

# **Montgomery County Planning Board**

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

AUG 16 2023

MCPB No. 23-083  
Site Plan No. 81983080C  
Washington Science Center, Parcel M  
Date of Hearing: July 27, 2023

## RESOLUTION

WHEREAS, under Section 59-7.1.2 of the Montgomery County Zoning Ordinance, the Montgomery County Planning Board is authorized to review site plan applications; and

WHEREAS, under Section 59-7.7.1.B.3, the Planning Board reviewed this site plan under the procedures and standards of the Zoning Ordinance in effect on October 29, 2014, including the zoning then in effect; and

WHEREAS, on October 13 1983<sup>1</sup>, the Planning Board approved Site Plan No. 819830800 for 354,840 square feet of office development on 12.92 acres of I-3 zoned-land, located on Executive Boulevard, 650 feet south of Josiah Henson Parkway, Washington Science Center Parcel M ("Subject Property"), in the North Bethesda Policy Area and *White Flint 2 Sector Plan* ("Sector Plan") area; and

WHEREAS, on July 5, 2007, the Planning Board approved an amendment to the previously approved site plan, designated Site Plan No. 81983080A (MCPB No. 07-47), to make minor modifications to the Site Plan, including the provision of a five-foot-wide sidewalk between Parcels L and M and construction of a new guard house with security gates at the Parcel L entrance on the Subject Property; and

WHEREAS, on July 28, 2022, the Planning Board approved an amendment to the previously approved site plan, designated Site Plan No. 81983080B (MCPB No. 22-082), to convert approximately 15,500 square feet of existing office space into a child day care center for up to 120 children and 60 staff, to replace 22 existing parking spaces with an outdoor play area, and to make upgrades to building entrances and walkways for ADA compliance on the Subject Property; and

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<sup>1</sup> The site plan approval pre-dates M-NCPPC numbering system for Opinions and Resolutions.

WHEREAS, on April 19, 2023, Executive Plaza Venture, LLC (“Applicant”) filed an application for approval of an amendment to the previously approved site plans to increase the capacity of the existing daycare from a maximum of 120 children to a maximum of 190 children, install a new play area and access walkway at the west of the building, and install master-planned natural surface trails at the west and south of the building on the Subject Property; and

WHEREAS, Applicant’s application to amend the site plan was designated Site Plan No. 81983080C, Washington Science Center, Parcel M (“Site Plan,” “Amendment,” or “Application”); and

WHEREAS, following review and analysis of the Application by Planning Board staff (“Staff”) and other governmental agencies, Staff issued a memorandum to the Planning Board, dated July 14, 2023, providing its analysis and recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and

WHEREAS, on July 27, 2023, the Planning Board held a public hearing on the Application and voted to approve the Application subject to certain conditions, by the vote certified below.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves Site Plan No. 81983080C to increase the capacity of the existing daycare from a maximum of 120 children to a maximum of 190 children, install a new play area and access walkway at the west of the building, and install master-planned natural surface trails at the west and south of the building by modifying and restating Conditions 9 and 11, and adding new Conditions 12-16 as follows:<sup>2</sup>

**Modified Conditions**

**9. Right of Way**

The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Services Right-of-Way Section (DPS-ROW) in its memo dated April 18, 2022, and updated on May 1, 2023, and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in their memo, which DPS-ROW may amend if the amendments do not conflict with other conditions of Site Plan approval.

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<sup>2</sup> For the purpose of these conditions, the term “Applicant” shall also mean the developer, the owner or any successor(s) in interest to the terms of this approval.

**11. Certified Site Plan**

Before approval of the Certified Site Plan the following revisions must be made and/or information provided subject to Staff review and approval:

- a. Include the development program, and Site Plan resolution (and other applicable resolutions) on the approval or cover sheet(s).
- b. Fire and Rescue Access plan should be included in the Certified Site Plan.
- c. Modify data table to reflect development standards approved by the Planning Board.
- d. Show the final design and location of the bicycle parking spaces
- e. Delete
- f. Show a connection between the north-south natural surface trail and the building's western parking area. Connection must also be natural surface.
- g. Clearly identify a future trail connection to the adjacent eastern property with a note stating that this connection will be completed upon the property to the east redeveloping.
- h. Modify the notes on the plans so that the terminus of the east-west trail will be coordinated with M-NCPPC Planning Staff.
- i. Add the following note:
  - i. "The Applicant must schedule a preconstruction meeting (pre-con), preferably on-site, with staff from the Department of Permitting Services (DPS) responsible for Certified Site Plan conformance and compliance, upon approval of the Certified Site Plan (CSP). The pre-con must occur before any site development work commencement and before any work that is covered by the site plan surety and maintenance agreement. The Applicant, along with their representatives, must attend the pre-con with DPS CSP Staff. A copy of the approved Certified Site Plan along with any subsequent amendments is required to be on-site at all times."

**New Conditions**

**12. Density**

The Site Plan is limited to a maximum of 354,840 square feet of commercial space, including up to 15,500 square feet of Day Care Center use, with a capacity of up to 60 employees and up to 190 children.

**13. Transportation**

- a. Within one year of the mailing date of the Resolution, the Applicant must obtain approval of a Project-based Transportation Demand Management Plan (TDM) from the Montgomery County Department of Transportation (MCDOT).

- b. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Transportation (“MCDOT”) in its letter dated July 7, 2023, and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations in the letter, which may be amended by MCDOT if the amendment does not conflict with any other conditions of Site Plan approval.
- c. To satisfy Section 59-D.3.4.d of the Zoning Ordinance and provide adequate, safe, and efficient access, within one year of the mailing date of this Resolution, the Applicant must upgrade the existing signalized access with new countdown pedestrian signals (CPS) for the existing crosswalks. The design and construction must be coordinated with MCDOT.
- d. The Planning Board has reviewed and accepts the recommendations of the Maryland State Highway Administration (“SHA”) in its letter dated July 18, 2023 and incorporates them as conditions of the Site Plan approval. The Applicant must comply with each of the recommendations in the letter, which may be amended by MDSHA if the amendment does not conflict with any other conditions of the Site Plan approval.

**14. Pedestrian & Bicycle Circulation**

- a. The Applicant must provide 30 bicycle parking spaces on Site.
- b. Within one year of the mailing date of this Resolution, the Applicant must provide the following master-planned natural surface trails, the exact location, design, and construction must be coordinated with the M-NCPPC Montgomery County Department of Parks (Montgomery Parks) and M-NCPPC Planning Staff.
  - i. A publicly accessible natural surface north-south trail along the west side of the Property with a minimum width of eight feet (8 ft.). The trail must connect to Luxmanor Park at the south end with a bridge across the Cabin John Creek tributary stream as determined by Montgomery Parks.
    - a) Any activity on M-NCPPC Parkland requires an approved Montgomery Parks Park Construction Permit and is subject to the full Park Construction Permit process as directed by Montgomery Parks staff.
    - b) All facilities to be constructed and work performed on M-NCPPC Parkland must be acceptable to Montgomery Parks staff and must meet or exceed Montgomery Parks’ design standards and specifications.
  - ii. A publicly accessible natural surface east-west trail adjacent to the existing parking garage with a minimum width of eight feet (8 ft.).
  - iii. The two trails must connect with each other on site and will ultimately connect to the other master-planned trail segments to the north and east of the Site when those locations redevelop.

- iv. At the terminus of the north end of the north-south trail and the east end of the east-west trail, the Applicant must provide signage that identifies these locations as future trail connections until the properties redevelop.
- v. The Certified Site Plan must reflect the future limits of work for the purposes of extending the on-site path to the adjacent properties to the north and east. The path may be extended within that area by the adjacent property owners when the respective properties redevelop.
- vi. There must be a trail access connection between the north-south natural surface trail and the building's paved access path. This connection must also be natural surface.
- c. The Applicant must provide a Public Access Covenant for the benefit of the public over the master-planned natural surface trails in a form and substance approved by the M-NCPPC Office of the General Counsel and recorded in the Montgomery County Land Records.

**15. Local Area Transportation Review (LATR)**

- a. Within one year of the mailing date of this Resolution, the following off-site improvements must be permitted and bonded (to ensure construction) pursuant to MCDOT requirements:
  - i. Reconstruct the curb ramp and install new Detectable Warning Surface (DWS) on the north side of the crosswalk at the entrance of 2101 East Jefferson Street. This requires the removal of the existing ramp and curb at this location.
- b. If, at the time the Applicant submits for permits to construct the required LATR Off-Site Improvements, the improvement is no longer necessary or desirable, because: i) it has been constructed or is under construction by another applicant or as part of a capital improvement project by a government agency, or, ii) the applicable master plan has changed and no longer requires or suggests the improvement, the Applicant can propose an alternative LATR Off-Site Improvement from the priority list of improvements provided in the subject Staff Report that is of similar value, and this alternative improvement, if reviewed and approved by Planning Staff, can be substituted and shown on a revised Certified Site Plan.

**16. APF Validity**

The Adequate Public Facilities Review (APF) associated with the daycare center use will remain valid for five (5) years from the initiation date (as defined in Section 50.4.3.J.5 of the County Code)

**BE IT FURTHER RESOLVED** that all other site plan conditions of approval for this project remain valid, unchanged, and in full force and effect.

**BE IT FURTHER RESOLVED** that all site development elements shown on the latest electronic version of Washington Science Center, Parcel M, Site Plan No. 81983080C, submitted via ePlans to the M-NCPPC as of the date of the Staff Report, are required, except as modified by the above conditions of approval; and

**BE IT FURTHER RESOLVED** that having considered the recommendations of its Staff as presented at the hearing and/or set forth in the Staff Report, which the Board hereby adopts and incorporates by reference (except as modified herein), and upon consideration of the entire record, the Planning Board **FINDS**, with the conditions of approval, that:

Pursuant to Section 59.7.7.1.B.3 of the Zoning Ordinance, this Amendment was reviewed under the standards and procedures of the Zoning Ordinance in effect on October 29, 2014 (“Old Code”). The proposed Amendment does not alter the intent of the previous findings except as modified below, and all findings not specifically addressed remain in effect.

Section 59-D-3.4.c of the Old Code provides findings that the Planning Board must make before approving a site plan.

- 1. The site plan conforms to all non-illustrative elements of a development plan or diagrammatic plan, and all binding elements of a schematic development plan, certified by the Hearing Examiner under Section 59-D-1.64, or is consistent with an approved project plan for the optional method of development, if required, unless the Planning Board expressly modifies any element of the project plan.*

There is no development plan or project plan for the Property, therefore this finding is satisfied.

- 2. The site plan meets all of the requirements of the zone in which it is located, and where applicable conforms to an urban renewal plan approved under Chapter 56.*

As shown on the Development Data Table on the Site Plan Amendment drawings, the Site Plan Amendment meets all of the requirements of the former I-3 zone. There are no proposed physical changes to the existing building, and the day care center will continue to occupy 15,500 square feet within the ground floor of the existing office building. The principal change proposed with the Subject Application is the increase in daycare capacity from 120 children to 190 children, in addition to exterior changes that include a natural surface trail, a nature-themed play area, and a paved access walkway connecting the daycare to the play area. The day care use is a permitted use in the CR zone, which is the current zoning of the Property, as well as the prior I-3 zone.

The Subject Property includes approximately 12.92 acres zoned CR-1.5, C-1.5 R-1.0 H-100, and was previously zoned I-3. The Application satisfies the applicable development standards as shown in the following data table:

*Table 1 - Development Standards*

Standard (previous I-3 zone)	Required	Previously Approved 81983080B	Approved with This Amendment (no changes)
<b>Lot Area (min)</b>	n/a	12.94 acres	12.94 acres
<b>Density (max)</b>	.5 FAR <sup>3</sup>	354,840 sf	354,840 sf
<b>Office</b>		339,340 sf	339,340 sf
<b>Child Day Care Center</b>		15,500 sf	15,500 sf
<b>Minimum Green Area (min)</b>	35%	319,944 sf (56.8%)	319,944 sf (56.8%)
<b>Height (max)</b>	100 feet	100 feet	100 feet
<b>BUILDING SETBACKS</b>			
Abutting residentially zoned property recommended for one-family zoning and development on the applicable master plan	200 feet	217 feet <sup>4</sup>	217 feet
Abutting residentially zoned land recommended for residential zoning and development other than single-family	100 feet	203 feet	203 feet
Abutting an arterial road, local street, or private street within the I-3 or R&D zones	25 feet	331 feet	331 feet
Abutting a lot classified in the I-3 or R&D zone	25 feet	111 feet	111 feet
<b>PARKING SETBACKS</b>			
Abutting residentially zoned property recommended for one-family zoning and development on the applicable master plan	100 feet	176 feet	176 feet

<sup>3</sup> Max FAR for I-3 zone is .5, however Site Plan 819830800 was approved for 354,840 sf of office development (.63 FAR) on October 13, 1983.

<sup>4</sup> From 59-C-5.34 of the Prior Code, "If proposed building is more than 40 feet in height then 1 foot of additional building setback for each 2 feet of height" The building is 100 feet in height, requiring an additional 30 feet of setback above the required. Site Plan 819830800 was approved with a setback of 217 feet on October 13, 1983.

<b>Standard (previous I-3 zone)</b>	<b>Required</b>	<b>Previously Approved 81983080B</b>	<b>Approved with This Amendment (no changes)</b>
Abutting residentially zoned land recommended for residential zoning and development other than single-family	100 feet	148 feet	148 feet
Abutting an arterial road, local street, or private street within the I-3 or R&D zones	35 feet	91 feet	91 feet
Abutting a lot classified in the I-3 or R&D zone	25 feet	8 <sup>5</sup> feet	8 feet

3. *The locations of buildings and structures, open spaces, landscaping, recreation facilities, and pedestrian and vehicular circulation systems are adequate, safe, and efficient.*

The existing access point from East Jefferson Street will be maintained in its current configuration. The internal parking areas will continue to provide vehicular circulation for office staff and visitors, pick-up/drop-off, deliveries, as well as other short-term parking needs. Two new 8-foot-wide natural surface trails will be installed by the Applicant consistent with the 2018 *White Flint 2 Sector Plan*. The north-south trail is located at the west of the Subject Property and will connect to Luxmanor Local Park to the south in coordination with Montgomery Parks. The northern end of the trail will terminate at the Subject Property's northern property line in the interim, which borders 2115 East Jefferson Street to the north. 2115 East Jefferson Street has received Sketch Plan approval (320220110) for a townhouse development that includes a trail at the west of the property. At the time of redevelopment of 2115 East Jefferson Street, the Subject Property's north-south trail will connect to the trail proposed on 2115 East Jefferson at the Subject Property's northern property line. As conditioned, the north-south trail will connect to the building's western parking area.

The east-west trail will connect to the north-south trail at the southwest of the Subject Property. In the interim the east-west trail will terminate in the stream buffer but will connect to the adjacent eastern property when it is redeveloped.

To satisfy Section 59-D.3.4.d of the Zoning Ordinance and provide adequate, safe, and efficient access, the existing signalized access will be upgraded by the applicant with new countdown pedestrian signals (CPS) for the existing crosswalks.

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<sup>5</sup> The Prior Code Section 59-C-5.34 allowed Planning Board approval because the neighboring property was under the same preliminary plan.



4. *Each structure and use is compatible with other uses and other site plans, and with existing and proposed adjacent development.*

The proposed day care will complement the existing office uses on the Property and in the surrounding area, as was specifically acknowledged in the Sector Plan. A child day care center is a permitted use under the current CR zone and the prior I-3 zone.

5. *The site plan meets all applicable requirements of Chapter 22A regarding forest conservation, Chapter 19 regarding water resource protection, and any other applicable law.*

- a. Chapter 22A, Forest Conservation

The Board finds that as conditioned the Forest Conservation Plan complies with the requirements of the Forest Conservation Law.

An exemption from Article II of Chapter 22A (the Forest Conservation Law), FCP Exemption Number 42023242E, was confirmed by Planning Staff on June 26, 2023. The property meets the requirements for an exemption under Section 22A-5(t)(1) for a modification to an existing developed non-residential property. With the confirmation of the exemption, this project is in compliance with Chapter 22A requirements.

- b. Chapter 19, Erosion, Sediment Control, and Stormwater Management

The Project is exempt from Stormwater Management (Chapter 19) requirements due to its limited scope. The Subject Application proposes less than 5,000 square feet of disturbance and less than 100 cubic yards of earth movement, and therefore a Sediment Control Permit is not required.

In addition to the required findings for a Site Plan application under the Code in existence on October 29, 2014, the Subject Site Plan Amendment makes an Adequate Public Facilities finding for the Day Care Center's proposed capacity of 190 children and 60 employees.

#### **Local Area Transportation Review (LATR)**

As a proposed development with 326,660 square feet office (311,233 square feet of office and 15,427 square feet of daycare use)<sup>6</sup>, the Project is estimated to generate 763 total

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<sup>6</sup> Numbers used for LATR purposes are the actual built square footages. The numbers shown in the development table are what the Project was approved for.

peak hour person trips in the morning and 731 total peak hour person trips in the evening. After accounting for peak hour person trips currently associated with the approved/vested 354,840 square feet of office on the Site, (659 morning peak hour person trips and 628 evening peak hour person trips), the Project is estimated to generate 104 net new morning peak hour person trips and 103 net new evening peak hour person trips. As a result of the estimated transportation impact, the Project must submit a Transportation Impact Study with the Subject Site Plan to satisfy the Local Area Transportation Review (LATR).

*Table 2: Washington Science Center Parcel M Estimated Person Trip Generation*

Land Use	Morning Peak Hour	Evening Peak Hour
<b>Existing Approved/Vested (credit)</b>		
General Office 354,840 sq ft	659	628
<b>Proposed</b>		
General Office 311,233 sq ft	587	563
Daycare 190 Students	176	168
<b>Proposed Total</b>	<b>763</b>	<b>731</b>
<b>Net New Person Trips</b>	<b>104</b>	<b>103</b>

Source: Transportation Impact study by Lenhart Traffic Consulting dated May 23, 2023, amended by staff

**Travel Mode Adequacy Test**

The project is in the North Bethesda Policy Area, which is an Orange Policy Area. The 2020-2024 *Growth and Infrastructure Policy* requires evaluation of all transportation modes, including: auto-drive, transit, walking and biking in Orange Policy Areas. Mode-specific adequacy tests are required for any project estimated to generate 50 or more net new peak hour person trips. The mode split of the total person trips for the Project are summarized by travel mode in Table 3. The Project’s estimated transportation impact necessitates that the Transportation Impact Study evaluate the four (4) travel mode adequacy tests.

*Table 3: Washington Science Center Parcel M Trip Estimate by Mode*

	Total Person-Trips	Auto-Driver	Transit	Pedestrian <sup>7</sup>	Bicycle
Morning Peak Hour	763	496	67	125	58
Evening Peak Hour	731	476	64	120	56

Source: Transportation Impact study by Lenhart Traffic Consulting Inc., dated May 23, 2023, amended by staff

- Motor Vehicle system adequacy was evaluated by analyzing one intersection in each direction from the site as well as the site access signal. Under the LATR Guidelines, intersections in the North Bethesda Policy Area with an average intersection delay of 71 seconds or less are considered adequate. Analysis from the Transportation Study dated May 23, 2023 performed by Lenhart Traffic Consulting, Inc. show that all intersections operate with an average delay of 71 seconds or less under built conditions.
- Transit system adequacy was evaluated by inventorying two bus stops located within 1,000 feet of the Property. Where shelters and associated amenities are not provided, the Applicant must install the standard amenities in coordination with MCDOT.
- Pedestrian system adequacy was evaluated within 750 feet of the Property. Mitigation will be required to achieve a Pedestrian Level of Comfort (PLOC) greater than 2 (Somewhat Comfortable), and/or deficiencies identified for streetlamps within the scoped boundary. The Pedestrian system adequacy also requires mitigation for ADA deficiencies identified within 375 feet of the Property.
- Bicycle system adequacy was evaluated by analyzing bikeways within 750 feet of the Property. Mitigation will be required to achieve a Level of Traffic Stress 2 (LTS-2) or lower, consistent with the Bicycle Master Plan.

Under Section 8 of 2022 *Local Area Transportation Review Guidelines (LATR Proportionality Guide)*, the maximum cost of mitigation improvements the Applicant is required to construct or fund for a project consisting of 15,427 square feet of Daycare is not to exceed \$11,570 (see calculation below).

$$\begin{aligned}
 \text{LATR Proportionality Guide} &= (\text{Extent of New Development}) (\text{LATR Proportionality Guide Rate}) (\text{LATR Proportionality Guide Adjustment Factor}) \\
 \$11,570 &= (15,427 \text{ square feet}) (\$1.50) (50\%)
 \end{aligned}$$

<sup>7</sup> Pedestrian trips are calculated by adding non-motorized and transit trips.

For the Subject Site Plan Amendment, the cost of construction and/or mitigation payments for mitigation projects is not to exceed \$11,570. After evaluating the adequacy of each of the required transportation modes, the Applicant identified a comprehensive list of deficiencies, by which a prioritized list of mitigation improvements was submitted to Staff for review. In compliance with the 2022 LATR Guidelines, the final list of prioritized projects was finalized by the reviewing agencies and are now conditioned for approval of the Site Plan Amendment. The table identifies those projects which could be feasibly constructed. The final list of projects is included in Table 4 below. The first project is the top priority; however, two additional projects are listed as potential alternatives if it is determined that the first project cannot be constructed.

*Table 4: Washington Science Center Parcel M LATR Mitigation Project List*

Map ID	Project Location	Project Description	Construct/ Mitigation Payment	Project Cost
1	Curb ramp on the north side of the crosswalk at the entrance to 2101 East Jefferson Street (Kaiser Office Building)	Reconstruct the curb ramp and install new Detectable Warning Surface (DWS). This requires the removal of the existing ramp and curb.	Construct	\$10,820.71
2	Curb ramps and crosswalk on the north side of Executive Boulevard at the entrance to 6153 Executive Boulevard	Removal and reconstruction of the east curb ramp to appropriate ADA standards. Installation of DWS on both curb ramps and crosswalk restriping.	Construct (alternative 1)	\$14,209.96
3	Curb ramps and crosswalk on the south side of Executive Boulevard at the entrance to 6110 Executive Boulevard	Installation of DWS on both curb ramps and crosswalk restriping	Construct (alternative 2)	\$2,934.25
<b>Total</b>				<b>\$10,820.71</b>
<b>Total (alternative 1)</b>				<b>\$14,209.96</b>
<b>Total (alternative 2)</b>				<b>\$2,934.25</b>
Proportionality Guide				\$11,570.00

As conditioned, all off-site mitigation projects must be permitted, bonded for construction, and all mitigation payments must be paid within one year of the mailing date of this Resolution. Montgomery County Planning, MCDOT, and MDOT SHA staff reviewed the Transportation Impact Statement (TIS) and approved the mitigation project list. Therefore, the Applicant has satisfied the requirements of the LATR, and the public transportation facilities are adequate for the Site.

BE IT FURTHER RESOLVED that this Resolution incorporates by reference all evidence of record, including maps, drawings, memoranda, correspondence, and other information; and

BE IT FURTHER RESOLVED that this Site Plan shall remain valid as provided in Montgomery County Code § 59-D-3.8 (per the Old Code); and

BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is AUG 16 2023 (which is the date that this resolution is mailed to all parties of record); and

BE IT FURTHER RESOLVED that any party authorized by law to take an administrative appeal must initiate such an appeal consistent with the Maryland Rules for the judicial review of administrative agency decisions.

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**CERTIFICATION**

This is to certify that the foregoing is a true and correct copy of a resolution approved and adopted by the Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission on motion of Vice Chair Pedoeem, seconded by Commissioner Bartley, with a vote of 4-0; Chair Harris, Vice Chair Pedoeem, and Commissioners Bartley, and Linden, voting in favor of the motion, Commissioner Hedrick necessarily absent, at its regular meeting held on Thursday, July 27, 2023, in Wheaton, Maryland and via video conference.



Artie L. Harris, Chair  
Montgomery County Planning Board



Nick Driban  
645 Baltimore Annapolis Boulevard  
Suite 214  
Severna Park, MD 21146

Kevin Mack  
2101 Gaither Rd Ste 340  
Rockville, MD 20850

Erin Girard  
11 North Washington Street, Suite 700  
Rockville, MD 20850

Mindy Tucker  
9 East 38th Street  
New York, NY 10016

Zubeida Elhindi  
5530 Wisconsin Ave, Suite 1000  
Chevy Chase, MD 20815

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