



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 11, 2013, at 9:18 a.m. in the Montgomery Regional Office in Silver Spring, Maryland, and adjourned at 9:50 p.m.

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

There was a power outage at the onset of the meeting which lasted until 10:35 a.m. during discussion of Item 5.

Items 1 through 7 are reported on the attached agenda.

Item 8, a Closed Session Item, was removed from the agenda.

The Board recessed for lunch at 12:30 p.m. and to take up Items 14 and 15 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 12:37 p.m. during lunch break, on motion of Commissioner Presley, seconded by Vice Chair Wells-Harley, 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)(3), to consider the acquisition of real property for a Commission purpose and matters directly related thereto.

In Closed Session, the Board received briefing from Legal staff regarding the upcoming discussion of the Preliminary and Site Plans applications for Suburban Hospital in Bethesda. The Board also received briefing from Parks Department staff regarding the proposed acquisition of parkland.

The Closed Session was adjourned at 2:00 p.m.

The Board reconvened in the auditorium at 2:09 p.m.

Items 9 through 13 and Item 16 are reported on the attached agenda.

Commissioner Dreyfuss left the meeting during discussion of Item 3, and rejoined the meeting at 8:45 p.m.

The Board recessed for dinner at 7:29 p.m., and reconvened in the auditorium at 8:10 p.m. to continue discussion of the Zoning Code Revision Implementation.

There being no further business, the meeting was adjourned at 9:50 p.m. The next regular meeting of the Planning Board will be held Thursday, April 18, 2013, in the Montgomery Regional Office in Silver Spring, Maryland.

M. Clara Moise
Sr. Technical Writer

Montgomery County Planning Board Meeting
Thursday, April 11, 2013
8787 Georgia Avenue
Silver Spring, MD 20910-3760
301-495-4600

1. Consent Agenda

***A. Adoption of Resolutions**

1. Glen Echo Heights Preliminary Plan 120120100 - MCPB No. 13-14
2. Stringtown Road, Forest Conservation Plan (FCP) No. MR2013019 – MCPB No. 13-27
3. Stringtown Road, Water Quality Plan (WQP) No. MR2013019 – MCPB No. 13-28
4. Highlands at Clarksburg FCP Amendment No. 820020220 – MCPB No. 13-30
5. Clarksburg Village Phase I FCP Amendment 820030020 – MCPB No. 13-65
6. Bethesda Commerce Project Plan 920130030 – MCPB No. 13-36

BOARD ACTION

Motion: PRESLEY/WELLS-HARLEY

Vote:

Yea: 5-0

Nay:

Other:

Action: Adopted the Resolutions cited above, as submitted.

***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 Other Consent Items submitted for approval.

***D. Approval of Minutes**

Minutes of March 7 and Tuesday, March 12, 2013

BOARD ACTION

Motion: WELLS-HARLEY/PRESLEY

Vote:

Yea: 5-0

Nay:

Other:

Action: Approved Planning Board Meeting Minutes of March 7 and March 12, 2013, as submitted.

2. Montgomery County Parks Foundation Annual Report 2012 Audit - **POSTPONED**

The Montgomery County Parks Foundation will present an Annual Report for its fiscal year 2012 (January-December 2012).

Staff Recommendation: Discussion

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: **This item was postponed.**

3. Presentation from Go Ape

Briefing by Go Ape CEO on operations at the Rock Creek Regional Park

Staff Recommendation: Discussion

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: **Received briefing from Mr. Dan D’Agostino, CEO of “Go Ape” at Rock Creek Regional Park.**

Mr. Dan D’Agostino, CEO of “Go Ape,” offered a multi-media presentation and answered questions from the Board regarding the operation of the company. Mr. D’Agostino noted that since the lease agreement signed in March 2010 between the Montgomery County Commission and “Go Ape” to allow the operation of a treetop adventure course at Rock Creek Regional Park, the company has been operating a successful business and has brought many benefits to Montgomery County and the surrounding jurisdictions.

Parks Department Director Mary Bradford offered comments and answered questions from the Board.

4. Briefing on 2012 Montgomery County Revenue Authority's Annual Report

Briefing by the Montgomery County Revenue Authority on the operation of the Commission's golf courses

Staff Recommendation: Discussion

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: Received briefing from Montgomery County Revenue Authority on their 2012 Annual Report, with focus on the operation of the Commission's golf courses, followed by discussion.

5. Parkland Dedication and Footing Easement on Little Falls Park

Developer EYA/LF Associates, LLC of Hoyt Property requests approval of the dedication of 1,097 square feet of the property to M-NCPPC in exchange for a 698-square-foot easement for the construction and maintenance of the footing of retaining walls along the east property line of Hoyt Property.

Staff Recommendation: Approval

BOARD ACTION

Motion: DREYFUSS/ANDERSON

Vote:

Yea: 5-0

Nay:

Other:

Action: Approved staff recommendation for approval.

Parks Department staff discussed the request from EYA/LF Associates, the applicant, to approve a 698-square easement for the construction and maintenance of the footing of retaining walls along the east property line over Little Falls Stream Valley Park, and to also approve the dedication of 1,097 square feet of the Hoyt Property, i.e. Parcel B, to the Montgomery County Park and Planning Commission as parkland with the following conditions: i) the footing easement must be recorded in the land records; ii) Parcel B must be conveyed to the Commission.

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

There followed a brief Board discussion with questions to staff.

6. Zoning Text Amendment No. 13-01

Allow fences under certain circumstances without a site plan or a site plan amendment in Planned Unit Development Zones.

Staff Recommendation: Transmit Comments to County Council
(Action required for County Council public hearing of 4/16/13)

BOARD ACTION

Motion: DREYFUSS/WELLS-HARLEY

Vote:

Yea: 5-0

Nay:

Other:

Action: Approved staff recommendation to transmit comments to the County Council, as stated in the attached transmittal letter.

Planning Department staff discussed the proposed Zoning Text Amendment (ZTA) which will allow construction of a fence under certain circumstances without a site plan or site plan amendment in Planned Unit Development (PD) Zones. Staff noted that the intent of the ZTA is to permit private schools located in PD zones, some of which do not have site plan approvals because they pre-date the rezoning of the property to the PD zone, to make security and safety improvements to their property in a timely manner. Prior to issuing a permit for a fence in the PD zone, the Department of Permitting Services (DPS) is required to check the certified site plan for the development to ensure that the proposed fence is shown on the plan. In the case of a private school that does not have an approved site plan the process would require application for a site plan for the entire site, requiring a significant amount of time and money. Staff has no objection to the limited scope of the proposed ZTA, since under the ZTA, DPS would be required to ensure that a fence is built to code and does not interfere with any public access element on the property.

Mr. Kirk Duncan representing the Washington Episcopal School in Bethesda, and Ms. Raquel Montenegro of Montgomery Lane offered testimony.

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

Chair Carrier instructed staff to include additional language to require the Planning Department Director to review any fence permit application before the permit is granted by DPS, and to bring the application before the Planning Board for consideration at a public session only in cases with substantial public opposition, or where it is not clear that the proposed fence meets the intent of this ZTA.

7. Presentation on Trend sheets Findings

The Center for Research and Information Systems (CRIS) will present findings from newly published Trend sheets on topics relating to commercial space (both office and retail), employment, housing sales, and residents incomes.

Staff Recommendation: Discussion

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: Received briefing from the Center for Research and Information Systems (CRIS) Division staff regarding trend sheets findings, from newly published trend sheets, on topics relating to commercial space, both office and retail, employment, housing sales, and resident incomes in Montgomery County, followed by discussion.

The Center for Research and Information Systems (CRIS) Division staff offered a multi-media presentation on the findings from newly published Trend Sheets on topics relating to commercial space (both office and retail), employment, housing sales, and residents incomes, followed by a brief Board discussion with questions to staff.

Chair Carrier noted that the Board found the presentation to be highly informative, and requested a copy of the presentation be sent to Board members via e-mail. Chair Carrier also instructed staff to schedule additional presentations on the subject in the near future.

8. Closed Session – REMOVED

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.

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

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

14. Closed Session - ADDED

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 State citation and open session report in narrative minutes.

15. Closed Session - ADDED

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

9. Long Branch Sector Plan Worksession - Matrix

Worksession 1, Worksession 2, Worksession 3

Staff Recommendation: Discuss and Provide Guidance to Staff

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: Continued discussion of the Long Branch Sector Plan draft report and provided guidance to staff.

Planning Department staff continued discussion of the Long Branch Sector Plan, presenting new language that was drafted in response to the Board’s suggestions from a previous worksession held on March 21, 2013. New language clarified the definition of “less intrusive commercial uses,” the parts of the Flower Theater being added to the Historic Locational Atlas, and the zoning of the Clifton Park Baptist Church property. The possibility of building an extension of Glenville Avenue to Piney Branch Road was also discussed.

Mr. Paul Grenier, on behalf of Montgomery Housing Partnership (MHP), who owns several properties that would be affected by the proposed road extension, offered testimony that MHP would welcome the opportunity to build at the greater density that the road extension would provide, but needed to know if the road would be built or not because they were interested in acquiring a vacant property that stood in the proposed right-of-way, and that property would be greatly affected by the extension’s construction.

The Board suggested that instead of calling for the road extension, the Sector Plan could contain language that would make dedicating right-of-way for the extension a condition of developing at greater density in the future, which would leave the ultimate decision about development, contingent upon the road extension, in the hands of the developers whose properties would be affected.

Staff also discussed the Parks Department plans to purchase an abandoned glass company on the same block, which they would use as right-of-way to create a new driveway for the Long Branch Recreation Center to mitigate access issues related to Purple Line construction. The Board discussed whether the building heights in this scenario were appropriate to the surrounding neighborhood and directed staff to study how much affordable housing could be retained if building heights were limited to five stories over one throughout the town center.

9. Long Branch Sector Plan Worksession

CONTINUED

Mr. Robert Elliot, on behalf of Washington Real Estate Investment Trust (WRIT), offered testimony about WRIT’s vision of how to best develop their properties in Long Branch. Their analysis found that the five stories over one, stick-built construction proposed by the Board would only result in 1.7 Floor Area Ratio (FAR), which is less than the 2.5 desired by the Planning Board, and presented a proposal that would achieve 3.5-3.9 FAR by building up to 150 feet, with heights decreasing for buildings farther away from the town center.

The Board discussed how to determine appropriate height limits, and suggested raising the Plan Area’s FAR to 3.0, and allowing 3.5 at the intersections near the town center.

Ms. Stacy Silber, on behalf of the Flower Avenue Shopping Center Limited Partnership, offered testimony that a FAR of 3.0 would allow them to accommodate proposed public benefits that were not feasible at 2.5. Ms. Silber also requested that the commercial density in the shopping center’s Commercial/Residential Transit (CRT) zone be raised from 0.5 to 1.5, which would allow greater flexibility for second-story office development that could accommodate health care professionals. There is an approved Site Plan on file for the shopping center to redevelop, which will take precedence over the Sector Plan recommendations until it expires on October 26, 2013, but the applicant is concerned that they may not be prepared to develop before that deadline and wants to be sure that the Sector Plan will allow them the same opportunities.

The Board instructed staff to add a condition that will allow the commercial density to increase to 1.0 FAR.

***10. Preliminary Plan Amendment 12000094A in Response to a Violation – Tomahawk Estates, Lot 109**

RDT zone; 44.71 acres; one existing lot containing a single-family residential dwelling; request to relocate a portion of an existing conservation easement on-site; located at 24310 Burnt Hill Road, 3,750 feet northeast from the intersection of Burnt Hill Road and Snowden Farm Parkway in Clarksburg; Clarksburg Master Plan.

Staff Recommendation: Approval with Conditions

BOARD ACTION

Motion: **ANDERSON/WELLS-HARLEY**

Vote:

Yea: **5-0**

Nay:

Other:

Action: Approved staff recommendation for approval of the proposed preliminary plan amendment, subject to conditions, as stated in the attached Board Resolution.

At the onset of the discussion, Commissioner Presley stated for the record that she had a previous professional relationship with the applicant but did not believe her judgment to be compromised, and declined to recuse herself.

Planning Department staff explained the layout of Tomahawk Estates, the location of the Forest Conservation easements, and the nature of the violations they had observed within these easements. The Preliminary Plan for Tomahawk Estates, Lot 109, approved on July 5, 2001, prohibits agricultural activity on Forest Conservation easements, but an on-site inspection conducted on November 14, 2011 discovered mowing and the growth of a hay field taking place within those easements. The applicant was issued a Notice of Violation on December 8, 2011. In response, the applicant has applied to amend the original preliminary plan and relocate 1.10 acres of conservation easements to different areas of the property, which would allow him to continue mowing and pursuing his hay cultivation activities. While reviewing the application, staff identified an additional 0.34 acres of conservation easement adjacent to a dam structure that they believe should be removed because safety regulations prohibit root systems from growing where they could compromise the dam's integrity.

Ms. Michelle Rosenfeld, attorney representing the applicant, Mr. John Peeler, also present, offered comments explaining the justification for the proposed amendment. Ms. Rosenfeld noted that Mr. Peeler had been maintaining the property in the same condition he received it, which included mowing alongside the lake, and is in concurrence with the staff's recommendation to relocate the conservation easements, so he could continue to do so.

There followed a brief Board discussion with questions to staff and the applicant's representative.

***11. Site Plan Review No. 820130030, Bethesda Mews**

R-90 Zone with MPDU option, 9.87 acres, 34 dwelling units including 5 one-family attached MPDUs, located on Old Georgetown Road at the southeast intersection with Alta Vista Road, Bethesda Chevy-Chase

Staff Recommendation: Approval with Conditions

BOARD ACTION

Motion: DREYFUSS/WELLS-HARLEY

Vote:

Yea: 5-0

Nay:

Other:

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

Planning Department staff discussed the proposed Site Plan application for the Bethesda Mews project, currently the location of the American College of Cardiology, now abandoned, located on Old Georgetown Road. In accordance with the Preliminary Plan approved on July 16, 2012, the development would create 34 dwelling units, including 5 Moderately Priced Dwelling Units (MPDUs), 3 private driveways, and an entrance from Camberley Avenue. The existing entrance from Old Georgetown Road would be eliminated. On-site forest conservation easements would include a forest buffer along Old Georgetown Road that will be the site of new planting to maintain the campus-like environment outlined in the Bethesda-Chevy Chase Master Plan, as well as two Category 1 easements totaling 2.11 acres. Expansion of the planned stormwater management system will result in additional variance trees being potentially impacted, and consequently the number of trees to be planted as mitigation will increase from 52 to 55. Staff made several revisions to their report, including corrections to the data tables, a new condition requiring invasive species management, elimination of a previous trip mitigation requirement, and changing the school facilities payments to go to the Walter Johnson school cluster rather than to the Bethesda-Chevy Chase cluster, as described in the Preliminary Plan.

Mr. Todd Brown, attorney representing the applicant, discussed the proposed application, explaining the details regarding the proposed bike paths and pedestrian walkway systems. Mr. Brown added that the applicant had no objections to the new invasive species management condition, and to changing school facilities payments to the Walter Johnson cluster.

Mr. Allen Myers of Fresno Road, president of the Maplewood Citizens Association, offered testimony stating that the applicant has met with his association on numerous occasions and been responsive to their concerns. Mr. Myers pointed out that the proposed stormwater management system will also help neighboring properties with their stormwater runoff problems.

13. Worksession Clarksburg Limited Master Plan for the Ten Mile Creek Watershed - Presentation and Discussion of Scenario Analysis - **TIME CHANGED**

Attachments

Staff Recommendation: Discuss and Provide Guidance to Staff

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: Discussed analysis of water quality conservation efforts in the Ten Mile Creek Watershed located in the Clarksburg Limited Master Plan area, and provided guidance to staff.

Environmental Planning and Functional Planning & Policy Divisions staff offered a multi-media presentation exploring the possibility of balancing policies to support the vision of the 1994 Clarksburg Master Plan, without compromising the health of the Ten Mile Creek Watershed. Staff noted that the County Council has asked the Planning Board to amend the 1994 Clarksburg Master Plan

by October of 2013. To prepare for this amendment, staff from various departments and divisions have analyzed the environmental health of the various tributaries to the creek and modeled the impact of proposed development levels on these tributaries. Staff discussed the difference between the Environmental Protection Agency (EPA) recognized Biological Condition Gradient (BCG) and previous analysis carried out under Indices of Biotic Integrity (IBI) standards. BCG analysis led to a more nuanced understanding of tributary conditions, identifying several at-risk tributaries that had scored highly on previous IBI standards studies.

Staff explained that the Ten Mile Creek Watershed was one of the healthiest creeks in the County and proposed several amendments to the development plans called for in the 1994 Master Plan that would minimize impact on water quality and preserve the health of the watershed. Among the ideas discussed were the possibility of building higher to achieve the same amount of development with less total area disturbed, changing the ratio of housing development to favor townhouses over single-family detached dwellings, establishing caps for the amount of impervious surface, and changing proposed street layouts to minimize the number of vehicle bridges crossing over streams.

The Board enquired about the possibility of requiring developers to improve stormwater management systems, handling the runoff from I-270 as mitigation for the impact of their development.

Staff requested permission to model the results of moving development areas away from natural resources, which were identified as particularly sensitive.

The Board instructed staff to model a variety of alternatives and scenarios, in addition to decreasing development density, and relocating development.

16. Proposed Amendment to the Planning Department Proposed FY14 Budget - ITPCC GIS Virtualization Project - **ADDED**

BOARD ACTION

Motion: **ANDERSON/PRESLEY**

Vote:

Yea: **4-0**

Nay:

Other: **DREYFUSS ABSENT**

Action: **Approved amendment to the Planning Department proposed FY14 Budget to provide \$70,000 for the Geographic Information System (GIS) Data Virtualization Project.**

Planning Department staff briefed the Board on the Geographic Information Systems (GIS) Data Virtualization Project which was approved by the Interagency Technology Policy and Coordination Committee, as a pilot project, to demonstrate the value of interagency use of GIS data. Staff noted that the project will be carried out in collaboration with the Montgomery County Food Council, and will result in an interactive GIS tool describing current and potential food delivery systems, and enhancing public awareness of, and access to these systems. However, as this project was not approved until after the approval of the proposed FY14 budget, funding the project will require a budget amendment to the Planning Department proposed FY14 budget in the amount of \$70,000.

MCPB, 4-11-13, APPROVED

12. Zoning Code Revision Implementation - TIME CHANGED

Attachment 1 - Attachment 2 - Attachment 3 - Attachment 4

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: Continued discussion of the Zoning Code Revision Implementation.