



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

APPROVED
MINUTES

The Montgomery County Planning Board met in regular session on Thursday, February 28, 2013, at 9:20 a.m. in the Montgomery Regional Office in Silver Spring, Maryland, and adjourned at 10:35 p.m.

Present were Chair Françoise M. Carrier, Vice Chair Marye Wells-Harley, and Commissioners Casey Anderson and Amy Presley. Commissioner Dreyfuss joined the meeting at 9:25 a.m. during discussion of Item 2.

Items 1 through 5 and Items 8, 9, 11, and 12 are reported on the attached agenda.

Item 4 was postponed, and Item 6, a Closed Session Item, was removed from the agenda.

The Board recessed for lunch at 12:10 p.m. and reconvened in the auditorium at 2:09 p.m. to complete discussion of Item 2 – Zoning Code Revision Worksession, which started during the morning session, and to discuss Items 7 and 10, which are reported on the attached agenda.

The Board recessed for dinner at 6:53 p.m. and reconvened in the auditorium at 7:38 p.m. to continue discussion of Item 10 – Board of Appeals Case S-2863, Costco, which started during the afternoon session.

There being no further business, the meeting was adjourned at 10:35 p.m. The next regular meeting of the Planning Board will be held Thursday, March 7, 2013, in the Montgomery Regional Office in Silver Spring, Maryland.

M. Clara Moise
Sr. Technical Writer

Montgomery County Planning Board Meeting
Thursday, February 28, 2013
8787 Georgia Avenue
Silver Spring, MD 20910-3760
301-495-4600

1. Consent Agenda

***A. Adoption of Resolutions**

1. Dennis Avenue Health Center FCP MR201301 - MCPB No. 12-112

BOARD ACTION

Motion: PRESLEY/ANDERSON

Vote:

Yea: 4-0

Nay:

Other: DREYFUSS ABSENT

Action: Adopted the Board Resolution cited above as presented.

***B. Record Plats**

1. Subdivision Plat No. 220110960, Clarksburg Village

R-200/TDR zone; Road dedication; located at the intersection of Snowden Farm Parkway and Winding Woods Way; Clarksburg Master Plan.

Staff Recommendation: Approval

2. Subdivision Plat No. 220120950-220121050, Clarksburg Village - POSTPONED

R-200/TDR zone; 111 lots, 17 parcels; located on the north and south sides of Snowden Farm Parkway, approximately 650 feet southeast of Winding Woods Way; Clarksburg Master Plan.

Staff Recommendation: Approval

3. Subdivision Plat No. 220122010, Crestview

R-60 zone; 1 lot; located on the north side of Bayard Boulevard, across from the intersection of Leroy Place. Bethesda-Chevy Chase Master Plan

Staff Recommendation: Approval

4. Subdivision Plat No. 220130850, Battery Park, Section 3

R-60 zone; 1 lot; located in the northwest quadrant of the intersection of Goddard Road and Maple Ridge Road; Bethesda-Chevy Chase Master Plan.

Staff Recommendation: Approval

BOARD ACTION

Motion: WELLS-HARLEY/PRESLEY

Vote:

Yea: 4-0

Nay:

Other: DREYFUSS ABSENT

Action: Approved the Record Plats cited above as submitted.

***C. Other Consent Items**

Site Plan Amendment 82006025C, Ripley Street North, CBD-2, 1.8 acres, Provide flexibility to allow live-work units within approved development levels and make minor modifications to the landscape and lighting plans; Silver Spring CBD Sector Plan

Staff Recommendation: Approval with Conditions

BOARD ACTION

Motion: WELLS-HARLEY/ANDERSON

Vote:

Yea: 4-0

Nay:

Other: DREYFUSS ABSENT

Action: Approved the Site Plan Amendment for the Ripley Street North Project, subject to conditions, as discussed in the staff report.

***D. Approval of Minutes**

Minutes of January 17, 2013 and January 24, 2013

BOARD ACTION

Motion: PRESLEY/WELLS-HARLEY

Vote:

Yea: 4-0

Nay:

Other: DREYFUSS ABSENT

Action: Approved Planning Board Meeting Minutes of January 17 and 24, 2013, as submitted.

2. Zoning Code Revision

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: Continued discussion on General Development Regulations, and provided guidance to staff in a worksession in the context of the draft Zoning Ordinance Rewrite.

***8. Site Plan 820130020 - Town & Country Movers - TIME CHANGED**

Construction of a 31,820 square foot, long-term storage/warehouse building on 2.13 gross acres in the I-4 zone, located at 7591 Rickenbacker Drive, Gaithersburg in the Gaithersburg Vicinity Master Plan area. Proposal includes a Final Forest Conservation Plan with variance request for critical root zone impacts to one specimen tree on adjacent property.

Staff Recommendation: Approval with Conditions

BOARD ACTION

Motion: DREYFUSS/ANDERSON

Vote:

Yea: 5-0

Nay:

Other:

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

In keeping with the February 14 technical staff report, Planning Department staff discussed the request to construct a 31,820-square foot long-term storage/warehouse building on a 2.13-acre property located on Rickenbacker Drive in Gaithersburg. Staff noted that a final forest conservation plan with a variance request for critical root zone impact to one specimen tree on an adjacent property is part of the proposed application. Staff also added that the applicant is requesting a waiver of the minimum parking requirements to provide seven on-site parking spaces instead of the required 48 spaces.

Mr. Alan Grant, attorney representing the applicant, offered brief comments and concurred with the staff recommendation.

9. Mandatory Referral MR 2013019: Stringtown Road - TIME CHANGED

The Montgomery County Department of Transportation will reconstruct the existing ¾-mile, two-lane section of Stringtown Road as a four-lane divided roadway between Saint Clair Road/Overlook Park Drive and to a point 500 feet west of Snowden Farm Pkwy, Clarksburg Master Plan

***A. Final Water Quality Plan MR 2013019: Mandatory Referral For Stringtown Road**
Approval with Conditions

***B. Forest Conservation Plan MR 2013019: Mandatory Referral for Stringtown Road**
Approval with Conditions

***C. Forest Conservation Plan Amendment 820020220: Highlands at Clarksburg**
Stringtown Road Construction Encroachments
Approval with Conditions

***D. Forest Conservation Plan Amendment 820030020: Clarksburg Village, Phase I**
Stringtown Road Construction Encroachments
Approval with Conditions

E. Mandatory Referral MR 2013019: Stringtown Road
Staff recommendation: Approval and Transmit Comments to MCDOT

BOARD ACTION

- Motion:**
- A. WELLS-HARLEY/DREYFUSS**
 - B. WELLS-HARLEY/ANDERSON**
 - C. WELLS-HARLEY/ANDERSON**
 - D. ANDERSON/WELLS-HARLEY**
 - E. ANDERSON/DREYFUSS**

Vote:

Yea: 4-0 (A THROUGH E)

Nay:

Other: PRESLEY RECUSED

Action: A. Approved staff recommendation for approval of the Final Water Quality Plan for the Stringtown Road project, subject to conditions, as stated in the attached Board Resolution.

B. Approved staff recommendation for approval of the Forest Conservation Plan for the Stringtown Road project, subject to conditions, as stated in the attached Board Resolution.

9. Mandatory Referral MR 2013019: Stringtown Road

CONTINUED

C. Approved staff recommendation for approval of the Forest Conservation Plan Amendment for the Highlands at Clarksburg project, subject to conditions, as stated in the attached Board Resolution.

D. Approved staff recommendation for approval of the Forest Conservation Plan Amendment for the Clarksburg Village, Phase I project, subject to conditions, as stated in the attached Board Resolution.

E. Approved staff recommendation for approval and to transmit comments to the Montgomery County Department of Transportation (MCDOT), as stated in the attached transmittal letter.

At the onset of the discussion, Commissioner Presley recused herself due to potential conflict of interest.

In keeping with the February 14 technical staff report, Planning Department staff offered a multi-media presentation and discussed the request from the Montgomery County Department of Transportation (MCDOT) to reconstruct the existing three quarter mile, two-lane section of Stringtown Road as a four-lane divided roadway between Saint Clair Road/Overlook Park Drive, 500 feet west of Snowden Farm Parkway in the Clarksburg Master Plan area. Staff noted that the proposed road design and alignment has been reviewed and approved as part of adjacent development projects. Staff added that the applicant's proposal is consistent with the environmental guidelines to either avoid environmental impact, and when that is not possible, to minimize the impacts. The special protection area water quality plan for this project has been reviewed by the Department of Permitting Services and by staff and is in conformance with environmental guidelines. Staff recommended that a variance be granted and finds that the final forest conservation plan meets all applicable requirements of the County Code.

Ms. Yasamin Esmaili and Mr. Kenneth Kendall from MCDOT offered comments and answered questions from the Board.

Mr. Justin Bell and Ms. Gabrielle Myers, representing the applicant, answered questions from the Board and concurred with the staff recommendation.

Ms. Cecile Foreman of Stringtown Road offered testimony.

There followed extensive Board discussion with questions to staff, MCDOT representatives, and the applicant's representatives.

***3. Fenton Street - REVISED**

***A. Preliminary Plan Review No. 120120130, Fenton Street, CBD-1, CBD-0.5, Fenton Village Overlay Zone & R-60, 2.7 acres, 2 lots for a mixed-use development of 260,921 square feet, including 259 multi-family dwelling units, 18,650 square feet of retail and 29,228 square feet of institutional use (church), located in the southeast quadrant of the intersection of Fenton Street and Wayne Avenue, Silver Spring CBD Sector Plan & North and West Silver Spring Master Plan**
Staff Recommendation: Approval with Conditions

***B. Site Plan Review No. 820130050, Fenton Street, CBD-1, CBD-0.5, Fenton Village Overlay Zone & R-60, 2.7 acres, 2 lots for a mixed-use development of 260,921 square feet, including 259 multi-family dwelling units, 18,650 square feet of retail and 29,228 square feet of institutional use (church), located in the southeast quadrant of the intersection of Fenton Street and Wayne Avenue, Silver Spring CBD Sector Plan & North and West Silver Spring Master Plan**
Staff Recommendation: Approval with Conditions

BOARD ACTION

**Motion: A. ANDERSON/PRESLEY
 B. ANDERSON/PRESLEY**

Vote:
**Yea: A. 5-0
 B. 5-0**
Nay:
Other:

**Action: A. Approved staff recommendation for approval, subject to conditions, as stated in the attached Board Resolution.
 B. Approved staff recommendation for approval, subject to conditions, as stated in the attached Board Resolution.**

Planning Department staff offered a multi-media presentation and discussed the request to create two lots for a mixed-use development totaling 260,921 square feet, including 259 multi-family dwelling units, 18,650 square feet of retail, and 29,228 square feet of institutional use, i.e., church/religious institution, on a 2.7-acre property located in the southeast quadrant of the intersection of Fenton Street and Wayne Avenue in the Silver Spring Central Business District. Staff noted that the project will meet part of the parking requirement on-site with underground parking. Staff recommended approval of a finding that the full right-of-way dedication requirement on Bonifant Street is not warranted. Staff further added that the applicant is requesting a forest conservation variance for the removal of three onsite specimen trees and impact to one offsite tree. Staff and the County Arborist have reviewed the request and

***3. Fenton Street - REVISED**

CONTINUED

recommended that the variance be approved upon meeting the mitigation requirements for tree loss. Staff also reviewed the public amenity package that the proposed development will provide, including two public plazas on Wayne Avenue and Bonifant Street, an outdoor play area on Bonifant Street with benches, tables and chairs, a public elevator connecting the two plazas, and a passage way between the two plazas that features seat walls, steps, shade trees, bio-retention planters, and specialty paving.

Mr. Scott Wallace, attorney representing the applicant, briefly discussed the proposed request, and concurred with the staff recommendation.

The following speakers offered testimony: Messrs. Jim Reed and John Rosencrans representing the First Baptist Church of Silver Spring, and Ms. Karen Roper representing the East Silver Spring Citizens Association (ESSCA).

There followed a brief Board discussion with questions to staff and the speakers.

5. Northwest Branch Stream Valley Park, Unit 3

Authorization to acquire 5.547 acres, more or less, improved, from The Leonard L. Deitz and Esther L. Deitz Revocable Living Trust at 24 Crest Park Court, Silver Spring, MD 20903

Staff Recommendation: Approval

BOARD ACTION

Motion: ANDERSON/PRESLEY

Vote:

Yea: 5-0

Nay:

Other:

Action: Approved staff recommendation to authorize the acquisition of 5.547 acres of land on Crest Park Court in Silver Spring, Maryland, to be added to existing parkland, as stated above.

11. Agricultural History Farm Park - ADDED

Authorization to acquire 0.75 acres, more or less, unimproved, from The Bussard Family Revocable Living Trust at 18208 Muncaster Road, Derwood, MD 20855

Staff Recommendation: Approval

BOARD ACTION

Motion: ANDERSON/WELLS-HARLEY

Vote:

Yea: 5-0

Nay:

Other:

Action: Approved staff recommendation to authorize the acquisition of 0.75 acres of land on Muncaster Road in Derwood, Maryland, to be added to existing parkland, as stated above.

12. Agricultural History Farm Park - ADDED

Authorization to acquire 0.75 acres, more or less, unimproved, from Mildred G. Bussard and Mary Frances Bussard at 18204 Muncaster Road, Derwood, MD 20855

Staff Recommendation: Approval

BOARD ACTION

Motion: WELLS-HARLEY/ANDERSON

Vote:

Yea: 5-0

Nay:

Other:

Action: Approved staff recommendation to authorize the acquisition of 0.75 acres of land on Muncaster Road in Derwood, Maryland, to be added to existing parkland, as stated above.

6. Closed Session - REMOVED

Pursuant to State Government Article Annotated Code of Maryland 10-508 (a) (3) to consider the acquisition of real property for a Commission purpose and matters relating thereto.

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: This Item was removed from the Planning Board Agenda.

7. Briefing - Purple Line Project Coordination

Staff update on Purple Line including (1) summary of major outstanding issues for Chevy Chase Lake, Long Branch and Lyttonsville plan areas as well as the Capital Crescent Trail and the Silver Spring Green Trail, (2) MTA Concept Preliminary Engineering Submittal, and (3) the project review process going forward.

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: Received briefing on outstanding issues related to the proposed Purple Line Project in preparation for a Mandatory Referral Request to occur in Fall 2013, followed by discussion.

Planning Department staff discussed outstanding issues surrounding the Purple Line Project, including a proposed ventilation tower for the Bethesda Tunnel, access to the Capital Crescent Trail via the Lynn Drive crossing, the width of the proposed passage through Chevy Chase Lake Street, the new, more compact design for the Lyttonsville Station Yard and Shop, the proposed design for the Silver Spring Transit Center Area, the width of the tree buffer for new segments of the Silver Spring Green Trail, new right-of-way requirements for the Arliss Street tunnel portal relating to new space

requirements for emergency vehicle access, impact of the Purple Line on access to the Long Branch Recreation Center, and Park Mitigation.

Mr. Mike Madden of the Maryland Transit Authority (MTA) offered testimony on the impact to the Long Branch Recreation Center and potential mitigations being studied.

Parks Department staff offered comments.

Planning staff noted that this briefing was in preparation for the upcoming mandatory referral process that will consider the Purple Line, construction of the Capital Crescent Trail, and the Silver Spring Green Trail. There will be a separate review of the Capital Crescent Trail surface alignment project at a later date.

2. Zoning Code Revision - CONTINUED

Staff and Planning Board resumed discussion of proposed revisions to the language of the Zoning Code

Board Action

Motion:

Vote:

Yea:

Nay:

Other:

Action: Discussed proposed new definitions to be included in revisions to the Zoning Ordinance Code.

Planning Department staff discussed new letters received from the public reacting to proposed changes to the Zoning Ordinance Code. The Board discussed the difference between agricultural processing considered accessory to farming and agricultural processing as a primary use. The definition of Farm Market was clarified. Mulching and compost regulations were also discussed.

4. Roundtable Discussion - (IF TIME PERMITS) - POSTPONED

A. Round 8.2 Small Area Forecast allocation of jobs, households, and population

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: This Item was postponed

10. Board of Appeals Case No. S-2863, Costco

Request for a special exception for an automobile filling station; C-2 Zone; 37,754 square feet; Located at 11160 Veirs Mill Road, Wheaton CBD & Vicinity Sector Plan

Staff Recommendation: Denial

(Action required for the hearing by the Hearing Examiner on March 11, 2013)

Board Action

Motion: ANDERSON/WELLS-HARLEY

Vote:

Yea: 3-0-2

Nay: DREYFUSS/PRESLEY

Other:

Action: Approved staff recommendation of denial on the grounds that the proposed gas station is inconsistent with the goal of encouraging transit-oriented development in the Wheaton Central Business District (CBD).

Discussion of this item started during the afternoon Planning Board session and continued in the evening. Please see report of the Board discussion under **Item 10 – Continued**, in this document.

13. Closed Session - ADDED

Pursuant to State Government Article Annotated Code of Maryland 10-508(a)(1) to discuss the appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation, or performance evaluation of Commission appointees, employees, or officials; or to discuss any other personnel matter that affects 1 or more specific employees.

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

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

10. Board of Appeals Case No. S-2863, Costco (CONTINUED)

Request for a special exception for an automobile filling station; C-2 Zone; 37,754 square feet; Located at 11160 Veirs Mill Road, Wheaton CBD & Vicinity Sector Plan

Staff Recommendation: Denial

(Action required for the hearing by the Hearing Examiner on March 11, 2013)

Board Action

Motion: ANDERSON/WELLS-HARLEY

Vote:

Yea: 3-0-2

Nay: DREYFUSS/PRESLEY

Other:

Action: Approved staff recommendation of denial on the grounds that the proposed gas station is inconsistent with the goal of the Sector Plan to encourage transit-oriented development in the Wheaton Central Business District (CBD).

Planning Department staff discussed a request to grant a special exception allowing the construction of an automobile filling station adjacent to the Costco store on the Southwest corner of Wheaton Mall. The proposed station would have 16 fueling positions arranged in four islands with four pumps each, would accept credit and debit only, and would dispense an estimated 12 million gallons of fuel per year to Costco members, requiring five fuel deliveries per day.

Staff reviewed the proposal and analyzed the predicted impact on traffic, noise levels, environment, air quality, and the health of local residents, as well as analyzing the need for the filling station, and the proposal's compliance with the Sector Plan and Forest Conservation Guidelines. As detailed in the February 28 technical staff report, staff found that the proposal met most requirements for receiving a special exception; however, they believed that the applicant's proposal underestimated the number of idling cars that would form a queue waiting for gasoline and concluded that the fumes from these idling cars could pose a health hazard for neighborhood residents. As a result, staff recommended denial of the request.

Ms. Patricia Harris-Lerch, attorney representing Costco, noted that the proposed green buffer zone surrounding the site of the gas station would be sufficient to protect residents from any fumes and contested staff's analysis of the proposed filling station's potential health impact.

Mr. David Sullivan, certified consulting meteorologist, testified on behalf of Costco that the applicant's study of potential air quality impact was carried out in accordance to the Environmental Protection Agency (EPA) standards and provided sufficient evidence to conclude the filling station would not have a negative health impact on the surrounding community.

10. Board of Appeals Case No. S-2863, Costco (CONTINUED)

CONTINUED

The Board asked about the methodologies used for the study and discussed EPA standards.

Mr. Larry Silverman, environmental attorney, testified on behalf of the Stop Costco Gas Coalition that the applicant's health impact study was inadequate and failed to meet the burden of proof that there would be no negative health impact on the adjacent neighborhoods.

Dr. Henry Cole, meteorologist, testified on behalf of Stop Costco Gas Coalition that the applicant's study was only a model and not a genuine public health assessment, and that there had been sufficient time for the applicant to perform a more thorough assessment.

Ms. Abigail Adelman of the Stop Costco Gas Coalition testified that vehicle exhaust had numerous documented harmful effects on pulmonary health and that the EPA recommends 1,000 feet of separation between schools and large gas stations. Ms. Adelman stated that the proposed "mega" gas station was three times larger than those considered in the EPA recommendation.

The following speakers offered testimony opposing the proposed filling station: Mr. Sam Campbell on behalf of the Stephen Knolls School PSA, Ms. Herlyth Pemberton of Jennings Court, Ms. Julie Ryan-Silva of Homestead Drive, Ms. Wendy Core of Torrance Court, Mr. Mark Franz of Kermit Road, Mr. Mark Adelman of University Boulevard West, Ms. Donna Savage of McComas Court, Ms. Patricia Mulready of Capitol View Avenue, Mr. Andrew Fraser of McComas Avenue, Mr. Doug Sims of Perego Drive, Drs. Patrick Breyssso and Maria Jison representing the Kensington Heights Civic Association, Ms. Karen Cordry of Torrance Drive, Mr. Danila Sheveiko of Melvin Grove Court, Ms. Mary Ann Carter of Decatur Avenue, Ms. Ann Arevalo of Torrance Drive, Mr. James Core of Torrance Court, Ms. Andrea Santy of Jennings Court, Mr. Taylor Wilkerson representing the Kensington Heights Recreation Association, Ms. Viviane Pescov of McComas Avenue, Mr. Steven Gibson of Torrance Court, Ms. Elizabeth Mueller of McComas Avenue, Ms. Kathleen Michels of Ladd Street, Ms. Diane Cameron of Jones Mill Road, and Mr. Guy Spaid Jr. of Veirs Mill Road. Common concerns included the increased traffic, effects of exhaust fumes, the proximity of the Stephen Knolls School, the medical fragility of students at the Stephen Knolls School, the proximity of the Kenmont Swim and Tennis Club, the goal of creating a transit-oriented district, and the members-only nature of the proposed filling station.

The following speakers offered testimony in favor of the filling station: Ms. Annette Laguerre of Collins Avenue, Mr. Steven Morrison of Vintage Lane, Mr. Kenneth Horowitz of Daffodil Lane, Mr. Jaime Garcia of Newport Mill Road, Mr. and Mrs. Ronald and Janet McNab of Meadowood Drive, Ms. Licia Cardinal of University Boulevard West, and Ms. Dana Davidson on behalf of Mr. Leonard Abrue of Burnswick Avenue. Concerns cited included the need for inexpensive gasoline, the environmental impact of Costco members driving all the way to Beltsville to buy gasoline, the environmental superiority of a state-of-the-art filling station compared to outdated technology used in older, existing filling stations, and the fact that the Board's requirement that applicants demonstrate an absence of adverse health effects amounted to proving a negative, which is not possible.

10. Board of Appeals Case No. S-2863, Costco (CONTINUED)

CONTINUED

The Board discussed whether the applicant met the burden of proof regarding the absence of adverse health effects. A majority of Board members moved to vote that the proposed gas station be found incompatible with the objectives of the Sector Plan, which calls for the establishment of a transit-oriented district, as the proposed gas station would most likely encourage additional automobile traffic.