



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

**APPROVED
MINUTES**

The Montgomery County Planning Board met in regular session via Microsoft Teams video conference on Thursday, July 16, 2020, at 9:08 a.m., and adjourned at 5:06 p.m.

Present were Chair Casey Anderson, Vice Chair Natali Fani-González, and Commissioners Gerald R. Cichy, Tina Patterson, and Partap Verma.

The Board recessed at 9:08 a.m. and convened in Closed Session at 9:10 a.m. to take up Item 13, a Closed Session Item.

In compliance with State Government Article §3-305(b), Annotated Code of Maryland, the following is a report of the Board's Closed Session:

The Board convened in Closed Session at 9:10 a.m. via video conference on motion of Vice Chair Fani-González, seconded by Commissioner Verma, with Chair Anderson, Vice Chair Fani-González, and Commissioners Cichy, Patterson, and Verma voting in favor of the motion. The meeting was closed under authority of Annotated Code of Maryland §3-305(b)(7), to consult with Counsel to obtain legal advice.

Also present for the meeting were Senior Counsel Matt Mills and Associate General Counsel Delisa Coleman of the Legal Department, and James Parsons of the Commissioners' Office.

In Closed Session, the Board received briefing and legal advice regarding a proposed reconsideration request.

The Closed Session meeting was adjourned at 9:20 a.m.

The Planning Board reconvened via video conference at 9:22 a.m.

Item 1 and Items 3 through 7 are reported on the attached agenda.

Item 2 was removed from the Planning Board agenda.

The Planning Board recessed for lunch at 12:21 p.m. and reconvened via video conference at 12:50 p.m.

Item 12 and Items 8 through 11, discussed in that order, are reported on the attached agenda.

Commissioner Verma left the meeting after discussion of Item 9.

There being no further business, the meeting was adjourned at 5:06 p.m. The Planning Board will meet in a special session via video conference on Tuesday, July 21, 2020, for a worksession on the 2020 update to the County Subdivision Staging Policy. The next regular meeting of the Planning Board will be held on Thursday, July 23, 2020, via video conference.

M. Clara Moise

M. Clara Moise
Sr. Technical Writer/Editor

James J. Parsons

James J. Parsons
Sr. Technical Writer/Editor

Montgomery County Planning Board Meeting
Thursday, July 16, 2020
8787 Georgia Avenue
Silver Spring, MD 20910-3760
301-495-4600

13. CLOSED SESSION

According to MD ANN Code, General Provisions Article, §3-305(b)(7) consult with counsel to obtain legal advice.

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: Discussed in Closed Session. See State citation and open session report in narrative minutes.

1. Consent Agenda

***A. Adoption of Resolutions**

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: There were no Resolutions submitted for adoption.

***B. Record Plats**

Subdivision Plat No. 220200240, Sugarland

AR zone; 1 lot, 1 outlot; located on the north side of River Road, approximately 1 mile east of Hughes Road; Agriculture and Rural Open Space Master Plan.

Staff Recommendation: Approval

BOARD ACTION

Motion: FANI-GONZÁLEZ/CICHY

Vote:

Yea: 5-0

Nay:

Other:

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

***C. Other Consent Items**

1. Kaiser Permanente, Site Plan 81989072A---Request to add 106 additional parking spaces and associated infrastructure; located at 12201 Plum Orchard Drive, on approximately 1.28 acres of land zoned CR-0.75 C-0.75 R-0.25 H-75; within the 2014 White Oak Science Gateway Master Plan area.
Staff Recommendation: Approval with Conditions and Adoption of Resolution

2. Tomar’s Addition, Preliminary Plan 620200060, Regulatory Extension Request No. 2---Request to extend the regulatory review period from July 16, 2020 to October 2, 2020; to create one residential lot; located at 10514 Warfield Street; on approximately 0.13 acres of land zoned R-60; within the 2012 Kensington Sector Plan area.
Staff Recommendation: Approval of the Extension Request

3. Reconsideration for Downtown Silver Spring Plan No(s) 91998005C and 81999002M

BOARD ACTION

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

Vote:
 Yea: 1. & 2. 5-0

Nay:

Other:

Action: 1. Approved staff recommendation for approval of the Site Plan Amendment cited above, subject to conditions, and adopted the attached Resolution.
 2. Approved staff recommendation for approval of the Preliminary Plan Extension request cited above.
 3. No motion was made to reconsider.

***D. Approval of Minutes**

Planning Board Meeting Minutes of July 2, 2020

BOARD ACTION

Motion: FANI-GONZÁLEZ/VERMA

Vote:

Yea: 4-0

Nay:

Other: PATTERSON ABSTAINED

Action: Approved the Planning Board Meeting Minutes of July 2, 2020, as submitted.

~~2. Roundtable Discussion~~ **REMOVED**

- ~~Planning Director's Report~~

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: **This Item was removed from the Planning Board agenda.**

3. Subdivision Regulation Amendment No. 20-01: Rules of Interpretation – Computing Time Periods---Subdivision Regulation Amendment 20-01 amends Chapter 50 of the Montgomery County Code to extend the validity period or deadlines of approved \subdivisions that are unexpired at a certain date.

Staff Recommendation: Transmit Comments to County Council

BOARD ACTION

Motion: FANI-GONZÁLEZ/CICHY

Vote:

Yea: 5-0

Nay:

Other:

Action: Approved staff recommendation to transmit comments to the County Council, as discussed during the meeting, and as stated in the attached transmittal letter.

Planning Department staff offered a multi-media presentation and discussed a proposed Subdivision Regulation Amendment (SRA) that would extend the validity period or deadlines for previously approved, unexpired subdivisions. Staff noted that as introduced, SRA 20-01 attempts to provide a simple streamlined way to extend the duration of all deadlines and validity periods established for previously approved, unexpired subdivisions by two years. The additional time will run from the period applicable to the approval and include any extensions granted by the Planning Board. The sponsors of SRA 20-01 believe it will be a proactive step toward minimizing unnecessary disruptions to an important segment of the County’s economy, given the current situation with the ongoing COVID-19 pandemic.

Staff noted that while they recognize the Council’s desire to provide an extension for the validity period or deadlines for previously approved unexpired subdivisions, they do not believe that the proposed SRA with the two-year extension is the correct approach, noting that although it may be a simpler approach, it could also result in more confusion in the end. Past extensions to Preliminary Subdivision Plan and Adequate Public Facility (APF) Plan validity periods were provided through ordinances that were appended to the Subdivision Regulations as editorial notes in Chapter 50 Plan Validity and APF Validity sections describing the various extensions. Staff believes that the same approach should be followed again. Staff then recommended language regarding extension of the validity period for APF and Preliminary Subdivision Plan that is consistent with the current Subdivision Regulations, as detailed in the July 9 technical staff report.

Mr. William Kominers, attorney from Lerch, Early & Brewer, offered testimony.

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3. Subdivision Regulation Amendment No. 20-01: Rules of Interpretation – Computing Time Periods

CONTINUED

There followed extensive Board discussion with questions to staff, during which the Planning Board instructed staff to include an additional comment to the County Council recommending support for granting plan extensions due to the ongoing COVID-19 pandemic on condition that extensions are granted and reviewed carefully to avoid conflicts with other development projects.

4. Budget Transfer Request FY21 Operating Budget – Montgomery Parks

Staff Recommendation: Approve Transfer Request

BOARD ACTION

Motion: CICHY/FANI-GONZÁLEZ

Vote:

Yea: 5-0

Nay:

Other:

Action: Approved staff recommendation to approve the Budget Transfer Request cited above.

Parks Department staff briefed the Board regarding an FY21 Operating Budget Transfer request. According to staff, all adjustments over \$50,000 require Planning Board approval. Staff noted that the request is for the Board's approval to transfer the budgets associated with two positions that are being repurposed based on current departmental needs, and to transfer two business units to create departmental efficiencies. To that end, staff made the following requests: 1) a transfer in the amount of \$91,592 by moving a vacant career administrative position from the Office of the Parks Department Director to the Management Services Division in order to fill an unfunded Employee Labor Relations Specialist position; 2) a transfer in the amount of \$98,100 by moving and repurposing an administrative position from the Facilities Management Division to the Management Services Division to provide departmental support as a dedicated Utilities Analyst; 3) a transfer in the amount of \$393,028 by moving the Alarm Shop Unit from the Facilities Management Division to the Park Police Division, which includes the associated budget for three employees and all the unit's related equipment; and 4) a transfer in the amount of \$318,528 by moving the Survey Unit from the Park Development Division to the Facilities Management Division, which includes the associated budget for three employees and all the unit's related equipment.

There followed a brief Board discussion.

5. Willard Avenue Neighborhood Park---Authorization to acquire 8,953 sf, more or less, improved, from Parviz Mizrahi, et al, located at 5304 Willard Avenue, Bethesda, MD 20817

Staff Recommendation: Approval

BOARD ACTION

Motion: CICHY/VERMA

Vote:

Yea: 4-0

Nay:

Other: PATTERSON ABSTAINED

Action: Approved staff recommendation for approval of the proposed land acquisition cited above, as stated in the attached adopted Resolution.

Parks Department staff briefly discussed a request to authorize the acquisition of 8,953 square feet, more or less improved, identified as the Mizrahi property, located on Willard Avenue in Bethesda, Maryland. The land will be an addition to the existing 6.2-acre Willard Avenue Neighborhood Park. Staff noted that the purchase price of \$830,000 will be funded through grant money from the Maryland Program Open Space (POS), and the Acquisition-Local Project Description Form (PDF). Staff noted that the Planning Board received a full briefing on the proposed acquisition last week, and staff is requesting formal approval of the proposed acquisition and adoption of the Resolution.

There followed a brief Board discussion with questions to staff.

6. Preservation of Affordable Housing Study---The Planning Board will be briefed on the Preservation of Affordable Housing Study. The Preservation of Affordable Housing Study report provides a guiding framework for policy makers, stakeholders, and residents to understand the County’s preservation challenges, current initiatives, and the strategies available to address them. *Staff Recommendation: Staff Briefing and Discussion with the Board*

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: Received briefing followed by discussion.

Following brief opening remarks, Planning Department staff introduced Messrs. Phillip Kash and Arjun Sarma, and Ms. Mary Jiang of HR&A Advisors, who offered a multi-media presentation and discussed the current rental housing supply, noting that while most of the County’s housing stock is considered affordable under the 80 percent Area Median Income (AMI) level, the vast majority is in unrestricted units, making preservation a vital component to an affordable housing strategy. According to HR&A staff, approximately 80 percent of the County’s multi-family housing stock is subject to market forces. Currently, 25,900 of these market-rate units rent for less than 65 percent of AMI and are classified as Naturally Occurring Affordable Housing (NOAH), comprising 27 percent of the total multi-family housing stock. Based on research findings, proximity to transit, building size, income trends, and building age are the greatest risk indicators for NOAH units to lose affordability, with proximity to transit the strongest signal for loss in units under \$1,250, especially for stations inside the Beltway. Roughly 2,300, or eight percent of all NOAH units, and two percent of the total housing stock, are considered at risk and within one mile from transit. Areas along the planned Purple Line have already demonstrated a rapid decrease in low-rent units in the past decade. The loss of low-rent units has been most rapid around the Bethesda Metrorail station. HR&A staff then discussed building age as a risk indicator, noting that 78 percent of units affordable to households earning up to 65 percent AMI were built before 1990. While there are fewer newer NOAH units built after the 1990s, they are losing units at a faster rate. Older units built during the 1960s and 1970s are projected to be lost at a slower rate, but account for a larger share of lost units. Staff added that based on these criteria, they forecast a loss of NOAH between 7,000 to 11,000 units by 2030.

Mr. Ryan Price of Lisa Sturtevant & Associates (LSA) Planning, then discussed deed-restricted housing, noting that there are approximately 18,000 units currently in the County’s deed-restricted rental housing inventory. Most of the units are in the more densely populated

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6. Preservation of Affordable Housing StudyCONTINUED

areas where multi-family housing is more prevalent. A set of risk criteria was applied to the deed-restricted rental housing inventory in Montgomery County to assess the level of affordability-loss risk across deed-restricted properties, and to identify high-risk deed-restricted properties. Using these criteria, which include upcoming subsidy expiration, ownership type, building age, proximity to transit, neighborhood rental trends, and community income trends, research shows that approximately 62 percent of the deed-restricted units that are set to expire in the 2020s and 2030s are located within one mile of an existing or future rail transit station. Overall, the County has been gaining deed-restricted rental housing stock at a faster rate than it is being lost. Since 2000, approximately 502 deed-restricted rental housing units have been lost from the inventory. Mr. Price noted that based on the risk assessment, there are about 1,400 deed-restricted units that are the most at risk of losing affordability when their respective subsidy compliance periods expire over the next two decades. All these higher-risk units are affordable below 60 percent AMI, many of which are at or below 30 percent AMI.

Mr. Michael Spotts of the Neighborhood Fundamentals, LLC research firm, then discussed loss of affordable units, noting that there are four key ways in which a housing unit can be lost from the affordable stock, including physical deterioration, erosion of affordability via rent increase, value-added investment, and redevelopment. According to Mr. Spotts, each has different implications for how to approach preservation. Conversely, there are two primary conditions required to preserve a property, which include achieving a sustainable financial position, and protection from exposure to market pressure. Additionally, there are five key policy categories in which different forms of preservation approaches can be combined to develop a sustainable preservation framework for the County, including strategy and outreach to analyze preservation needs, opportunities, approaches, and interventions in the local context; land use and planning to leverage the rules governing or guiding development within a jurisdiction to incentivize or require preservation of affordability; tenants' rights to leverage the rules that govern how various stakeholders participate in the market to preserve affordability and protect tenants; capital financing to provide the financial resources necessary to undertake preservation interventions; and operating subsidy and cost reduction to offer incentives and resources that make it financially feasible for landlords or owners to offer reduced rents to lower-income tenants.

Ms. Stephanie Killian and Mr. Frank Demarais of Montgomery County Department of Housing and Community Affairs (DHCA) offered testimony.

There followed extensive Board discussion with questions to Messrs. Kash and Spotts.

***7. Westfield Montgomery**

A. Preliminary Plan Amendment 12005018C: Request for approval of up to 2,819,090 square feet of total development with up to 1,840,421 square feet of commercial development and up to 831,270 square feet of residential development (717 dwelling units); located at 7101 Democracy Boulevard, Bethesda; on approximately 59.45 acres of land zoned GR-1.5, H-45 and Regional Shopping Center Overlay Zone; within the 2018 Rock Spring Sector Plan area.

Staff Recommendation: Approval with Conditions

B. Site Plan Amendment 82005003E: Request to redevelop surface parking lots with up 446,478 square feet of additional commercial development and up to 833,429 square feet of residential development (717 dwelling units); located at 7101 Democracy Boulevard, Bethesda; on approximately 59.45 acres of land zoned GR-1.5, H-45 and Regional Shopping Center Overlay Zone; within the 2018 Rock Spring 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 Amendment 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 Amendment 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 proposed Preliminary and Site Plan Amendment requests to revise the approved parking and retail configuration for the construction of a mixed-use development. The 59.45-acre property, identified as Parcel P, is located on the northeast quadrant of the intersection of Democracy Boulevard and Westlake Drive and is zoned General Retail (GR) and Regional Shopping Center Overlay in the Rock Spring Sector Plan area. The site is currently developed with 1,539,183 square feet of retail and associated parking, identified as Westfield Montgomery Mall, and the adjacent 25,005 square foot Westlake Crossing Shopping Center. The main structure of the mall sits southeast of the smaller shopping center, with a ring road encircling the building, and multiple surface and structured parking facilities predominantly to the east, north and west of the

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***7. Westfield Montgomery**CONTINUED

building. A County-managed transit station is located on the northeast corner of the property and includes six bus bays and three bus layover spaces. Vehicular access is via multiple curb cuts, including two curb cuts on Democracy Boulevard, six on Westlake Drive, and two intersections along Westlake Terrace on the northern boundary that function as extensions of the existing street grid. Staff added that the current Preliminary Plan approval allows 2,049,856 square feet of retail, while the existing Site Plan allows a total of 1,857,805 square feet of retail.

Staff noted that for the Preliminary Plan, the applicant requests approval of 2,896,731 square feet of total development to accommodate 833,429 square feet of residential development for up to 717 dwelling units, including 108 Moderately Priced Dwelling Units (MPDUs); 247,860-square feet of hotel uses; and 1,815,442 square feet of retail uses, which includes the demolition of 233,019 square-feet of vacant retail space and 276,259 square feet of net new retail. For the Site Plan, the applicant requests approval of 2,819,090 total square feet of development to accommodate 833,429 square feet of residential development for up to 717 dwelling units including 108 MPDUs; a 247,860-square foot, 261-room hotel, including 35,000 square feet of amenity space; and 1,737,801 square feet of retail uses, which includes the demolition of 233,019 square feet of vacant retail space and the construction of 198,618 square feet of net new retail. In addition to the demolition of two existing retail spaces on the site, the applicant also proposes redevelopment of the surface parking lots into a pedestrian friendly mixed-use outdoor shopping area, known as a woonerf, the relocation of the Macy's Home Store, and construction of a parking deck between the relocated Macy's and the existing Nordstrom department store.

Staff added that the majority of the redevelopment will occur on the northern side of the mall property along Westlake Terrace and will proceed in three phases, with the Site Plan Amendment under review today to cover Phases 1 and 2. Currently, Phase 3 is conceptual, and a Site Plan Amendment will be required before the applicant can proceed with the third phase of development. The proposed Phase 1 will include the construction of the eastern portion of the woonerf; the majority of the development fronting on the south side of the woonerf; 127,800 square feet of retail located external to the mall located along open-air plazas and the woonerf; a four-level, 135,942 square foot fitness center on the eastern portion of the property, southwest of the existing transit center, which will be temporarily relocated during construction; 413 residential units including 15 percent MPDUs located above ground floor retail within a 100-foot tall building; the southern portion of the proposed Heritage Plaza open space; open space; public art; and seating. Phase 2 will include the construction of an 85-foot tall mixed-use building that will provide 240 residential units, including 36 MPDUs, 27,000 square feet of ground floor retail, and the northern portion of the Heritage Plaza open space. Phase 3 is proposed to include 140,895 square feet of retail comprised of a stand-alone retail store at the corner of Westlake Drive and Westlake Terrace, a 50,000-square foot extension of the Macy's department store, ground-floor retail along both sides of the woonerf, and a 150-foot tall hotel/residential building with 261 hotel rooms, 35,000 square feet of amenity space on floors one through seven, and 64 residential units, including 10 MPDUs on floors eight through 12. The existing access points will

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***7. Westfield Montgomery**

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remain with some modifications and one additional curb cut along Westlake Terrace. Staff then discussed minor corrections to the Conditions of Approval for the Preliminary and Site Plan Amendments.

Ms. Cindy Manzanarez of Fair Garden Lane and Ms. Anna Stokes, a Westfield Montgomery Mall tenant, offered testimony.

Ms. Patricia Harris, attorney representing the applicant, offered comments and concurred with the staff recommendation.

Mr. Jim Agliata, member of the applicant's team, also offered comments.

There followed extensive Board discussion with questions to staff.

12. 2020-2024 Subdivision Staging Policy (SSP): Worksession # 5---The Planning Board will hold a worksession on recommendations for the 2020 Update to the County Subdivision Staging Policy and related infrastructure funding mechanisms.

Staff Recommendation: Briefing and Planning Board Discussion

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: Received Staff Briefing Followed by Board Discussion.

Planning Department staff offered a multi-media presentation and discussed the final staff recommendations and Planning Board decisions for the 2020 Update to the County Subdivision Staging Policy (SSP), and related infrastructure funding mechanisms. Ms. Emily Koehle of Toole Design Group Engineering Consultants also participated in the presentation and discussion. As discussed in detail in the SSP report posted on the Planning Department website, the following recommendations were discussed: Vision Zero Integration in the Local Area Transportation Review (LATR); Motor Vehicle Congestion Standards, including the Critical Lane Volume Approach and the Highway Capacity Manual Approach; Motor Vehicle Congestion Standards; Transportation Monitoring; Policy Area Review for Master Plans; Policy Area Designations; Annual School Test and Utilization Report; Residential Development Moratorium; Student Generation Rate Calculation; Development Application Review in areas subject to possible moratorium with three proposed options; School Impact Taxes; Impact Tax Exemptions on Residential Uses; and Recordation Tax.

Staff added that an additional worksession is scheduled for Tuesday, July 21, from 7 to 9 p.m. to tie up loose ends before the Planning Board approves the final recommendations for the 2020 Update to the SSP/County Growth Policy.

There followed extensive Board discussion with questions to staff.

***8. Dufief Elementary School**

A. Forest Conservation Plan: Demolition and reconstruction of a new Dufief Elementary School located at 15001 Dufief Drive, Clarksburg; 9.99 acres; R-200 Zone; Potomac Subregion 2002 Master Plan.

Staff Recommendation: Approval with Conditions and Adoption of Resolution

B. Mandatory Referral (MR2020034): Demolition of existing structure and reconstruction of an expanded Dufief Elementary School to address the overutilization of Rachel Carson Elementary School.

Staff Recommendation: Approval to Transmit Comments to Montgomery County Public Schools

BOARD ACTION

Motion: A. & B. CICHY/VERMA

Vote:

Yea: A. & B. 5-0

Nay:

Other:

Action: A. Approved staff recommendation for approval of the Forest Conservation Plan, cited above, subject to conditions, and adopted the attached Resolution.

B. Approved staff recommendation for approval of the Mandatory Referral request cited above, and to transmit comments to Montgomery County Public Schools, as stated in the attached transmittal letter.

Planning Department staff offered a multi-media presentation and discussed a Mandatory Referral request and the associated Forest Conservation Plan for the Dufief Elementary School located on Dufief Drive on a 9.99-acre property in Clarksburg in the Potomac Subregion Master Plan area. Staff noted that the property is flat and open where the current elementary school building is located and slopes away towards the south and east of the property lines. In addition to the school building, the site also contains play fields and trees screening the school from the surrounding development on the north, east and south. The site is bounded on the west and north by Dufief Drive. Staff also noted that Montgomery County Public Schools (MCPS) is proposing to demolish and rebuild the Elementary school building, which currently serves 316 students from Kindergarten to Grade 5 with 67 staff members. The nearby Rachel Carson Elementary School will exceed capacity by 92 seats or more by the end of the six-year planning period in 2022. To accommodate these students, the Board of Education approved the demolition and the reconstruction of an expanded Dufief Elementary School.

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***8. Dufief Elementary School – A. Forest Conservation Plan and B. Mandatory Referral (MR2020034)**

CONTINUED

Staff added that the existing school is a 59,013-square foot structure built in 1975, as a pod configuration open concept school. MCPS has identified infrastructure, building quality and indoor environmental challenges. The building needs significant improvements, and in addition to addressing the structural challenges, the proposed new school will also address the increase in student enrollment, as previously mentioned. The proposed new Elementary School facility will be designed for a capacity of approximately 740 students, including the core spaces. The new school will be constructed as a one-level building towards Dufief Drive, which will house the gymnasium, multi-purpose rooms and administrative services. The rear of the building will be two levels, which will house classroom spaces. An additional area has been programmed for four future portable classroom structures. Staff also discussed the proposed building design, parking, transportation analysis, including traffic, neighborhood compatibility and Master Plan conformance.

Staff then discussed the proposed Forest Conservation Plan and noted that the forest conservation requirements will be met through a combination of onsite afforestation, onsite landscape credit and offsite forest banking. The applicant has also submitted a variance request for the impact to six variance trees. Staff added that if a variance were not considered and MCPS was not allowed to disturb the six trees, it would not be possible to create a safe and efficient traffic circulation pattern for incoming cars and buses to park and drop off students, and it would create an unwarranted hardship if the variance were not granted.

Messrs. Michael Norton of Norton Land Design; John Oh of WMCRP Architects; Sean Lindaman of Clark Azar Associates; James Duffy of MCPS; Dennis Cross and Gary Moseman of MCPS, Division of Construction, were present at the meeting to offer comments and answer questions from the Planning Board.

There followed a brief Board discussion with questions to staff and MCPS representatives.

9. Fieldcrest Community Solar: Site Plan No. 820200110 and Final Water Quality Plan---
 Request to construct a solar collection system on a portion of Parcel P707; located in the southwest quadrant of the intersection of Fieldcrest Road and Olney Laytonsville Road (MD 108); 35.73 acres; RE-1 zone; 2004 Upper Rock Creek Area Master Plan.

Staff Recommendation: Approval with Conditions and Adoption of Resolution

BOARD ACTION

Motion: FANI-GONZÁLEZ/CICHY

Vote:

Yea: 5-0

Nay:

Other:

Action: Approved staff recommendation for approval of the Site Plan request cited above and the associated Final Water Quality Plan, subject to conditions, and adopted the attached Corrected Resolution.

Planning Department staff offered a multi-media presentation and discussed a Site Plan request and the associated Final Water Quality Plan to construct a solar collection system on a portion of Parcel 707 located in the southwest quadrant of the intersection of Fieldcrest Road and Olney Laytonsville Road/MD 108. The 35.73-acre property is located in the Upper Rock Creek Overlay Zone /Upper Rock Creek Area Master Plan. Staff noted that the site is in the southern half of the property and is irregularly shaped with approximately 1,700 feet of frontage on Fieldcrest Road and 200 feet on MD 108. The property is bisected from east to west by a 250-foot wide PEPCO transmission line right-of-way and by Fieldcrest Road. The 15.66-acre portion of the property north of the PEPCO right-of-way contains a single-family house and agricultural outbuildings and is not the subject of this Site Plan. The site is bound by Fieldcrest Road to the north, MD 108 to the east, single-family residences to the west and southeast, and the Rock Creek Stream Valley Park owned by The Maryland-National Park and Planning Commission (M-NCPPC) to the south. The western half of the site is bisected by the mainstem of a stream designated by the State of Maryland as Use Class III, natural trout stream, which flows south through the property, from a culvert under Fieldcrest Road south, on to Rock Creek Stream Valley Park Unit 16.

Staff then added that no habitable buildings will be erected on the site as part of this request. Improvements are limited to the solar panel structures, which include posts driven into the ground, and crossmembers horizontally mounted to the posts which will hold the solar arrays. In addition to the solar panels, two concrete pads on either side of the stream buffer will house electrical cabinets containing inverters, transformers and

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9. Fieldcrest Community Solar: Site Plan No. 820200110 and Final Water Quality Plan

CONTINUED

switchgear needed to convert Direct Current (DC) electricity to Alternating Current (AC). This conversion to AC power is necessary in order to return electricity to the PEPCO electrical grid because the solar panels produce DC power. Of the 20.07-acre site, only approximately eight acres will be occupied by the solar array. Most of the remaining site contains environmentally sensitive features, including stream valley buffer and wetlands, which will be restored by replanting, then conveyed to the Parks Department. The perimeter of the site will be landscaped, and a 6-foot-tall chain-link fence will surround the solar array. There are no specific recommendations for this Property regarding development. However, the Master Plan does provide general land use recommendations, and the Site Plan is consistent with the general land use recommendations concerning dedication of easements to open space, preserving/restoring natural resources, stream restoration, and maintaining low-density development adjacent to stream valleys. The applicant must comply with the conditions of approval for the Final Water Quality Plan including: Impervious surfaces are limited to no more than one percent of the application within the Upper Rock Creek Overlay Zone. Prior to the start of any demolition, clearing, grading, or construction on the site, the applicant must enter into an agreement with the Planning Board to limit impervious surfaces to no more than one percent of the application within the Upper Rock Creek Overlay Zone and as shown on the Impervious Surface Plan dated May 15, 2020. The agreement must be in a form approved by the M-NCPPC Office of the General Counsel and recorded by deed in the Montgomery County Office of Land Records.

Staff briefly discussed a correction to a condition of approval in the Resolution and noted that no correspondence in opposition to the proposed Site Plan request has been received, and one handwritten letter was received this morning in support.

Staff briefly discussed a correction to a condition of approval in the Resolution and noted that no correspondence in opposition to the proposed Site Plan request has been received, and one handwritten letter was received this morning in support.

Messrs. Jake Wilson, James Marshall, Jordan Belknap and Adam Beal of Turning Point Energy; Messrs. Gregg Eberly, Matthew Senenman and Mark Stires of Bowman Consulting; and Mr. Jean Griffith of Bethesda Church Road and owner of the property, were present at the meeting to offer comments and answer questions from the Planning Board.

Mr. Jim Forkin of Laytonsville Road, an adjacent property owner, offered testimony.

Ms. Soo Lee-Cho, attorney representing the applicant, offered comments and concurred with the staff recommendation.

Ms. Frances Yuhas of TurningPoint Energy offered brief comments.

Parks Department staff also answered questions from the Board.

There followed a brief Board discussion with questions to staff and Ms. Lee-Cho.

10. Forest Conservation Regulation Amendment - Worksession

Staff Recommendation: Adoption of the Proposed Administrative Regulations for Chapter 22A of the County Code and Transmittal to County Council for Approval Under Chapter 2A

BOARD ACTION

Motion: CICHY/PATTERSON

Vote:

Yea: 4-0

Nay:

Other: VERMA ABSENT

Action: Approved staff recommendation for approval and adoption of the revised Administrative Regulations for Chapter 22A of the County Code/Forest Conservation Regulations, as discussed during the meeting, and to transmit to the County Council for approval under Chapter 2A.

Planning Department staff offered a multi-media presentation and discussed the comments received at the Public Hearing held on June 25, 2020, regarding revisions to the Administrative Regulations for Chapter 22A of the County Code Forest Conservation and Trees. On June 25, 2020 a public hearing was held in which the public, environmental organizations, and regulated community were provided an opportunity to comment on the proposed changes to these regulations. Three sets of comments were received from the Maryland Building Industry Association, Stormwater Partners Network of Montgomery County, and Audubon Naturalist Society.

Staff also discussed its response to the comments received from the regulated community and the public and recommended that the Planning Board approve staff's proposed changes to the Forest Conservation Regulations and transmit to the County Council for introduction.

There followed a brief Board discussion with questions to staff.

**11. Regulatory Application Fee Reduction Request – Cloverleaf Center Germantown
20400 Century Boulevard: Plan Numbers 11988156B and 81990060C**

Staff Recommendation: Denial

BOARD ACTION

Motion: FANI-GONZÁLEZ/CICHY

Vote:

Yea: 3-0-1

Nay: PATTERSON

Other: VERMA ABSENT

Action: Approved the Applicant’s Request for a Fee Refund of \$19,299, contrary to staff’s recommendation of denial.

Planning Department staff offered a multi-media presentation and discussed a fee reduction request and partial refund for a development application for the Cloverleaf Center Germantown, Plan Numbers 11988156B and 81990060C. Staff noted that neither staff nor the Planning Department Director have the authority to authorize a Regulatory Application fee reduction request, only the Planning Board can make a determination on this request. On May 26, 2020, Mr. Steve Robbins, attorney from Learch, Early & Brewer, on behalf of the applicant the Worldshine Group, submitted a request to reduce the application fees for Preliminary Plan Amendment 119881568 and Site Plan Amendment 81990060C. Neither the Planning Department staff, nor the Director have the authority to reduce or refund fees that are not in compliance with the approved refund policy. The authority to set application fees for Site Plans is governed by Section 59.7.6.5.A.2 of the Montgomery County Code, which states: “Where the Planning Board is the deciding body, fees to cover the cost of administering this Chapter must be approved by resolution of the Planning Board.” Section 50.10.5 of the Montgomery County Code covers the fees for Subdivision Plans and indicates that “the Planning Board must approve by resolution the fees necessary to cover the cost of administering this Chapter.” In June 2018, the Planning Board adopted a refund policy, and delegated to the Planning Department Director the ability to modify application fees when a regulation application included 25 percent or more Moderately Priced Dwelling Units (MPDUs), and/or development applications that included significant public benefits over and above the requirements established by law. Hence, in limited cases, the Planning Director can establish fees which are different from those on the Fee Schedule approved by the Planning Board. The request submitted by the applicant’s attorney is not for a fee reduction to be delegated to the Director, but rather a request for reimbursement of fees already paid, and therefore only the Planning Board can act upon the request.

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**11. Regulatory Application Fee Reduction Request – Cloverleaf Center Germantown
20400 Century Boulevard: Plan Numbers 11988156B and 81990060C**CONTINUED

Staff also added that Worldshine Group, the applicant, submitted Preliminary and Site Plan Amendment applications to convert an approved and constructed 83,466-square foot building from Office Use to Residential Use. The proposed change consists of adding 46 Age-Restricted Multi-Family Dwelling Units and an Adult Daycare to replace the office use. The Planning Department has consistently applied, for at least 20 years, application fees on the new use when an amendment to a previously approved plan is submitted for review. In each of those cases, the applicant paid the application fee in accordance with the Planning Board approved Fee Schedule. i.e., \$19,290 for the Preliminary Plan Amendment and \$13,090 for the Site Plan Amendment. The total for the concurrent plan submission is \$32,380, which was paid in full by the applicant on May 14, 2020. In the applicant's Justification for Fee Reduction request, the applicant stated that the fees assessed for the two applications were formulated incorrectly, and therefore request a fee refund of \$24,310.

Mr. Steven Robins, attorney representing the applicant, introduced Ms. Elizabeth Rogers, attorney, member of the applicant's team; and the applicant, Mr. Kevin Huang of Endesco Development LLC/ Worldshine Group. Mr. Robins offered a multi-media presentation and discussed the request and noted that the refund amount is \$19,299 instead of the \$24,310 stated by staff. Mr. Robins also requested the Board's approval of the applicant's request based on the discussion and the information provided at the meeting.

Ms. Elizabeth Rogers, member of the applicant's team also offered comments.

Planning Department Director Gwen Wright offered comments and answered questions from the Board.

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

Commissioner Patterson voted against the motion stating that she does not want this approval to set a precedence for other applicants.