

M-NCPPC



MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

8787 Georgia Avenue
Silver Spring, Maryland 20910-3760
301-495-4500, www.mncppc.org

**MCPB
ITEM #6
10/20/05**



MEMORANDUM

DATE: October 13, 2005

TO: Montgomery County Planning Board

VIA: Rose Krasnow, Chief *RK*
Development Review Division

FROM: Catherine Conlon, Subdivision Supervisor (301-495-4542)
Development Review Division *CC*

REVIEW TYPE: Preliminary Plan of Subdivision – Extension

APPLYING FOR: Second request to extend the validity period of the Adequate Public Facilities Ordinance (APFO) approval for the preliminary plan

PROJECT NAME: Westfarm Technology Park, Kaiser Permanente – Parcels BB and CC

CASE NO. 119820680 (formerly 1-82068)

REVIEW BASIS: Pursuant to Chapter 50, the Subdivision Regulations

ZONING: I-3

LOCATION: On the west side of Plum Orchard Drive, approximately 500 feet south of Broadbirch Drive

MASTER PLAN: Fairland

APPLICANT: Kaiser Permanente

ATTORNEY: Linowes and Blocher LLP

FILING DATE: June 20, 2005

HEARING DATE: October 20, 2005

Staff Recommendation: Grant additional two-year extension of the APFO validity period until July 25, 2007.

BACKGROUND

Preliminary Plan No. 119820680 (formerly 1-82068), Westfarm Technology Park (the "Subdivision"), was approved by written opinion of the Planning Board dated October 26, 1982 (Attachment A). The applicant, Kaiser Permanente ("Kaiser") owns two record lots within the Subdivision, Parcels BB and CC. Pursuant to the Planning Board's approval and Section 50-20(c)(3)(ii) of the Subdivision Regulations, the validity period for the Adequate Public Facilities ("APF") approval for the Subdivision was to remain valid until July 25, 2001. In March, 2001 Kaiser requested, and was granted, an extension to this validity period until July 25, 2005. By letter on June 20, 2005, as supplemented by a follow-up letter on September 29, 2005 (Attachments B and C), Kaiser has requested a second extension of the APF validity period until July 25, 2007. In keeping with the Planning Board's practice for extension requests, an application filed prior to the expiration of the validity period remains timely filed even if it does not go to the Board for action prior to the expiration date. The subject extension was timely filed and remains valid.

DISCUSSION

Section 50-20(c)(3)(iv) of the Montgomery County Code provides that a subdivision's APF approval may be extended by the Planning Board if:

- (A) At least forty percent (40%) of the approved development has been built, is under construction, or building permits have been issued, such that the cumulative total of the development will meet or exceed the percentage requirement of this paragraph;
- (B) All of the infrastructure required by the conditions of the original preliminary plan approval has been constructed or payments for construction have been made; and
- (C) The development is an "active project" as demonstrated by at least 10 percent of the project having been completed within the last four years before an extension request is made, or at least 5 percent of the project having been completed within the last four years before an extension request is made, if 60 percent of the project has been built or is under construction.

Section 50-20(c)(3)(vii) further establishes that the length of the extension allowed under (iv) above must not exceed 6 years for projects 150,000 feet or greater, such as the Subdivision. Since the original extension was granted for 4 years, the current request must not be granted for more than an additional 2 years.

Staff has reviewed the current extension request for compliance with (A) through (C) above. The analysis and conclusions are presented in the attached memoranda from Community-Based Planning and Transportation Planning Staff (Attachments D and E, respectively). Community-Based Planning Staff concluded that the Subdivision meets the requirements of the Subdivision Regulations that 40% of the overall development has been built and that the development is an "active project" as demonstrated by at least 10% of the project having been completed within the last four years. Transportation Planning Staff further concluded that all infrastructure required by the conditions of the original preliminary plan approval have been constructed or payments for construction have been made.

CONCLUSION

Staff finds that Kaiser's request for extension of the APF validity period for the Subdivision was timely filed and remains valid. Staff further finds that the Subdivision meets the requirements of Section 50-20(c)(3)(iv) of the Subdivision Regulations. Pursuant to Section 50-20(c)(3)(vi) of the Subdivision Regulations, the maximum extension for which this Subdivision qualifies is six years. The Subdivision received a four year extension of the APF validity in 2001. Therefore, Staff recommends approval of a two-year year extension of the validity period for the APF approval for the Subdivision until July 25, 2007.

Attachments:

- Attachment A – October 26, 1982 Planning Board Opinion
- Attachment B – July 17, 2005 Applicant Letter (without attachments)
- Attachment C – September 29, 2005 Applicant Supplemental Letter
- Attachment D – Community-Based Planning Memo
- Attachment E – Transportation Planning Memo