



**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, March 7, 2013, at 9:12 a.m. in the Montgomery Regional Office in Silver Spring, Maryland, and adjourned at 8:45 p.m.

Present were Chair Françoise M. Carrier, Vice Chair Marye Wells-Harley, and Commissioners Casey Anderson, Norman Dreyfuss, and Amy Presley.

Items 1 through 3 are reported on the attached agenda.

The Board recessed for lunch at 1:10 p.m. and to take up Items 4 and 11 in Closed Session.

In compliance with §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 1:20 p.m. in the third floor conference room, on motion of Commissioner Presley, seconded by Commissioner Dreyfuss, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Anderson, Dreyfuss, and Presley present and voting in favor of the motion. The meeting was closed under authority of Annotated Code of Maryland, State Government Article, §10-508(a)(7), to consult with counsel to obtain legal advice; and under authority of Annotated Code of Maryland, State Government Article, §10-508(a)(13), to comply with specific constitutional, statutory, or judicially imposed requirement that prevents public disclosures about a particular proceeding or matter.

Also present for all or part of the Closed Session items were: Secretary Treasurer Joe Zimmerman; Associate General Counsels Sean Dixon and Megan Chung of the Legal Department; Deputy Director Mike Riley and Kate Stookey of the Parks Department; and M. Clara Moise of the Commissioners' Office.

In Closed Session, the Board received briefing and discussed the proposed draft Montgomery County Parks Foundation Agreement, approved Closed Session Minutes of December 6 & 13, 2012, and January 17 & 31, 2013, and received a brief update from Planning Department staff on the proposed M-NCPPC headquarters building in Wheaton.

The Closed Session was adjourned at 2:20 p.m.

The Board reconvened in the auditorium at 2:35 p.m.

Items 5 through 9 are reported on the attached agenda.

The Board recessed for dinner at 5:40 p.m. and reconvened in the auditorium at 7:20 p.m. to take up Item 10 – Zoning Revision Implementation Public Hearing.

There being no further business, the meeting was adjourned at 8:45 p.m. The next regular meeting of the Planning Board will be held Thursday, March 14, 2013, in the Montgomery Regional Office in Silver Spring, Maryland.

M. Clara Moise  
Sr. Technical Writer

**Montgomery County Planning Board Meeting**  
**Thursday, March 7, 2013**  
8787 Georgia Avenue  
Silver Spring, MD 20910-3760  
301-495-4600

**1. Consent Agenda**

**\*A. Adoption of Resolutions**

**BOARD ACTION**

**Motion:**

**Vote:**

**Yea:**

**Nay:**

**Other:**

**Action: There were no Resolutions submitted for adoption.**

**\*B. Record Plats**

**BOARD ACTION**

**Motion:**

**Vote:**

**Yea:**

**Nay:**

**Other:**

**Action: There were no Record Plats submitted for approval.**

**\*C. Other Consent Items**

**BOARD ACTION**

**Motion:**

**Vote:**

**Yea:**

**Nay:**

**Other:**

**Action:** There were no Consent Items submitted for approval.

**\*D. Approval of Minutes**

Minutes of January 31, 2013

**BOARD ACTION**

**Motion:** PRESLEY/WELLS-HARLEY

**Vote:**

**Yea:** 5-0

**Nay:**

**Other:**

**Action:** Approved Planning Board Meeting Minutes of January 31, 2013, as submitted.

**2. Enforcement Hearing: Montgomery County Planning Department v. Golozar A. & K. Kaviani**

**BOARD ACTION**

**Motion:** PRESLEY/WELLS-HARLEY

**Vote:**

**Yea:** 4-0-1

**Nay:** DREYFUSS

**Other:**

**Action: Approved staff recommendation to approve the Administrative Judge’s decision recommending that the Respondent comply with the Forest Conservation Law, pay the appropriate penalties, and undertake appropriate corrective actions in accordance with Montgomery County Code §22A-17.**

Legal Counsel to the Board and Planning Department staff discussed the forest conservation violation the respondents, Mr. and Mrs. Kaviani, have been cited for and did not comply with. Legal staff noted that the applicant’s attorney requested a deferral on the grounds that his client received the notice of this hearing only a week ago and did not have enough time to prepare. Legal staff further added that the notice was mailed on February 15, 2013, in accordance with the 10-day notice requirement.

Mr. A. Pishewar, attorney for the respondent discussed the respondent’s request for a deferral and answered questions from the Board.

Mrs. Golozar Kaviani, the respondent, offered comments.

At the Board’s request, Mr. Bradley Clawson, representing the National Park Service, offered comments.

There followed extensive discussion and questions to staff and the respondent’s attorney.

**3. Long Branch Sector Plan - Worksession 2**

*Staff Recommendation: Discuss and provide guidance to staff.  
(Morning Requested)*

**BOARD ACTION**

**Motion: PRESLEY/WELLS-HARLEY**

**Vote:**

**Yea: 5-0**

**Nay:**

**Other:**

**Action: Received briefing followed by discussion, provided guidance to staff, and voted unanimously to recommend that the Flower Avenue Theater and its façade be designated on the Historic Resources Atlas as a historic resource.**

Planning Department staff continued discussion of the Long Branch Sector Plan started last Thursday. Staff noted that today’s discussion will focus on phasing of the plan, the Long Branch Town Center area, affordable housing, historic designation of the Flower Theater façade and the adjacent shopping center, the Piney Branch Neighborhood Village, and the City of Takoma Park Resolution 2013-6.

The following speakers offered testimony: Ms. Stacy Silber representing the Flower Avenue Shopping Center, LLP, Mr. Robert Sponseller representing Shalom Baranes Associates, and Mr. David Rosentein via telephone.

There followed extensive Board discussion with questions to staff.

**4. Closed Session**

Pursuant to State Government Article Annotated Code of Maryland 10-508(a)(7) to consult with counsel to obtain legal advice. (NOTE: Foundation Agreement)

**BOARD ACTION**

**Motion:**

**Vote:**

**Yea:**

**Nay:**

**Other:**

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

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**11. Closed Session - ADDED**

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

**BOARD ACTION**

**Motion:**

**Vote:**

**Yea:**

**Nay:**

**Other:**

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

**5. Design Guidelines for the Approved and Adopted Kensington Sector Plan**

**Draft Design Guidelines**

*Staff Recommendation: Approve Design Guidelines for the Approved and Adopted Kensington Sector Plan*

**BOARD ACTION**

**Motion: PRESLEY/WELLS-HARLEY**

**Vote:**

**Yea: 5-0**

**Nay:**

**Other:**

**Action: Approved Design Guidelines for the Approved and Adopted Kensington Sector Plan, including proposed changes discussed in the staff report and at the meeting, following a brief presentation by Planning Department staff and Board discussion.**

Planning Department staff gave an overview of the new design guidelines for the *Approved and Adopted Kensington Sector Plan* following the Sector Plan's approval on March 20, 2012. These guidelines provide an illustration of how to achieve the goals expressed in the Sector Plan.

The Board discussed minor typographical errors to be corrected.

Ms. Tracey Furman of the Kensington Town Council answered questions about the new plan.

Mr. Duane Rollins of Dupont Avenue, a local business owner, expressed his support for Councilwoman Furman's comments and the new Sector Plan.

**6. Subdivision Regulation Amendment No. 13-01**

Extend the validity period for a determination of adequate public facilities for certain developments and extend the validity period for certain preliminary/subdivision plans.

*Staff Recommendation: Transmit Comments to County Council*  
**(Action required for County Council public hearing of 3/12/13)**

**BOARD ACTION**

**Motion: ANDERSON/DREYFUSS**

**Vote:**

**Yea: 5-0**

**Nay:**

**Other:**

**Action: Approved staff recommendation to transmit comments to the County Council and recommended approval of Subdivision Regulation Amendment 13-01, as stated in the attached transmittal letter.**

Planning Department staff reviewed the details of Subdivision Regulation Amendment 13-01, which would extend the validity period for a determination of adequate public facilities for certain developments as well as extend the validity period for certain preliminary/subdivision plans and recommended approval of the proposed extensions.

Mr. William Kominers, attorney, on behalf of Maryland National Capital Building Industry Association, offered testimony in support of the proposed amendment, explaining that the tepid economy has delayed some development projects, and the proposed extensions would allow those projects to move forward as soon as capital becomes available without the need to file for new permits. He believed the proposed amendments would make the area more business-friendly.

Mr. Steve Robins, attorney, offered testimony to add his support to the comments expressed by Mr. Kominers, and to recommend approval of the amendment.

**7. Preliminary Plan Review No. 120130040, Sonoma**

R-60 Zone, 0.42 acres, 2 lots for 2 one-family detached dwelling units, located on Sonoma Road at the intersection with Seneca Lane, Bethesda Chevy-Chase

*Staff Recommendation: Approval with Conditions and Adopt Resolution*

**BOARD ACTION**

**Motion: DREYFUSS/WELLS-HARLEY**

**Vote:**

**Yea: 5-0**

**Nay:**

**Other:**

**Action: Approved staff recommendation for approval, subject to revised conditions discussed at the meeting, and adopted the attached Board Resolution.**

Planning Department staff reviewed the request to construct two one-family residences on Sonoma Road in the Bethesda-Chevy Chase Master Plan area. The proposed plan would involve consolidating and subdividing two existing lots. A Forest Conservation Plan exemption has already been approved, and staff recommended the applicant be required to plant six trees to mitigate the tree removal proposed in the preliminary plan.

Mr. Phil Leibovitz, the applicant, offered testimony explaining the decision to build long driveways with impervious surface, which affected the root zone of several trees and influenced his decision to propose the removal of those trees.



Mr. Jeff Robertson, engineer representing the applicant, stated that the trees would likely be damaged during construction.

Mr. Raymond Greene of Sonoma Road, on behalf of the Sonoma Citizens Association, offered testimony expressing concerns that one of the two proposed houses would be too close to the neighboring property line where his own house was located and that the lot was too small for two houses and approval of the proposal would set a precedent for future developers to create undesirably small lots.

In reply to a question from the Board, staff stated that the proposed lots, although smaller, would not be the smallest in the neighborhood.

In rebuttal, Mr. Leibovitz noted that he would be willing to meet with Mr. Greene to discuss the placement of the house next to the shared property line.

Mr. Gregory Filas of Sonoma Road, on behalf of the Sonoma Citizens Association, offered testimony in opposition to the application on the basis that the neighborhood's tree canopy provided myriad of benefits to all the residents and that the proposed tree removal benefited only the developer.

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

The Board explained that the Forest Conservation Law only gave them authority to consider the disposition of trees on certain properties, and that the property in question was exempt from the law.

## **8. Local Map Amendment G-954 and Development Plan Amendment DPA-13-01, 4831 West Lane, LLC - REVISED**

Request by the Zoning Hearing Examiner to address revised plans focusing on public use space, building setbacks and changes to the building design; located in the northwest quadrant of the intersection with West Lane and Montgomery Lane; Bethesda-CBD (Central Business District) Master Plan

*Staff Recommendation: Approval*

**(Action Required for Hearing by Hearing Examiner 4/8/13)**

### **BOARD ACTION**

**Motion:**                   **ANDERSON/PRESLEY**

**Vote:**

**Yea:**                   **5-0**

**Nay:**

**Other:**

**Action:**           **Approved staff recommendation for approval and to transmit comments to the Hearing Examiner, with language establishing the 12' upper-story step-back parallel to Montgomery Lane as a binding element and requiring public use space to conform to the design shown in the staff report, as stated in the attached transmittal letter.**

Planning Department staff discussed revisions to rezoning application G-954 and Development Plan Amendment DPA-13-01 proposed in response to concerns raised by the Planning Board in

previous meetings. These revisions concerned building setbacks, public use space, and building design of the proposed development near the intersection of Arlington Road and Montgomery Lane. The new proposal establishes public use space along the southern and eastern edges of the building, instead of the previously proposed public use space along the northern edge that was deemed to be undesirable due to proximity to exposed transformers. The proposed public use space will include benches and landscaping. The design of the building along the intersection of West Lane and Montgomery Lane has been changed from a right-angle corner to a quarter-circle cutout in order to accommodate the new public use space. The new proposal also increases the step-back of the top two stories parallel to Montgomery Lane from nine feet to twelve feet.

Ms. Pat Harris, attorney representing the applicant, explained the changes to the proposed design in the latest revision, and concurred with the staff recommendation.

Mr. Manus Radelescu, architect, member of the applicant's team, discussed how the new circular park proposed along the southeast corner of the building would improve the pedestrian experience of the public use space, and how the increased upper-story step-back would address concerns of sunlight access for neighboring buildings.

## **8. Local Map Amendment G-954 and Development Plan Amendment DPA-13-01, 4831 West Lane, LLC - REVISED**

Mr. Stan Abrams, attorney for the City Homes Townhouse Community, offered testimony objecting to the proposed development on the grounds that the new public use space was smaller than the public use space proposed under the previous version of the plan. He also objected to the proposed language of a binding element requiring truck deliveries to use the service entrance, pointing out that the proposal lacked language from the original staff recommendation that called on the applicant to take responsibility for enforcing this requirement.

In rebuttal, Ms. Harris expressed a willingness to revise the language to mutually agreeable language.

The following speakers offered testimony: Mr. Norman Knopf, attorney representing Edgemoore Condominium Residential, objected to the proposed structure on the grounds that it is not compliant with the Sector Plan's parameters for height and density; Mr. Kenneth Doggett, on behalf of Edgemoore Condominium Residential noted that the specific planning recommendations for Montgomery Lane call for a low-rise urban village, and the proposed development would only meet this recommendation if the upper-story step-back were increased to 30 feet; Mr. Louis Pohoryles, also on behalf of Edgemoore Condominium Residential noted that existing problems with crowding and parking shortages would be compounded by the proposed development; and Mr. Andrew Niebler, on behalf of the Bethesda Civic Coalition, stated that the proposed development would double the number of residences on a 20-foot-wide street and greatly compound traffic problems. He also noted that the sector plan calls for a "tenting" effect in which building along the corner of Arlington and Montgomery Lanes would drop down to three stories.

The Board discussed the height requirements called for by the Sector Plan, as well as prior exemptions that had been granted for the purpose of encouraging the development of affordable housing.

**9. Roundtable Discussion**  
- Planning Director's Report

**BOARD ACTION**

**Motion:**

**Vote:**

**Yea:**

**Nay:**

**Other:**

**Action: Planning Director's Report**

Acting Planning Director Rose Krasnow reported on upcoming Women's History Month events including the "Woman of the Year" award and a presentation on March 27 regarding the role of women in military medicine, as well as upcoming events in April and May. She spoke of community outreach efforts related to the ongoing Zoning Code Revisions, including new office hours established to answer questions and concerns raised by affected residents and added that weather-related closures on March 6 displaced a planned live internet broadcast.

**10. Zoning Revision Implementation --- Public Hearing**

**Attachment 1 - Attachment 2 - Attachment 3 - Attachment 4**

**BOARD ACTION**

**Motion:**

**Vote:**

**Yea:**

**Nay:**

**Other:**

**Action: Received testimony followed by discussion.**

Planning Department staff gave a brief overview of the final phase of the ongoing Zoning Revision process before Planning Department's revisions are submitted to the County Council, and discussed the implementation of the new zoning ordinances. Staff explained the history of the zoning revision process, the current use of zones throughout the county, and the public notice process for changes to zoning ordinance, as well as the general impacts of the new ordinances on development.

Mr. Perry Berman of Corporate Boulevard offered testimony on behalf of Sheer Partners, complimenting staff on their comprehensive summary of the material, and expressed concern about the need for zoning ordinances to encourage the development of senior housing and affordable housing.

Ms. Barbara Ditzler, on behalf of the League of Women Voters of Montgomery County, offered testimony that her organization has monitored the zoning code revisions since 2009 and found the process to be extremely transparent and receptive to public concerns. She asked questions about new animal husbandry regulations and changes to Building/Lease/Transfer (BLT) values.

Ms. Lisa Barry, on behalf of Edgewood Inn, asked for clarification about several zoning issues pursuant to the Inn's planned renovations.

Staff responded that any plans already underway would be grandfathered under the old zoning ordinances.

Mr. Barry Gudelsky, on behalf of Edgewood Inn, asked for clarification about the difference between main buildings and accessory buildings such as barns.

Staff replied that the level of detail of this question was beyond the scope of the public forum but offered to speak with him in person afterwards.

Ms. Julie Davis, on behalf of the Coordinating Committee of Friendship Heights, voiced a number of questions and concerns and asked when hard copies of the final draft of revisions would be publicly available.

Staff replied that the final draft should be posted online in a week.

## **10. Zoning Revision Implementation Public Hearing**

Ms. Davis objected to the noticing process, and the Board defended that process as above and beyond what the law required.

The Board discussed the concerns raised by the speakers regarding the information that would be available online, mechanisms that could be used to promote affordable housing, the new animal husbandry use ordinances, and clarified that they were complimentary with existing agricultural uses and the new BLT values.

The Board invited Ms. Davis to return to discuss further if she has any questions after she had the opportunity to read all of the proposed revisions.