, and adopted the attached Resolution.**

Planning Department staff offered a multi-media presentation and discussed a proposed Forest Conservation Plan Amendment to release 68,443 square feet of existing Category I Conservation Easement from a property. The 5.04-acre property, identified as Lot 4, Block A of the Fairhill subdivision, is located on the east side of Ripplemead Drive, approximately 2,200 feet northeast of its intersection with Riggs Road, and is zoned Agricultural Reserve (AR) in the Olney Master Plan area. The site is currently developed with a single-family detached residence, a fenced grass play field with soccer posts at each end, which was formerly an equestrian riding ring, and is accessed from Ripplemead Drive via a 290-foot long driveway located between the two adjacent lots. One 68,443 square foot Category I Conservation Easement is located on the southeastern and eastern portions of the property.

According to staff, the Fairhill subdivision was originally platted in 1980, prior to the effective date of the County Forest Conservation Law which took effect in 1992. In 1996, a new developer addressed the Forest Conservation requirements for the entire subdivision. The Planning Board approved the submitted Final Forest Conservation Plan (FCP) that same year. The developer established Category I Conservation Easements on all lots where the FCP showed areas of forest planting, forest retention, or natural regeneration, which were recorded in the Montgomery County Land Records in 1997. The current property owners, who are also the original property owners, purchased the property in 1999 and have since violated the terms of the conservation easement by constructing a fenced equestrian riding ring, a paddock area, and mowing within the easement area, for which the Planning Board issued a civil administrative

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**6. Sahady Property (aka Fairhill) Forest Conservation Plan Amendment No. 11996071B (In response to a Forest Conservation violation)**

CONTINUED

penalty and corrective action in 2010. The property owners appealed the Planning Board's decision to the Montgomery County Circuit Court, who ruled in favor of the Planning Board but remanded the penalty phase back to the Planning Board for reassessment.

Following a Notice of Hearing in February 2018, Planning Department staff and the property owners reached an agreement to settle the outstanding violations. The applicant proposes to remove all 68,442 square feet of existing conservation easement. As per the terms of the agreement, the applicant will submit an FCP Amendment; secure an acceptable obligation to the Montgomery County Planning Department, equivalent to a \$0.30 per square foot administrative civil penalty for the 68,443 square feet of impacted easement; and acquire 136,886 square feet of credit from an approved off-site forest conservation bank to compensate for the conservation easement removal.

There followed a brief Board discussion.



**7. Staff Draft of Amended Administrative Regulations for Chapter 22A, Forest Conservation – Staff Presentation**

*Staff Recommendation: Approval to Release the Draft Regulations for Public Review as the Public Hearing Draft and to Tentatively Schedule the Planning Board Public Hearing on the Draft No Earlier than September 13, 2018*

**BOARD ACTION**

**Motion:** CICHY/DREYFUSS

**Vote:**

**Yea:** 5-0

**Nay:**

**Other:**

**Action:** Approved staff recommendation for approval to release the draft regulations of the Amended Administrative Regulations for Chapter 22A for public review as the Planning Board Public Hearing Draft and set the Public Hearing for no earlier than September 13, 2018.

Planning Department staff offered a multi-media presentation and discussed the staff draft of the proposed amendments to the administrative regulations for Chapter 22A of the County Code regarding Forest Conservation Law. According to staff, the Planning Board adopted the current forest and tree regulations in 2001, which contain Planning Department practices related to the review and processing of Natural Resources Inventory, Forest Stand Delineation, Exemptions from Submitting a Forest Conservation Plan, and Forest Conservation Plans (FCPs) either acted upon by the Planning Board or the Planning Director under Chapter 22A of the County Code. While numerous changes to the County Code have been implemented to the Zoning Code, Subdivision of Land Code, and the Forest Conservation Act to clarify certain sections of the law, the forest regulations have not changed since their adoption. The proposed revisions will amend the existing regulations to address the changes that have been previously made to the forest conservation law.

Staff then discussed the more substantive modifications to the administrative regulations detailed in the June 20 technical staff report, which include new definitions for Category I and Category II Conservation Easements, environmental buffer, ephemeral channel/stream, forest mitigation bank credits, forest retention, and priority planting area; revised definitions for conservation easement, landscaping credit, and priority retention area; clarification of the submission requirements for a Natural Resource Inventory, a Forest Stand Delineation (NRI/FSD) and a Simplified FSD; revised general FCP provisions; a revision to FCP requirements that allows the Final FCP to show conceptual grading rather than final grading; clarification regarding final site inspections for sites without planting requirements; clarification

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**7. Staff Draft of Amended Administrative Regulations for Chapter 22A, Forest Conservation – Staff Presentation**

CONTINUED

regarding which FCP submission exemptions require a Declaration of Intent to be signed by the applicant; an amendment to FCP, and exemptions from submitting an FCP, that states that removal of a conservation easement is a major amendment that requires a Planning Board hearing; and revisions and clarifications for Forest Conservation Maintenance and Management Agreements.

There followed extensive Board discussion with questions to staff, during which Vice Chair Dreyfuss recommended that staff include language that allows for flexibility in the enforcement of the regulations.

**8. Regulatory Application Refunds and Fees---**Staff requests the Planning Board adopt a policy for the refund of development application fees and for the Planning Board to delegate certain application fee reductions to the Planning Director.

*Staff Recommendation: Approval to adopt new policy*

**BOARD ACTION**

**Motion:**                   1. CICHY/FANI-GONZÁLEZ  
                                  2. CICHY/FANI-GONZÁLEZ

**Vote:**  
**Yea:**                   1. & 2. 5-0  
  
**Nay:**  
  
**Other:**

**Action:**           1. **Approved staff recommendation to adopt a new policy for the refund of regulatory application fees, as discussed during the meeting.**  
                          2. **Approved staff recommendation to delegate authority for certain application fee reductions authority to the Planning Department Director.**

Planning Department staff discussed a proposed draft policy for the refund of regulatory application fees when an applicant chooses not to pursue a submitted application. The general practice has been to return 100 percent of the fees when requested. However, staff noted that this practice results in significant staff time spent on regulatory review without compensation to the Planning Department, a practice that is inconsistent with the purpose of the Development Review Special Revenue Fund. Staff is requesting the Planning Board approval to adopt the refund policy proposed by staff and to authorize the Planning Department Director to modify the application fee structure for regulatory applications which have 25 percent or more Moderately Priced Dwelling Units (MPDUs).

Ms. Barbara Sears, attorney, offered comments.

There followed extensive Board discussion with questions to staff and Ms. Sears.

9. **Administrative Subdivision Plan No. 620170070, 8911 and 8915 Burdette Road---R-200 zone, 2.86 acres, Request to create three single-family lots; located at on Burdette Road, 900 feet south of Bradley Boulevard; 1990 Bethesda/Chevy Chase Master Plan.**

*Staff Recommendation: Approval with Conditions and Adoption of Resolution*

**BOARD ACTION**

**Motion: DREYFUSS/CICHY**

**Vote:**

**Yea: 5-0**

**Nay:**

**Other:**

**Action: Approved staff recommendation for approval of the proposed Administrative Subdivision Plan cited above, subject to conditions, as discussed during the meeting and adopted the attached Resolution.**

In keeping with the June 15 technical staff report, Planning Department staff offered a multi-media presentation and discussed an Administrative Subdivision Plan (ASP) request to create three lots for the construction of three single-family residences by subdividing a 2.86-acre property located on Burdette Road, 900 feet south of Bradley Boulevard in the Bethesda/Chevy Chase Master Plan area. Staff noted that although the application is an ASP, the Planning Director has requested that the application be acted on by the Planning Board in accordance with Section 50.6.3B.1 of the Subdivision Code. The proposed application meets the requirements of Chapter 22A of the Forest Conservation Law, meets the stormwater management requirements, and substantially conforms to the Bethesda/Chevy Chase Master Plan.

Staff added that the ASP will remain valid for 36 months from its initiation date, by which time a plat must be recorded in the Montgomery County Land Records, or a request for extension of the ASP must be filed by the applicant.

Ms. Erin Girard, attorney representing the applicant, and Mr. Donald Rohrbaugh, member of the applicant's, offered brief comments and concurred with the staff recommendation.

There followed a brief Board discussion with questions to staff and Ms. Girard.

**\*10. Park Potomac: Site Plan Amendment No. 82004015N---**Application to increase the retail area and total size of Building E by 3,500 square feet in exchange for a reduction to Building F's retail area by 3,500 square feet and gross floor area by an additional 800 square feet, reducing parking by six spaces, and includes modified architecture, landscaping and circulation around Building E. Located in the northwest quadrant of the interchange of Montrose Road and I-270, approximately 20.28 acres, CRT 1.25; C-0.5, R-0.75, H-100T; reviewed under the I-3 zone; Potomac Sub-Region Master Plan.

*Staff Recommendation: Approval with Conditions and Adoption of Resolution*

### **BOARD ACTION**

**Motion:** CICHY/PATTERSON

**Vote:**

**Yea:** 5-0

**Nay:**

**Other:**

**Action:** Approved staff recommendation for approval of the proposed Site Plan Amendment cited above, subject to conditions, and adopted the attached Resolution.

Planning Department staff offered a multi-media presentation and discussed a Site Plan Amendment request to increase by 3,500 square feet the retail area and total size of Building E in exchange for an equal reduction in Building F, with an additional 800 square feet reduction of gross floor area, a six-space parking reduction, including modified architecture, landscaping and circulation around Building E. The project is located on a 20.28-acre property in the northwest quadrant of the interchange of Montrose Road and I-270 in the Potomac Sub-Region Master Plan area. Staff noted that the modifications proposed by the applicant in the Amendment are consistent with the previous findings and conditions of approval. The proposed request to transfer 3,500 square feet of restaurant/retail space from unbuilt Building F to existing Building E is to accommodate a horizontal expansion of the existing Founding Farmers restaurant off the southwest side of Building E. The additional reduction request of 800 square feet of gross floor area from Building F is to accommodate the displacement of the six parking spaces south of Building E.

Staff added that there is no change to the Forest Conservation Plan and the Stormwater Management Plan as a result of the proposed Amendment. Staff has received no community correspondence regarding this request.

Mr. Bill Landfair, representing the applicant, Foulger Pratt Inc., introduced Mr. Kofi Meroe, member of the applicant's team, offered brief comments and concurred with the staff recommendation.

There followed a brief Board discussion with questions to staff and Messrs. Landfair and Meroe.

**\*11. Black Hill: Site Plan Amendment No. 82013025C---**A request to modify the Final Forest Conservation Plan to reflect the final grading and development plans associated with the Thrive Assisted Living Site Plan. The subject property is located north of Father Hurley Boulevard and west of I-270 along Crystal Rock Drive; 107.70 gross acres; zoned CR 0.75, C-0.5 R-0.5 H-145T and Germantown Transit Mixed Use Overlay Zone, reviewed under the TMX-2; 2009 Germantown Employment Area Sector Plan.

*Staff Recommendation: Approval with Conditions and Adoption of Resolution*

**BOARD ACTION**

**Motion:** CICHY/FANI-GONZÁLEZ

**Vote:**

**Yea:** 5-0

**Nay:**

**Other:**

**Action:** Approved staff recommendation for approval of the proposed Site Plan Amendment cited above, subject to conditions, and adopted the attached Resolution.

In accordance with the June 14 technical staff report, Planning Department staff offered a multi-media presentation and discussed a Site Plan Amendment request to modify the Final Forest Conservation Plan to reflect the final grading and development plans associated with the Site Plan for the Thrive Assisted Living project. The 107.70-acre property is located north of Father Hurley Boulevard and west of I-270 along Crystal Rock Drive in the Germantown Employment Sector Plan area. Staff noted that the Thrive Assisted Living Site Plan was approved by the Planning Board on January 19, 2017, but the resolution to the Infrastructure Site Plan was never approved.

Staff recommends approval of the Infrastructure Site Plan Amendment, as discussed, and adoption of the Resolution submitted with the staff report. The proposed Amendment has been reviewed and found conforming to all applicable laws and sections of Code and has been recommended for approval by all other County agencies.

Mr. Patrick La Vay, Project Manager from Macris, Hendricks and Glascock, P.A., representing the applicant, Lerner Enterprises, offered brief comments and concurred with the staff recommendation.

There followed a brief Board discussion with questions to staff.

**\*12. Rickman Property: Preliminary Plan No. 120170020---**Request to create a lot from two un-platted parcels of land to construct up to 94,000 square feet of development including warehouse, office, and retail/bank/restaurant; located on the east side of Woodfield Road (MD Route 124) approximately 310 feet south of its intersection with Lindbergh Road; 6.15 acres; IL – 1.0 Zone and Upper Rock Creek Overlay Zone; 2004 Upper Rock Creek Master Plan.

*Staff Recommendation: Approval with Conditions and Adoption of Resolution*

### **BOARD ACTION**

**Motion:** PATTERSON/DREYFUSS

**Vote:**

**Yea:** 5-0

**Nay:**

**Other:**

**Action:** Approved staff recommendation for approval of the proposed Preliminary Plan request cited above, subject to conditions, and adopted the attached Resolution.

In keeping with the June 15 technical staff report, Planning Department staff offered a multi-media presentation and discussed a Preliminary Plan request to create one lot from two un-platted parcels of land to construct up to 97,000 square feet of development, including a warehouse, an office building, and space for retail/bank/restaurant. The 6.15-acre property is located on the east side of Woodfield Road (MD Route 124), approximately 310 feet south of its intersection with Lindbergh Road in the Upper Rock Creek Overlay Zone and Upper Rock Creek Master Plan area. Staff noted that the proposed application is consistent with the recommendations of the 2004 Upper Rock Creek Area Master Plan and the proposed lot meets the Light Industrial (IL) zone development standards for the Standard Method of Development. The proposed application also includes a Final Water Quality Plan. Staff also noted that the property is exempt from any of the requirements of the Special Protection Area (SPA) as stated in the Upper Rock Creek Overlay Zone, including the eight percent impervious cap due to its location in an industrial zone. Staff further added that the application includes a Preliminary/Final Forest Conservation Plan and a Chapter 22A tree variance for the impact to one tree that is 30 inches or greater in diameter at breast height.

Mr. Brian J. Donnelly, Senior Project Manager from Macris, Hendricks and Glascock, P.A., representing the applicant Mr. William Rickman III, also present, briefly discussed the proposed request and concurred with the staff recommendation.

There followed a brief Board discussion with questions to staff and Mr. Donnelly.

13. **MARC Rail Communities Sector Plan—Worksession (4) 5 (corrected)**---Review the Germantown Recommendations in the Preserve and Sustain Sections of the MARC Rail Communities Sector Plan.

*Staff Recommendation: Receive Briefing*

**BOARD ACTION**

**Motion:**

**Vote:**

**Yea:**

**Nay:**

**Other:**

**Action:** Received briefing followed by discussion.

Planning Department staff offered a multi-media presentation and discussed the Germantown recommendations in the Preserve and Sustain Sections of the MARC Rail Communities Sector Plan area. Staff noted that testimony received during the Public Hearing focused on the following two areas for the Germantown Preserve and Sustain Sections: i) Preservation of historic structures and open space in the Germantown portion of the study area; and ii) Open space and environmental recommendations for the Trevion property. Staff response to testimony regarding improving walkability with a fine-grained network of streets and removing references to streets is to provide a fine-grained, interconnected street grid with sidewalks and bike facilities which will provide safe alternative routes for residents, commuters and students. Staff also recommended reducing widths and pedestrian crossing distances as a way to encourage people to drive less. Staff recommendation regarding co-locating the Germantown Transit Center with the MARC station is that the Germantown Transit Center is a regional facility, and this would entail realigning the Corridor Cities Transitway (CCT) requiring additional study and acquiring the necessary right-of-way. Testimony received also support sidewalk and lighting enhancements and the burial of utility lines along Liberty Mill Road/Walter Johnson Road and Old Georgetown Road. Staff recommended evaluating the undergrounding of utilities to help establish a mature street canopy; enhance water quality; reduce heat island effect; and create an attractive pedestrian environment.

Staff added that testimony also recommended retaining the 2009 Germantown Sector Plan densities and supported the Middlebrook Road “road diet.” Staff noted that the “road diet” works in any scenario and current zoning, with requested changes requiring road widening at the intersections of Germantown Road and Wisteria Drive, as well as Germantown Road and Bowman Mill Road. Staff also noted that staff is finalizing the Greenhouse Gas Analysis for the sector plan and will present its findings at a subsequent worksession.

There followed extensive Board discussion with questions to staff.