

APPROVED
MINUTES

The Montgomery County Planning Board met in regular session on Thursday, January 3, 2008, at 9:00 a.m. in the Montgomery Regional Office in Silver Spring, Maryland, and adjourned at 3:40 p.m.

Present were Chairman Royce Hanson, Vice Chair John Robinson, and Commissioners Allison Bryant and Jean Cryor. Commissioner Gene Lynch joined the meeting at 9:02 a.m., at the conclusion of Item 2.

Items 1 through 6 are reported on the attached agenda.

The Board recessed at noon for lunch and to meet in Closed Session, Item 13 on the regular agenda.

In compliance with Section 10-509(c)(2), State Government Article, Annotated Code of Maryland, the following is a report of the Board's Closed Session:

The Board convened in Closed Session at 12:10 p.m. in the third floor conference room, on motion of Commissioner Lynch, seconded by Commissioner Cryor, with Chairman Hanson, Vice Chair Robinson, and Commissioners Bryant, Cryor, and Lynch present and voting in favor of the motion. The meeting was closed under authority of State Government Article, Annotated Code of Maryland Section 10-508(a)(13), to comply with a specific constitutional, statutory, or judicially imposed requirement that prevents public disclosures about a particular proceeding or matter, and Section 10-508(a)(7), to consult with counsel to obtain legal advice.

Also present for the Closed Session were Associate General Counsels Kathleen Drohan and David Lieb of the Legal Department; Acting Planning Director Gwen Wright, Director of Parks Mary Bradford, and Ann Daly of the Commissioners' Office.

In Closed Session, the Board reviewed Closed Session minutes for approval and received advice of counsel in preparation for regular agenda Item 9.

The Closed Session was adjourned at 12:30 p.m.

The Board reconvened in the auditorium at 1:05 p.m.

Items 7 through 12 are reported on the attached agenda.

MCPB 1-3-08, APPROVED

There being no further business, the meeting was adjourned at 3:40 p.m. The next regular meeting of the Planning Board will be held Thursday, January 10, 2008, in the Montgomery Regional Office in Silver Spring, Maryland.

E. Ann Daly
Technical Writer

Ellyn Dye
Technical Writer

**Agenda for Montgomery County Planning Board Meeting
Thursday, January 3, 2008, 9:00 A.M.
8787 Georgia Avenue
Silver Spring, MD 20910-3760**

9:00 AM Consent Agenda

1. Adoption of Opinions/Resolutions

Group A: Five Commissioners Eligible to Vote [Commissioners Bryant, Cryor, Hanson, Lynch and Robinson]

- i) Site Plan No. 820070210 R. Holt Easley's Subdivision; ADOPTION OF RESOLUTION No.: 08-08
- ii) Preliminary Plan No. 120070440, Bradley's Choice; ADOPTION OF RESOLUTION No.: 08-09
- iii) Preliminary Plan No. 120061200; Greenhills; ADOPTION OF RESOLUTION No. 08-07
- iv) Preliminary Plan No. 120061240; Parker Memorial Baptist Church; ADOPTION OF RESOLUTION No. 08-13
- v) Preliminary Plan No. 120070250; Quince Orchard Estates; ADOPTION OF RESOLUTION No. 08-11

Group B: Four Commissioners Eligible to Vote [Commissioners Bryant, Hanson, Cryor and Lynch]

- vi) Preliminary Plan No. 120070410814 Thayer Avenue; ADOPTION OF CORRECTED RESOLUTION No. 07-203

BOARD ACTION

Motion: (A.) ROBINSON/BRYANT

(B.) BRYANT/CRYOR

Vote:

Yea: (A.) 4-0
(B.) 3-0-1

Nay:

Other: (A.) LYNCH ABSENT
(B.) ROBINSON ABSTAINS; LYNCH ABSENT

Action: (A.) Adopted the Resolutions as presented in Group A.
(B.) Adopted the Corrected Resolution as presented in Group B.

2. Record Plats

Subdivision Plat No. 220061150, George W. Acorn's Addition to Colesville C-1 zone; 1 lot; located in the southeast quadrant of the intersection of Vital Way and Randolph Road; White Oak. *Staff Recommendation: Approval*

Subdivision Plat No. 220071150, Westleigh R-200 zone; 2 lots, located on the west side of Duffie Mill Road, approximately 220 feet north of Flints Grove Lane; Potomac. *Staff Recommendation: Approval*

Subdivision Plat No. 220080010, Taylor Subdivision R-90 zone; 2 lots; located at the southern terminus of Arnet Lane; Bethesda-Chevy Chase. *Staff Recommendation: Approval*

Subdivision Plat No. 220080290 – 220080310, Greenway Village PD-4 zone; 36 lots, 13 parcels; located on the south side of Little Seneca Parkway, approximately 650 feet west of Newcut Road; Clarksburg. *Staff Recommendation: Approval*

BOARD ACTION

Motion: ROBINSON/BRYANT

Vote:

Yea: 4-0

Nay:

Other: LYNCH ABSENT

Action: Approved staff recommendations for approval as stated above.

HEARINGS ON APPLICATIONS

3. [Pre-Preliminary Plan No. 720060490, Bowie Mill Estates \(Resubdivision\)](#)

RE-2 zone; 18.07 acres; 4 lots requested; 4 one-family detached residential dwelling units, one existing; located on the south side of Bowie Mill Road approximately 300 feet east of Fraley Farm Road; Upper Rock Creek; *Staff Recommendation: No objection to the submission of a preliminary plan*

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: Without objection and with the five Commissioners present, concurred in the staff recommendation of no objection to submission of a preliminary plan, with the understanding this is a non-binding action

As noted in the December 21, 2007, technical staff report, the applicant, in submitting this pre-preliminary plan to resubdivide two lots comprising 18 acres into four lots that range from 144,000 to 244,993 square feet, is seeking non-binding guidance on the feasibility of the proposed resubdivision. All lots would be served by individual wells and septic systems.

Mr. Curt Schreffler, representing CAS Engineering, introduced the applicant, Ms. Anita Chopra. Mr. Schreffler concurred with the staff recommendation and offered to answer questions.

Commissioner Bryant, in querying staff, verified that the use of septic sand mounds is acceptable in this case because each is on the lot it serves.

Commissioner Lynch received clarification from staff on the rationale for the neighborhood delineation.

Chairman Hanson said he did not see the need in this case to extend the defined neighborhood beyond the same zone as the proposed property.

4. [Preliminary Plan No. 120070600, Pollekoff Property \(Resubdivision\)](#)

RE-2 zone; 12.02 acres; 2 lots requested; 2 one-family detached residential dwelling units, one existing; located on the west side Slidell Road, 3,000 feet north of Barnesville Road; Boyds; *Staff Recommendation: Approval*

BOARD ACTION

Motion: LYNCH/ROBINSON

Vote:

Yea: 5-0

Nay:

Other:

Action: Approved staff recommendation for approval subject to conditions as revised and stated in the attached Board Resolution.

As noted in the December 11, 2007, technical staff report, the application proposes to resubdivide a 12.01 acre recorded lot into two lots and one recorded outlot. An existing one-family detached house and a septic field are proposed on Lot 3. A new one-family detached dwelling is proposed on Lot 4 and will have a septic easement on the outlot.

Mr. David Crowe of Macris, Hendricks & Glascock, introduced Mr. David Janis, the applicant. At the request of the Board, Mr. Crowe provided additional information about the applicant's preference for the septic easement on the outlot. Mr. Crowe also testified that the subject development will not have an adverse impact on other properties.

5. Board of Appeals No. S-2712

Special Exception request by Sunrise Senior Living, applicant, to construct an assisted living facility (domiciliary care home) consisting of 80 units; RE-2/TDR zone; located on the north side of Olney Sandy Spring Road between Prince Phillip Drive & Old Baltimore Road; Olney *Staff Recommendation: Approval with Conditions*

(Action required for hearing by the Hearing Examiner on 1/14/08)

BOARD ACTION

Motion: LYNCH/ROBINSON

Vote:

Yea: 5-0

Nay:

Other:

Action: **Approved staff recommendation for approval with revised conditions as noted in the attached transmittal to the County Council, sitting as the District Council.**

As noted in the December 21, 2007, technical staff report, this application seeks approval of a long-term care, assisted living facility of 74 units and a maximum of 94 beds, with associated site amenities and subject to recommended conditions listed in the report, as revised and distributed at the meeting. The application also seeks approval of the Preliminary Forest Conservation Plan subject to a condition listed in the report.

Ms. Cindy Bar, attorney representing the applicant, introduced Mr. Mark Paracells, a representative of the applicant company, and consultant Mr. Kevin Foster. Ms. Bar testified the applicant would like operating hours of 7 a.m. to 7 p.m., an agreement reached with the community. Ms. Bar verified the applicant has reached an agreement also with adjacent neighbors, the Rings, about a property rights issue.

Mr. Paracells, Sunrise Senior Living, testified about the business history of the company and its residents' profile.

Mr. Foster provided additional details on the property.

The Board, in discussion received additional information from both the applicant and staff about a number of issues, including the voluntary ceiling of 76 units, stormwater management and the size of a buffer, competing County policies, and operational issues.

Mr. Norman Knopf, attorney representing Janet and John Ring, property owners closest to this project, testified the Rings have resolved some problems with the applicant, thus withdrawn earlier objections.

Mr. Allen Abel, an abutting property owner on Shotley Bridge Place who had signed up to testify was not present.

6. Local Map Amendment G-873

Washington Episcopal Day School, applicant, request to rezone 11.2 acres of land from the R-30 & C-O zones to the PD-28 zone to permit the expansion of the existing school and a multiple-family dwelling consisting of 121 units; located at 5523 Landy Lane & 5600 Little Falls Parkway, Bethesda *Staff Recommendation: Approval*

(Action required for hearing by the Hearing Examiner on 1/11/08)

BOARD ACTION

Motion: **LYNCH/ROBINSON**

Vote:

Yea: **5-0**

Nay:

Other:

Action: Approved staff recommendation for approval of the requested rezoning and the accompanying Development Plan, subject to revised conditions as noted in the attached transmittal to the County Council, sitting as the District Council.

As noted in the December 21, 2007, technical staff report, the applicant seeks to rezone 1.4 acres from the R-30 and C-O zones to the PD-28 zone. The applicant will continue to operate a private educational institution on the property, construct an expansion of the facility, and redevelop a portion of the property with multi-family housing consisting of 121 units for independent senior housing. The PD -28 Zone is recommended in the *1982 Approved and Adopted Westbard Sector Plan*.

Staff of the Development Review Division extended the written report: the Public Hearing date is January 11; numerous letters have been received opposing the location of eight parking spaces adjacent to the Capital Crescent Trail (CCT).

In discussion, the Board concurred in the elimination of the eight parking spaces adjacent to the CCT and explored other options.

Mr. Jody Klein, attorney, Mr. Page Lansdale, former Board of Trustees Chair and others representing the applicant, Washington Episcopal Day School, testified on the school's history and plans, agreed to add greater details to satisfy concerns of the neighborhood and to assist in pursuing an intersection signal light at Landy Lane/River Road.

Presenting testimony were Ms. Pat Baptiste and Mr. Wayne Phyllaier, representing the Coalition for the Capital Crescent Trail (CCCT); Mr. Robert Cope, Chair of the Citizens Coordinating Committee on Friendship Heights and representing the Joint Committee on Westbard; Mr. Norman Knopf, attorney representing the Brookdale community; Mr. Robert J. Shaffer,

6. Local Map Amendment G-873

representing the Kenwood Citizens Association; Mr. Jeffrey Slavin, Councilmember Town of Somerset; Ms. Sue B. Schumacher, representing 310 homeowners of the Kenwood Condominium; and Ms. Jenny Sue Dunner, a resident of Dorset Avenue.

Mr. Kline testified in rebuttal, offered the applicant's cooperation in resolving the issues raised, and accepted the Board's recommended conditions.

Following additional discussion and Transportation Planning Division comments on the intersection light, the Board took its action.

Lunch

13. Closed Session- ADDED

Pursuant to Annotated Code of Maryland, State Government Article, Section 10-508(a)(13), to comply with a specific constitutional, statutory, or judicially imposed requirement that prevents public disclosures about a particular proceeding or matter – Approval of Closed Session Minutes

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: Met in Closed Session; see state citation and open session report in narrative minutes.

7. **[AB 687: Willington Drive](#)**

Abandonment of approximately 150 feet of unimproved Willington Drive, White Oak
Staff Recommendation: Transmit Comments Recommending Denial to Montgomery County Department of Public Works and Transportation

BOARD ACTION

Motion: ROBINSON/BRYANT

Vote:

Yea: 5-0

Nay:

Other:

Action: Approved staff recommendation to support denial of the requested abandonment, as stated in the attached Letter of Transmittal.

Transportation Planning staff presented the proposed abandonment of an unimproved portion of right-of-way abutting the Northwest Branch Stream Valley Park, as detailed in the staff report. Although the right-of-way will not support a paved roadway, staff recommends denial of the abandonment because it could jeopardize public pedestrian access to the park and future vehicular access to several undeveloped lots and because it could result in land-disturbing activities within the stream buffer and degradation of the stream and riparian forest within the right-of-way.

Environmental Planning staff provided additional information, noting that the property contains high-priority forest with a stream and stream buffer, contiguous to a larger forest. Staff reported that the environmental guidelines would prohibit future development of the right-of-

way because of the environmental features. In addition, staff said, placing a Category I Conservation Easement over the area would provide protection of the environmental features, but would prohibit the proposed pasturing of animals.

Mr. Carey Hoobler, the applicant, noted that he owns the lots on either side of the unimproved right-of-way and wishes to combine them, incorporating the right-of-way area, to support a special exception petition to allow the stabling of horses on the property. Ms. Marilyn Hoobler provided information about the anticipated activities on the site.

Ms. Barbara Foresti of Willington Drive spoke in opposition to the abandonment.

There followed considerable discussion of the environmental features of the property, options for providing continuing pedestrian access to the park, potential vehicular access to the adjacent undeveloped lots, the anticipated activities on the site, and the restrictions under a Category I Conservation Easement.

8. [AB 689: Marden Lane](#)

Request to modify Condition No. 5 of a previously approved abandonment of Marden Lane, Brooke Grove Foundation Campus, Sandy Spring *Staff Recommendation: Transmit Comments Supporting Approval to Montgomery County Department of Public Works and Transportation*

BOARD ACTION

Motion: LYNCH/BRYANT

Vote:

Yea: 5-0

Nay:

Other:

Action: Approved staff recommendation to support the modification, as stated in the attached Letter of Transmittal.

Transportation Planning staff presented the request to delete a condition of a previously approved abandonment of Marden Lane, as detailed in the staff report. Staff noted that the condition required an electronic gate for the benefit of the owners of two adjacent properties, who are now deceased. The applicant has purchased those two properties and, therefore, staff finds the condition to be no longer relevant and supports the request to delete it.

Ms. Sue Carter, attorney representing the applicant, concurred in the staff recommendation.

9. [AB 693: Fox Meadow Lane](#)

Abandonment of a portion of unimproved Fox Meadow Lane, Potomac
Staff Recommendation: Transmit Comments Supporting Approval with Conditions to Montgomery County Department of Public Works and Transportation

BOARD ACTION

Motion: HANSON/LYNCH

Vote:

Yea: 5-0

Nay:

Other:

Action: Approved the abandonment, subject to the staff condition, if the right-of-way has never been in public use; and approved the staff recommendation to transmit a recommendation that it be abandoned, subject to the staff condition, if it is determined that the right-of-way has been in public use, as stated in the attached Letter of Transmittal.

Transportation Planning staff presented the proposed abandonment of an unimproved portion of Fox Meadow Lane, as detailed in the staff report. Staff finds that the right-of-way is not needed for current or future public use and supports the abandonment, following recordation of adjacent lots to ensure that they will not become landlocked.

Chairman Hanson noted that if the right-of-way has never been in public use, the abandonment authority rests with the Board. If the right-of-way has been in public use, the abandonment authority rests with the County Council, and the Board would provide a recommendation.

Mr. Kenneth Tecler, attorney representing the applicant, maintained that the area is a grassed strip between two lots that has not been in public use. He concurred in the staff recommendation.

Commissioner Bryant noted the proximity to Bradley Boulevard and the Connelly School, and questioned the assertion that it has not been used for pedestrian traffic.

10. [AB 694 through AB 697: Clarksburg Village](#)

Abandonment of four roadways in Clarksburg Village Compliance Program, Clarksburg

AB 694: Abandonment of a portion of Bent Arrow Drive

AB 695: Abandonment of a portion of British Manor Drive

AB 696: Abandonment of a portion of Granite Rock Road

AB 697: Abandonment of a portion of Robin Song Drive

Staff Recommendation: Transmit Comments Supporting Approval to Montgomery County Department of Public Works and Transportation

BOARD ACTION

Motion: **BRYANT/ROBINSON**

Vote:

Yea: **5-0**

Nay:

Other:

Action: **Approved staff recommendation, as stated in the attached Letter of Transmittal.**

Transportation Planning staff presented the proposal to abandon unimproved portions of public right-of-way of four roads in Clarksburg Village, to reduce the rights-of-way from 50 feet to 27 feet, 4 inches, to bring eight constructed homes into conformance with the County Code in terms of setback. The roadways will remain as constructed and the sidewalks will be constructed as planned over public improvement easements, rather than in public rights-of-way. Staff noted that these abandonments are consistent with the Clarksburg Village Compliance Program approved by the Board.

Mr. Michael Faerber and Ms. Kate Kubit, representing the applicant, concurred in the staff recommendation.

11. [AB 699 and AB 700: Christ Evangelical Lutheran Church](#)

Abandonment of two roadways associated with Local Map Amendment No. G-864 for Christ Evangelical Lutheran Church, Bethesda

AB 699: Abandonment of a portion of Rugby Avenue

AB 700: Abandonment of an alley off Glenbrook Road

Staff Recommendation: Transmit Comments Supporting Approval to Montgomery County Department of Public Works and Transportation

BOARD ACTION

Motion: **LYNCH/ROBINSON**

Vote:

Yea: **5-0**

Nay:

Other:

Action: Approved the staff recommendation to support approval of the proposed abandonments, modified to delete the proposed conditions, as stated in the attached Letter of Transmittal.

Transportation Planning staff presented the proposal to abandon a portion of Rugby Avenue and an alley off Glenbrook Road to facilitate redevelopment of the property owned by Christ Evangelical Lutheran Church, as detailed in the staff report. Staff supports the proposed abandonments, conditioned on providing public use easements to allow vehicular turnarounds at the terminus of Rugby Avenue and to allow pedestrian traffic from the terminus of Rugby Avenue to Old Georgetown Road by path along the property line. Staff noted that correspondence has been received in opposition to the proposed abandonments from area residents who use the rights-of-way on a regular basis.

Mr. Steve Kaufman, attorney representing the applicant, pointed out where people walk across the property to access Battery Lane, Old Georgetown Road, and Glenbrook Road, noting where pedestrians leave the public rights-of-way and cross private property. He stated that the applicant is willing to provide the public use easement at the terminus of Rugby Avenue to allow vehicular turnarounds and extend it to allow access to the abutting Rescue Squad property to the west. The applicant objects, he said, to providing legal access across the property to Old Georgetown Road.

Mr. Dave Brown, attorney representing the Committee of Concerned Citizens of Glenbrook Road and Rugby Avenue, elaborated on his clients' regular use of the rights-of-way and opposition to the abandonments, maintaining that the applicant has not met the burden of proof to justify the abandonment of rights-of-way in public use.

There followed considerable discussion of the proposed abandonments and the public use issues. The Board agreed to support the proposed abandonments and to address the public use easement issues in the context of the future preliminary plan of subdivision.

**12. Roundtable Discussion Including Briefings and Worksessions
(No public testimony will be taken at this time)**

- A. Approval of Minutes
- B. Commissioner's Report
- C. Director's Report
- D. Shady Grove Discussion
- E. Discussion of Forest Conservation Law Revisions - **POSTPONED**
- F. FY08 Savings Plan and FY09 Budget Priorities

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: **A. Approval of Minutes—Approved minutes of November 19, December 10, and December 17, 2007, as presented.**

B. Commissioner's Report—None.

C. Director's Report—None.

D. Shady Grove Discussion—Postponed.

E. Discussion of Forest Conservation Law Revisions—Postponed.

F. FY08 Savings Plan and FY09 Budget Priorities—Received proposals from Executive Director Oscar Rodriguez, Secretary-Treasurer Patti Barney, Director of Parks Mary Bradford, and Acting Planning Director Gwen Wright on FY08 savings and, during considerable discussion, provided guidance on strategies for savings and presentation to the County Council.