



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

July 30, 2020

Ms. Tiara McCray
Montgomery County Department of Transportation
100 Edison Park Drive, 4th Floor
Gaithersburg, Maryland 20878

RE: Abandonment Request No. AB-771
Ellsworth Drive between Georgia Avenue and Fenton Street
Silver Spring Central Business District Sector Plan

Dear Ms. McCray:

At the Montgomery County Planning Board's regularly scheduled meeting on July 30, 2020, the Planning Board reviewed Abandonment Request No. AB-771, for abandonment of the Ellsworth Drive public right-of-way and pedestrian and vehicle access easement in Downtown Silver Spring. After a briefing by Planning staff, the Planning Board voted 5-0, with all members present, in favor of recommending abandonment and transmitting comments to the Montgomery County Department of Transportation.

The Planning Board heard testimony from the Petitioner, residents of Silver Spring, and a representative from the Montgomery County Sierra Club. Please consider this letter, its enclosures, and the following comments as the Planning Board's testimony for the official record.

Although the abandonment was recommended for approval, Vice Chair Fani-González, Commissioner Patterson, and Commissioner Cichy wanted to make it clear that, while they voted in favor of the abandonment, they have serious concerns about the potential impacts synthetic turf can impose on public health and the environment. Commissioner Cichy also wants to ensure that public access along Ellsworth Drive continues to be permitted so that people can still walk their dogs and the annual Silver Spring Thanksgiving Parade can maintain its traditional route.

Commissioner Verma and I stated that we do not believe the issue of whether synthetic turf is allowed in Montgomery County should be decided through individual regulatory cases, and we

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believe that Planning Board review is not the best forum to address these type of broad policy issues that are better considered by the County Council.

Thank you for the opportunity to provide comments and a recommendation on this petition. Please contact me directly or contact Katie Mencarini with the Area 1 Team of the Planning Department at 301-495-4549 if you have any questions regarding this letter.

Sincerely,



Casey Anderson
Chair

Enclosures

cc: Gwen Wright
Katie Mencarini
Stephanie Dickel
Elza Hisel-McCoy
Matthew Mills
Al Roshdieh, MCDOT
Mitra Pedoeem, DPS
Adam Ortiz, DEP
Raymond L. Crowel, DHHS
Rebecca Torma, MCDOT



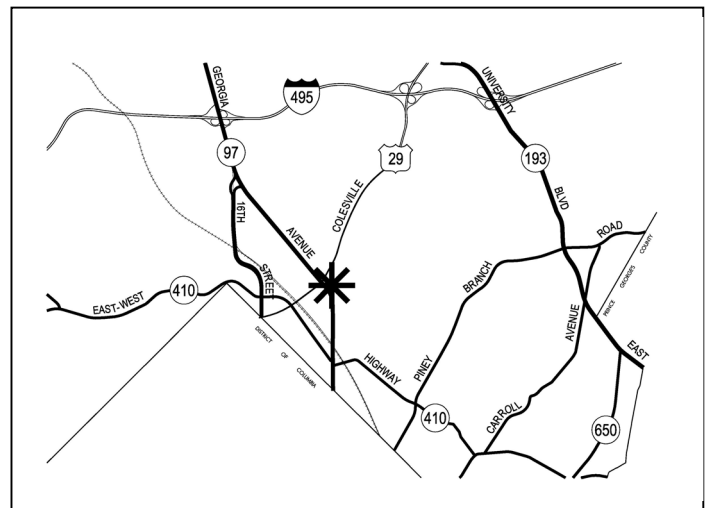
Right-of-Way Abandonment, AB-771, Ellsworth Drive

-  Katie Mencarini, Planner Coordinator, Area 1, Katherine.Mencarini@montgomeryplanning.org, 301.495.4549
-  Stephanie Dickel, Supervisor, Area 1, Stephanie.Dickel@montgomeryplanning.org, 301.495.4527
-  Elza Hisel-McCoy, Chief, Area 1, Elza.Hisel-McCoy@montgomeryplanning.org, 301.495.2115

Description

Completed: 07.17.20

- Request to abandon 8,055 square feet of Ellsworth Drive right-of-way and 21,170 square feet of vehicular and pedestrian access easement and Public Utility Easement (P.U.E) of the former Ellsworth Drive right-of-way
- Zoned CR-3.0 C-2.0 R-2.75 H-145 T; CR-5.0 C-4.0 R-4.75 H-200 T; CR 8.0 C 6.0 R 7.5 H 200 T
- Located between Georgia Avenue and Fenton Street
- Petitioners: 8515 Georgia Avenue Associates LLC, PFA-A Silver Spring LC, PFA-B Silver Spring LC, PFA-C Silver Spring LC, PFA-D Silver Spring, PFA-H Silver Spring LC, and PFA Manager LC
- 2000 *Silver Spring CBD Sector Plan*
- Review Authority: Chapter 49, Streets and Roads



Summary

- Staff recommends approval of the abandonment petition with one condition.
- Transmit comments to the Montgomery County Department of Transportation recommending approval of the request to abandon the subject right-of-way and vehicle and pedestrian access easement (Ellsworth Drive) because the abandonment will not hinder current or future public use.
- The Petitioners own or ground lease from the County a property known as Downtown Silver Spring, which includes the Access Easement and abuts the current Ellsworth Drive right-of-way.
- On June 18, 2020, the Planning Board approved Site Plan Amendment No. 81999002M (MCPB No. 20-047) to allow the redesign of the public use space and restriction of vehicles along Ellsworth Drive between Georgia Avenue and Fenton Street.
- The Abandonment is requested at the direction of other County agencies such as the Montgomery County Department of Transportation (MCDOT) and Montgomery County Department of Permitting Services (MCDPS), in coordination with Site Plan Amendment No. 81999002M, to allow the Applicant's design which includes numerous non-standard pavement treatment types.

Conditions of Approval

1. Prior to finalization of the abandonment, the Applicant will provide a public access easement and any other necessary easements, in a format acceptable to the Montgomery County Department of Transportation (MCDOT).

REQUEST FOR COMMENTS BY THE MONTGOMERY COUNTY DEPARTMENT OF TRANSPORTATION

On May 5, 2020, the Maryland - National Capital Park and Planning Commission (M-NCPPC) received Abandonment Petition AB771 (Attachment A), in accordance with Section 49-62(g) of the County Code. The subject Petition requests abandonment of Ellsworth Drive between Georgia Avenue and Fenton Street (Figure 1). Collectively referred to in this Report as the "Subject Abandonment," the Petition seeks abandonment of existing easements within the 21,170 square foot portion of what was formerly Ellsworth Drive¹ (Access Easement), and 8,055 square feet of publicly dedicated Ellsworth Drive right-of-way ("Upper Ellsworth"). The distinction between the existing Ellsworth Drive right-of-way and the vehicular and the Access Easement within the Subject Abandonment are shown in Figure 2.



Figure 1: Vicinity Map

¹ AB628 Abandonment of Portion of Ellsworth Drive (September 22, 1998)

8515 Georgia Avenue Associates LLC, PFA-A Silver Spring LC, PFA-B Silver Spring LC, PFA-C Silver Spring LC, PFA-D Silver Spring, PFA-H Silver Spring LC, and PFA Manager LC are collectively referred to in this document at the “Petitioners”. The Petitioners own or ground lease from the County property containing 22.5 acres known as Downtown Silver Spring (“Property or Subject Property”), a mixed-use urban renewal project constructed by the Petitioners approximately 17 years ago. The Property includes the entirety of the Access Easement and abuts the subject right-of-way abandonment (Figure 2). The surrounding properties are zoned CR-3.0 C-2.0 R-2.75 H-145 T; CR-5.0 C-4.0 R-4.75 H-200 T; and CR 8.0 C 6.0 R 7.5 H 200 T.

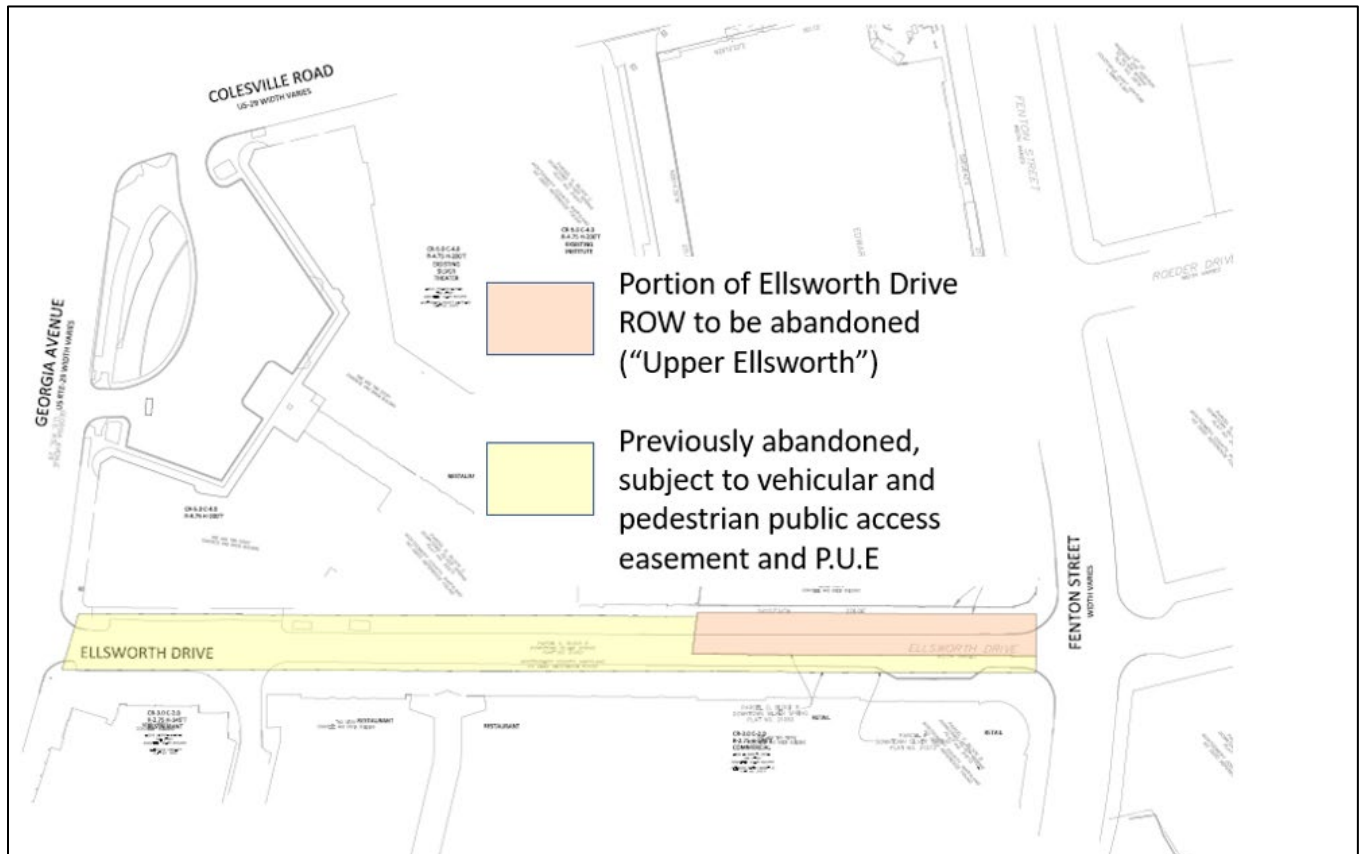


Figure 2: Subject Right-of-Way, Vehicular and Pedestrian Access Easement and Public Utility Easement

A public hearing has been scheduled for Monday, September 14, 2020 at 12:00 PM in accordance with Section 49-62(f) of the County Code. This Staff Report summarizes comments from M-NCPPC and seeks permission from the Planning Board to transmit comments to MCDOT for consideration by the County Council.

SITE DESCRIPTION AND BACKGROUND

Ellsworth Drive is an improved Business District roadway with one lane in each direction, connecting Georgia Avenue with Fenton Street in Downtown Silver Spring. The design of the street transitions from a narrow, curbed street with sidewalks at Georgia Avenue, to a shared street flush with the public plaza on the Property and then back to a curbed roadway with on-street parking and sidewalks at Fenton Street. This segment of Ellsworth Drive is routinely closed to vehicular traffic for farmers markets and live music events throughout the week to provide ample, unimpeded space for people to walk and gather on the Property. The Applicant petitions to close the roadway to vehicles permanently and formally (except for emergency and delivery vehicles) within the Subject Abandonment to improve and expand the public use space on the Property.



Figure 3: Approximate limits of Public Access Easement area (in Red) looking southwest towards Georgia Avenue

Previous Abandonment Petitions

In 1998, Montgomery, County Maryland and PFA Silver Spring jointly submitted three petitions to the County Council to facilitate the joint redevelopment of what is known today as Downtown Silver Spring, a mixed-use project. Petition AB-628 was for the abandonment of Ellsworth Drive right-of-way between Georgia Avenue and Fenton Street in Silver Spring. A Public Hearing was conducted August 10, 1998 and all reviewing agencies recommended approval. Among the conditions, the most relevant to this Petition was “the granting of easement for public access on Ellsworth Drive pursuant to the General Development Agreement”. According to Plat 1602, the eastern 18 linear feet of Ellsworth Drive right-of-way (Upper Ellsworth) was retained as right-of-way. The Montgomery County Council resolution approving the Abandonment Petition AB-628 was adopted on September 22, 1998 (Resolution 13-1429, Attachment B).



Figure 4: Approximate limits of "Upper Ellsworth Drive" Right-of-Way looking southwest

The County owns the entirety of all properties along Ellsworth Drive between Fenton Street and Georgia Avenue, including the Upper Ellsworth Abandonment Area and the property subject to the Access Easement, recorded among the Land Records of Montgomery County at Book 3177, Page 466, and Plats 21283 and 1602 (Attachment C). The Access Easement Area is leased to the Petitioners pursuant to a ground lease agreement between Montgomery County, Maryland, and PFA Silver Spring LC dated September 5, 2002. A Declaration of Easements, recorded by Montgomery County as the Declarant among the Land Records at Book 21768, Page 658, established the Access Easement. The Abandonments sought through the subject petition are requested to facilitate the proposed public use space expansion and improvements within Downtown Silver Spring.



Figure 5: Ellsworth Drive Public Use Space Improvements (819999002M) looking west towards Georgia Avenue

Relevant Regulatory Approvals

On June 18, 2020 the Montgomery County Planning Board approved Downtown Silver Spring Project Plan Amendment No. 91998005C and Site Plan Amendment No. 81999002M, which will increase public use space by 10,242 square feet, install new public art, remove 11 on-street parking spaces and restrict Ellsworth drive access for all non-essential vehicles. The Site Plan Amendment (MCPB No. 20-047, Attachment D) was conditioned to receive approval of the Subject Abandonment (AB771).

Right of Way Abandonment Petition

This Petition seeks to extinguish the Access Easement, located along the western portion of Ellsworth Drive (created through AB 628) and abandon the public right-of-way within the area defined as Upper Ellsworth (near Fenton Street). As a result of the Subjection Abandonment, Ellsworth Drive will be formally closed to non-essential vehicular traffic while allowing emergency vehicles and deliveries.

The Petitioners propose to modify the hardscaping and landscaping within Ellsworth Drive, as described in Site Plan Amendment No. 81999002M, to create a comfortable and inviting urban space where the community may gather, stay for varying periods of time, and enjoy the space. This pedestrian friendly zone will be delineated by a raised brick walkway at the Fenton Street intersection and the installation of stone paving and synthetic turf within the Subject Abandonment. Mountable curbs will restrict vehicular access at both ends of Ellsworth Drive, while still allowing access for emergency vehicles. The brick sidewalks on either side of existing Ellsworth Drive will remain, but portions of the sidewalk paving will be changed to match the Silver Spring Standard brick. Additionally, in-grade placards will be installed to prioritize bicycle travel on the southern side of Ellsworth Drive in conformance with the 2018 *Bicycle Master Plan*. Existing street trees shall remain, several existing tree pits are to be enlarged to allow additional tree growth, and additional new trees will be planted. An aerial view rendering of the proposed improvements is included in the following Figure 6.



Figure 6: Site Plan Amendment No. 819999002M

Vehicular access will be provided from Georgia Avenue to the alley between Georgia Avenue and the western end of the Property as a one-way street leading to County Parking Garage 60 (the Wayne Avenue Garage). Vehicles entering from Georgia Avenue will be directed to the alley from which they can enter the Wayne Avenue Garage or access Wayne Avenue. The Petitioners propose to widen the adjacent sidewalk and install three new street trees on the northern side of the street by removing four existing off-street parking spaces. This new access pattern as on the Circulation Plan is shown in Figure 7.

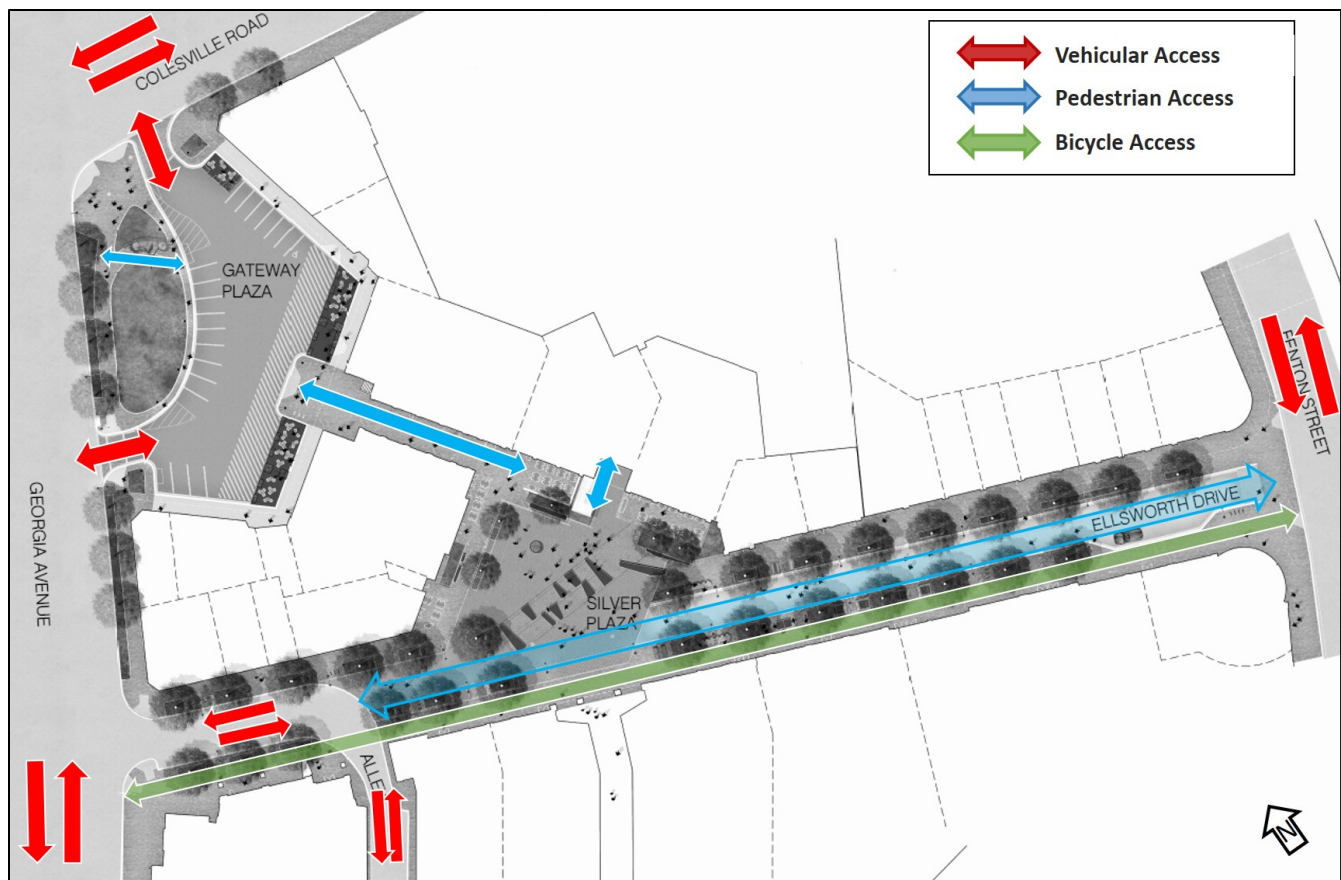


Figure 7: Circulation Plan for the Subject Abandonment and Subject Property

The Petitioners further propose to modify Silver Plaza to enlarge the usable space, enliven the area, and create more flexibility in the Property's programming. Outdoor dining in Silver Plaza will also be enhanced and expanded by adding an outdoor dining space in the northwestern area of Silver Plaza, and adding new pavers, furniture and landscaping to the existing outdoor dining space associated with the restaurant uses. While all of the above-described improvements will enhance, expand, and modernize Silver Plaza, the Ellsworth Drive area, and the Project, what is proposed cannot encroach into a vehicle and public access area or a public right-of-way. Therefore, to achieve the proposed vision for the Project, abandonment of the Access Easement is necessary.

Furthermore, the Petitioners are proposing non-standard roadway materials, such as synthetic turf, to be placed over the existing asphalt paving generally from the eastern edge of Silver Plaza to Fenton Street as shown on the Illustrative Plan (Figure 6). To achieve this design with the proposed non-standard pavement materials, County agencies such as the Department of Transportation and Department of Permitting Services directed the Applicant to abandon both the Access Easement and Upper Ellsworth.

There is no concern for future restrictions of public access for pedestrians and bicyclists because the underlying property owner is the County, not the Petitioners. If approved for abandonment, the underlying land would transfer back to the County and would remain public land.

Existing concrete gutters will remain exposed and all stormwater facilities and inlets will continue to function as they do now, as will existing utilities and manholes shown on the Utilities Plan included in the Applicant's submission. The turf will be maintained by Petitioners and will provide an expanded seating area where games and other activities/amenities can be located for enhanced enjoyment of visitors and patrons of all ages, while

allowing the existing brick walks and tree pits to remain. The underlying asphalt base, which will remain, allows emergency and delivery vehicles to continue to access the space.

To implement the proposed design and provide necessary public infrastructure, the Petitioners will be required to amend the Ground Lease Agreement and record an access and maintenance easement for all public utilities within the existing Access Easement and right-of-way (“Upper Ellsworth”).

ANALYSIS AND FINDINGS

Conformance to the Master Plan

The 2000 *Silver Spring Central Business District Sector Plan* included the Property within its Downtown Core Concept.

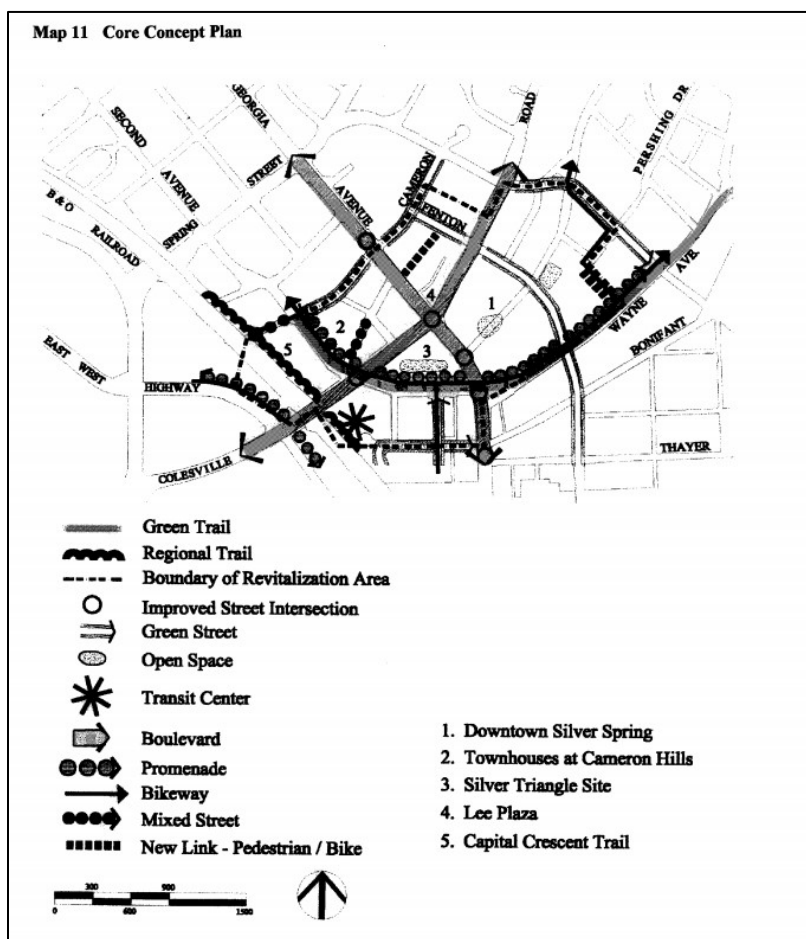


Figure 8: Core Concept [Transportation] Plan from the 2000 Silver Spring CBD Sector Plan

The Vision for the Core was, “to be reborn as the commercial, civic, and entertainment center of Silver Spring and its surrounding neighborhoods. Development of the [Property] will be in a pedestrian-friendly, town center pattern with stores and streetscape that encourage people to walk” (page 36). The objective further states that the Sector Plan aims to “recreate the Core as an active center of downtown Silver Spring, ensuring that development contributes to the Plan’s vision for downtown Silver Spring”. Emphasis on pedestrian access and safety, as well as leverage of public and private open spaces for gathering is repeated throughout the Sector Plan. Equally important is the stress of flexibility and adaptability to achieve excellent urban design spaces that draw people from the surrounding neighborhoods and ultimately economic success for the downtown. Several of the

land use recommendations are for zoning with less restrictions and encouragement of flexible design standards “to encourage innovative design solutions”. Therefore, the Petition is congruent with the Sector Plan’s goal to achieve welcoming design that attracts people to travel to and gather within the downtown.

The 2018 *Bicycle Master Plan* envisioned a dense grid for the bikeway network in the Silver Spring CBD with both separated bikeways on the higher volume roads and shared roadways where traffic volumes are comparatively lower. Ellsworth Drive between Georgia Avenue and Fenton Street was recommended for a shared street treatment due to its very low level of traffic stress. Removing non-essential vehicle traffic and enhancing the walking and biking pathways through the Site prioritizes walking and biking travel modes through the Site. In-grade placards to be installed along the southern side of Ellsworth Drive will signal to bicyclists that they are welcome to travel through the site, thereby upholding the planned bike connection in the 2018 *Bicycle Master Plan*.

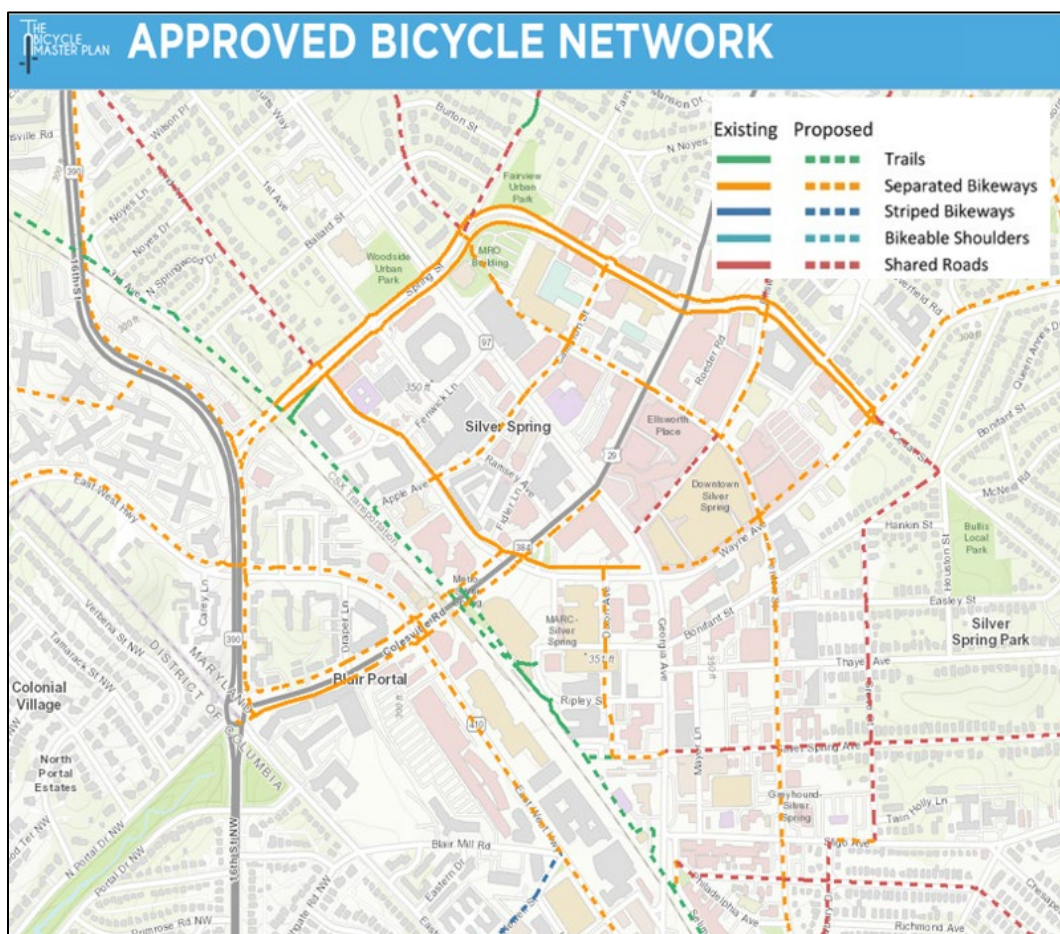


Figure 9: Bicycle Master Plan Recommendations for Silver Spring CBD

Chapter 49 Findings

Section 49-63(c)(1) -(2) of the Montgomery County Code (the “Code”) authorizes the County Council to abandon a right-of-way, including a public road, upon a finding that:

1. The right-of-way is no longer necessary for present public use or anticipated public use in the foreseeable future, or

2. The abandonment or closing is necessary to protect the health, safety and welfare of the residents near the right-of-way to be abandoned or closed.

Furthermore, Section 49-62(a) of the Code defines right-of-way, as the following:

any road, street, alley, crosswalk, pedestrian walkway, shared use path, water main, sanitary sewer, storm sewer, or storm drainage right-of-way used at any time by the public, including use by pedestrians and bicyclists.

Although the Ellsworth Drive right-of-way has not been functioning as part of the roadway network and is not used by motor vehicles in its current configuration, it currently experiences high volumes of pedestrians and bicyclists who are traveling within the core of Silver Spring's downtown. As proposed in the Petition, the Petitioners are seeking abandonment for use by non-essential motor vehicles and for application of non-standard pavement materials. Pedestrian and bicycle access will continue to be maintained and the look and feel of the walkways and bikeways will be enhanced with the design upgrades and programming of the space. This segment of Ellsworth Drive has been closed to vehicular traffic for several years without negative impact to the overall Silver Spring road network. The Subject Abandonment area is not needed for vehicular traffic or circulation, with the exception of emergency vehicles and deliveries. The request for abandonment therefore proposes an outcome that is compatible with the 2000 *Silver Spring Central Business District Sector Plan*, the 2018 *Bicycle Master Plan*, and Chapter 49 of the County Code, as conditioned.

Citizen Correspondence and Issues

The Petitioner has complied with all submittal and noticing requirements. As of the date of this Report's posting three submissions to the public testimony have been received and entered into the public record. Based on the testimony received there is concern about abandoning the right-of-way and public access easement to a private entity. It is important to note that the County owns the underlying property, which is leased to the Petitioner. If the right-of-way and public access easement are abandoned, the recipient would be the County and not a private entity.

CONCLUSION

Staff recommends the Planning Board support the Petition and transmit comments to the Montgomery County Department of Transportation.

Attachments

Attachment A – Petition for Abandonment of Ellsworth Drive Right-of-way and Access Easement

Attachment B – Council Resolution 13-1429

Attachment C – Land Records of Montgomery County at Book 3177, Page 466, and Plats 21283 and 1602

Attachment D – Site Plan Amendment No. 81999002M (MCPB No. 20-047) Resolution

Attachment E – Citizen Correspondence



Barbara A. Sears
 301.517.4812
 bsears@milesstockbridge.com

April 20, 2020

By Electronic Mail

Mr. Christopher Conklin, Director
 Montgomery County Dept. of Transportation
 101 Monroe Street, 10th Floor
 Rockville, MD 20850

Re: Petition for Abandonment of Portions of Ellsworth Drive, Silver Spring, Maryland (the "Petition")

Dear Mr. Conklin:

Petitioners, 8515 Georgia Avenue Associates LLC, PFA-A Silver Spring LC, PFA-B Silver Spring LC, PFA-C Silver Spring LC, PFA-D Silver Spring, PFA-H Silver Spring LC, and PFA Manager LC ("Petitioners"), request the abandonment of (i) 8,055 square feet of right-of-way improved as a public road known as Ellsworth Drive along the northwestern border of property owned by Montgomery County, Maryland, located in Silver Spring, Maryland ("Upper Ellsworth"), and (ii) 21,170 square feet of a vehicular and pedestrian access easement and P.U.E. in the former Ellsworth Drive right-of-way ("Access Easement") previously abandoned by Montgomery County (the "County") on September 22, 1998, by Resolution 13-1430 (the "1999 Abandonment"), pursuant to Section 49-62, *et seq.*, of the Montgomery County Code (collectively, the "Abandonments").¹

Petitioners own or ground lease from the County certain property containing approximately 22.5 acres (the "Property") known as Downtown Silver Spring, a mixed-use urban renewal project constructed by Petitioners approximately seventeen (17) years ago ("Downtown Silver Spring" or "Project"). The Property includes the Access Easement and abuts Upper Ellsworth, as more fully described below and generally shown on the Local Area Map attached hereto as Exhibit "A" and Tax Maps attached as Exhibits "B1" and "B2". The area of the Access Easement (the "Access Easement Abandonment Area") and of Upper Ellsworth (the "Upper Ellsworth Abandonment Area") requested to be abandoned (collectively called the "Abandonment Areas") are shown on the Areas to be Abandoned Exhibit attached as Exhibit "C". Legal descriptions and sketches of the Abandonment Areas are attached as Exhibit "D". The record plats covering the Abandonment Areas (Plat No. 21283 and Plat No. 1602) are attached as Exhibit "E" (the "Parcel D Plat") and

¹ For ease of reference, a list of the exhibits referenced in this letter, as well as all exhibits, have been attached.



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Exhibit “F”, respectively. A list of owners whose property abuts the Abandonment Areas is contained in the Adjoining and Confronting Property Owners List attached hereto as Exhibit “G”.

The County owns the entirety of the properties abutting the Upper Ellsworth Abandonment Area by deed recorded among the Land Records of Montgomery County (“Land Records”) at Liber 3177, folio 466, attached hereto as Exhibit “H”, and the Parcel D Plat. The County also owns the entirety of the property subject to the Access Easement Area. See the Parcel D Plat. The Access Easement Abandonment Area is leased to Petitioners pursuant to a ground lease agreement between Montgomery County, Maryland, and PFA Silver Spring LC dated September 5, 2002 (the “Ground Lease”). A Declaration of Easements for Section C Downtown Silver Spring, recorded by Montgomery County as the Declarant among the Land Records at Liber 21768, folio 658 (the “Declaration”), established the Access Easement. As discussed in greater detail below, the Abandonments are requested to facilitate the much needed upgrade, refresh and expansion of the public use spaces and amenities located within Downtown Silver Spring.

Section 49-62 of the Montgomery County Code (the “Code”) authorizes the County Council, by adopting a resolution, to close or abandon the County’s right to use any right-of-way. The Code defines “right-of-way” to include, among other things, any road, sidewalk, pedestrian walkway or shared use path used by the public, including by pedestrians and bicyclists. Pursuant to Section 49-63(c)(1)-(2) of the Code, the Council may abandon a right-of-way if the Council finds that “(1) the right-of-way is no longer necessary for present public use or anticipated public use in the foreseeable future, or (2) the abandonment and closing is necessary to protect the health, safety and welfare of the residents near the right-of-way to be abandoned or closed.” As described more fully below and in the attached materials, the Abandonments requested by this Petition satisfy Section 49-63(c)(1) of the Code as the Abandonment Areas will no longer be necessary for present public use or anticipated public use in the foreseeable future.

BACKGROUND

A. Ellsworth Drive

Upper Ellsworth was dedicated to the County by a subdivision plat recorded among the Land Records of Montgomery County at Plat No. 1602 (Exhibit “F”). The Access Easement was created by the Declaration. The legal description and sketch of the Access Easement contained in the Declaration are attached as Exhibit “I”. The location of these areas, previously defined as the “Abandonment Areas,” are shown on Exhibit “C”. The existing conditions within and around the Abandonment Areas are shown on Exhibit “J” (the “Existing Conditions Plan”).

B. The Property

The Property is located within an area generally bounded by Colesville Road, Georgia Avenue, Cedar Street, and Wayne Avenue in Silver Spring and is more particularly described as follows:

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- Parcel A, Block A, as shown on Plat No. 21017 recorded among the Land Records on April 15, 1999.
- Parcel A, Block E, and Parcel B, Block A, as shown on Plat No. 22598 recorded among the Land Records on June 17, 2003.
- Parcel A Block D as shown on Plat No. 21284 recorded among the Land Records on January 4, 2000.
- Parcels D, E, F, G and H, Block B, as shown on Plat No. 21573 recorded among the Land Records on September 1, 2000.
- Parcels A, B, C, and D, Block C, as shown on Plat No. 22271 recorded among the Land Records on August 13, 2002.

The Property lies within the boundaries of the Amended Silver Spring Urban Renewal Plan (“Urban Renewal Plan”) approved by County Council Resolution No. 13-186 on March 11, 1997, and the Silver Spring CBD Sector Plan, Approved and Adopted in February 2000 (“Sector Plan”). Development approvals applicable to the Property consist of Project Plan No. 9-98005 (“Project Plan”), Preliminary Plan No. 1-98107, and Site Plan No. 8-99002 (“Site Plan”), all approved on March 2, 1999, and subsequently amended several times (the “Previous Entitlements”). The Site Plan permits 1,173,054 square feet of total development, including 288,931 square feet of office, 507,340 square feet of mixed-use retail, 151,130 (242 rooms) of hotel, 48,000 square feet of civic building, 236,320 square feet of residential (222 units), and 232,320 square feet of public use space (see Site Plan Amendment No. 8-99002B, which relevant conditions regarding use and density remained unchanged by subsequent amendments 81999002C, 81999002D, 81999002E, and 81999002F). Existing development on the Property consists of approximately 1,153,635 square feet of total development, including 228,931 square feet of office, 507,340 square feet of retail mixed use (retail, restaurants, and theater), 151,130 square feet of hotel, 40,000 square feet of civic building, and 226,234 square feet of residential. Existing development also includes 268,758 square feet of public use space, which includes Veterans’ Plaza at the corner of Ellsworth Drive and Fenton Street, Silver Plaza, and Gateway Plaza.

Since the approval of the Previous Entitlements, Montgomery County has comprehensively revised its Zoning Ordinance (ZTA 13-04, adopted on March 4, 2014 and effective October 30, 2014) and zoning map (District Map Amendment G-956, adopted on July 15, 2014, the “2014 District Map Amendment”). These processes resulted in rezoning the Property to CR-3.0 C-2.0 R-2.75 H-145 T; CR-5.0 C-4.0 R-4.75 H-200 T; CR-1.5 C-1.0 R-1.5 H-90 T; and CR-1.5 C-1.0 R-1.5 H-60 T, as shown on the Zoning Map for Montgomery County.

On November 19, 2019, Applicants filed amendments to the Project Plan and Site Plan (the “Amendments”). The Amendments propose to amend the Site Plan to reflect, among other things, (i) changes to hardscape and landscape design to improve the quality and quantity of available

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outdoor space, including changes within the Abandonment Areas; (ii) minor reductions in parking; and (iii) installation of new art.

The improvements included in the Amendments will take place on (1) Parcel C, Block C (“Gateway Plaza”) located in the southeastern quadrant of the intersection of Georgia Avenue and Colesville Road, (2) Ellsworth Drive between Georgia Avenue and Fenton Street, and (3) Parcel D, Block C (“Silver Plaza”). The purpose of the Amendments is to significantly enhance and refresh the public use space on the Property in a manner that conforms to the Sector Plan, is compatible with the character of the Project and surrounding area, and complies with the applicable zoning standards. The Amendments increase public use space and include the removal of four on-street parking spaces along Ellsworth Drive at its intersection with Georgia Avenue. No changes to the density, height or footprint of existing buildings are proposed.

Ellsworth Drive runs east to west through the Property from Georgia Avenue to Fenton Street. As explained above, the majority of Ellsworth Drive between Georgia Avenue and Fenton Street was abandoned pursuant to the 1999 Abandonment, and has been closed to all non-essential vehicular traffic for many years. The remainder of Ellsworth Drive (previously defined as “Upper Ellsworth”) at Fenton Street has also been closed to all non-essential vehicular traffic for several years.

This Petition seeks to abandon the Access Easement which was created after the 1999 Abandonment and Upper Ellsworth, which remained a public street after the 1999 Abandonment, to formally restrict non-essential vehicular traffic on Ellsworth Drive while allowing emergency vehicles and deliveries. Petitioners propose to modify the hardscape, streetscape, and landscaping within the Abandonment Areas to create a comfortable and inviting urban space where the community may gather, stay for varying periods of time and enjoy. This pedestrian friendly zone will be delineated by a raised brick walkway at the Fenton Street intersection and the installation of stone paving and synthetic turf within the Abandonment Areas. Mountable curbs and collapsible bollards to restrict vehicular access at both ends of Ellsworth are proposed. The brick paved sidewalks on either side of existing Ellsworth Drive will remain, but portions of the sidewalk paving will be changed to match the Silver Spring Standard brick. Additionally, in-grade placards will be installed to indicate that the walk on the southern side of Ellsworth will accommodate bicycles, as well as pedestrians, in conformance with the Bicycle Master Plan, approved and adopted in 2018 (“Bicycle Master Plan”). Existing tree pits along the southern side of Ellsworth Drive will be expanded to allow for the planting of more perennials and shrubs. Existing street trees shall remain, and additional new trees will be planted. A detailed drawing showing the Amendments is attached as Exhibit “K1” (the “Detailed Plan”). An illustrative site plan showing these improvements is attached as Exhibit “K2” (the “Illustrative Plan”). Finally, a Post-Abandonment Conditions Plan is attached as Exhibit “L” (the “Post-Abandonment Conditions Plan”).

Vehicular access will be provided from Georgia Avenue to the alley between Parcel E, Block B, and Parcel F, Block B, as a one-way street leading to the parking garage. Vehicles

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entering from Georgia Avenue will be directed to the alley from which they can enter the Wayne Avenue Garage or access Wayne Avenue. In this area, Petitioners propose to widen the adjacent sidewalk and install three new street trees on the northern side of the street by removing four existing off-street parking spaces. This new access pattern is shown on the Circulation Plan attached as Exhibit "M" (the "Circulation Plan").

Petitioners further propose to modify Silver Plaza to enlarge the usable space, enliven the area, and create more flexibility. Silver Plaza currently includes raised outdoor planters, lighting, benches for seating, dining areas, a splash fountain, large outdoor staircase and an exterior elevator. The Amendments propose to remove the existing elevator and locate a new elevator in the interior space, replace the splash fountain with a new sculptural water feature, replace the staircase with a more compact and lighter staircase to be erected closer to the existing building, and replace the pavers throughout the plaza. A significant new feature within Silver Plaza will be several wooden benches of varying geometric shapes that can transform into a covered stage for special events and gatherings by sliding together along metal tracks. This system and the changes to the staircase and elevator achieve more usable open area in the plaza and provide increased flexibility for event planning. Additional colorful and fun seating in the form of movable street furniture, benches, raised planters and a seat wall are also proposed. Outdoor dining in Silver Plaza will also be enhanced and expanded by adding an outdoor dining space in the northwestern area of Silver Plaza, and adding new pavers, furniture and landscaping to the existing outdoor dining space associated with the restaurant uses. The above-described improvements will enhance, expand, and modernize Silver Plaza, the Ellsworth Drive area, and the Project, making it a more attractive and flexible space which appeals to all age groups and encourages people to visit, enjoy, spend time, and return to Silver Spring.

Events which currently take place on the Ellsworth Drive area and in the Silver Plaza will be better accommodated by the Abandonment. For example, the proposed stage within the expanded Silver Plaza will create a defined space for community gatherings such as concerts and yoga. Additionally, the farmers market, which currently takes place each Saturday along Ellsworth Drive, will still be accommodated on the Property.

In portions of the Abandonment Areas, synthetic turf will be placed over the existing asphalt paving generally from the eastern edge of Silver Plaza to Fenton Street as shown on the Illustrative Plan (Exhibit "K2"), the Detailed Plan (Exhibit "K1"), and the Post-Abandonment Conditions Plan (Exhibit "L"). Existing concrete gutters will remain exposed and all stormwater facilities and inlets will continue to function as they do now, as will existing utilities and manholes as shown on the Utilities Plan attached as Exhibit "N". The turf will be maintained by Petitioners and will provide an expanded seating area where games and other activities/amenities can be located for enhanced enjoyment of visitors and patrons of all ages, while allowing the existing brick walks and tree pits to remain. The underlying asphalt base, which will remain, allows emergency and delivery vehicles to continue to access the space.

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C. Circulation

(1) **Vehicular**

Petitioners will continue to restrict vehicular traffic on Ellsworth Drive between Georgia Avenue and Fenton Street to essential vehicles, with the exception of the vehicular connection from Georgia Avenue to the alley to access the Wayne Avenue Garage and Wayne Avenue as discussed above and shown on the Circulation Plan. As previously stated, Ellsworth Drive has been restricted to vehicles for several years without causing any negative impacts to vehicular circulation.

(2) **Pedestrian**

The Petition will substantially enhance onsite pedestrian circulation. The proposed improvements in the Abandonment Areas will clearly delineate the area as a pedestrian zone and encourage walking by making the area more attractive, comfortable and inviting. Silver Plaza will be re-graded to remove the existing steps that flank the plaza on its western perimeter, which will improve pedestrian circulation. Implementation of the Amendments creates a prominent pedestrian friendly zone beginning in Gateway Plaza and extending to the intersection of Fenton Street and Ellsworth Drive. The synthetic turf, special pavers, seating and other amenities define the area as a pedestrian realm to be participated in and enjoyed.

(3) **Bicycle**

Bicycling markers clearly delineate the integration of bikes into and through the areas. This design, together with additional bike parking, encourage and accommodate biking. Additionally, bike circulation through the property provides connectivity to other bike routes.

D. Sector Plan

(1) **Recommendations for the Core**

The Sector Plan locates the Property within the “Core” neighborhood of the CBD. The Previous Entitlements achieved the urban renewal and revitalization goals of the Urban Renewal Plan and Sector Plan. The Abandonment, by facilitating the full implementation of the Amendments, will enhance the existing development approved under the Previous Entitlements in furtherance of the goals of the Sector Plan. The overarching vision of the Sector Plan for the Core was to create a vibrant, mixed-use center for the Silver Spring community (p. 13). The modifications proposed by the Amendments and facilitated by the Abandonments create a nearly exclusive pedestrian zone extending from Gateway Plaza through Silver Plaza to the intersection of Fenton and Ellsworth by restricting Ellsworth Drive to only essential vehicles and making numerous improvements to the open space as described above. Within this area, the Amendments propose a series of detailed enhancements from special seating to private dining to new public art and landscaping. Together, these improvements contribute to the Project as the “center of the

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community.” As further stated in the Sector Plan: “The Core will be rejuvenated as Silver Spring’s varied and active town center, with housing, office, and retail development in a pedestrian-friendly environment, enhanced with parks and open spaces.” (p. 36) The Sector Plan further explains that the “Core will be reborn as the commercial, civic, and entertainment center of Silver Spring and its surrounding neighborhoods.” (p. 36) The proposed improvements further these goals and keep the Project competitive and fresh, attracting new tenants that serve the public interest and by lifting and refreshing existing tenants to ensure the longevity and success of this important Project to the health and vibrancy of Silver Spring.

The implementation of the improvements will continue the rejuvenation of the Core and its status as the “commercial, civic, and entertainment center of Silver Spring.” *Id.* For the Property specifically, the Sector Plan recommends “mix of public and private uses, special events, and daily shopping will serve the community and its visitors.” *Id.* The Amendments maintain and expand upon the success of the Previous Entitlements by enhancing and expanding the public use space in a contemporary fashion. The modifications create a more flexible and attractive pedestrian area. The Project is already the commercial heart of the Core with its varied shops and retail services, restaurants, hotel, entertainment and residential uses. After some seventeen (17) years, the status of the area as a vital urban center will be improved and perpetuated by the increase in the amount of public use space and extensive enhancements to that space. The Amendments also contribute to the status of the Core as the entertainment center of Silver Spring by permitting a new, innovative seating element that doubles as a stage in Silver Plaza in order to facilitate special events and several new areas for games and activities. The synthetic turf to be placed within the Abandonment Areas provides more seating areas of varied types and room for games or relaxation and many other amenities.

The Sector Plan also specifically recommends that “Development on the Urban Renewal site will be in a pedestrian friendly, town center pattern with stores and streetscape that encourage people to walk.” Sector Plan, p. 36. As outlined above, the Abandonments and formal restriction of Ellsworth Drive to all but essential vehicular traffic and proposed improvements create a distinct and varied pedestrian friendly area extending from Gateway Plaza to the intersection of Fenton Street and Ellsworth Drive.

The Sector Plan acknowledges the importance of the design of the Project, stating: “[d]esign of individual projects within the Urban Renewal Area should contribute to the greater urban environs.” *Id.* at 80. The Abandonments further this recommendation by allowing for the modernization of the design of two of the Property’s key open space areas, Gateway Plaza and Silver Plaza, placing an iconic new artwork on Gateway Plaza and new amenities of wider appeal in Silver Plaza, as well as significant upgrades to their hardscape and landscaping and transformation of portions of the asphalt paving in the Abandonment Areas to artificial turf.

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Page 8

(2) Area-Wide Recommendations

The Abandonments are in conformance with the Sector Plan's vision of rejuvenation, revitalization, and investment in the Core through mixed-use activity centers.

(a) *Rejuvenation, Revitalization, and Investment through Urban Mixed-Use Activity Centers*

A vision of the Sector Plan is "to create a downtown for Silver Spring that will be the focal point of community life, offering a variety of activities where residents can work, live, play, and socialize." (Sector Plan, p. 3). This vision is best achieved by permitting the upgrading, modernizing and expansion of the public open space on the Property, as proposed by the Amendments within the Abandonment Areas. The Project serves as Silver Spring's main town center and the proposed improvements keep it attractive and competitive. In particular, the changes within the Abandonment Areas to Ellsworth Drive by the addition of synthetic turf and the enhancements to Silver Plaza will create more modern and updated open space opportunities in the heart of the CBD where residents and visitors can continue to gather to enjoy the place or special events.

(b) *Civic Downtown*

The Sector Plan emphasizes that "civic presence in the CBD will be formed by the concentration and proximity of plazas, recreation facilities, community centers, historic buildings, police and fire facilities, adding to downtown's convenience and texture. The proximity of these varied activities draws people to the downtown and creates opportunities for economic and social connections." (p. 21) The Abandonments facilitate achievement of these goals. They enhance the Project in ways that will continue to create new opportunities for "economic and social connections."

(c) *Pedestrian Friendly Downtown*

The Sector Plan explains: "An urban area's greatest economic asset and strongest physical definition comes from its pedestrian environment." Sector Plan, p. 24. The Amendments enhance and modernize the pedestrian realm and provide flexible and fun public use spaces.

THE PETITION FOR ABANDONMENT

Section 49-63(c)(1) of the Code permits the County Council to abandon a right-of-way if it finds that the same is no longer necessary for present public use or anticipated public use in the foreseeable future. As detailed above, the Abandonments facilitate many recommendations of the Sector Plan, including maintaining and strengthening the Project role as the centerpiece of Silver Spring.



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The overall configuration is shown on the Post-Abandonment Conditions Plan (Exhibit "L"), which depicts, among other things, the revised public areas from Georgia Avenue to the Wayne Avenue garage, and the proposed improvements within the Abandonment Areas in conjunction with the other major enhancements to the public use space. Anticipated emergency access is also illustrated on the Circulation Plan (Exhibit "M").

As noted above, all public utilities that currently exist in the Abandonment Areas are shown on the public Utilities Plan (attached as Exhibit "N") and remain unchanged. Therefore, the Abandonment Areas will continue to accommodate public utilities as they currently exist. Finally, as required by Section 49-63(d) of the Code, the rights-of-way to be abandoned are not the sole means of access to any property.

Accordingly, the Abandonments are appropriate as the Abandonment Areas are no longer necessary for present public use or anticipated public use in the foreseeable future.

Very truly yours,

MILES & STOCKBRIDGE P.C.

A handwritten signature in blue ink that reads 'Barbara A. Sears' followed by a stylized monogram or initials.

Barbara A. Sears

Enclosures

cc: Eric Willis
Tina Benjamin
Bryant Foulger
Paul Weinschenk
Garry Witt

RESOLUTION 13-1429
INTRODUCED September 22, 1998
ADOPTED September 22, 1998

COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND

By County Council

SUBJECT: DPWT DOCKET NO. AB628
ABANDONMENT OF A PORTION OF ELLSWORTH DRIVE

BACKGROUND

1. A petition submitted jointly by Montgomery County, Maryland and PFA Silver Spring LC seeking the abandonment of Ellsworth Drive from Fenton Street to Georgia Avenue in the 13th District, Silver Spring, Maryland. This abandonment is necessary for the Silver Spring Redevelopment Project.
2. A public hearing to consider the abandonment proposal was conducted on August 10, 1998, by the Designee of the County Executive.
3. The Washington Suburban Sanitary Commission, Washington Gas Company, Potomac Electric Power Company and Bell Atlantic Telephone Company, indicate conditional approval.
4. The Department of Police and the Department of Fire and Rescue Services grant approval of the proposed abandonment.
5. The Maryland National Capital Park and Planning Commission recommended approval of the proposed abandonment.
6. The Department of Public Works and Transportation recommends approval of the abandonment proposal.
7. The County Executive recommends approval of the proposed abandonment.

Resolution/Abandonment
AB628 - Ellsworth Drive
Page 2

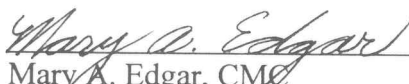
Resolution No. 13-1429

ACTION

The County Council for Montgomery County, Maryland finds that the subject portion of Ellsworth Drive is no longer necessary pursuant to Section 49-63 of the Montgomery County Code and approves the abandonment, subject to the following conditions:

1. That the petitioner agrees in writing to grant any and new necessary utility easements required by Washington Gas for their facilities, or for those easements now recorded to remain in their proper locations.
2. Retention of easements or by granting of new easements for Bell Atlantic Telephone Company, Potomac Electric Power Company, and Washington Suburban Sanitary Commission, as needed for their facilities.
3. The granting of an easement for public access on Ellsworth Drive pursuant to the General Development Agreement.
4. That the petitioner bear all costs associated with the preparation and recordation of all easement documents.
5. The Petitioner must prepare a subdivision plat to assemble the land occurring from the abandonment with the appropriate abutting properties. The abandonment will not take effect until the Plat of Subdivision is prepared, approved for recording by the Planning Board, and recorded.
6. The County Attorney shall cause authenticated copy of this Resolution to be filed in the County Land Records in conformity with Montgomery County Code.
7. Any person may appeal to the Circuit Court within 30 days of the Council Action.

This is a correct copy of Council Action.



Mary A. Edgar, CMC
Secretary of the Council

mailed to -

~~Public Works Commission 13th Regular Session 2-25-64~~

LIBER 3177 FOLIO 466

Recorded Jan. 16th, 1964-at-10:40 A. M.

D E E D

THIS DEED made this 30th day of October, in the year 1963, by and between THE H. K. S. CORPORATION, GRANTOR, and MONTGOMERY COUNTY, MARYLAND, GRANTEE, hereinafter called the COUNTY,

W I T N E S S E T H :

That in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the said GRANTOR does grant and convey unto the said COUNTY, a body corporate, its successors and assigns, in fee simple, all that piece or parcel of ground situate and lying in Montgomery County, Maryland, and being more particularly described as follows:

PARCEL I

Being a part of Lot #1 in a subdivision entitled "H. K. S. Subdivision," recorded in Plat Book 51 at Plat 4018, among the Land Records of Montgomery County, Maryland. Being also parts of the following three land conveyances; Teck Construction Company a corporation existing under the laws of the State of Delaware to H. K. S. Corporation also of Delaware in a deed made July 14, 1947, and recorded in Liber 1090 at Folio 140; The Hecht Company Inc. to H. K. S. the aforementioned corporation from Delaware in a deed dated July 14, 1947 and recorded in Liber 1090 at Folio 141; and the Hecht Company Inc. to H. K. S. the aforesaid Delaware Corporation in a deed made Oct. 29, 1947, and recorded in Liber 1115 at Folio 161, all three deeds being recorded among the Land Records of Montgomery County, Maryland. Said part of Lot #1 being more particularly described as follows:

Beginning for the same at a point, said point being the southwest corner of aforesaid Lot #1 recorded in Plat Book 51 at Plat 4018, and also being the beginning of the 1st line in the previously mentioned conveyance recorded in Liber 1090 at Folio 140. Thence leaving said point of beginning and running with the 1st two lines mentioned in Liber 1090 at Folio 140 the following courses and distances; N 28° 06' 10" E 29.11' along the east side of Colesville Road to a point of curve, thence leaving said point of curve with a curve to the right having a radius of 25.00; an arc distance of 40.79' and a chord bearing and distance of N 74° 50' 47" E 36.41' to the point of tangency of said curve. Thence leaving said point of tangency, and running with the south line of Fenton Street S 58° 24' 36" E 294.34'; said course and distance being all of the 3rd line previously mentioned in Liber 1090 at Folio 140, all of the 4th line previously mentioned in Liber 1090 at Folio 141, and part of the 3rd line in aforementioned Liber 1115 at Folio 161. Thence leaving said point, the south line of Fenton Street, and running with the east line of aforesaid Lot #1 S 42° 08' 31" W 8.09'. Thence leaving said east line of Lot #1, and running with the proposed south right-of-

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way line of Fenton Street N 58° 24' 36" W 292.95' to the point of a curve. Thence leaving the south right-of-way line of Fenton Street, with a curve to the left having a radius of 9.50', an arc distance of 15.47', and a chord bearing and distance of S 74° 56' 14" W 13.82' to the point of tangency of said curve. Thence leaving said point and running with the proposed east right-of-way line of Colesville Road S 28° 17' 04" W 37.63' to intersect the south line of aforesaid Lot #1. Thence leaving said point, and running N 58° 24' 36" W 15.75' to the point of beginning, containing 3,167 square feet of land more or less.

PARCEL II

Being part of a tract of land conveyed by the Hecht Company, a Maryland corporation to H. K. S. Corporation, a corporation existing under the laws of the State of Delaware by deed dated Oct. 29, 1947, and recorded in Liber 1115 at Folio 161 among the Land Records of Montgomery County, Maryland. Being more particularly described as follows:

Beginning for the same at a point, said point being 13.50' from the beginning of the 3rd line in the abovementioned deed to H. K. S. Corporation. Thence leaving said point of beginning, and running with the remaining part of aforesaid 3rd line, and along the south side of Fenton Street S 58° 24' 36" E 45.24' to the end thereof, and a point of curve. Thence leaving said 3rd line, and running with the 4th line of the same deed with a curve to the right having a radius of 733.94', an arc distance of 85.11', and a chord bearing and distance of S 55° 05' 16" E 85.07' to the end thereof, and the point of a compound curve. Said line also following the south side of Fenton Street. Thence leaving said 4th line, and running with the 5th line of the same deed with a curve to the right having a radius of 25', an arc distance of 40.97' and a chord bearing and distance of S 4° 49' 23" E 36.53' to the end thereof, and the point of tangency. Thence leaving said 5th line, and running with the 6th line of the previously mentioned deed, along the west side of Ellsworth Drive S 42° 07' 10" W 228.62' to the end thereof. Thence leaving Ellsworth Drive, and running with a part of the 7th line in the abovementioned deed N 40° 58' 20" W 5.17' to intersect the proposed west right-of-way line of Ellsworth Drive. Thence leaving said point, and running with said west proposed right-of-way line of Ellsworth Drive N 42° 07' 10" E 228.15' to an angle point in said proposed west right-of-way line. Thence leaving Ellsworth Drive, said angle point, and running the following three courses and distances with the proposed right-of-way line and the face of the Hecht Co. Building as now existing N 24° 06' 58" E 10.99', N 7° 03' 48" W 8.05', and N 38° 04' 00" W 11.01'. Thence leaving said point, and running with the proposed south right-of-way line of Fenton Street, N 56° 28' 47" W 131.58' to intersect the east line of Lot #1 in a subdivision entitled "H. K. S. Subdivision", and recorded in Plat Book 51 at Plat 4018 among the Land Records of Montgomery County, Maryland. Thence leaving said point, and running with said east line of Lot #1, N 42° 08' 31" E 7.93' to the point of beginning containing 2,569 square feet of land more or less.

The County proposes to use the land herein conveyed for the improvement of Fenton Street.

3177 468

TOGETHER WITH the buildings and improvements thereupon, and all the rights, privileges, easements, appurtenances and advantages thereto belonging or appertaining; together with a right of entry by the COUNTY upon so much of the contiguous land remaining in said GRANTOR as is necessary for the purpose of constructing, installing, maintaining or reconstructing necessary slopes for draining and/or stabilizing the abutting property.

TO HAVE AND TO HOLD the premises herein granted unto the COUNTY, its successors and assigns, forever upon condition, however, that the said COUNTY, its successors and assigns, shall use and maintain the said property for street and sidewalk purposes, and upon the further condition that, if the said COUNTY shall abandon, fail, neglect or omit to maintain and use the said premises for street and sidewalk purposes, then, and in such event, the said premises and land shall revert to and the title shall vest in the GRANTOR, its successors and assigns, with the same force and effect as if this deed had not been made, executed, and delivered.

AND the said GRANTOR does hereby covenant that it will warrant specially the property hereby conveyed, and that it will execute such further assurances of said land as may be requisite.

As in witness whereof the H. K. S. CORPORATION, GRANTOR, has caused these presents to be signed by its President and its corporate seal hereunto fixed, and attested by its Secretary, under proper authority unto them granted this 30th day of October, 1963.

ATTEST:

STATE OF MARYLAND)

COUNTY OF MONTGOMERY)

ss:

I hereby certify that on this 30th day of October,

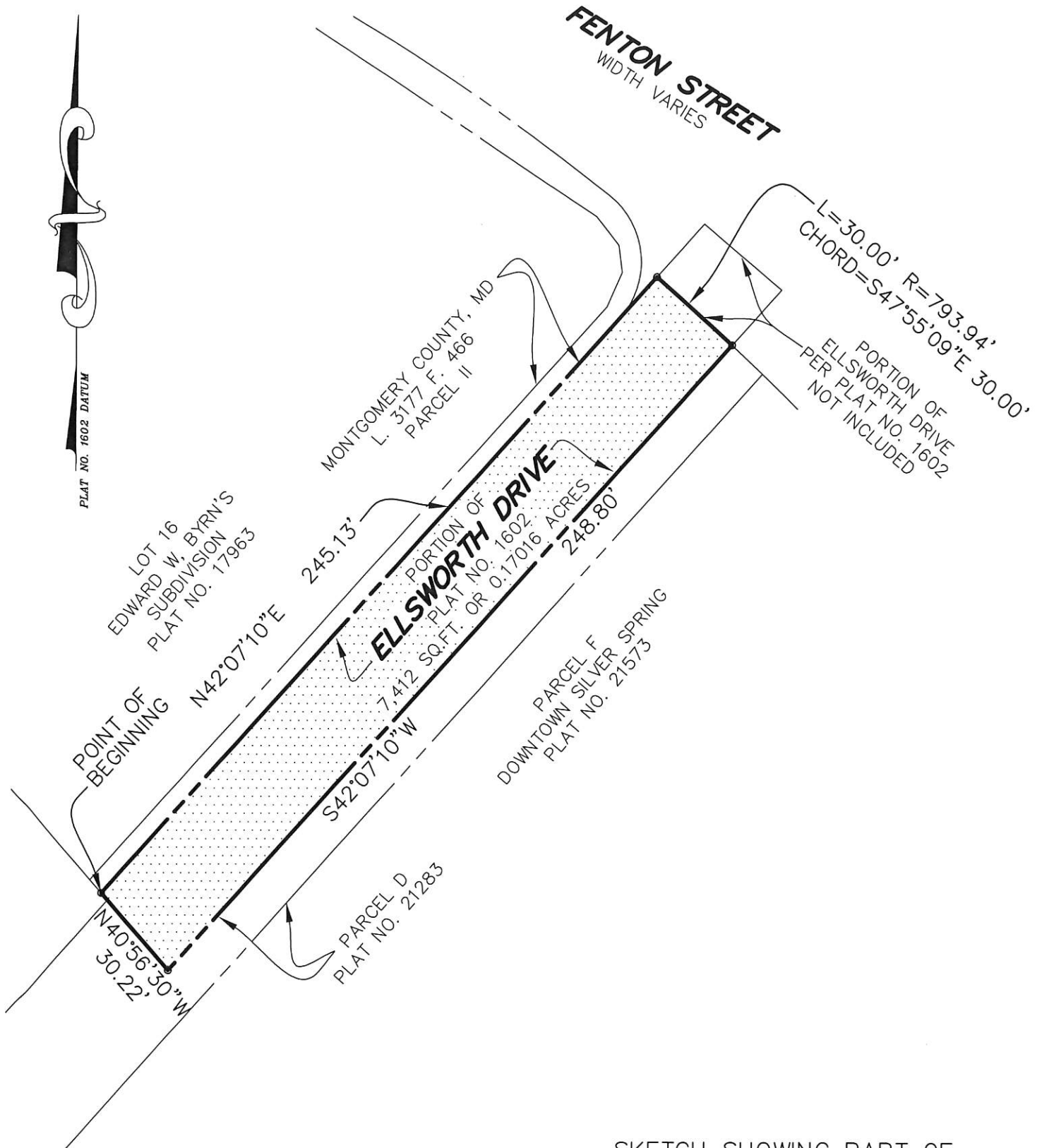
H. K. S. CORPORATION

By Shirley Roberts (SEAL)
PRESIDENT

LIBER 3177 CH 10 469

1963, before me, the subscriber, a Notary Public of the foresaid State and County, personally appeared J. H. [unclear], personally well known (or satisfactorily proven) to be the [unclear] of the H. K. S. Corporation, whose name is signed to the foregoing instrument, and, being authorized to do so, did acknowledge the same to be the act and deed of said corporation.

[Signature]
Notary Public



VIKA MARYLAND, LLC
20251 Century Blvd., Suite 400
Germantown, MD 20874
301.916.4100 | vika.com

Our Site Set on the Future.

SKETCH SHOWING PART OF ELLSWORTH DRIVE

PLAT NO. 1602

13TH ELECTION DISTRICT

MONTGOMERY COUNTY, MARYLAND

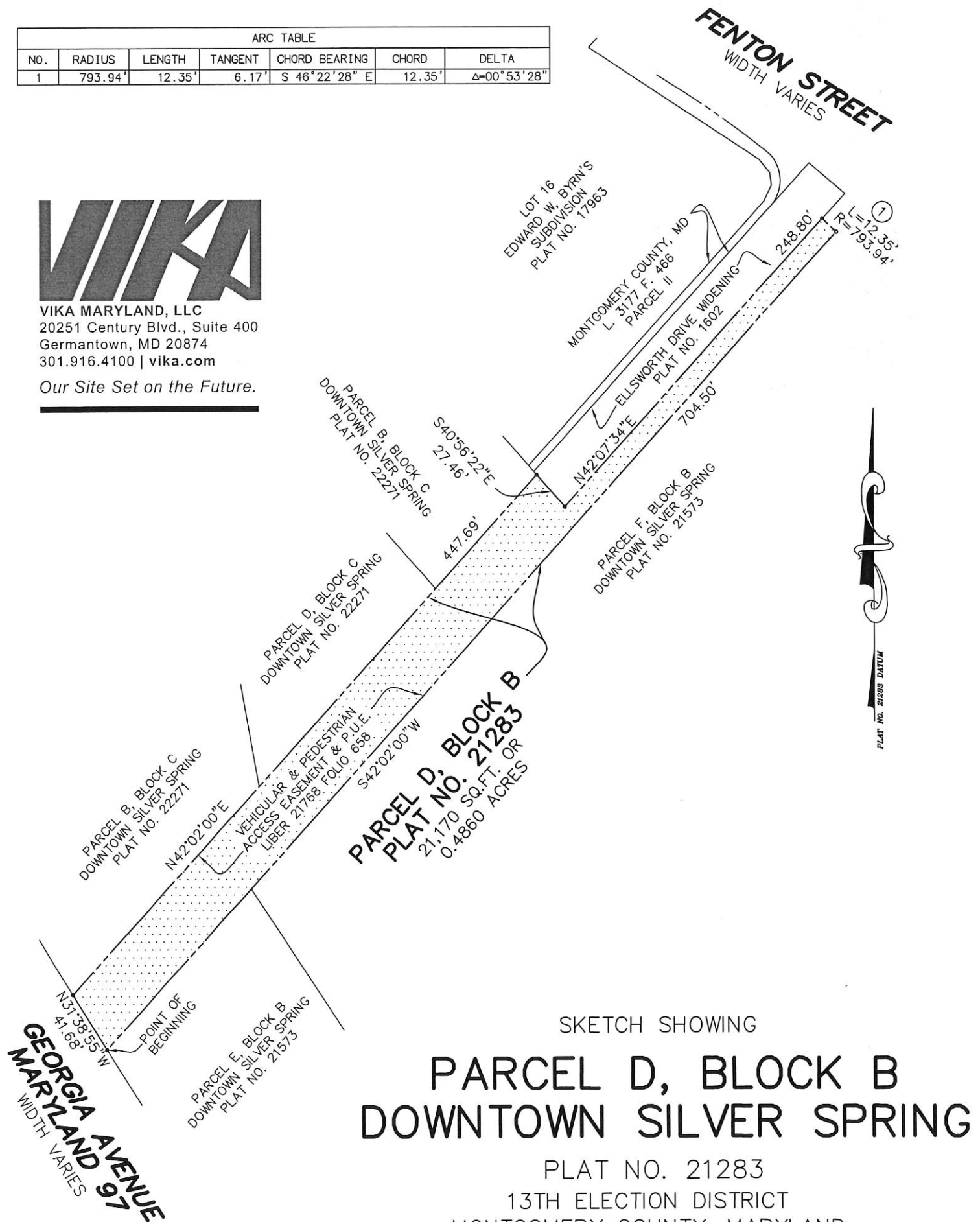
SCALE: 1" = 40' APRIL 2020

ARC TABLE						
NO.	RADIUS	LENGTH	TANGENT	CHORD BEARING	CHORD	DELTA
1	793.94'	12.35'	6.17'	S 46°22'28" E	12.35'	$\Delta=00^{\circ}53'28''$



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 Germantown, MD 20874
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SKETCH SHOWING

PARCEL D, BLOCK B DOWNTOWN SILVER SPRING

PLAT NO. 21283

13TH ELECTION DISTRICT

MONTGOMERY COUNTY, MARYLAND C-6

SCALE: 1" = 80' APRIL 2020



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

MCPB No. 20-047
Site Plan No. 81999002M
Downtown Silver Spring
Date of Hearing: June 18, 2020

JUL 07 2020

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 March 2, 1999, the Planning Board, approved Site Plan No. 819990020¹ for 1,175,935 gross square feet of retail, office, entertainment, restaurant, hotel and housing uses and 354,023 square feet of public amenities on 22.5 acres of CBD zoned-land, located at the corner of Colesville Road and Georgia Avenue ("Subject Property"), in the Silver Spring Central Business District Sector Plan ("Sector Plan") area; and

WHEREAS, on September 1, 1999, the Planning Board approved an amendment to the previously approved site plan, designated Site Plan No. 81999002A, for 1,240,198 gross square feet of mixed retail, entertainment, office, civic, a 242 room hotel, and 160 multi-family dwelling units, as well as 379,731 gross square feet of public use space, off-site amenities and facilities on the Subject Property; and

WHEREAS, on June 20, 2001, the Planning Board approved an amendment to the previously approved site plan, designated Site Plan No. 81999002B, to modify the design for the Silver Plaza public amenity space on the Subject Property; and

WHEREAS, on October 8, 2007, the Planning Board approved an amendment to the previously approved site plan, designated Site Plan No. 81999002F (MCPB No. 06-75), for 222 multi-family dwelling units, including 31 MPDUs, on Block E of the

¹ All other amendments not listed below were approved administratively.

MCPB No. 20-047
Site Plan No. 81999002M
Downtown Silver Spring
Page 2

Downtown Silver Spring development on the CBD-0.5 zoned land on the Subject Property; and

WHEREAS, on November 15, 2007, the Planning Board approved an amendment to the previously approved site plan, designated Site Plan No. 81999002G (MCPB No. 07-134), for a 41,986 square foot civic building and 136,930 gross square feet of on-site public use space, including an outdoor seating area, pavilion and ice skating rink on the Subject Property; and

WHEREAS, on January 21, 2016, the Planning Board approved an amendment to the previously approved site plan, designated Site Plan No. 81999002L (MCPB No. 16-006), to modify the existing exterior stairs including the public art component on the Subject Property; and

WHEREAS, on November 19, 2019, 8515 Georgia Avenue Associates LLC, PFA-A Silver Spring LC, PF A-B Silver Spring LC, PF A-C Silver Spring LC, PF A-D Silver Spring LC, PF A-H Silver Spring LC, PF A Silver Spring Manager LC ("Applicant") filed an application for approval of an amendment to the previously approved site plans to redesign and increase public use space by 10,242 square feet, from 268,758 square feet to 279,000 square feet, restrict Ellsworth Drive access for non-essential vehicles, reduce parking by 11 spaces, decommission previously approved public art and install new public art, and update data table to reflect past amendments on the Subject Property; and

WHEREAS, Applicant's application to amend the site plan was designated Site Plan No. 81999002M, Downtown Silver Spring ("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 June 5, 2020, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on June 18, 2020, the Planning Board held a public hearing on the Application at which it heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, on June 18, 2020 the Planning Board voted to approve the Application subject to conditions, on the motion of Commissioner Verma, seconded by Commissioner Cichy, with a vote of 3-0; Commissioners Verma, Cichy, and Chair Anderson voting in favor, with Vice Chair Fani-Gonzalez and Commissioner Patterson abstaining.

MCPB No. 20-047
 Site Plan No. 81999002M
 Downtown Silver Spring
 Page 3

NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves Site Plan No. 81999002M to redesign and increase public use space by 10,242 square feet, from 268,758 square feet to 279,000 square feet, restrict Ellsworth Drive access for non-essential vehicles, reduce parking by 11 spaces, decommission previously approved public art and install new public art, and update data table to reflect past amendments by adding the following conditions:²

1. Abandonment of Public Right-of-Way

- a. Prior to issuance of right-of-way permit, the Applicant must receive approval from County Council for the Abandonment Application No. AB-771 for the public right-of-way within Ellsworth Drive.
- b. The Certified Site Plan must include an alternative design for Ellsworth Drive without synthetic turf, to be implemented if the County Council does not approve Abandonment Application No. AB-771.

2. Department of Permitting Services-Right-of-Way

The Planning Board has reviewed and accepts the approval of the Montgomery County Department of Permitting Services Right-of-Way Permitting (DPS-RPP) Section in its memo dated May 20, 2020. The Applicant must comply with each of the recommendations as set forth in the letter, which MCDPS may amend if the amendment does not conflict with other conditions of Site Plan approval.

3. Department of Permitting Services-Fire Department Access

The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Services (MCDPS), Fire Department Access and Water Supply Section in its letter dated May 26, 2020 and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in the letter, which MCDPS may amend if the amendment does not conflict with other conditions of Site Plan approval.

4. Maintenance

In addition to the maintenance agreement integrated into the MCDPS FDA approval, the Applicant must provide the Manufacturer's Care and Maintenance Manual within the Certified Site Plan and regularly maintain the synthetic turf according to the latest version of this Manual.

5. Public Art

² 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.

MCPB No. 20-047
 Site Plan No. 81999002M
 Downtown Silver Spring
 Page 4

The Planning Board has reviewed and accepts the recommendations of the Art Review Panel as described in their letter dated May 4, 2020 and incorporates them as conditions of approval.

- a. The Applicant must install the public art concept designed by artist Foldhaus, as presented to the Planning Board's Art Review Panel on April 8, 2020 and illustrated in the Certified Site Plan.
- b. The Certified Site Plan must include the schematic design and the name of the artist, as well as the overall dimensions, prescribed materials, and general description of associated lighting fixtures, footers, and fasteners.
- c. Any significant changes to the concept must be presented to the Art Review Panel and approved by M-NCPPC Staff before Certified Site Plan.
- d. Significant changes to the concept may require a Site Plan Amendment.
- e. Prior to issuance of the first building permit for installation of the public art, the Applicant must notify the Art Review Panel per page 15 of the Art Review Panel's Policies and Procedures about the final location for the following art pieces: "Lightweb" by Craig Kraft; "A Celebration of Life: Homage to Food Plants of the World" by Jorge Somarriba (2004).
- f. Prior to issuance of the first building permit for installation of the public art, the Applicant and Artist(s) must execute a maintenance agreement for the public artwork and submit the executed document to the Montgomery County Planning Department.
- g. The building permit for the art installation must be issued prior to Use and Occupancy permit for the building alterations.
- h. Prior to final Use and Occupancy Permit for the artwork, the Applicant must provide and install the public art illustrated on the Certified Site Plan.
- i. Prior to final inspection of the public artwork, the Applicant must submit to the Public Art Coordinator of the Montgomery County Planning Department for inclusion in the County inventory of public artworks at least three images of the artwork on-site and the following information: the associated project number; title of the artwork; date of completion; description of materials used; and the address.

6. Site Plan Surety and Maintenance Agreement

Prior to issuance of any building permit, sediment control permit, or Use and Occupancy Certificate, the Applicant must enter into a Site Plan Surety and Maintenance Agreement with the Planning Board in a form approved by the M-NCPPC Office of General Counsel that outlines the responsibilities of the Applicant. The Agreement may be phased and must include a performance bond(s) or other form of surety in accordance with Section 59-D-3.5(d) of the Montgomery County Zoning Ordinance, with the following provisions:

- a. A cost estimate of the materials and facilities, which, upon Staff approval, will establish the surety amount.

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Site Plan No. 81999002M
Downtown Silver Spring
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- b. The cost estimate must include applicable Site Plan elements, including, but not limited to plant material, synthetic turf, on-site lighting, site furniture, public amenities, public art, trash enclosures, associated improvements of development, including sidewalks, bikeways. The surety must be posted before issuance of any building permit of development and will be tied to the development program.
- c. The bond or surety must be tied to the development program, and completion of all improvements covered by the surety for each phase of development will be followed by a site plan completion inspection. The surety may be reduced based upon inspector recommendation and provided that the remaining surety is sufficient to cover completion of the remaining work.

7. Public Use Space and Amenities

- a. The Applicant must provide a minimum of 279,000 square feet of public use space on-site.
- b. Before the issuance of final use and occupancy certificates for the renovations, all public use space areas on the Subject Property must be completed.
- c. The Applicant must provide public amenities on-site as shown on the Certified Site Plan, these amenities may be updated and replaced from time to time with approval by MNCPPC staff.
- d. On the clock tower facade above the breezeway to the Wayne Avenue garage, Applicant may install either an electronic screen or scrim, as shown on the Certified Site Plan. The final design of the amenity must be compatible with the overall building facade and may be updated and replaced from time to time with approval by MNCPPC staff. The Visual Amenity is limited in use for artistic display and must not be utilized for advertisement or information purposes unless approved by the Sign Review Board, as required.
- e. The Applicant must install landscaping no later than the next growing season after completion of site work.

8. Lighting

- a. Prior to certified Site Plan, the Applicant must provide certification to Staff from a qualified professional that the exterior lighting in this Site Plan conforms to the latest Illuminating Engineering Society of North America (IESNA) recommendations (Model Lighting Ordinance-MLO: June 15, 2011, or as superseded) for a development of this type. All onsite exterior area lighting must be in accordance with the latest IESNA outdoor lighting recommendations (Model Lighting Ordinance-MLO: June 15, 2011, or as superseded).
- b. All onsite down-lights must have full cut-off or BUG-equivalent fixtures.
- c. Deflectors will be installed on all proposed fixtures to prevent excess illumination and glare.

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 Site Plan No. 81999002M
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- d. Illumination levels generated from on-site lighting must not exceed 0.5 footcandles (fc) at the lot line, excluding areas impacted by streetlights within the right-of-way.
- e. Streetlights and other pole-mounted lights must not exceed the height illustrated on the Certified Site Plan.

9. Bikeway

The Applicant must clearly demonstrate the shared street bikeway along Ellsworth Drive as illustrated on the Certified Site plan and address the following:

- a. Demonstrate a minimum travel width of 12 feet.
- b. Revise dimensions for sidewalk bicycle markings to be a minimum of 18 inches by 18 inches.
- c. Provide a detail demonstrating safe transition at the following locations for review by staff and MCDOT:
 - 1. On Ellsworth Drive from the shared bikeway along the public plaza to the shared sidewalk bikeway
 - 2. Ellsworth Drive at Fenton Street
 - 3. Ellsworth Drive at the private alley.

10. 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. Add a note to Sheet L0802 stating that "Milling of the roadway is limited to the areas of turf installation. Any milling must maintain free flow of water from the roadway surface to the storm drain system to avoid standing water on Ellsworth Drive roadway."
- b. Ensure consistency of all details and layout between Site and Landscape plans.
- c. Modify data tables to reflect development standards approved by the Planning Board.
- d. Include all applicable approval letters, development program and related Sketch Plan, Preliminary Plan, Site Plan resolutions on the cover sheets.
- e. Add a note stating that "Minor modifications to the limits of disturbance shown on the site plan within the public right-of-way for utility connections may be done during the review of the right-of-way permit drawings by the Department of Permitting Services."

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 81999002M, submitted via ePlans to the M-NCPPC as of the

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 Page 7

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 and findings of its Staff as presented at the hearing and 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:

1. *Unless specifically set forth herein, this Amendment does not alter the intent, objectives, or requirements in the originally approved site plan as revised by previous amendments, and all findings not specifically addressed remain in effect.*
2. *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.*

The Site Plan Amendment is in conformance with Project Plan 919980050, as amended.

3. *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.*

The Amendment is in keeping with the previous approvals for Downtown Silver Spring in regard to conformance with the CBD-0.5, CBD-1, CBD-2, and CBD R-2 zones. The Amendment will not alter any of the existing building heights, setbacks, or density. The Amendment proposes to increase public use space and reduce parking in Surface Lot Block C from 33 to 22 spaces, which has been reflected in the Project Data Table below.

Project Data Table

Development Standard	Permitted/Required	Approved per 81999002L	Proposed for Approval
Lot Area (min. sf)	20,000	980,100	980,100
Net Lot Area (sf)		932,659	932,659

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Gross Floor Area (sf)			
Office		228,931	228,931
Retail-mixed use		507,340	507,340
Hotel		151,130	151,130
Civic Building		40,000	40,000
Residential		226,234	226,234
Total (sf / FAR)		1,165,635 / 1.2	1,165,635 / 1.2
Amenities & Facilities			
Public Use Space	186,532	268,758	279,000
On-site seating		10,000	10,000
Off-site Improvements	80,586	92,278	92,278
Total	267,118	376,036	386,278
Parking Spaces			
Parking Garage Block B		1,812	1,812
Parking Garage Block D		1,341	1,341
Structure under Office Block B		257	257
Structure Under Residential Block E		146	146
Surface Lot Block C		33	22
Surface Lot Block A		281	281
Total	3,775	3,870	3,859
Bike Parking			
		15	22

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

The proposed Amendment will not alter any of the existing buildings or structures. The Amendment will increase the amount of public use space available to the public by expanding the limits of the space into existing Ellsworth Drive right-of-way, which is comprised of both public and private right-of-way. As conditioned, the Project must receive County Council approval for the abandonment of public right-of-way within Ellsworth Drive. Closure of Ellsworth Drive to thru traffic will not significantly impact the surrounding vehicular circulation system, as currently Ellsworth Drive is often informally closed to thru traffic. Ellsworth Drive will maintain accessibility to emergency services vehicles at all times and has received approval from the Department of Permitting Services Fire Department Access and Water Supply.

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Page 9

The Amendment will enhance pedestrian circulation by providing an extended area for outdoor active and passive enjoyment. The Applicant proposes to provide additional seating and activation elements such as ping pong tables, bistro café seating, a new water feature, and other elements to increase enjoyment of the space. The Applicant also proposes to increase landscaping by providing two new tree pits within the plaza and expanding tree pits along Ellsworth Drive to allow for additional shrubbery and vegetation. The Applicant proposes to extend the existing curb (rolled curb design) and sidewalk at the intersection of Fenton Street and Ellsworth Drive to provide an enhanced sidewalk area for pedestrians and indicate to vehicles that the street is not accessible. The rolled curb design will allow emergency access vehicles, as approved by MCDPS Fire Access and Water Supply Division.

There is existing street parking on the north and south side of Ellsworth Drive at the Georgia Avenue intersection, the Amendment proposes to remove the street parking on the northern side of Ellsworth Drive to expand the sidewalk area and provide street trees. This portion of Ellsworth Drive will remain open to vehicles, and a rolled curb will be installed after the private alley to restrict vehicles on Ellsworth Drive yet allow those vehicles to circulate through the private alley to the Wayne Avenue parking garage entrance or continue to Wayne Avenue. As conditioned, the Amendment maintains adequate, safe, and efficient pedestrian and vehicular systems.

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.*

The original Site Plan approval (819990020) included a Forest Conservation Plan, which required 3.08 acres of afforestation and was originally met through providing 3.25 acres of planting landscape trees and receiving credit for saving existing trees. This Project does not change the existing limits of disturbance (LOD), however the Applicant proposes to amend the Forest Conservation Plan to remove four landscape trees and plant an additional nine landscape trees. This results in an additional 0.08 acres of landscape trees, bringing the total afforestation to 3.33 acres, exceeding the original 3.08 acre requirement.

The Amendment will redesign and reconfigure an existing hardscape public use space and right-of-way. As such, the Project was not subject to

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stormwater compliance review as the Amendment consists of less than 5,000 square feet of land disturbance, per Article II, 10-31(c), which was confirmed by the Montgomery County Department of Permitting Services – Water Resources Section on October 30, 2019.

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; 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 JUL 07 2020 (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 within thirty days of the date of this Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

* * * * *

CERTIFICATION

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission on motion of Commissioner Verma, seconded by Commissioner Cichy, with Chair Anderson and Commissioners Cichy and Verma voting in favor, Vice Chair Fani-González abstaining, and Commissioner Patterson absent at its regular meeting held on Thursday, July 2, 2020, in Silver Spring, Maryland.



 Casey Anderson, Chair
 Montgomery County Planning Board

MR. RICHARD BRUSH, MANAGER
MCDPS-WATER RES. PLAN REVIEW
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2ND FLOOR
ROCKVILLE, MD 20850
By email rick.brush@montgomerycountymd.gov

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MR. CHRISTOPHER ANDERSON
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Don Hoover
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Eric Rasch
Silver Spring Civic Building at Veterans
Plaza
One Veterans Place
Silver Spring, MD 20910

Sheldon Fishman
Safe Healthy Playing Fields Inc
9913 Dameron Drive
Silver Spring, MD 20902

Dan Reed
8120 Hartford Ave
Silver Spring, MD 20910

Trey Culpepper
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Silver Spring, MD 20910

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Potomac, MD 20854

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Silver Spring, MD 20910

Linda Andrews
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Silver Spring, MD 20910

Carol Farthing
406 Dale Dr.
Silver Spring, MD 20910

Jane Redicker
8601 Georgia Avenue, Suite 203,
Silver Spring, Maryland 20910

**Victoria Pierce
501 Pershing Dr,
Silver Spring, MD, 20910**

**Anne Vorce
618 Bennington Drive
Silver Spring, MD 20910**

**ATTACHMENT D
Kit Gage, Advocacy Director
Friends of Sligo Creek
PO Box 11572
Takoma Park, MD 20913**

**Anne Ambler
P.O. Box 4314
Silver Spring, MD 20914**


**Catherine Vanderwaart
508 Ellsworth Drive
Silver Spring, MD 20910**











**81999002M & 91998005C – Downtown Silver
Spring**



Email

Re Proposals for Downtow...

Email

From  Susan Andrea

To  <MCP-Chair MCP-Chair>;  Coleman, Delisa;  Delisa Coleman;  Dorie Hightower;  Dorie Dorie Hightower;  Grace Bogdan;  Grace.Bogdan@montgomeryplanning.org;  Hightower, Dorie;  MCP-Chair #;  MCP-Chair@mncppc-mc.org

Cc  County Council;  Marc.Elrich@montgomerycountymd.gov

Subject Re Proposals for Downtown Silver Spring

Date Sent

Date Received


7/14/2020 6:05 PM

This is to register my strenuous opposition to the proposal to 1) use synthetic turf on Ellsworth Drive and 2) "abandoning" Ellsworth Drive. As to the synthetic turf proposal, there are too many negatives and too many unanswered questions to allow this to go forward. These concerns have been made known to you.

Even more important is the possible abandonment of Ellsworth Drive. Do not allow this. Ellsworth should remain public space and as such, be subject to uses, rights, and regulations that are determined by the citizens through their elected representatives, not subject to the wishes of a private company whose interest in the site is profit. I remember the early days of the Ellsworth area redevelopment when there was an attempt by private security guards to prevent a photographer from taking pictures. We simply cannot have a repeat of that or anything similar that would restrict the public from engaging in any lawful activity that would be permitted on any public street. Ellsworth is public space and should remain public space.

Susan Andrea
402 Dale Drive
Silver Spring, MD 20910

Attachments

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Page 1

Email

Support the Renewal of Do...

Email**From** user@votervoice.net**To** [<MCP-Chair MCP-Chair>](mailto:MCP-Chair@votervoice.net);  [MCP-Chair #](#);  MCP-Chair@mncppc-mc.org**Cc****Subject**

Support the Renewal of Downtown Silver Spring

Date Sent**Date Received**

7/14/2020 8:11 PM

Dear Chairman Anderson,

Downtown silver spring is a staple since moving here 4 years ago. My favorite past time is being able to walk around and see the community in the closed off section of Ellsworth. This area has so much potential that should not be stopped. I want my family to enjoy this area to it's full potential for years to come. We should be looking to the future and not stay behind.

I hope you are well and staying safe.

I urge your support of the recently announced \$10 million investment in Downtown Silver Spring. Many improvements in the plan are already underway! The plan is already attracting new and exciting tenants like The Eleanor - a restaurant that features family entertainment like bowling. Once completed the plan will also usher in new shared community amenities like outdoor ping-pong tables, corn hole, and, transform underutilized asphalt into a vibrant gathering space for the community.

Since Downtown Silver Spring was developed, Silver Spring has experienced tremendous growth with more than 2,500 residential units added within a half-mile radius over the past 10 years. Yet, Downtown has not undergone a significant redevelopment or update in nearly two decades. Please continue to support these plans to ensure we can remain a welcoming, vibrant, and growing community.

Sincerely,

Paulette Chavira
700 Thayer Ave
Silver Spring, MD 20910
pau_chavira@hotmail.com

Attachments

File Name

File Size (Bytes)

ATTACHMENT E 



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Page 1

Mencarini, Katherine

From: Bogdan, Grace
Sent: Thursday, July 16, 2020 10:39 AM
To: Mencarini, Katherine
Subject: FW: SAY NO TO ARTIFICIAL TURF AND ABANDONMENT IN DOWNTOWN SILVER SPRING

From: Kathy Lorr <katharinelorr@gmail.com>
Sent: Wednesday, July 15, 2020 4:42 PM
To: MCP-Chair <mcp-chair@mncppc-mc.org>; DorieHightower@montgomerycountymd.org; Bogdan, Grace <grace.bogdan@montgomeryplanning.org>; Coleman, Delisa <delisa.coleman@mncppc.org>; countyexecutive.elrich@montgomerycountymd.gov; councilmember.albornoz@montgomerycountymd.gov; councilmember.friedson@montgomerycountymd.gov; councilmember.glass@montgomerycountymd.gov; councilmember.hucker@montgomerycountymd.gov; councilmember.jawando@montgomerycountymd.gov; councilmember.katz@montgomerycountymd.gov; councilmember.navarro@montgomerycountymd.gov; councilmember.rice@montgomerycountymd.gov; councilmember.riemer@montgomerycountymd.gov
Cc: richard Lorr <rlorr4@gmail.com>; Aforce <aforce@aol.com>; James Ehrman <sjehrman@msn.com>
Subject: SAY NO TO ARTIFICIAL TURF AND ABANDONMENT IN DOWNTOWN SILVER SPRING

Dear Planning Board and County Council,

This letter is to OPPOSE the installation of artificial turf on Ellsworth Avenue in downtown Silver Spring. In addition, we OPPOSE the process for abandonment of that area. Plastic turf is an unacceptable alternative for our downtown, long proven to be unsafe, unhealthy, unsanitary, and unattractive. Our neighbors in the Seven Oaks –Evanswood Community Association have raised vehement objections to this proposal (see the messages you have received from Anne Vorce, Stephen Estrada, James Ehrman, and Cathy Kristiansen among others.)

We write as residents of Silver Spring for over 38 years who live about half a mile from the area proposed for coverage by this artificial turf and abandonment. In normal times, we would walk daily along Wayne Avenue, Ellsworth Drive and elsewhere in the downtown area. As frequent shoppers, browsers, and diners in Downtown Silver Spring, we treasure our diverse, environmentally conscious and vibrant community. We love the tree canopy and wildlife along Sligo Creek where we live and the fact that we can walk easily to the post office, the library, the metro, and other downtown businesses, getting exercise and enjoying all aspects of the city.

RE ARTIFICIAL TURF. Please consider that the damage done by artificial plastic turf to humans and our environment is well-documented. Moving forward with this proposal is negligent. While artificial turf was a

temporary/interim solution before the Civic Center Plaza and the skating rink were developed, Silver Spring deserves high quality urban landscaping that enhances the experience and enjoyment of being in our downtown. Examples of higher quality urban design abound, e.g., the High Line above the west side of Manhattan, with its mix of concrete, sculpture, murals, and careful plantings; and Louisville, Kentucky's urban downtown mix of art, sculpture, and walkable open areas. You have a great opportunity to make Silver Spring a go-to place to explore, meet friends, relax, and do business. If your goal is simply to save money, please leave the street the way it is which is fine. We do not want **PLASTIC** which is bad for the environment and people.

RE ABANDONMENT. Why haven't the consequences of this proposal been fully spelled out and vetted to the public? We find the concept of abandonment particularly odious because it will or can potentially undermine all efforts to promote the public's interests in sound, safe, healthy and environmentally-friendly use of this space, including the problems surrounding artificial turf. Abandonment is clearly contrary to the public interest, our basic rights, and the Planning Board's own mission statement.

WHAT WE NEED: To thrive, our diverse community needs more shared spaces that are safe, healthy, green, aesthetic, environmentally friendly, and walkable. We NEED more green spaces and outside public environments where our diverse community can congregate and socialize. Open streets can easily be enhanced with art, murals, and thoughtful plantings that would remind everyone of the beauty of the natural world. Thank you for doing all that you can to preserve our precious tree canopy and wildlife along the Creek.

Katharine A. Lorr and Richard Lorr

MCP-Chair

From: max2allie@aol.com
Sent: Tuesday, July 28, 2020 1:31 PM
To: MCP-Chair
Subject: Oppose abandonment of Ellsworth Drive

Categories: Tracked To Dynamics 365

[EXTERNAL EMAIL] Exercise caution when opening attachments, clicking links, or responding.

Dear Planning Board members:

Previously I have written to oppose the use of artificial turf on Ellsworth Drive in Downtown Silver Spring. I know I was joined by many others, including the Sierra Club, who have cited the environmental damages caused by synthetic turf. Our opposition mattered little as it was approved, twice, if you count the failure to reconsider. Quite frankly in this day and age in what is portrayed as a progressive community that the use of what has shown itself to be a very environmentally hazardous would be allowed to be installed.

I would also like to voice my opposition to the abandonment of Ellsworth Drive to a private entity. Any organization that would push for the a new use of synthetic turf, glued to asphalt, no less, cannot be allowed to have control over a community's road. Please vote no on abandonment tomorrow and included my correspondence in the file.

All the best

Vicki Warren
503 Pershing Drive
Silver Spring MD 20910

MCP-Chair

From: Jean Cavanaugh <jeancavanaugh@fastmail.fm>
Sent: Tuesday, July 28, 2020 11:37 AM
To: MCP-Chair
Cc: Mencarini, Katherine; mcdot.director@montgomerycountymd.gov
Subject: Oppose AB-771
Attachments: Oppose AB-771 .pdf

Categories: Tracked To Dynamics 365

[EXTERNAL EMAIL] Exercise caution when opening attachments, clicking links, or responding.

Please share my attached written testimony with commissioners.

Thank you,
Jean

Jean Cavanaugh
Silver Spring, MD

Montgomery County Planning Board
8787 Georgia Ave
Silver Spring, MD 20910

July 28, 2020

Dear Chair and Commissioners,

I oppose the Board sending to the Hearing Examiner and MCDOT any approval of the Right-of-Way Abandonment case 77-1 (Ellsworth Drive). I oppose the abandonment of Ellsworth Drive because I strongly oppose the installation of artificial turf as approved in Site Plan Amendment 81999002M. I oppose the artificial turf installation for all the reasons detailed by environmentalists in written and oral testimony presented at the June 18 2020 Planning Board meeting. Also, until proven otherwise, I consider the Board's vote on Site Plan Amendment 81999002M to be illegitimate because Commissioner Patterson was denied a vote.

Thank you for considering my views.

Jean Cavanaugh
Silver Spring, MD

MCP-Chair

From: Mencarini, Katherine
Sent: Tuesday, July 28, 2020 8:21 AM
To: Avorce
Cc: Dickel, Stephanie; Hisel-McCoy, Elza; MCP-Chair; McCray, Tiara
Subject: RE: AB-771, Ellsworth Drive

Ms. Vorce,

Thank you much for your email regarding Right-of-Way Abandonment case 77-1 (Ellsworth Drive). By copy of this email, I am forwarding your comments to the Planning Board Chair's Office for incorporation into the public record.

Based on your email, I think it would be helpful to provide a summary of the County's right-of-way abandonment process.

Right-of-way Abandonment Process

As per Section 49-62 of the County Code, the County Council, may close or abandon the any public right-of-way. This process is initiated by an application (petition), which is subject to review by County agencies (such as the Planning Department), the Hearing Examiner, and the County Council. As stated in the staff report, the public hearing before the Hearing Examiner for this case is scheduled for September 14, 2020 at noon. Requirements for posting notice for right-of-way abandonments is outlined in Sections 49-62-d, 49-62-e, and 49-62-f of the County Code. These subsections have been copied below for your reference.

(d) Notice to property owners. After receiving an application under this Article the Department [of Transportation] must promptly notify by certified mail each property owner listed in the County assessment records whose property abuts the right-of-way proposed to be closed or abandoned. However, the fact that any property owner did not received a notice under this section does not invalidate an otherwise valid closing or abandonment.

(e) Notice to the public. The Department [of Transportation] must prominently post a notice of the application in or adjacent to the right-of-way to be closed or abandoned. The Department also must publish notice of the application once each week for 2 successive weeks in a newspaper of general circulation in the County. This notice, and those sent under subsection (d), must inform recipients of the opportunity for a hearing and the date a hearing will be held.

(f) Hearing. The Executive or the Executive's designee must hold a hearing on the application not earlier than 30 days after the notice is mailed under subsection (d).

Questions on this process should be directed to Tiara McCray (copied on this email) at the Montgomery County Department of Transportation (MCDOT).

The Planning Board's role in this process is to provide technical comments on the proposed abandonment for consideration by the Hearing Examiner and the Council. At this week's Planning Board meeting (July 30, 2020), the Commissioners will discuss the right-of-way abandonment case for Ellsworth Drive, and will vote to transmit comments to MCDOT.

After considering comments from government agencies, along with testimony from the public, the Hearing Examiner will prepare a report with recommendations to the Council, who ultimately makes the decision regarding abandonment of the right-of-way.

Ellsworth Drive Abandonment

The Subject Abandonment proposes that the roadway is no longer needed for public vehicular use (with the exception of emergency vehicle access). The Planning Board reviewed the specific design and improvements, including the non-standard pavement materials proposed for the Downtown Silver Spring site and the subject segment of Ellsworth Drive during their regularly scheduled meeting on June 18, 2020. The Planning Board approved the Site Plan Amendment 81999002M with conditions. The subject right-of-way abandonment, if approved by the Council, would permit the petitioner to implement the changes recently approved through Site Plan Amendment. You had a question about one of the conditions of approval for the Site Plan that spoke to an alternative design that would not include synthetic turf. If the Council does not approve the right-of-way abandonment, the Applicant will need to comply with Site Plan Amendment 81999002M condition of approval 1b, which is to provide an alternative design for the project without synthetic turf, to be submitted with the Certified Site Plan. Review and approval of the Certified Site Plan by the Planning Department is required before the Applicant can implement the project.

As you noted in your email, the Board will need to consider if the right-of-way is no longer necessary for present public use or anticipated public use in the foreseeable future or the abandonment closing is necessary to protect the health, safety and welfare of the residents near the right-of-way to be abandoned or closed (Section 49-63-c). As explained in the staff report, it is staff's professional judgement that the segment of Ellsworth Drive between Georgia Avenue and Fenton Street is no longer needed for public vehicular access, and therefore staff recommends approval with conditions.

As stated earlier, your email has been entered into the public record and will be sent to the Planning Board Commissioners. If you wish to provide additional comment on the case or the staff report, you can email mcp-chair@mncppc-mc.org directly or you can sign up to testify at the Planning Board Hearing this Thursday, July 30, 2020. If you have additional technical questions regarding the right-of-way abandonment process, please contact me.

Sincerely,
Katie



Katie Mencarini
Multimodal Planner Coordinator

Montgomery County Planning Department
8787 Georgia Avenue, Silver Spring, MD 20910
katherine.mencarini@montgomeryplanning.org
o: 301.495.4549



WE'RE MOVING!

**THE NEW PARK AND PLANNING HEADQUARTERS WILL BE LOCATED AT
2425 REEDIE DRIVE, WHEATON, MD 20902 IN AUGUST 2020.**

From: Avorce <avorce@aol.com>
Sent: Friday, July 24, 2020 1:54 PM
To: Mencarini, Katherine <katherine.mencarini@montgomeryplanning.org>
Cc: Dickel, Stephanie <Stephanie.Dickel@montgomeryplanning.org>; Hisel-McCoy, Elza <elza.hisel-mccoy@montgomeryplanning.org>
Subject: AB-771, Ellsworth Drive

[EXTERNAL EMAIL] Exercise caution when opening attachments, clicking links, or responding.

Dear Ms. Mencarini.

I have just been made aware of your report on AB-771, the Right-of-Way Abandonment for Ellsworth Drive in downtown Silver Spring, and the scheduling of consideration by the Planning Board of this item on July 30.

Respectfully, I have four requests for your guidance that I trust you will follow up on.

Four Requests for Your Guidance

1. I would like your guidance on why you did not choose to mention the Planning Board's condition that the applicant come up with an alternative to synthetic turf on Ellsworth for the Certified Site Plan in case the Council did not pass AB-771 as drafted.

In all reasonable fairness, this detail should have been included concretely in any summary document. It appears to have been ignored.

Moreover, does the Planning staff have any indication that the Applicant is indeed doing what the Planning Board directed - that is, developing an alternative to synthetic turf ?

2. As you note in your document, health, safety and welfare are at the heart of the findings required to abandon a right-of-way. (Chapter 49 Findings Section 49-63(c)(1)-(2))

Are you aware - and is the Planning Board aware - that the key players of our environmental community are opposed to the Ellsworth turf on health and safety grounds ?

Letters opposing the installation of synthetic turf on Ellsworth have been sent to the Planning Board by experts who devote their work to keeping people and our environment safe, in partnership with the County. From your summary and its attachments, one would think that experts on the environment have either been silent or are ok with synthetic turf.

In particular, the staff should publish correspondence received should publish letters sent to the Planning Board from the Stormwater Partners Network and the Sierra Club. These are major actors in environmental issues in our County. They oppose the use of synthetic turf on health and safety grounds.

You should also be aware that the County's Department of Environmental Protection has opposed the installation of synthetic turf in a recent letter to the President of the County Council. This letter should be included in any public record for the July 30 consideration

These three letters - and any others that the PB have since received - should be included in the public record and highlighted in an updated summary that you should prepare so that the record is complete - and fair.

3. I request guidance on whether the Applicant or the County's DPS and MCDOT requested Abandonment.

It is my understanding that the request came from the Applicant. DPS stated (as did MCDOT initially, in March) that it would not approve synthetic turf if the road was not abandoned. My

interpretation is that the DPS position reflects the fact that once the road is abandoned, it will not have authority over the materials applied. Is this correct ? If not, please elaborate.

At one point, DPS and MCDOT wrote the Planning Board on record that the plastic carpet was flammable. A subsequent review by DPS-ROW suggested that their concern was over durability - a matter with great significance for our air, water - and people. What you wrote in your document frames the issue differently, although your wording on Page 8 seems closer to my understanding.

From your Summary, p. 1

"The Abandonment is requested at the direction of other County agencies such as the Montgomery County Department of Transportation (MCDOT) and Montgomery County Department of Permitting Services (MCDPS), in coordination with Site Plan Amendment No. 81999002M, to allow the Applicant's design which includes numerous non-standard pavement treatment types.

Your document, p. 8

"Furthermore, the Petitioners are proposing non-standard roadway materials, such as synthetic turf, to be placed over the existing asphalt paving generally from the eastern edge of Silver Plaza to Fenton Street as shown on the Illustrative Plan (Figure 6). To achieve this design with the proposed non-standard pavement materials, County agencies such as the Department of Transportation and Department of Permitting Services directed the Applicant to abandon both the Access Easement and Upper Ellsworth. "

[My highlighting is in yellow.]

4. I would appreciate it if you would direct me to the public notice of the opportunity to comment on the Abandonment bill, so that my comments could have been included in your initial document and taken into consideration as your report was being drafted.

I am quite disappointed that, as far as I can tell, the public did not receive public notice to comment on this matter. As a result, the public correspondence section is highly misleading on the extent of comments and points of view on the matter.

Also, as a party of record for the earlier parts of the proceedings, I was not notified of the opportunity for public comment. Were other parties made aware of the opportunity to comment ?

(As far as I know, the limited correspondence that you received is fortunately coincidental to the timing of your report. Residents from a nearby neighborhood listserv were writing in reaction to the Planning Board's decision not to reconsider its approval and looking ahead to the Council taking up an abandonment petition.)

Thank you very much for your consideration and guidance on these 4 issues.

Sincerely,

Anne Vorce
Silver Spring

MCP-Chair

From: Susan Andrea <sandrea5@hotmail.com>
Sent: Tuesday, July 28, 2020 5:39 PM
To: MCP-Chair; Dorie.Hightower@montgomerycountymd.gov; Bogdan, Grace; Coleman, Delisa
Cc: County Council; marc.elrich@montgomerycountymd.gov
Subject: Ellsworth abandonment bill

[EXTERNAL EMAIL] Exercise caution when opening attachments, clicking links, or responding.

This is to register my strenuous opposition to the proposal to "abandon" Ellsworth Drive. **Do not allow this.** Ellsworth should remain public space and as such be subject to uses, rights, and regulations that are determined by the citizens through their elected representatives, not subject to the wishes of a private company whose only interest in the site is profit.

I remember the early days of the Ellsworth area redevelopment when there was an attempt by private security guards to prevent a photographer from taking pictures. We simply cannot have a repeat of that or anything similar that would restrict the public from engaging in any lawful activity that would be permitted on any public street. **Ellsworth is public space and should remain public space.**

Susan Andrea
402 Dale Drive
Silver Spring, MD 20910

MCP-Chair

From: rg steinman <lifeonurth@gmail.com>
Sent: Wednesday, July 29, 2020 11:31 AM
To: MCP-Chair
Subject: MCPB Item No. 05 Date: 07.30.20, Right-of-Way Abandonment, AB-771, Ellsworth Drive
Attachments: Synthetic turf, testimony, June 18, 2020 (rg Steinman).doc

Categories: Tracked To Dynamics 365

[EXTERNAL EMAIL] Exercise caution when opening attachments, clicking links, or responding.

Dear Planning Board Commissioners,
This email is in regards to the Right-of-Way Abandonment, AB-771, Ellsworth Drive, MCPB Item No. 05 Date: 07.30.20. I am also attaching my testimony from June 18, 2020 explaining my opposition to synthetic turf on Ellsworth Drive.

I urge you to not go forward with the abandonment of Ellsworth Drive. Health, safety and welfare are at the heart of the findings required to abandon a right-of-way. (Chapter 49 Findings Section 49-63(c)(1)-(2)).

Synthetic turf is opposed by the environmental community for health and safety reasons, as well as many other reasons. Also, in a July 13th letter to the President of the County, the County's Department of Environmental Protection opposed the installation of synthetic turf due to stormwater considerations and expressed concerns regarding health and safety that have been raised as well.

I urge you once again to oppose the use of synthetic turf on Ellsworth in Downtown Silver Spring.
Thank You,
~ rg Steinman

From: Ms. Rg Steinman

To: Planning Board Chair Anderson and Commissioners Patterson, Fani-Gonzales, Cichy, and Verma;
Planning Director Wright; Robert Kronenberg; Grace Bogdan, Stephanie Dickel, Elza Hize-McCoy

Re: Downtown Silver Spring - Project Plan Amendment 91998005C / Site Plan Amendment 81999002M

Date: June 18, 2020

I support an earth-friendly renovation of Ellsworth Dr., including natural surfaces (wood, stone, pavers) and plants. Synthetic turf is not natural, and it is not earth-friendly. It creates toxic plastic pollution that ends up in our rivers and, our oceans, in fish, birds, mammals, and finally, in us.

Greenwashed Product Contains Toxic Chemicals

The “blades of grass” in this “plastic carpet” contain PFAS (PFAS stands for a broad group of perfluoroalkyl and polyfluoroalkyl substances), which have been associated with multiple health problems, including cancer. And we don’t know the other toxic compounds that are in this product because the manufacturer (SYNLawn.com) considers this proprietary information. But when we don’t have all the information, we really cannot make an informed choice?

Product Is Not Recyclable

Synthetic turf begins breaking down, creating microplastic pollution, from day one, its best day. It has a limited life span – especially when compared to wood, stone, pavers, and trees – and creates a disposal nightmare because no one is recycling synthetic turf. Rather, it is being dumped or shipped to an undisclosed address in Asia.

Product Not Designed For Ellsworth Drive Uses

Furthermore, according to the manufacturer’s website, this product is recommended only for landscape, pets, play, rooftop, and golf. It is not designed for the very heavy foot traffic (pedestrians, farmers markets, etc) or vehicular use (emergency vehicles, delivery trucks and weekly Farmers’ Market trucks) that will occur on Ellsworth Drive.

Maintenance Nightmare

Would you want to walk in a public place paved with Synlawn? Think about it. Urine and waste from people walking their dogs, chewing gum stuck to the “grass” blades, spit, bird poop, food and drink spilled. Would you let your child walk or crawl on this? And on a warm, sunny day, synthetic turf heats up hotter than asphalt. And, given climate change, things will heat up.

A Better Way

Urban development, coupled with climate change, intensifies the urban heat island effect. This calls for resilient solutions to make outdoor spaces more adaptable to environmental conditions and comfortable for people, while improving, not sacrificing, the environment. Shade trees are a key component of such a solution. Trees and other plantings provide beauty, clean air, cooler temperatures, shade, and, importantly, reduce stormwater runoff. Trees, by their very nature, are uplifting and graceful; and when coupled with plant containers, benches, and other shade structures, they create a cooling and inviting public area. Trees and other plantings are the cheapest beneficial infrastructure.

Go with the science. Ditch the Synturf.

Do what’s right for the sake of the planet, and what’s right for the health of us all.

~ rg Steinman
Silver Spring

MCP-Chair

From: Anne Vorce <avorce@hotmail.com>
Sent: Wednesday, July 29, 2020 11:50 AM
To: MCP-Chair; Wright, Gwen
Subject: Written Testimony, July 30 Meeting, Item 5, Ellsworth Drive: Abandonment AB-711
Attachments: PlanningBoard_July 30 2020 Ellsworth Drive AB-711.docx

Categories: Tracked To Dynamics 365

[EXTERNAL EMAIL] Exercise caution when opening attachments, clicking links, or responding.

Dear Planning Board,

Attached is my written testimony submitted for tomorrow's (July 30) hearing, Item 5, Ellsworth Drive. Abandonment AB-711.

Thank you for your consideration.

Sincerely,

Anne Vorce
Silver Spring

July 29, 2020

Dear Chair Anderson, Vice Chair Fani-Gonzalez, Commissioner Cichy, Commissioner Patterson and Commissioner Verma,

I am hereby submitting my written testimony concerning "Ellsworth Drive: Abandonment AB-711", Item 5, scheduled to be considered at your July 30, 2020 meeting.

I am writing to strongly urge you at your July 30 meeting to agree :

1. *To recommend to the County Council that any abandonment of Ellsworth Drive must be conditioned on (1) eliminating the applicant's proposal to install synthetic turf and on either (2) making no change to the surface Of Ellsworth Drive or replacing it with materials that are environmentally-friendly and safe for human beings.*
2. *To highlight to the Council in your recommendation that the top environmental experts for Montgomery County oppose the installation of synthetic turf on scientific grounds, include their correspondence in the public record you send the Council, and highlight to them that these letters are included.*

The public record for your hearing does not to-date include or even refer to the fact that these letters of opposition to the Planning Board exist.

To correct this oversight and to ensure that the public record sent to the County Council is complete, the letters, excerpts from letters of opposition or references to opposition positions taken to the installation of synthetic turf on Ellsworth from the following are attached or noted:

- *The County's Department of Environmental Protection*
- *The Sierra Club Montgomery County*
- *The Stormwater Partners' Network*
- *The Friends of Sligo Creek*
- *The Neighbors of the Northwest Branch*
- *Healthy Safe Playing Fields Coalition. I believe that the testimony in opposition by The Healthy Safe Playing Fields Coalition is a part of your earlier record.*
- *The Department of Permitting Services – ROW. Their memo is part of your DAIC records. (Please note that it is difficult to fully understand what the DPS ROW position is. They oppose synthetic turf, but note their opposition would change with road abandonment. See Point 4 below.)*

These letters are very relevant to the abandonment issue because, as you know, the Planning Board has voted to require that the applicant come up with an alternative to synthetic turf on Ellsworth in case the Council rejects AB-711 because of concern over the effects from the use of synthetic turf.

Most relevant, the mantra of DEP and its enforcement of the Clean Water Act under the MS4 Permit and other clean water laws and regulations is "Nothing But Rain Should Go Into Our

Storm Drains". Please note that synthetic turf runoff and detritus would drain into Sligo Creek, the Northwest Branch, and the Anacostia River, before heading into the Potomac and Chesapeake Bay.

3. *To require an amendment of the top line summary of the situation produced by staff and its attachments to reflect that :*

- The Planning Board's June 18 approval of the applicant's proposal for Downtown Silver Spring includes the condition that the applicant come up with an alternative to synthetic turf for Ellsworth for its Certified Site Plan. The Planning staff summary as submitted for the July 30 meeting does not describe this condition.
- The top environmental experts of Montgomery County oppose the installation. The reasons should be summarized, so that the Hearing Examiner and Council know that experts in the area do not regard synthetic turf simply as a "nonstandard" paving material. Their letters should be included as attachments to an amended staff summary approved by the Planning Board, to give them the public weight they merit.

The Planning staff summary and public correspondence to-date do not accurately and reasonably reflect these fundamental matters. The hallmark of solid public policy is at the very least to provide an accurate and reasonable record of the situation at hand. Moreover, the findings that the County Council will be required to make will be based on determinations of public health and safety, which the environmental community opposition goes to the heart of.

4. *To discuss and direct the Planning staff to produce an overview and guidance on why abandonment of Ellsworth is necessary in the Downtown Silver Spring case and what the implications are for public policy. People need to know.*

The Planning Board and applicant have not made the public case for why a public good such as abandonment of Ellsworth should be embraced. While there is general support and enthusiasm for the transformation of DTSS, there is tremendous confusion over the case for abandonment. There is a history of confusion over the public good versus private authority in this very spot.

Along these lines, there is no guidance about the authority of the County government, if abandonment goes ahead, as is proposed. For example, the Department of Permitting Services has stated in its May submission on the proposal (in your record) that it would oppose the synthetic turf unless Ellsworth was abandoned. Why would abandonment change DPS's view – unless it no longer would have authority to register its objections ? I request clarification.

Thank you for your continuing consideration.

Sincerely, Anne Vorce, Silver Spring

See Attached Environmental Community Letters and Letter Excerpts plus DPS Submission to the Planning Board

Attachment A:

DEP Letter in opposition to the installation of synthetic turf on Ellsworth Drive

Excerpt, Letter Adam Ortiz, Director, Department of Environmental Protection (DEP), to Sidney Katz, President, Montgomery County Council, July 13, 2020

“The Department of Environmental Protection (DEP) has received numerous letters from concerned citizens about the proposed use of artificial turf on Ellsworth Avenue and believes that a more environmentally preferable alternative should be utilized.

The proposed application is unusual in that the turf will be applied directly to the underlying pavement. In addition to concerns raised about increased wear and tear on the turf, this proposal misses an opportunity to remove the existing impervious cover and provide treatment of runoff from the impervious surfaces. The preferred option for this site would be to replace the existing impervious surface with pervious alternatives such as permeable pavers. If this option is determined to not be feasible, consideration should be given to eliminating the use of artificial turf on this section of Ellsworth Drive for what appear to be aesthetic considerations.

Although engineered synthetic materials may have some limited appropriate public applications, turf in a high traffic pedestrian area introduces the likelihood of fugitive non-degradable particles into the stormwater envelope, which can end up in local streams and waterways. Consistent with the principles of low impact development, a preference for natural features and permeable hardscape can achieve aesthetic and ecological benefit as well as placemaking”.

ATTACHMENT B:

SIERRA CLUB MONTGOMERY OPPOSES SYNTHETIC TURF ON ELLSWORTH

(Except, Letter to Chair Casey Anderson, from Sierra Club Montgomery Chair Shruti Bhatnagar, June 28, 2020)

“Dear Chair Anderson and Planning Board members –

This letter is to share with you the Sierra Club Montgomery County group position on synthetic turf and our more specific concerns regarding its application by Foulger-Pratt as part of its planned project (No. 91998005C and Site Plan No. 81999002M) on Ellsworth Drive in downtown Silver Spring.

The Sierra Club Montgomery County Group and the Maryland Chapter are opposed to synthetic turf because it poses a threat to both public health and the environment. (1) We share many of the concerns about the proposed installation of synthetic turf in Downtown Silver Spring (DTSS) expressed in greater detail in correspondence from other groups and individuals. These include water pollution from microplastics as it degrades, the composition of the glue used to attach it to the asphalt, the chemicals recommended for its cleaning; an increase in stormwater runoff and whether this is compatible with the existing stormwater management facility; flammability of this petroleum-based product; the large generation of synthetic turf (plastic) waste that must be disposed of every 8 to 10 years; and an increase in the Urban Heat Island Effect. Moreover, we are concerned about the manufacturer’s insufficient and potentially misleading information about the product. Learning that the COVID19 virus can stay on plastic for up to three days only heightens our concern about public health.(2)

With the recognition by the County Council that we are in a Climate Emergency, it is critical that climate considerations, both extreme heat periods and increases in heavy precipitation events, are considered in all development planning and decision-making. We hope you agree that new development projects are one of the best opportunities the county has to increase climate resiliency. The proposed synthetic turf in DTSS would only reduce climate resiliency. We thank the planning board for recommending to the developer that they consider an alternative to the Synthetic turf as an alternate plan. We urge you to consider our request to deny permission to install synthetic turf on Ellsworth Drive in Silver Spring and only allow for better alternatives that would be environmentally friendly and better for the health and safety of our community, as well as increase climate resilience. We appreciate your attention and efforts on this important issue.

Thank you, Shruti Bhatnagar Chair of Sierra Club Montgomery County shruti.bhatnagar@mdsierra.org

Footnotes

1 For more information on the position of the Maryland Chapter and its positions see:
<https://www.sierraclub.org/maryland/syresiliencynthetic-turf>

2 van Doremalen, N., Bushmaker, T., Morris, D. H., Holbrook, M. G., Gamble, A., Williamson, B. N., Tamin, A., Harcourt, J. L., Thornburg, N. J., Gerber, S. I., Lloyd-Smith, J. O., de Wit, E., & Munster, V. J. (2020). Aerosol and Surface Stability of SARS-CoV-2 as Compared with SARS-CoV-1. *New England Journal of Medicine*, 382(16), 1564–1567. <https://doi.org/10.1056/NEJMc2004973>

ATTACHMENT C:

STORMWATER PARTNERS NETWORK (SWPN) OPPOSE SYNTHETIC TURF ON ELLSWORTH DRIVE

(Note: The SWPN is a well-recognized group in the environmental community. It is one of the key partners – perhaps the key partner - actively engaging with DEP and DPS on storm water management policy issues, including the County's MS4 Permit.)

Montgomery County Planning Board Hearing

Downtown Silver Spring

Project Plan Amendment: 91998005C, Site Plan Amendment: 81999002M

June 18, 2020

Dear Chair Anderson and members of the Planning Board,

We, the Stormwater Partners Network of Montgomery County,¹ hereby submit this targeted testimony regarding the use of synthetic plastic turf carpet (Synturf, and specifically in this case SYNlawn's SYNTipede 343 product) on the pedestrian plaza of Ellsworth Drive. Overall, we strongly support the idea of continuing to invest in Ellsworth Drive as the heart of a walkable, livable, downtown Silver Spring. The farmers market, festivals, and other neighborhood amenities draw people to this transit-accessible area. **But we oppose glueing synthetic turf to the road surface for the following reasons:**

- We recognize that the SYNTipede product will be used without an underlying layer of padding or crumb rubber bits, which is most commonly seen as the microplastic pollution that comes from turf fields. However, even without the crumb rubber particles, the "blades" of artificial grass themselves will detach, degrade, and flow into the storm drains. While we understand that the Department of Environmental Protection has tested and found that the storm drain settling tanks should capture the majority of large particles, there will no doubt be some that escape into Sligo Creek.
- Additionally, DEP has not conducted any chemical testing to identify degraded microplastic particles smaller than the existing filter sizes nor any dissolved component chemicals, such as from the underlying adhesive, that may flow with the water into the creek.
- We are also concerned about the cleaners that may be used, such as antimicrobials or fabric softener being used. Generating such "non-stormwater discharges" would be a violation of the county MS4 permit, and these types of pollutants would not be trapped

by a particulate settling tank.

¹The Stormwater Partners Network is composed of organizations and individuals who support more effective stormwater policies and management in Montgomery County, MD, with the goal of clean and healthy streams throughout the county. We currently represent 36 organizations active in Montgomery County. A full list of our current membership can be found on our website.

- Any of these particles and constituent chemicals may flow into Sligo Creek, then the Anacostia River, and then the Potomac River and the Chesapeake Bay. Some of them are known, and others are untested, hazards to aquatic life once ingested or absorbed.

Since 2010, Stormwater Partners Network has been concerned about the use of artificial turf products in Montgomery County and at that time issued a resolution requesting a moratorium on the use of artificial turf fields. That moratorium resolution² is attached to this letter and all the concerns described therein still apply.

We support the additional, more detailed testimony delivered by our individual and member organizations on this topic, including Friends of Sligo Creek and Safe Healthy Playing Fields, Inc.

If you have any questions, please contact Jeanne Braha (jbaha@rockcreekconservancy.org) or Eliza Cava (eliza.cava@anshome.org), co-chairs of the Stormwater Partners Network.

Sincerely,

Eliza Cava, Director of Conservation, Audubon Naturalist Society

Jeanne Braha, Executive Director, Rock Creek Conservancy

Co-Chairs, Stormwater Partners Network

ATTACHMENT D:

**WATERSHED GROUP FRIENDS OF SLIGO CREEK OPPOSES INSTALLATION OF
SYNTHETIC TURF ON ELLSWORTH (dated April 20, 2020)**

To: Casey Anderson, Chair, Montgomery County Planning Board
Cc: Natali Fani-Gonzalez, Vice Chair, Montgomery County Planning Board
Gerald R. Clichy, Commissioner, Montgomery County Planning Board
Tina Patterson, Commissioner, Montgomery County Planning Board
Partap Verma, Commissioner, Montgomery County Planning Board

Marc Elrich, County Executive, Montgomery County

Sidney Katz, President, Montgomery County Council
Tom Hucker, Vice President, Montgomery County Council
Gabe Albornoz, Councilmember, Montgomery County Council
Andrew Friedson, Councilmember, Montgomery County Council
Evan Glass, Councilmember, Montgomery County Council
Will Jawando, Councilmember, Montgomery County Council
Nancy Navarro, Councilmember, Montgomery County Council
Craig Rice, Councilmember, Montgomery County Council
Hans Riemer, Councilmember, Montgomery County Council

Reference: Project Plan No. 91998005C and Site Plan No. 81999002M
Foulger Pratt proposal to install plastic carpet on Ellsworth Drive, Downtown
Silver Spring, Montgomery County Planning Board hearing, possibly in May

Dear Chair Anderson:

"DO NO HARM"

We are writing on behalf of the Friends of Sligo Creek (FOSC) to state our opposition to the proposal by the developer Foulger Pratt to install plastic carpet on a portion of Ellsworth Drive in Downtown Silver Spring, part of the DTSS project now pending before the Planning Board. The proposal may be before you soon, possibly at a May meeting.

FOSC is the nonprofit organization dedicated to protecting and improving the health, safety and environmental quality of the Sligo Creek Watershed, in partnership with Montgomery and Prince George's County governments and agencies, Montgomery Parks and the people in our communities.

Your decision will affect our water quality.

FOSC urges the Planning Board to reject the proposal to put plastic carpet on Ellsworth Drive. The proposal raises troubling issues concerning its likely effects on the quality of our water, public safety, and watershed health. Simply put, we

expect that Sligo Creek and our watershed would be degraded by installation of the plastic carpet.

Details of our specific concerns are below.

However, we would be remiss if we did not draw your attention to a set of issues that are likely to be front and center on the public policy agenda in the near future. The developer's proposal raises issues that may not be easily addressed under current regulations but are nonetheless critical to the protection of human health and watershed health. Scientists are starting to raise health concerns over the use of the PFAS family of chemicals in synthetic turf, including the "blades" of plastic grass and possibly the turf backing.¹ We have not seen studies of manufacturer SYNLawn's SYNTipede243 product and do not know if any exist, but, ***to protect the public, it is important that the Planning Board and County Executive obtain technical information from the firm about its use of any PFAS in its product.***

We are also very troubled about how limited publicly available information on the product proposed and product testing is, based on project filings on the Planning Board's website and information on the manufacturer's website (SYNLawn.com). Synthetic carpets are known to contain uniquely harmful constituents such as heavy metals in pigments, color stabilizers, UV inhibitors, plasticizers, non-stick chemicals, and flame retardant.

We all need to know what's in this product. To further clarify the risks to Sligo Creek and the watershed, we have requested technical information from the carpet's manufacturer (SYNLawn) and the manufacturer of the storm water management facility now in place under Ellsworth to protect Sligo Creek from Downtown Silver Spring runoff (Contech's StormFilter). We understand that SYNLawn will have proprietary concerns, but to understand public risks, we need better information.

Due diligence to protect Sligo Creek is also a responsibility of government. ***We strongly urge that the Planning Board and County Executive will step up their due diligence with the applicant, carpet manufacturer and DTSS storm water management facility manufacturer so that any decision can be based on sound science and risk assessment.***

In conclusion, we urge Foulger Pratt and the Planning Board to do no harm to our water or watershed. There are healthier and safer solutions for Ellsworth that can be adopted – without the risks involved. Why not choose healthier and safer

¹According to recent studies, the artificial grass "blades" in synthetic turf may contain PFAS chemicals, known as "forever chemicals" (ie, they don't break down). PFAS chemicals are thought to be used to keep the plastic "blades" from sticking to the extrusion machinery. Some industry members have noted that they have no other cost effective process. PFAS chemicals also have been identified in certain products' backing. Researchers have called for firms to identify any PFAS used in the manufacturing of their turf product. For details on the science, see the February 2020 Fact Sheet on Per- and Poly-fluoroalkyl Substances (PFAS) in Artificial Turf Carpet by the well-respected TURI (Toxics Use Reduction Institute) at UMass Lowell; and recent work by PEER (Public Employees for Environmental Responsibility) and The Ecology Center. https://www.turi.org/TURI_Publications/TURI_Chemical_Fact_Sheets/PFAS_in_Artificial_Turf_Carpet; <https://www.peer.org/industry-in-a-dither-about-pfas-in-synthetic-turf/> SYNLawn products have not been tested in publicly available research, as far as we can tell, but until SYNLawn reassures the Planning Board and County, the PFAS question remains open. We should not give SYNLawn the benefit of the doubt.

solutions that protect Sligo Creek – and pose no potential risks and liability for the County?

Healthier and Safer Solutions to Protect Sligo Creek

- *The best solution to protect Sligo Creek would be to remove the asphalt and replace it with undergrading and permeable pavement (stone or concrete, no synthetics) on Ellsworth - not plastic turf.*

This solution would:

(1) Protect the current Ellsworth storm water maintenance facility in place because it would not be burdened by the new plastics pollution load (it is probably not up to protecting Sligo Creek from the new plastics pollutants);

(2) Lower the temperature of runoff into Sligo Creek (runoff from plastic is hotter; higher water temperatures kill aquatic life); and

(3) Slow down storm water run-off (run off is faster on plastic surfaces; rapid runoff rates are degrading our stream and riparian buffers).

Permeable pavement would be an improvement over the current asphalt.

- *Another option would be to use a “green streets” concept to channel storm water runoff and then cover the remaining asphalt with durable wood planking. Asphalt could be removed in strategically placed areas on the sides and where utilities are not underneath, which could then serve as multiple mini-water retention and or infiltration sites. The remaining asphalt could be covered with durable wood planking or other stone or concrete paver material strategically designed to help to slow and route storm water run-off to mini-garden areas.*
- *A distant next best option might well be to leave the asphalt in place.*

Our concerns are set out in detail below.

Our Concerns.

We object to the installation of plastic carpet (and the particular plastic carpet proposed) on Ellsworth Drive on public safety, health, and environmental grounds:

1. **The plastic grass product proposed is substantially petroleum-based.** It is not “environmentally friendly”, contrary to representations by the manufacturer that some input materials are plant-based and the product is “Bio-based Synthetic

Turf'.² (See Appendix 1 for product details provided by the manufacturer.) Rather, the substantial petroleum content makes the product flammable, as the County's Departments of Permitting Services and Transportation have recognized.³ **Montgomery County should not allow people to use and vehicles to drive on a flammable surface.**

2. Plastic carpets are known to many in the scientific community to contain hazardous chemicals related to higher cancer rates and disruption of human growth regulators, to name just a few very serious concerns. **Runoff containing these toxicants should not be allowed into Sligo Creek.**
3. **According to the manufacturer, the product proposed is not designed or certified for heavy foot traffic or the vehicular use that will occur on Ellsworth, a very busy and complex stretch of Downtown Silver Spring.**

The manufacturer recommends the product only for landscape, pets, play, rooftop, and golf. (See Appendix 2) Foulger Pratt proposes closing off Ellsworth to normal vehicle traffic so that only minimal access is allowed, but emergency vehicles, delivery trucks and weekly Farmers' Market trucks would still be able to drive on it, according to its filings with the Planning Board. Any other option would be better: **plastic carpets are not up to or certified for the type of use proposed.**

4. **Bearing more weight and friction than the carpet was designed for, the plastic blades of grass and their synthetic backing can be expected to degrade even more rapidly than "normal".⁴ By permitting this carpet to be installed, the Planning Board and County make it very likely that the degraded carpet will show up in Sligo Creek, in either particulate or dissolved chemical form.**
5. Storm water management filtration under Ellsworth is the main line of defense protecting Sligo Creek from pollutants coming down from DTSS. Keeping a filter cleared of sediment is critical, so how and how rapidly the carpet will degrade in

² The environmentally friendly features of the product SYNLawn's SYNTipede 243 appear to be exaggerated. According to technical specifications on the product website, the synthetic grass blades are made of polyethylene and the turf backing is made out of polypropylene. Both are petroleum-based. SYNLawn's proprietary coating of the carpet backing (Enviroloc) is described as containing "biobased resources including soybean oil", but a closer look at the manufacturer's description indicates that it, too, is heavily petroleum-based. See Appendix 1.

³ The County's Department of Permitting Services has recognized the flammability hazard in its review of the proposal. See DAIC Document 81999002M-DPS-RPP.pdf. The Department of Transportation also opposes the use of synthetic turf on Ellsworth because it is flammable. See DAIC Document 91998005C. On its website, the manufacturer represents its products as having a Class A Fire Rating, but it is not at all clear how this rating was determined.

⁴ A widely accepted rule of thumb is that 5-10% of a plastic synturf carpet typically disintegrates off the carpet each year. On this basis, have the Planning Board and County Executive estimated the amount of plastic debris to be expected for the quantity of SYNTipede 243 plastic carpeting proposed? Keep in mind, this figure would need to be adjusted to reflect the fact that the product will likely deteriorate faster than "normal" because the product is not designed for the specific usage proposed. Also, because installation is unusual and does not appear to be recommended by the manufacturer (it is proposed to go on top of the asphalt), even more friction is likely to be generated, resulting in faster plastic deterioration.

combination with the design of Contech's StormFilter storm water management facility under Ellsworth are significant.

Because it was not designed for SYNLawn and has been in place since around 2005, we would not expect Contech's system to be up to the job.⁵ We are also concerned that the normal pre-plastic pollution operation of the system itself will likely be degraded by the additional pollution burden. Normal maintenance will not be enough.⁶

Furthermore, we do not know if the storm water runoff flow rate would change and how that would affect current the storm water facility. Typically, the flow rate for synthetic turf would be higher.

An additional critical question: how will Sligo Creek be protected from hotter storm water runoff? Outdoor plastic carpets typically heat up more than most other surfaces despite chemical treatment. Hotter storm water temperatures will kill life in Sligo Creek. Winter issues concerning anti-ice treatment are also important. Have the Planning Board and County determined that this storm water system can handle the new pollutant load in all weather?

We urge the Planning Department, the Department of Permitting Services, the Department of Environmental Protection and Montgomery Parks to investigate our concerns by requesting additional technical details and research from the applicant, SYNLawn and the designers of the current SWM system under Ellsworth.

Key information includes the particulate and chemical filtration capability of the SWM system now in place; the chemical and particulate size properties of how the plastic carpet/synthetic turf typically deteriorates; and the expected temperature of the carpet (average and peak) and how the storm water facility will handle this.

- 6. *Prior to a Planning Board decision on this proposal, we request that a thorough review of the storm water management situation be undertaken by the County in light of the concerns we have raised.*** While we understand that the applicant has represented the particular project would disturb less than 5,000

⁵ We are also trying to find out from DEP whether any special storm water protection was put in place for the several years that artificial turf was installed on what is now the ice rink area on Veterans' Plaza. It is important to note that the product used at the time was not the same product that is now proposed by the applicant and that the usage proposed did not involve any vehicular or similarly heavy foot traffic, for which the product was not designed. From what we can tell so far, there is no evidence that the StormFilter storm water maintenance facility was designed to handle the artificial turf that was installed at the time.

⁶ To evaluate whether the existing storm water facilities can handle the new pollution load, we have asked SYNLawn for information on how its product deteriorates, whether it degrades in chemical or particulate form and, if in particulate form, what size particles? We have also reached out to the manufacturer of the Ellsworth storm water facilities (Contech's StormFilter), designed to protect Sligo Creek from DTSS runoff, to find out what particulate size and chemicals its facilities are designed to handle. Preliminary guidance from Contech suggests that the product now in place is not what they now suggest to handle storm water runoff from artificial turf. While more frequent maintenance of the facility by DEP would help protect our Creek, it probably would not be enough.

square feet of surface area and therefore is exempt from storm water management requirements, we have not been able to confirm its calculations. ***We request confirmation from the County and Planning Board staff on the dimensions of the proposed carpet area.***

7. **The coronavirus situation raises additional public health questions about our ability to keep this product clean and whether our storm water management system in place under Ellsworth can handle relevant cleaning agents or anti-microbial technology.**⁷ Will the County have to close down part of Ellsworth because it is a health hazard, if we have a situation in the future similar to what we face now? It is important that SYNLawN will provide technical details about sanitization of its product and possible effects on water that can be evaluated by the County.

Conclusion. Plastic carpets used in outdoor public spaces pose major threats to our water and environmental quality. These threats are often unrecognized or unacknowledged, in part because technical product information may be proprietary and may not be available. As is often the case, the only way the public can know enough about the product in order to evaluate it is to buy a sample and have it tested.

Nonetheless, in this case, there is enough information on the product to raise large red flags about the public risks.

What is at stake? Sligo Creek is the focus of many of our communities. As the current quarantine situation clearly illustrates, people cherish Sligo Creek. People rely upon it and are active in improving - not harming – its water quality. Our wildlife depends on it. What goes into Sligo Creek ultimately ends up in the Chesapeake Bay and our drinking water. Our water is not protected from this type of plastic pollution.

We urge the Planning Board, County Executive, County Council and Foulger Pratt to “Do No Harm”. The Planning Board should deny this proposal to install synthetic turf carpeting on Ellsworth.

Please require installation of permeable pavement rather than plastic carpeting/synthetic turf to protect public health and safety, Sligo Creek and the watershed.

Thank you for your consideration.

Additional details documenting our concerns taken directly from the product manufacturer’s website are below.

⁷ According to a recent study published in correspondence to The New England Journal of Medicine, the current COVID19 virus can stay on plastic up to three days.

https://www.nejm.org/doi/full/10.1056/NEJMc2004973?query=featured_home

Sincerely,

Mike Smith, President, Friends of Sligo Creek

Kit Gage, Director of Advocacy, Friends of Sligo Creek
Advocacy@fosc.org

The Water Quality Committee, Friends of Sligo Creek
WaterQuality@fosc.org

cc: Adam Ortiz, Department of Environmental Protection
Hadi Mansouri, Acting Director, Department of Permitting Service
Christopher Conklin, Director, MCDOT
Mike Riley, Director, Montgomery Parks

Gwen Wright, Planning Director, Montgomery County Planning Board
Robert Kronenburg, Deputy Planning Director, Montgomery County Planning Board
Elza Hisel-McCoy, Chief, Area 1, Montgomery County Planning Board
Stephanie Dickel, Supervisor, Area 1, Montgomery County Planning Board
Grace Bogdan, Plan Coordinator, Area 1 (the reviewer of the proposal), Montgomery County Planning Board
Steve Shofar, Manager II, Intergovernmental Affairs Division, Department of Environmental Protection
Stan Edwards, Manager II, Energy, Climate and Compliance Division, Department of Environmental Protection
Pamela Parker, Stormwater BMP Maintenance and Inspection Program, Department of Environmental Protection
Mark Etheridge, Manager, Water Resources Plan Review, Montgomery County, Department of Permitting Services
Atiq Panjshiri, Manager, Right-of-Way Review, Montgomery County Department of Permitting Services
Sam Farhadi, Plan Reviewer, Right-of-Way Plan Review, Montgomery County, Department of Permitting Services
David Kuykendall, Plan Reviewer, Water Resources Plan Review, Montgomery County, Department of Permitting Services
Tim Cupples, Chief, Division of Transportation Engineering, Montgomery County Department of Transportation
Dan Sheridan, Chief, Transportation Planning and Design Section, Division of Transportation Engineering, Department of Transportation
Bill Hamilton, Supervisor, Natural Resources Stewardship, Montgomery Parks
Matt Harper, Supervisor, Resource Analysis, Montgomery Parks

APPENDIX 1

The plastic carpet proposed (SYNLawn's SYNTipede 243) is substantially petroleum-based, even though the manufacturer highlights materials described as plant-based and markets the product as "Bio-based Synthetic Turf". Because of the large petroleum content, it is flammable, as the County's Department of Permitting Services and Department of Transportation have recognized.

We have been able to document the petroleum-based content, in the manufacturer's own words.

Screenshots 1 – 3 below are pages from the manufacturer's website that list technical specifications for the plastic carpet proposed for Ellsworth Drive. Screenshots 1 and 2 document in the manufacturer's own words that the product's grass blades (called "yarns") and its primary backing are made of petroleum-based plastics:

- The artificial blades of grass are made of polyethylene (a thermoplastic polymer)
- The primary turf backing is polypropylene-based.

SYNLawn's claim that its plastic carpet is environmentally friendly and bio-based rests solely on the contents of its proprietary Enviroloc turf coating. (See Screenshots 1 and 3.) The company describes Enviroloc as replacing a "large portion of petroleum-based polymers (up to 60%) with bio-based polymers created from sustainable resources including soybean oil."

Taking the converse of SYNLawn's petroleum claim, at least 40% of polymers for the turf backing are petroleum-based. Without additional information, the actual percentage of petroleum-based polymers for coating of the backing is impossible to determine.

Similarly, there is not sufficient information to assess the description of soybean oil and other sustainable resource content. Scientifically, biopolymers are not necessarily benign. Many of these polymers have been designed to be environmentally persistent. Micro or nano particles from a persistent biopolymer may be just as hazardous as those from a synthetic polymer.





We urge the Planning Board and County Executive to request that SYNLawn provide additional technical information in support of its descriptions.


SCREENSHOT 1

Product Specifications for Syntipede 243 From Manufacturer Synlawn's Website:


- The backing and grass blades (referred to as "yarn") are petroleum-based plastics. See also Screenshot 2.
- The manufacturer claims that the proprietary coating of its backing (Enviroloc) is "plant-based".
- But more details provided by the manufacturer are not consistent with its plant-based claim. See Screenshot 3 below.

Grass Zone Yarn/Color	PE / Field Green / Apple
Grass Zone Denier	10,000 / 6
Thatch Zone Yarn/Color	PE / Field Green / Beige
Thatch Zone Denier	5,040 / 12
Grass Zone Yarn Shape	Omega
Finished Pile Height	1"
Finished Pile Weight	60 oz.
Backing	15 / 18 PP 2 Part / 20oz. EnviroLoc™
Tuft Gauge	3/8"
Total Weight	86 oz.
Tuft Bind	> 8 lbs.
Permeability	> 300 inches per / SY
Features	Sanitized®, EnviroLoc™, StatBlock™ Anti-Static, DualChill™ IR Reflective, Deluster, UV Stabilizers
Test Data	ASTM F1292, F1951, IPEMA Certified

-  Unmatched Lifetime Warranty
-  EnviroLoc™ Plant-Based Backing
-  Deluster and UV Protection
-  Class A Fire Rating



Foot Traffic




Softness

SUPER YARN™ TECHNOLOGY

Sanitized®
Antimicrobial

DualChill™
IR Reflective


StatBlock™
Anti-Static





N 1 to scale For illustration only.


Learn more at CADdetails.com


RECOMMENDED USES


LANDSCAPE


PETS


PLAY


ROOFTOP


GOLF

Source: <https://www.synlawn.com/wp-content/uploads/2019/12/SYNLawn-SYNTipede-243-ST243.pdf>, consulted April 7, 2020.

Screenshot 2: Additional SYNTipede 243 Petroleum-based Specifications from SYNLawn's Website

SYNLAWN® <small>A SYNLawn GROUP COMPANY</small>		SYNTipede 243	
Primary Yarn Polymer	Polyethylene		
Yarn Cross Section	Omega	Primary Backing	15/18 PP 2-Part
Standard Color	Field Green / Apple	Coating Type	20 oz. EnviroLoc™
Fabric Construction	Tufted	PE Yarn Denier / Ends	10,000 / 6
Second Yarn Polymer Thatch	Polyethylene	Texturized Thatch Denier / Ends	5,040 / 12
Secondary Yarn Color	Field Green / Beige	Warranty Period	Limited Lifetime

Source: <https://www.synlawn.com/wp-content/uploads/2019/12/SYNLawn-SYNTipede-243-ST243.pdf>, consulted April 7, 2020.

Screenshot 3: How "Truly Green" is SYNTipede 243 ? SYNLawn's Website Describes its Proprietary Enviroloc Turf Coating

- The manufacturer claims that the proprietary coating of its backing (Enviroloc) is "plant-based".
- The company describes Enviroloc as replacing a "large portion of petroleum-based polymers (up to 60%) with bio-based polymers created from sustainable resources including soybean oil."
- Taking the converse of SYNLawn's petroleum claim, at least 40% of polymers for the turf backing are petroleum-based. Without additional information, the actual content is impossible to evaluate.

Truly 'green' technology.

SYNLawn's exclusive EnviroLoc™ Backing System is an environmentally friendly, multi-layer component system that "locks" in durable turf fibers, thereby, extending the product's life cycle. Made in the USA, the EnviroLoc™ Backing System replaces a large portion of petroleum-based polymers (up to 60%) with *biobased* polymers created from sustainable resources including soybean oil.

The EnviroLoc™ Backing System uses a durable 2-part woven Polypropylene backing fabric constructed to lock in tufted grass fibers. After tufting, the backing fabric and stitched grass fibers receive a thick layer of SYNLawn's proprietary biobased EnviroLoc™ coating. Together, these components provide a sturdy anchor for fibers creating less "shedding" as well as create an environmentally responsible approach to synthetic grass.

Source: <https://www.synlawn.com/enviroloc-backing-system/>, consulted April 7, 2020.

APPENDIX 2

Plastic carpet/synthetic turf is the wrong thing to install on Ellsworth Drive. SYN Lawn's products are not designed for the type of usage that will occur if the proposal goes through.

As Screenshot 4 (below) from the website documents, the manufacturer recommends the product only for landscape, pets, play, rooftop, and golf. It is not designed for the very heavy foot traffic or vehicular use that will occur on Ellsworth Drive.

Foulger Pratt proposes closing off Ellsworth to normal vehicle traffic, but emergency vehicles, delivery trucks and weekly Farmers' Market trucks would still be able to drive on it.

No substitute would be any better: plastic carpets are not up to or certified for the type of use proposed.

Note also that the listed certifications are not relevant for the use proposed.

Screenshot 4: Recommended uses of SYN Lawn's SYNTipede 243 are for "landscape, pets, play, rooftop and golf", according to the manufacturer

Grass Zone Yarn/Color	PE / Field Green / Apple
Grass Zone Denier	10,000 / 6
Thatch Zone Yarn/Color	PE / Field Green / Beige
Thatch Zone Denier	5,040 / 12
Grass Zone Yarn Shape	Omega
Finished Pile Height	1"
Finished Pile Weight	60 oz.
Backing	15 / 18 PP 2-Part / 20oz. EnviroLoc™
Tuft Gauge	3/8"
Total Weight	86 oz.
Tuft Bind	> 8 lbs.
Permeability	> 300 inches per / SY
Features	Sanitized*, EnviroLoc™, StatBlock™ Anti-Static, DualChill™ IR Reflective, DeFuster, UV Stabilizers
Test Data	ASTM F1292, F1951, IPEMA Certified

- Unmatched Lifetime Warranty
- EnviroLoc™ Plant-Based Backing
- DeFuster and UV Protection
- Class A Fire Rating

Foot Traffic

Softness

SUPER YARN™ TECHNOLOGY

- Sanitized* Antimicrobial
- DualChill™ IR Reflective
- StatBlock™ Anti-Static

Learn more at CADdetails.com

Not to scale. For illustration only

RECOMMENDED USES

- LANDSCAPE
- PETS
- PLAY
- ROOFTOP
- GOLF

Source: <https://www.synlawn.com/wp-content/uploads/2019/12/SYNLawn-SYNTipede-243-ST243.pdf>, consulted April 7, 2020.

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ATTACHMENT E:

**WATERSHED GROUP NEIGHBORS OF THE NORTHWEST BRANCH OPPOSES
INSTALLATION OF SYNTHETIC TURF ON ELLSWORTH.**

**The synthetic turf runoff drains into the Northwest Branch of the Anacostia via
Sligo Creek.**

On Wed, Jun 17, 2020 at 11:16 AM Anne Ambler <anambler@gmail.com> wrote:

Re: Project Plan No. 91998005C and Site Plan No. 81999002M

**Foulger-Pratt proposal to install plastic carpet on Ellsworth Drive, Downtown
Silver Spring, Montgomery County Planning Board hearing, June 18, 2020**

Dear Chairman Anderson:

On behalf of the Neighbors of the Northwest Branch (NNWB), I urge you and the Planning Board not to approve the plan by Foulger-Pratt to carpet Ellsworth Drive with artificial turf. The NNWB, an all-volunteer nonprofit organization with members in Montgomery and Prince George's counties, is dedicated to the ecological restoration of the Northwest Branch of the Anacostia River. Since Sligo Creek is a major tributary of the Northwest Branch, what flows into Sligo Creek makes its way to the Northwest Branch. Plastic pollution, whether large pieces or microplastics, is already a problem in our waterways. New research shows that microplastics are even in the wind (<https://www.scientificamerican.com/article/microplastics-are-blowing-in-the-wind/>) and the rain (<https://earthsky.org/earth/rain-microplastic-rocky-mountains-colorado>). It makes no sense to add to global pollution by coating a street with this substance. We strongly support the arguments in the excellent letter you received from Friends of Sligo Creek dated April 20, 2020 (attached).

Montgomery County claims to be environmentally progressive. Now that we know much more about how widespread and harmful plastic pollution is, this county needs to act responsibly on that information and *reduce, not increase*, sources of environmental plastic contamination.

Thank you for the opportunity to comment.

Anne Ambler
Advocacy Chair

P.O. Box 4314
Silver Spring, MD 20914