



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, May 9, 2013, at 9:08 a.m. in the Montgomery Regional Office in Silver Spring, Maryland, and adjourned at 8:13 p.m.

Present were Chair Françoise M. Carrier, Vice Chair Marye Wells-Harley, and Commissioners Casey Anderson and Norman Dreyfuss. Commissioner Amy Presley joined the meeting at 9:15 a.m. during discussion of Item 3.

Items 1, 3, 9, and 8, discussed in that order, are reported on the attached agenda.

The Board recessed for lunch at 2:00 p.m. and to take up Items 13 and 14 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 2:00 p.m. in the third floor conference room, on motion of Commissioner Anderson, seconded by Commissioner Presley, 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)(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 one or more specific employees; 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.

There was no Technical Writer or staff member present at the meeting.

In Closed Session the Board discussed Planning Department personnel matters, and possible land acquisition.

The Closed Session was adjourned at 2:30 p.m.

The Board reconvened in the auditorium at 3:04 p.m. Chair Carrier was necessarily absent for the afternoon session.

Items 10, 5, and 6, discussed in that order, are reported on the attached agenda.

The Board recessed for dinner at 4:00 p.m. and reconvened in the auditorium at 5:57 p.m. with Chair Carrier present, and Commissioner Dreyfuss absent for the evening session.

Item 7 was removed from the Agenda.

Items 12, 4, and 2, discussed in that order, are reported on the attached agenda.

There being no further business, the meeting was adjourned at 8:13 p.m. The next regular meeting of the Planning Board will be held Thursday, May 16, 2013, in the Montgomery Regional Office in Silver Spring, Maryland.

M. Clara Moise
Sr. Technical Writer

Montgomery County Planning Board Meeting
Thursday, May 9, 2013
8787 Georgia Avenue
Silver Spring, MD 20910-3760
301-495-4600

Teleconference Meeting of the Maryland-National Capital Park and Planning Commission- *MRO*

11. Open Session - **ADDED/CANCELLED**

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: This Item was cancelled.

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**

Subdivision Plat No. 220130870, Chevy Chase, Section 8

R-60 zone, 1 lot; located on the north side of Walsh Street, approximately 350 feet southwest of East Avenue; Bethesda Chevy Chase Master Plan.

Staff Recommendation: Approval

Subdivision Plat No. 220131160, Marshall's addition to Bethesda

PD-44 zone, 1 lot, located on the east side of Arlington Road, 500 feet north of Bradley Boulevard (MD 191); Bethesda CBD Sector Plan.

Staff Recommendation: Approval

BOARD ACTION

Motion: WELLS-HARLEY/DREYFUSS

Vote:

Yea: 4-0

Nay:

Other: PRESLEY ABSENT

Action: Approved staff recommendation for approval of the Record Plats cited above.

***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 April 11, 2013

BOARD ACTION

Motion: WELLS-HARLEY/DREYFUSS

Vote:

Yea: 4-0

Nay:

Other: PRESLEY ABSENT

Action: Approved Planning Board Meeting Minutes of April 11, 2013, as submitted.

**3. Worksession - Clarksburg Limited Master Plan for the Ten Mile Creek Watershed -
TIME CHANGED**

Presentation and Discussion of Plan Findings and Recommendations

Staff Recommendation: Discuss and Provide Guidance to Staff

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: Discussed and provided guidance to staff.

Planning Department staff noted that this worksession is to respond to questions raised at the April 27 Planning Board meeting and to help refine the alternative scenarios to be tested. In addition to the consultant's team, staff from various State and County agencies, have been invited to respond to the appropriateness of the modeling assumptions and background based on the State regulations for Environmental Site Design. Staff recommends that the Planning Board review the assumptions of the modeling effort, reconfirm the scenarios to be tested, and determine whether a fourth scenario will further support the development of recommendations for the Clarksburg Limited Master Plan for the Ten Mile Creek Watershed.

At the Board's request, the following speakers offered comments: Mr. Scott Stranko of the Maryland Department of Natural Resources; Messrs. Keith Van Ness and Matthew Stover of the Montgomery County Department of Environmental Protection; and Mr. Leo Galanko of the Montgomery County Department of Permitting Services.

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

***9. Pre-preliminary Plan 720130060: Ten Mile Creek by Pulte Homes – REVISED**

Concept Pre-preliminary Plan for 1,007 dwelling units (303 townhouses and 704 single-family detached units including 12.5 percent MPDUs), located along the west side of MD 121 between I-270 and West Old Baltimore Road, 538 acres, RE-1/TDR 2 and Rural Zones, Clarksburg Master Plan
Staff Recommendation: Provide Guidance

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Action: Offered guidance to the applicant that generally reflected and supported the staff's objection to the submission of a preliminary plan, as presented by the applicant.

At the onset of the discussion, Planning Department staff noted that this is a request under Subdivision Regulations 50-33A for a non-binding review by the Planning Board of a proposed application to create 1,007 dwelling units, of which 303 will be townhouses and 704 single-family detached dwelling units, including 12.5 percent Moderately Priced Dwelling Units (MPDUs) to be built on a 538-acre property located along the west side of MD121 between I-270 and West Old Baltimore Road in the Clarksburg Master Plan area. Staff noted that this meeting is intended for the applicant to discuss issues associated with this proposed development, and to seek guidance from the Board. Parks Department staff noted that an option was made available in the Master Plan for the Parks Department to acquire much of the private conservation areas along the main stem of the Ten Mile Creek watershed. Staff noted that the proposed plan does not substantially conform to the Clarksburg Master Plan and fails to adequately address the requirements of Chapter 50 of the Subdivision Regulations. As a pre-preliminary plan submitted for advice, staff would oppose the submission of a preliminary plan that does not address the issues highlighted in the April 29 technical staff report, such as the need for a traffic study, the impact of other proposed developments for the area, as well as coordination for future road development.

Mr. Robert Harris, attorney representing the applicant, introduced Messrs. Lewis Birnbaum, Steve Collins, and Casey Reid, members of the applicant's team, discussed the proposed application, and requested guidance from the Board.

Messrs. Lewis Birnbaum and Steve Collins of Pulte Homes offered comments.

The following speakers offered testimony: Ms. Anita King Kowalski of Viewside Drive; Ms. Melanie Kinnley Hoffman representing the Liveable Clarksburg Coalition; Ms. Dianne Cameron representing the Audubon Naturalist Society; Mr. John King of Clarksburg Road; Ms. Anne Cinque of Slidell Road; and Ms. Anne Smith of the Seneca Creek Watershed Partnership.

In rebuttal, Mr. Harris noted that the applicant is looking for some guidance from the Planning Board regarding the next steps to take in preparing a preliminary plan application.

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

8. Worksession # 6 - Long Branch Sector Plan - TIME CHANGED/REVISED

Staff Recommendation: Discuss and Provide Guidance to Staff

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: Discussed and provided guidance to staff.

Planning Department and Parks Department staff offered a multi-media presentation and discussed the revised recommendations associated with transportation, parks, trails, and open space issues which were not covered in the previous worksession due to time constraints. Staff noted that the next step will be to finalize the Sector Plan and request the Board's approval to transmit the report to the County Council.

At the Board's request, Mr. Robert Elliott Jr. representing Washington Real Estate Investment Trust (WRIT), and Mr. Michael Madden of Maryland Transit Authority (MTA), offered comments.

In reply to a question from Chair Carrier, staff noted that the discussion of affordable housing is scheduled for next Thursday, as well as the presentation of the revised maps to be included in the Sector Plan report.

By consensus, the Board approved the staff revised recommendations, with additional comments and guidance.

10. Chevy Chase Open Space Concept Plan Briefing - TIME CHANGED

Briefing on the Concept Plan for Chevy Chase Urban Park, developed in partnership with Chevy Chase Village and discussion of implementation strategy.

Staff Recommendations: Discussion

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: Received briefing followed by discussion of the Concept Plan for Chevy Chase Open Space/Urban Park.

Parks Department staff from the Legacy Open Space Program offered a multi-media presentation on the Concept Plan for the Chevy Chase Open Space Park located on Western Avenue near Wisconsin Avenue. The park is a 2-acre space immediately across the street from the Chevy Chase Park and Recreation Center. Parks Department has partnered with Chevy Chase Village to create the Open Space Park. Staff presented an overview of completed efforts, which include acquisition of the parkland, site cleanup, and interim improvements, such as replacement of dead and dying trees, and installation of wood chip paths and light fixtures along the main walkway. The park design is based on community input and intended to appeal to a wide range of age groups with features such as play areas with natural materials, walkable paths providing pedestrian connectivity for neighborhood residents, and picnic areas with Wi-Fi access. Chevy Chase Village has already set aside funding in their FY2014 budget to complete the project, and the Parks Department is scheduled to request Capital Improvement Project (CIP) funds for the FY2015 budget.

Ms. Patricia Baptiste of Chevy Chase Village and Ms. Meredith Wellington of Chevy Chase offered testimony.

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

***5. Preliminary Plan Review No. 120110390 - Koseian Property - TIME CHANGED**

CBD-1 zone, 0.42 acres, 1 lot for an 18,290 square foot commercial building including 12,075 square feet of office and 6,215 square feet of retail, located on Wisconsin Avenue, approximately 300 feet south of the intersection with Woodmont Avenue, Bethesda CBD

Staff Recommendation: Approval with Conditions

BOARD ACTION

Motion: DREYFUSS/PRESLEY

Vote:

Yea: 4-0

Nay:

Other: CARRIER TEMPORARILYABSENT

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

Planning Department staff discussed the proposed Preliminary Plan which will expand an existing commercial building in the Bethesda Central Business District (CBD) area from 6,200 square feet to 23,181 square feet for office and retail use. The building is located on Wisconsin Avenue in a CBD-1 zone and is currently a one-story mattress store with a surface parking lot. The proposal would raise the building to three stories and leave the parking lot unchanged. The proposed development would be a standard method project, and was found to be compliant with all requirements of the CBD-1 Zone and the Sector Plan.

Mr. Brian Donnelly, engineer representing the applicant, requested an amendment to the staff report to clarify the amount of public use space being provided. The applicant also requested a minor revision to the language of condition 2 requiring right-of-way dedication along Wisconsin Avenue to which staff had no objection.

***6. Site Plan Review No. 820130090, West Chevy Chase Heights - TIME CHANGED**
CT zone, 0.20 acres, convert an existing house into a 4,275 square foot commercial office building, located on West Virginia Avenue, approximately 194 feet east of the intersection with Wisconsin Avenue, Bethesda CBD

Staff Recommendation: Approval with Conditions and Adoption of Resolution

BOARD ACTION

Motion: PRESLEY/DREYFUSS

Vote:

Yea: 4-0

Nay:

Other: CARRIER TEMPORARILYABSENT

Action: Approved staff recommendation for approval, subject to revised conditions, and adopted submitted Resolution.

Planning Department staff discussed a proposed Site Plan to repurpose an existing building on West Virginia Avenue for commercial use as a showroom and office space. Staff noted that this lot was previously in a Residential, R-60 zone, but Local Map Amendment (LMA) G-913, approved by the County Council on January 22, 2013, reclassified it to the Commercial/Transit, C-T zone subject to approval of a Site Plan and five binding elements to ensure neighborhood compatibility. The proposed Site Plan is in compliance with all requirements of the C-T zone and retains all the binding elements of

LMA G-913. Staff recommends a revision to condition 6 of the submitted Resolution to reflect that underground utilities are not deemed a necessary streetscape improvement.

Mr. Curt Schreffner, engineer representing the applicant, offered brief comments and noted that the applicant was willing to comply with all the conditions proposed by staff.

7. ~~Land Use Demographic Update~~ - **MOVED TO MAY 2 AGENDA**

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: This Item was moved to the May 2 Planning Board Agenda.

12. Discussion of the Rural Open Space Policy - **ADDED (MOVED FROM MAY 2 AGENDA)**

BOARD ACTION

Motion: ANDERSON/PRESLEY

Vote:

Yea: 4-0

Nay:

Other: DREYFUSS ABSENT

Action: Approved staff recommendations discussed during the meeting, as amended.

The Planning Department Resource Committee staff discussed two upcoming proposals to be discussed by the Planning Board in which a middle school and a hospice facility are petitioning to replace Rural Open Space (ROS) easements with equivalent areas of land from a different part of the subject property. Staff recommends developing consistent criteria to consider such requests in advance of hearing these proposals, and suggested a set of criteria that could serve as the basis of consideration for all future requests to change ROS easements. Staff suggested a revision to the language of criteria “d.” Staff discussed the intent of Zoning Ordinance 59-c-9.574(h)(4), which calls for ROS easements

to be maintained “in perpetuity.” Staff cited Forest Conservation easements as an example of how easement boundaries can change without violating perpetuity requirements.

Mr. Stuart Barr, attorney on behalf of Montgomery Hospice, offered testimony that the perpetuity requirement did not preclude modifying or relocating an easement area.

Mr. Troy Kimmel, on behalf of the Brook Grove Elementary School Parent/Teacher Association (PTA), offered testimony that the criteria proposed by staff would not open the doors to a deluge of land swaps because they were only met by a very limited number of applicants.

Mr. William Chen, attorney representing the Thomas Ruth Hyde Stanmore Family Limited Partnership, offered testimony opposing staff’s recommendation. His clients did not believe the Planning Board had the authority to rewrite legislation passed by the County Council and disputed staff’s interpretation of a Circuit Court ruling allowing the abandonment of easements on condemned property. Mr. Chen pointed out that when his clients submitted a petition for subdivision of their property, they were required to carry out a “vision study” of the property that included the ROS easements as preserved open space, and argued that the study should be considered as part of the background for any future requests to modify those easements.

Staff recommended that this sort of background be considered under the determination of compatibility required during Site Plan review.

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

***4. Forest Conservation Plan Amendment PP2006001 – North Four Corners Local Park - TIME CHANGED/REVISED**

Request to amend Forest Conservation Plan to be consistent with the revised Park Facility Plan approved January 31, 2008; R-60 Zone, on 13.93 acres located at 211 Southwood Avenue in the 1996 Four Corners Master Plan.

Staff Recommendation: Approval with Conditions and Adoption of Resolution

BOARD ACTION

Motion: WELLS-HARLEY/ANDERSON

Vote:

Yea: 4-0

Nay:

Other: DREYFUSS ABSENT

Action: Approved staff recommendation for approval of the Final Forest Conservation Plan Amendment, subject to conditions, and adopted the submitted Resolution.

Planning Department staff discussed the proposed Forest Conservation Plan (FCP) Amendment to bring the North Four Corners Local Park located on Southwood Avenue into regulatory compliance. Staff noted that an original Park Facility Plan and Preliminary FCP were approved on August 16, 2005. The Park Facility Plan was amended on January 31, 2008, and the Parks Department has been renovating existing facilities in accordance with this plan. However, the FCP must be amended to allow

the changes in the Park Facility Plan. The amended FCP will retain 0.63 of the 0.75 acres of existing forest, and will replace the 0.12 acres to be cleared by planting at a 2:1 ratio of mitigation. While the Preliminary FCP counted 2.34 acres of existing forest, a new Natural Resource Inventory (NRI) carried out in January, 2013 found that some areas designated as forest under the original NRI were actually patches of invasive species. In accordance with County Code Section 22A-12(b)(3), which identifies particular trees as high priority for retention, the applicant submitted a variance request for removal of 17 variance trees, which they propose to mitigate by planting 142 caliper inches of canopy trees. Staff identified an additional two variance trees that would be impacted, and recommended an additional 19 caliper inches of mitigation planting.

Ms. Carole Ann Barth, president of the Montgomery County Civic Federation, offered testimony and a multi-media presentation explaining that significant portions of the original forest in Four Corners Park were destroyed by Parks Department staff attempting to remove

***4. Forest Conservation Plan Amendment PP2006001 – North Four Corners Local Park -
TIME CHANGED/REVISED**

invasive species, and pointed out that removing native plants actually made it easier for invasive plants to take root. Ms. Barth requested that the Board set mitigation based on the original 2.34 acres of forest in the park and not the 0.75 acres that still existed at the time of the most recent NRI.

Mr. Brian Morrissey, president of the Northwood/Four Corners Civic Association, offered testimony that he, and other community residents, have worked for many hours on a volunteer basis to clear invasive vines off of the trees in Four Corners Park, and urged the Board to be stricter in the application of Forest Conservation guidelines.

The Board asked Parks Department staff to respond to criticism of their invasive species removal efforts.

Parks Department staff explained that the goal of the operation was to remove invasive vines and clear out dead trees, but that they did not provide ground crews with adequate supervision by qualified arborists, and as a result the crews used heavy equipment that damaged the critical root zones of healthy trees. The Parks Department has since placed greater emphasis on training their staff in proper procedures and identifying experts to place in supervisory positions. Staff also discussed the placement of a soccer field adjacent to a walnut tree that had been designated as high priority for retention. Parks staff employed ground-penetrating radar to identify critical roots, and determined that the soccer field would not infringe upon them. Planning Department staff clarified that there were plans to plant many more trees during landscaping improvements, but these did not appear on the FCP because landscaping is not subject to regulatory approval.

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

2. Roundtable Discussion
- Planning Director's Report

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action:

Planning Director's Report – Acting Planning Department Director Rose Krasnow offered a report on recent developments in the department. Ms. Krasnow noted that Planning Department staff collaborated with the Arts and Humanities Council to create a document explaining how artists and developers can participate in public art projects. The latest Montgomery County cable broadcast will be the last one for the immediate future as the Planning Department Communications Manager, Valerie Berton, is leaving to work with the Maryland Department of Planning. The new Montgomery County Interfaith Community Liaison Reverend Mansfield Kaseman has been working to improve communication with the area faith communities, and to develop new educational material. The Planning Department has been contacted by bird conservancy groups asking about planning efforts to prevent birds from flying into windows. The Washington Suburban Sanitary Commission (WSSC) convened a committee including representatives from Montgomery and Prince George's Counties Planning Departments. Acting Planning Department Director Rose Krasnow and Carol Rubin of the Legal Department attended a meeting last week as Montgomery County's representatives.