



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 31, 2011, at 9:05 a.m. in the Montgomery Regional Office in Silver Spring, Maryland, and adjourned at 6:01 p.m.

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

Items 1 through 4 and Item 11 are reported on the attached agenda.

Item 5 was postponed.

The Board recessed at 11:50 a.m. for lunch and to take up Items 12 and 13 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 12:35 p.m. in the third floor conference room, on motion of Commissioner Presley, seconded by Vice Chair Wells-Harley, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Alfandre, Dreyfuss, and Presley present and voting in favor of the motion. The meeting was closed under authority of §10-508(a)(13), State Government Article, Annotated Code of Maryland, to comply with specific constitutional, statutory, or judicially imposed requirement that prevents public disclosures about a particular proceeding or matter, and §10-508(a)(7), State Government Article, Annotated Code of Maryland, to consult with counsel to obtain legal advice.

Also present for the Closed Session were: Associate General Counsels David Lieb and Christina Sorrento of the Legal Department; and M. Clara Moise of the Commissioners' Office.

In Closed Session, the Board approved Closed Session Minutes of January 6, 13, 20, and February 3, and 17, 2011, and received briefing and provided guidance to legal staff regarding placing site plan and project plan amendment requests on the consent agenda.

The Closed Session was adjourned at 12:50 p.m.

The Board reconvened in the auditorium at 1:40 p.m.

Item 6 is reported on the attached agenda.

The Board recessed at approximately 2:35 p.m. to take up Item 7 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 Montgomery County Planning Board convened in Closed Session at 2:44 p.m. in the third floor conference room, on motion of Commissioner Dreyfuss, seconded by Vice Chair Wells-Harley, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Alfandre, Dreyfuss, and Presley present and voting in favor of the motion. The meeting was closed under authority of §10-508(a)(9), State Government Article, Annotated Code of Maryland, to conduct collective bargaining negotiations or consider matters that relate to the negotiations.

Also present for all or part of the Closed Session were Executive Director Patti Barney; Abinet Belachew of the Internal Audit Division; Jasmine Prepetit of the Human Resources and Management Department; Director Mary Bradford, Deputy Directors Michael Riley and Gene Giddens, Karen Warnick, Mitra Pedoeem, Mary Ellen Venzke, and Shuchi Vera of the Parks Department; Chief Darien Manley of the Park Police; and Joyce Garcia and Ellyn Dye of the Commissioners' Office.

In Closed Session, the Board received an update from the Executive Director about the FY12 budget proposal for the Human Resources and Management Department and actions taken by the Prince George's Planning Board on that budget, and discussed the impact of the County Executive's proposed FY12 budget reductions on the Parks Department and Commissioners' Office.

The Closed Session was recessed at 4:30 p.m., to be continued at the end of the afternoon session, following discussion of Item 10.

The Board reconvened in the auditorium at 4:37 p.m.

Item 8 was postponed. Items 11, 9, and 10 are reported on the attached agenda.

The Board recessed at 5:17 p.m. to continue Item 7 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 reconvened in Closed Session, in a continuation of Closed Session Item 7, at 5:30 p.m. in the third floor conference room, on motion of Commissioner Presley, seconded by Commissioner Alfandre, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Alfandre, Dreyfuss, and Presley present and voting in favor of the motion. The meeting was closed under authority of §10-508(a)(9), State Government Article, Annotated Code of Maryland, to conduct collective bargaining negotiations or consider matters that relate to the negotiations.

Also present for all or part of the Closed Session were Director Rollin Stanley of the Planning Department; Director Mary Bradford and Deputy Director Michael Riley of the Parks Department; and Joyce Garcia and Ellyn Dye of the Commissioners' Office.

In Closed Session, the Board continued its discussion of the impact of the County Executive's proposed FY12 budget reductions on the Parks Department, Planning Department, and Commissioners' Office.

The Closed Session was adjourned at 6:01 p.m.

There being no further business, the meeting was adjourned at 6:01 p.m. The next regular meeting of the Planning Board will be held Thursday, April 7, 2011, in the Montgomery Regional Office in Silver Spring, Maryland.

M. Clara Moise
Technical Writer

Ellyn Dye
Technical Writer

Montgomery County Planning Board Meeting
Thursday, March 31, 2011
8787 Georgia Avenue
Silver Spring, MD 20910-3760
301-495-4600

1. Consent Agenda

***A. Adoption of Resolutions**

1. Potomac Crest Preliminary Plan 12002119A and Site Plan 82003035A – ADOPTION OF MCPB RESOLUTION No. 10-147

*2. 7300 Pearl Street – Air Rights Center Project Plan 92000001B – ADOPTION OF MCPB RESOLUTION No. 10-166

*3. 7300 Pearl Street – Air Rights Center Preliminary Plan 120110010 – ADOPTION OF MCPB RESOLUTION No. 10-167

*4. 7300 Pearl Street – Air Rights Center Site Plan 82007001C – ADOPTION OF MCPB RESOLUTION No. 10-168

5. Hidden Hill Preliminary Plan 120100180 – ADOPTION OF MCPB RESOLUTION No. 11-13

6. Long Branch Walkway-Bridge and Sidewalk Forest Conservation Plan MR2007901 – ADOPTION OF MCPB RESOLUTION No. 10-137

7. Anselmo Property Preliminary Plan 120100160 – ADOPTION OF MCPB RESOLUTION No. 10-172

8. Rock Spring Centre Preliminary Plan 11998092B – ADOPTION OF MCPB RESOLUTION No. 11-15 -**REMOVED; PREVIOUSLY ADOPTED**

9. Norwood School Amendment Preliminary Plan 11998015A – ADOPTION OF MCPB RESOLUTION No. 11-12

10. Children’s Manor Montessori School Site Plan 82006034B – ADOPTION OF MCPB RESOLUTION No. 11-01

11. Discovery Communications, Inc. Headquarters Site Plan 82000032C – ADOPTION OF MCPB RESOLUTION No. 11-10

***A. Adoption of Resolutions - REVISED**

12. 1150 Ripley Street Site Plan 82008015C – ADOPTION OF MCPB RESOLUTION No. 11-11

*13. Potomac Village Site Plan 820110070 – ADOPTION OF MCPB RESOLUTION No. 11-23

BOARD ACTION

Motion: 1) DREYFUSS/PRESLEY
 2) PRESLEY/WELLS-HARLEY

Vote:
 Yea: 1) 5-0
 2) 5-0

Nay:

Other:

Action: 1) Adopted Resolutions cited above, except for #2, 3, 4, and 13, which were adopted separately.
 2) Adopted Resolutions #2, 3, 4, and 13, as revised by Legal staff and as presented.

***B. Record Plats**

1. Subdivision Plat No. 220080110, Travilah Acres; RE-2 zone; 3 lots; located on the east side of Turkey Foot Road, approximately 1,200 feet north of Query Mill Road; Potomac.

Staff Recommendation: Approval

2. Subdivision Plat No. 220100830, Ducks End; RDT zone; 3 lots; located on the south side of Bucklodge Road (MD 117), approximately 1,000 feet west of Whites Store Road; Agriculture and Rural Open Space.

Staff Recommendation: Approval

3. Subdivision Plat No. 220110040, Kensington Heights; R-60 zone; 13 lots, 1 parcel, 2 outlots; located on the south side of University Boulevard West (MD 103) at the eastern terminus of Moore Lane; Kensington - Wheaton.

Staff Recommendation: Approval

4. Subdivision Plat No. 220110440, Westfarm Technology Park; I-3 zone, 2 parcels; located at the terminus of Plum Orchard Drive, 550 feet north of Broadbirch Drive; Fairland.

Staff Recommendation: Approval

5. Subdivision Plat No. 220110510, Locust Hill Estates; R-60 zone; 2 lots; located on the north side of Broad Brook Drive, approximately 1,000 feet east of Rockville Pike (MD 355); Bethesda-Chevy Chase.

Staff Recommendation: Approval

6. Subdivision Plat No. 220110600, Cabin John Park; R-90 zone; 1 lot; located on the east side of 81st Street, 100 feet south of Caraway Street; Bethesda - Chevy Chase.

Staff Recommendation: Approval

7. Subdivision Plat No. 220110610, Drumeldra Hills; R-200 zone; 1 lot; located on the west side of Overton Lane, approximately 1,500 feet north of Notley Road, White Oak.

Staff Recommendation: Approval

8. Subdivision Plat No. 220110770, Lybrook; R-90 zone; 1 lot; located on the south side of Howell Road, 225 feet west of Bradley Boulevard (MD 191); Bethesda-Chevy Chase.

Staff Recommendation: Approval

BOARD ACTION

Motion: PRESLEY/WELLS-HARLEY

Vote:

Yea: 5-0

Nay:

Other:

Action: Approved Record Plats cited above.

***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 February 10, 2011

BOARD ACTION

Motion: **WELLS-HARLEY/DREYFUSS**

Vote:

Yea: **5-0**

Nay:

Other:

Action: **Approved Planning Board Minutes of February 10, 2011, as submitted.**

2. Appointment of Citizens Advisory Committee (CAC) for the East County Science Center (ECSC) Master Plan

Staff Recommendation: Appoint the East County Science Center Master Plan Citizens Advisory Committee Members

BOARD ACTION

Motion: **DREYFUSS/PRESLEY**

Vote:

Yea: **5-0**

Nay:

Other:

Action: **Approved staff recommendation to appoint a group of citizens to the Citizens Advisory Committee (CAC) for the East County Science Center (ECSC) Master Plan.**

Planning Department staff offered a brief presentation regarding the proposed appointment of a group of citizens to the Advisory Committee for the East County Science Center Master Plan.

Commissioner Dreyfuss asked about the proposed schedule for the ECSC Master Plan and Planning Department Director Rollin Stanley offered comments.

Chair Carrier recommended that staff be very vigilant in not letting the proposed Master Plan schedule slip.

3. Limited Amendment to the Clarksburg Master Plan

Amend Stage 3 to allow retail development to proceed in the Town Center, Newcut, and Cabin Branch neighborhoods.

Staff Recommendation: Approve the Staff Draft as a Public Hearing Draft and set the Public Hearing and Action for May 5, 2011

BOARD ACTION

Motion: DREYFUSS/ALFANDRE

Vote:

Yea: 4-0

Nay:

Other: PRESLEY RECUSED HERSELF DUE TO POSSIBLE CONFLICT OF INTEREST

Action: Approved staff recommendation for approval of the Limited Amendment to the Clarksburg Master Plan staff draft as a Public Hearing draft, and set the Public Hearing date for May 5, 2011.

At the start of the meeting, Commissioner Presley recused herself from the discussion due to possible conflict of interest.

Planning Department staff offered a multi-media presentation of the request to amend stage 3 of the Clarksburg Master Plan to allow retail development to proceed in the Town Center and in the Newcut and Cabin Branch neighborhoods. Staff noted that the amendment proposes to have retail and commercial development in the village centers be deferred until 90,000 square feet of retail uses have been reached. Staff noted that 5,200 units have been completed and 9,900 units were approved, therefore the need for a grocery store. Staff also added that the amendment has no effect on the land use provisions. Discussion with the community on this item goes back more than two years, and there is frustration on the part of the community that the grocery store has not yet been built to this date. Staff also discussed the schedule for the master plan amendment.

Mr. Bob Harris, attorney representing the applicant, offered comments and concurred with the staff recommendation.

4. Planning Board Draft Wheaton CBD and Vicinity Sector Plan

Staff Recommendation: Review Proposed Plan and Approve Transmittal to the County Executive and the County Council

BOARD ACTION

Motion: PRESLEY/ALFANDRE

Vote:

Yea: 5-0

Nay:

Other:

Action: Approved staff recommendation to transmit the draft Wheaton Central Business District (CBD) and Vicinity Sector Plan to the County Executive and the County Council, including Board comments and editorial corrections made during the discussion.

Planning Department staff noted that in response to the Planning Board's discussion on urban design at the February 24 worksession, a new urban design section has been added to the Sector Plan, and although this new text was not part of the Public Hearing Draft Plan, there were discussions with the community and the Board throughout the course of the planning process. Staff also noted that the urban Design Guidelines will be transmitted to the County Council in May following the County Executive's review of the Plan. Staff answered questions from Planning Board members regarding realignment of certain streets along Georgia Avenue and liability agreements, which the Board feels should be addressed by the Department of Transportation.

Mr. Rob Kline from the Montgomery County Department of General Services offered comments.

The Board also discussed the letter received from the Kensington View Civic Association citing a number of issues with the draft Wheaton CBD sector plan, and instructed staff to review these issues and provide feedback to the Association.

11. Roundtable Discussion

B. White Flint Staging & Implementation Guidelines

C. Total Maximum Daily Loads (TMDLs): Implications for Local Governments -

POSTPONED

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: Received briefing.

B. White Flint Staging and Implementation Guidelines: Planning Department staff discussed the next steps for the White Flint Staging and Implementation Guidelines. Staff noted that the White Flint Sector Plan directs the Montgomery County Planning Board to develop a transportation approval mechanism and biennial monitoring program to implement the Sector Plan, and these guidelines provide direction on appropriate procedures for implementing the Sector Plan and related legislation. Staff discussed comments received from the public and the transportation approval mechanism. Staff noted that another worksession has been scheduled for April 14 to discuss the staging allocation process.

5. Closed Session - POSTPONED

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 directly related thereto

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: This item was postponed.

12. Closed Session

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 official citation and open session report in narrative minutes.

13. Closed Session

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

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

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

6. Enforcement Hearing; Montgomery County Planning Department v. John Johnson

BOARD ACTION

Motion: ALFANDRE/WELLS-HARLEY

Vote:

Yea: 4-0-1

Nay:

Other: DREYFUSS ABSTAINED BECAUSE HE HAD NOT READ THE HEARING RECORD

Action: Agreed to a finding of violation and adopted the Hearing Officer's recommended civil penalty and corrective actions, excluding the recommended professional survey of the boundaries of the Category I Conservation Easement and the planting of four two-inch caliper

native trees. Further, agreed to waive the recommended civil fine. Further, agreed that the required plantings must be completed between October 1 and November 15, 2011, and the civil penalty must be paid and the other required corrective actions must be accomplished within 60 days of the mailing of the Board's Order.

Legal Department staff representing the Planning Department in the enforcement case against Mr. John Johnson of Silver Spring, the respondent, briefed the Board on the Hearing Officer's conclusions and recommendations, including a finding of violation of the Forest Conservation Law and the recommended administrative civil fine, administrative civil penalty, and corrective actions as stated in the Hearing Officer's decision. Staff noted that Mr. Johnson did not submit any written exceptions to the findings or recommendations. Legal staff and Planning Department staff recommends that the Board approve the Hearing Officer's recommended order, with the exception of the recommended planting of four two-inch caliper native trees. Staff requested that the Board stipulate that the fine and penalties be paid within 30 days of the mailing of the Board's Order; that the plantings be done between October 1 and November 15, 2011; and that the other corrective actions be completed within 60 days of the mailing of the Board's Order.

Mr. John Johnson, the respondent, offered comments on his own behalf.

Legal Counsel to the Board discussed the Board's prerogatives at this point in the enforcement process, including options in terms of the fines, penalties, and corrective actions.

There followed considerable discussion of the Hearing Officer's recommended fine, penalty, and corrective actions. Planning Department staff responded to questions from the Board about the process and recommendations.

7. Closed Session

Pursuant to State Government Article Annotated Code of Maryland 10-508(a)(9) to conduct collective bargaining negotiations or consider matters that relate to the negotiations. ~~Pursuant to State Government Article Annotated Code of Maryland 10-508(a)(7) to consult with counsel to obtain legal advice.*~~

***Corrected following publication of the agenda.**

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

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

8. Response to Montgomery County Executive Recommendations - POSTPONED

Approval of response to Montgomery County Executive Recommendations

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: This item was postponed.

11. Roundtable Discussion (continued)

A. Parks Director's Report

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: Received a briefing by the Director of Parks highlighting important activities in March and events coming in April, as stated in the distributed Director's Report.

9. [ICC Environmental Stewardship/Compensatory Mitigation Projects Part I](#)

Approve the construction of wetland creation project PB-1 in the Paint Branch Special Protection Area (SPA) as part of the ICC Environmental Stewardship and Compensatory Mitigation Program.

Staff Recommendation: Approval

BOARD ACTION

Motion: DREYFUSS/PRESLEY

Vote:

Yea: 5-0

Nay:

Other:

Action: Approved the staff recommendation to approve the project.

Parks Department staff presented the wetland creation project in the Paint Branch Special Protection area, as detailed in the staff report. The wetlands project is located at the headwaters of the Right Fork Paint Branch, a Use III trout stream, and is direct mitigation for loss of wetlands due to the construction of the ICC. As part of the Intercounty Connector (ICC) Environmental Stewardship and Compensatory Mitigation Program, the project will be constructed by State Highway Administration.

Mr. Chuck Weinkam, Mr. Warren Gray, and Ms. Elizabeth Kanner of the State Highway Administration ICC team offered comments and responded to questions from the Board as needed.

10. [ICC Environmental Stewardship/Compensatory Mitigation Projects Part II](#)

Approval of four stormwater management projects (SWM) as part of the ICC Environmental Stewardship/Compensatory Mitigation Program. Three of the projects (NB-6, NB-7, and N-16) are on private property and one project (NB-11) is on parkland.

Staff Recommendation: Approval

BOARD ACTION

Motion: DREYFUSS/PRESLEY

Vote:

Yea: 5-0

Nay:

Other:

Action: Approved the staff recommendation to approve the four stormwater management projects.

Parks Department staff presented four stormwater management retrofit projects located within the North Branch, a Use III tributary of Rock Creek, as detailed in the staff report. The projects will create stormwater treatment benefits within the Intercounty Connector (ICC) project corridor, while

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bringing the facilities into compliance with current standards and regulations. As part of the ICC Environmental Stewardship and Compensatory Mitigation Program, the project will be constructed by State Highway Administration.

Mr. Chuck Weinkam, Mr. Warren Gray, and Ms. Elizabeth Kanner of the State Highway Administration ICC team offered comments and responded to questions from the Board as needed.