



**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, April 10, 2008, at 9:05 a.m. in the Montgomery Regional Office in Silver Spring, Maryland, and adjourned at 4:35 p.m.

Present were Chairman Royce Hanson, Vice Chair John Robinson, and Commissioners Allison Bryant and Jean Cryor.

Items 1 through 7 are reported on the attached agenda.

The Board recessed at 10:15 a.m. to participate in a tree-planting ceremony at Fairview Road Urban Park in Silver Spring, in honor of Arbor Day, Item 8 on the agenda.

Commissioner Cryor left the meeting for the day at the end of the morning session.

The Board reconvened in the auditorium at 1:30 p.m.

Items 9 and 11 through 13 are reported on the attached agenda.

Item 10 was postponed.

There being no further business, the meeting was adjourned at 4:35 p.m. The next regular meeting of the Planning Board will be held Thursday, April 17, 2008 in the Montgomery Regional Office in Silver Spring, Maryland.

Ellyn Dye  
Technical Writer

E. Ann Daly  
Technical Writer

# **Montgomery County Planning Board**

**Thursday, April 10, 2008**

**9:00 a.m.**

8787 Georgia Avenue  
Silver Spring, Maryland 20910-3760

## **CONSENT AGENDA**

### **1. Adoption of Opinions/Resolutions**

**Group A: Three Commissioners Eligible to Vote [Commissioners Cryor, Hanson and Robinson]**

i) MCPB Application No. 07-215 AB, Redford Road  
*ADOPTION OF RESOLUTION No. 08-48*

**Group B: Three Commissioners Eligible to Vote [Commissioners Bryant, Hanson and Robinson]**

ii) Project Plan No. 920070020, Corrected Resolution of the Monty  
*ADOPTION OF CORRECTED RESOLUTION No. 07-143*

## **BOARD ACTION**

**Motion: ROBINSON/CRYOR**

**Vote:**

**Yea: 4-0**

**Nay:**

**Other:**

**Action: Adopted the Resolutions cited above.**

### **2. Record Plats**

**Subdivision Plat No. 220081260, Edgemoor**

TS-R zone; 1 lot; located in the southwest quadrant of the intersection of Montgomery Lane and Woodmont Avenue; Bethesda CBD. *Staff Recommendation: Approval*

**A. BRYANT/CRYOR**  
**B. ROBINSON/BRYANT**

**Vote:**

**Yea:**           **A. 4-0**

**B. 4-0**

**Nay:**

**Other:**

**Action:**       **A. Approved the staff recommendation to approve the preliminary plan, subject to conditions, with revisions to condition 2 to reference the revised forest conservation plan, as stated in the attached Board Resolution.**

**B. Approved the staff recommendation to approve the site plan, subject to conditions, as stated in the attached Board Resolution.**

Development Review staff presented the preliminary plan and site plan for a free-standing brick bank building with three drive-through lanes and 30 parking spaces, as detailed in the staff report. Staff noted that ingress and egress will be from Porter Road, with right-out access onto MD 108. Staff reported that the applicant has submitted a revised forest conservation plan, which has been approved by Environmental Planning staff. Citing concerns raised in correspondence about traffic and about safety in relation to the proposed onsite bio-retention pond, staff discussed stacking of cars, onsite circulation, and road improvements, as well as the function of the bio-retention pond. With regard to the site plan, staff discussed pedestrian circulation and access in terms of the requirements of the Sandy Spring/Ashton Rural Village Overlay Zone and the master plan. Concluding, staff reported that orientation of the building to face MD 108 was analyzed and the proposed orientation, facing Porter Road, was selected in consultation with the applicant and the community.

Mr. Harry Lerch, attorney representing the applicant, concurred in the staff recommendations and introduced other members of the applicant team.

Ms. Michelle Layton, representing the Sandy Spring-Ashton Rural Preservation Consortium, and Ms. Jennifer Fajman of Ashton offered comments in support, noting the cooperation of the applicant.

## **5. Preliminary Plan and Preliminary Water Quality Plan No. 120080160, Bowie Mill Estates (Resubdivision)**

RE-2 zone; 9.27 acres; 2 lots requested; 2 one-family detached residential dwellings, one existing to remain; located on Foggy Lane, 1500 feet west of Bowie Mill Road; Upper Rock Creek.

*Staff recommendation: Approval with conditions*

### **BOARD ACTION**

**Motion:**           **A. BRYANT/ROBINSON**

**B. BRYANT/ROBINSON**

**Vote:**

**Yea:**           **A. 4-0**

**B. 4-0**

**Nay:**

**Other:**

**Action:**        **A. Approved the staff recommendation to approve the preliminary water quality plan.**  
                  **B. Approved the staff recommendation to approve the preliminary plan, subject to conditions, as stated in the attached Board Resolution.**

Development Review staff presented the request to resubdivide one lot to create two residential lots, as detailed in the staff report. Staff noted that the preliminary water quality plan is required because the property lies within the Upper Rock Creek Special Protection Area. Staff noted that the proposal was the subject of a pre-preliminary plan review, during which the Board determined that the proposed pipestem configuration complies with the resubdivision criteria. Staff corrected the notation in the staff report to reflect that the ingress/egress/utilities easement for the new driveway will be 15 feet wide.

Mr. Jeff Roberts of CAS Engineering, representing the applicant, concurred in the staff recommendation.

#### **6.        Preliminary Plan No. 11988167A, Girl Scout Council of Nation's Capital**

RC zone; 60.45 acres; 1 lot existing containing an existing camp facility; request for 3,720 additional square feet of development to create two additional troop houses; located on the south side of Brighton Dam Road, approximately 4,000 feet east of New Hampshire Avenue (MD 650); Olney *Staff recommendation: Approval with conditions*

#### **BOARD ACTION:**

**Motion:**                **CRYOR/ROBINSON**

**Vote:**

**Yea:**                **4-0**

**Nay:**

**Other:**

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

Development Review staff presented the request to amend a preliminary plan to add two 1,860-square foot troop houses, for a total of 3,720 square feet of additional development, with re-delineation of the on-site environmental buffers and recordation of conservation easements, as detailed in the staff report.

Ms. Susan Reutershan, attorney representing the Girl Scout Council of the Nation's Capital, introduced other members of the applicant team and concurred in the staff recommendation. Ms. Maureen McCann of the Girl Scout Council offered comments on the camp and the proposed expansion. Mr. Al Blumberg, the applicant's consultant, responded to questions about tree loss, noting that the location of the buildings was chosen to minimize the environmental impact of construction.

Responding to questions from the Board, staff verified that the plan was reviewed in the context of an existing agreement between the Girl Scout Council and the Planning Board, which restricts construction on and use of the property under the approved preliminary plan.

7. [Site Plan Review No. 820080050 – Hollyoak](#)

R-200 Zone, 2.66 acres; 5 single-family dwelling units with one existing dwelling unit to be demolished; on 6500 Tilden Lane 2900 feet west of Cushman Road, North Bethesda/Garrett Park.  
*Staff recommendation: Approval with conditions*

**BOARD ACTION**

**Motion:**                    **BRYANT/ROBINSON**

**Vote:**

**Yea:**                    **4-0**

**Nay:**

**Other:**

**Action:**            **Approved the staff recommendation to approve, subject to revised conditions, adding a new condition, as stated in the attached Board Resolution.**

Development Review staff presented the site plan for five residential lots, as detailed in the staff report. Site plan review is required because the cul-de-sac extension of Quarter Ridge Road to serve the three lots on the southern portion of the site will be built to reduced-width tertiary street standards. A shared private driveway will provide access to Tilden Lane for the two lots on the northern portion of the site. Staff noted that vehicular and pedestrian connectivity between Quaker Ridge Road and Tilden Lane was a primary issue considered in the review, and staff discussed the reasoning against making a road connection or a pedestrian path, noting particularly the steep slopes on the site. Staff also proposed revisions to conditions 2a, 4d, and 5, related to the road, the road lighting, and the stormwater management facility. Responding to a question from the Board about a footnote on the Project Data Table, staff clarified that the lot sizes are the minimum size in the zone and the notation was included to flag the lot size issue for the Department of Permitting Services review and for staff review of the record plat. Staff said that a change to enlarge one lot might result in making another lot too small to be approved. Legal Counsel to the Board suggested language for a new condition on that issue, which was accepted by the Board.

Mr. Robert Brewer, attorney representing the applicant, introduced Mr. Morty Levine, the applicant, and other members of the applicant team. He concurred in the staff recommendation, including the revised conditions.

**8. Arbor Day - Tree Planting Ceremony in Fairview Road Urban Park**

**BOARD ACTION**

**Motion:**

**Vote:**

**Yea:**

**Nay:**

**Other:**

**Action:** The Board participated in a tree-planting ceremony in Fairview Road Urban Park, in honor of Arbor Day.

**9. Transportation Adequate Public Facilities (APF) Policy**

Delegate certain APF findings to staff at time of Building Permit.

*Staff recommendation: Establish delegation to staff of APF at time of Building Permit*

**BOARD ACTION:**

**Motion:** BRYANT/ROBINSON

**Vote:**

**Yea:** 3-0

**Nay:**

**Other:** CRYOR ABSENT

**Action:** Approved staff recommendation to adopt the procedure as revised to delegate to staff certain Adequate Public Facilities (APF) findings at the time of Building Permit, further modified to allow staff discretion in placing items on the Board's consent calendar.

**Asked Department staff to provide a one-page monthly report to the Board.**

Staff of the Transportation Planning Division presented highlights of its recommendation to have certain Adequate Public Facilities (APF) findings delegated to staff, as allowed in Chapter 8 of the County Code, and to establish a procedure, based on details in the April 4, as revised April 10, technical staff report. This policy would be included in the appendix of the pending Local Area Transportation Review (LATR) and Policy Area Mobility Review (PAMR) regulations, which are scheduled for Board review and adoption next Thursday.

This procedure is necessary since the County Council passed a new Growth Policy in November that lowers the threshold for adequate public facilities tests from 30 to 4 new peak-hour vehicle trips. The number of applications has increased, including building permit applica-

tions that require APF analysis and findings. Staff reviewed the four-step procedure and noted that some cases will not require formal Board action.

**10. Adoption of the 2008 Local Area Transportation Review and Policy Area Mobility Review (LATR/PAMR) Guidelines- POSTPONED**

The guidelines were finalized in a Planning Board worksession on January 31, 2008. This item presents the formatted document for formal adoption.

*Staff recommendation: Adoption of 2008 LATR/PAMR Guidelines*

**BOARD ACTION:**

**Motion:**

**Vote:**

**Yea:**

**Nay:**

**Other:**

**Action:**

This item was postponed.

**11. Site Plan Review No. 820070260 (Formerly 8-07026), The Rugby Condominium**

CBD-1 zone; 0.47 acres; 61 multi-family dwelling units, including 8 MPDUs; located at the north quadrant, of the intersection of Auburn Avenue and Rugby Avenue; Bethesda CBD.

*Staff recommendation: Approval with conditions*

**BOARD ACTION:**

**Motion:** **BRYANT/ROBINSON**

**Vote:**

**Yea:** **3-0**

**Nay:**

**Other:** **CRYOR ABSENT**

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



Development Review Division staff presented highlights of the March 28 technical staff report, with revised conditions for 2.f, g.; 3.h.; and 6.d.

Park Planning and Development Division staff, at the request of the Board, provided information on the planning and outreach for the Battery Lane Urban Park.

Mr. David Freishtat, attorney for the applicant, reiterated points in his April 4 letter, focusing on requests to modify the conditions related to the urban park and reconfiguration of the intersection of Rugby and Auburn Avenues.

## **12. Freestate Petroleum Corp. - Board of Appeals No: S-1630-A**

Freestate Petroleum Corp., applicant, request a Special Exception to expand the existing filling station; located at 20650 Frederick Road, Germantown. *Staff recommendation: Approval with conditions* (Action required for hearing by the Hearing Examiner on 04/18/08)

### **BOARD ACTION:**

**Motion:** BRYANT/ROBINSON

**Vote:**

**Yea:** 3-0

**Nay:**

**Other:** CRYOR ABSENT

**Action:** Approved the staff recommendation as modified and reflected in the attached Letter of Transmittal.

Development Review Division staff presented highlights of the March 25 technical staff report on the proposed expansion of an existing filling station. The application proposes to add six new fueling positions to the 12 central fueling stations currently on the site, to raze an existing car wash and replace it with four diesel fueling stations (designed to serve larger commercial trucks and to ease congestion at the central fueling area), to add a kerosene filling area in the southwest corner, and to install a new underground storage tank to house various fueling products. Staff recommends support for the six new fueling positions in the central fueling area, the kerosene filling area, and the underground storage tank. Staff does not recommend support for the diesel fueling station as proposed for the reasons stated in the staff report. Numerous letters of opposition received will be made part of the record, staff noted.

Mr. Jody Kline, attorney for the applicant, Mr. Harry Wainwright, a stockholder in Freestate, accepted the conditions as proposed, but provided additional information about the operation and the relationship and function of the elements, in seeking approval of the complete application.

Offering testimony in opposition, citing numerous reasons including noise, air pollution, increased risk of hazardous occurrences and trash overflowing into the community were Mr. Frederick Benear, an adjacent property owner on Summer Sweet Court; Ms. Rose Benear, an adjacent property owner on Summer Sweet Court; Ms. Shyue Waei Huang, an adjacent property owner on Summer Sweet Terrace; Mr. Thuy Van, an adjacent property owner on Summer Sweet Court; Mr. Santiago Sandoval, of Summer Sweet Terrace, on his own behalf and that of the Seneca Vista Homeowners Association; Ms. Paula Mathis, an adjacent property owner on Summer

Sweet Terrace; Ms. Lydia Marzouk, a property owner on Summer Sweet Terrace; and Ms. Faith Williams, a property owner on Summer Sweet Terrace.

In rebuttal, Mr. Kline and other representatives of the applicant provided information to address concerns raised. Mr. Wainwright provided information about the station's operation.

## **12. Freestate Petroleum Corp. - Board of Appeals No: S-1630-A**

Mr. Glenn Some, Some Environmental Associates, testified about the underground storage tanks and new environmental requirements, among other things.

The Board considered the size of the site, the intensity of the use on the site, issues of compatibility and possible mitigation measures, and, among other things, the effort to self-monitor certain elements of the operation. The Board endorsed the Chairman's recommendation that the Board of Appeals and Hearing Examiner look closely at compatibility with the neighborhood with respect to the expansion, request additional screening, and oppose the diesel pumps at the location of the car wash. The Board endorsed Commissioner Bryant's recommendation to restrict the hours of operation, trash removal, and deliveries.

Mr. Martin Klauber, Office of People's Counsel, testified that in his view there is not enough information to decide the basic issue of compatibility.

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

**A.** Commissioners' Report

**B.** Director's Report

- Presentation: Capital Crescent Trail Coalition

**C.** Approval of Minutes

### **BOARD ACTION:**

**Motion:** (C.) BRYANT/ROBINSON

**Vote:**

**Yea:** (C.) 3-0

**Nay:**

**Other:** CRYOR ABSENT

**Action:**

### **(C.) Approval of Minutes**

Approved the minutes of March 13, 2008, as presented.

### **(B.) Director's Report**

Received the Park Director's report, including an overview of the numerous upcoming spring events in the Parks.

Accepted a contribution of \$20,000 from the Coalition for the Capital Crescent Trail (CCCT), which was collected by and from trail users for removal of non-native inva-

sive plants from the trail. Congratulated the CCCT for its continued dedication, contribution, and volunteer labor, with the Chairman observing that the Coalition for the Capital Crescent Trail has “opened its purses as well as hearts.”

Acknowledged and congratulated staff of the Natural Resources Division, especially Forest Ecologist Carole Bergmann whose vision created the volunteer Weed Warriors program, volunteers, and others who joined in and worked hard to make the removal of non-native invasive plants in the parks so successful.