



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, June 2, 2011, at 9:25 a.m. in the Montgomery Regional Office in Silver Spring, Maryland, and adjourned at 5:22 p.m.

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

Items 1, 2, 12, 4, and 6, taken up in that order, are reported on the attached agenda.

The Board recessed at 12:00 p.m. for lunch and to take up Items 7, 14, and 15 in Closed Session. Closed Session Item 9 was cancelled.

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 12:30 p.m. in the third floor conference room, on motion of Commissioner Presley, seconded by Commissioner Dreyfuss, with Chair Carrier and Commissioners Dreyfuss and Presley present and voting in favor of the motion. The meeting was closed under authority of §10-508(a)(1), State Government Article, Annotated Code of Maryland, 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; §10-508(a)(9), State Government Article, Annotated Code of Maryland, to conduct collective bargaining negotiations or consider matters that relate to the negotiations; §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 processing 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 all or part of the Closed Session were: Executive Director Patti Barney; Human Resources Director Bill Spencer; Director Rollin Stanley, Alison Davis, Mark Pfefferle, John Carter, Josh Penn, and Molline Smith of the Planning Department; Director Mary Bradford, Deputy Directors Michael Riley and Gene Giddens, Janis Thom, Mary Ellen Venzke, and Karen Warnick of the Parks Department; Associate General Counsels Jared McCarthy and Christina Sorrento of the Legal Department; and Joyce Garcia, and Clara Moise of the Commissioners' office.

In Closed Session, the Board received briefing and provided guidance to staff on matters related to collective bargaining negotiations with the Unions; discussed FY12 Budget proposed tentative Reduction in Force plans; approved Closed Session Minutes; and received briefing from legal counsel and Planning Department staff regarding a proposed preliminary plan amendment requesting modification of a Category I Conservation Easement to be discussed during the afternoon session.

The Closed Session was adjourned at 2:40 p.m.

The Board reconvened in the auditorium at 2:48 p.m.

Items 5, 8 through 11, 3, and 13 are reported on the attached agenda. Item 8 was postponed.

There being no further business, the meeting was adjourned at 5:22 p.m. The next regular meeting of the Planning Board will be held Thursday, June 9, 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, June 2, 2011
8787 Georgia Avenue
Silver Spring, MD 20910-3760
301-495-4600

1. Consent Agenda

***A. Adoption of Resolutions**

1. Snowden Farm Parkway A-305 Forest Conservation Plan No. MR2010814 – **MCPB 10-179**
2. Grauel’s Addition to Spencerville SPA Water Quality Plan MR2011307 – **MCPB 11-38**
3. North Potomac Recreation Center Forest Conservation Plan MR2010731 – **MCPB 10-161**
4. Mid-Pike Plaza Sketch Plan No. 320110010 – **MCPB 11-05**
5. North Bethesda Market II Sketch Plan No. 320010030 – **MCPB 11-07**
6. North Bethesda Gateway Sketch Plan No. 320110020 – **MCPB 11-06**
7. Respondent: Johnson– Order – **MCPB 11-44**
8. Respondent: Pirtle-Order – **MCPB 11-43**

BOARD ACTION

Motion: **A. PRESLEY/DREYFUSS**
 B. DREYFUSS/PRESLEY

Vote:
 Yea: **A. 3-0**
 B. 3-0

Nay:

Other: **WELLS-HARLEY, ALFANDRE ABSENT**

Action: **A. Adopted Resolutions Nos. 10-179, 11-38, 10-161, 11-44, and 11-43 cited above.**
 B. Adopted Resolutions Nos. 11-05, 11-06, and 11-07 cited above incorporating
changes discussed at the meeting and provided to staff by the Chair.

***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

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: **There were no Planning Board Minutes submitted for approval.**

2. Presentation of Final Vision 2030 Documents – Vision 2030 Strategic Plan and Implementation Study Summary

This item will present the final Vision 2030 Strategic Plan, highlights of the cost recovery and financial and service sustainability analysis, and a summary of the Implementation Study.

Staff Recommendation: Discussion

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: Received briefing followed by discussion.

Parks Department Director Mary Bradford introduced Mr. Gabriel Albornoz, Director of Montgomery County Department of Recreation, and noted that Mr. Albornoz and his staff have contributed to this presentation. Parks Department staff offered a multimedia presentation of the Vision 2030 Strategic Plan for the Parks and the Recreation Departments. Staff discussed the final recommendations as outlined in the Executive Summary, attached to the May 24 technical staff report, and noted that no formal Board action is requested. Staff will use the Plan as a guiding document for formulating work programs over the next several years. The 2030 Strategic Plan will be amended in coordination with regular updates to the Park, Recreation, and Open Space Plans.

There followed extensive Board discussion with questions to staff and Mr. Albornoz.

12. Enforcement Hearing; Montgomery County Planning Department v. Oluseyi & Oyinola Fashina - POSTPONED

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: This item was postponed.

4. City of Rockville Annexation (ANX2011-00140), 1300-1314 East Gude Drive and 14803, 14805 and 14809 Southlawn Lane

Staff Recommendation: Transmit Comments to City of Rockville Mayor and Council, and Montgomery County Council

BOARD ACTION

Motion: PRESLEY/DREYFUSS

Vote:

Yea: 3-0

Nay:

Other: WELLS-HARLEY, ALFANDRE ABSENT

Action: Approved staff recommendation to transmit comments to the City of Rockville Mayor and Council, and to the Montgomery County Council.

In keeping with the May 25 technical staff report, Planning Department staff offered a multimedia presentation of the request to transmit comments to the Mayor and Council for the City of Rockville, and the Montgomery County Council regarding the proposed annexation of a 3.5-acre property located west of Gude Drive and along Southlawn Lane. Staff noted that there was a Gude Drive-Southlawn Lane Special Study done in 1999 which established a policy when reviewing annexation of heavy industrial zoned properties in the Gude Drive-Southlawn Lane area, and identified the subject property as retail land use. Staff supports the annexation petition since it will remove the split zoning between the County and the City of Rockville and the proposed Mixed Use Employment (MXE) zone will permit different land uses, which does not preclude future light industrial uses that are in the East Gude and Southlawn Lane area.

At the Board's request, Messrs. Jeremy Hurlbutt and Bobby Ray representing the City of Rockville, Department of Community Planning and Development Services offered comments.

Messrs. Tom Fauquier and Jody Kline offered testimony.

There followed a brief Board discussion, with questions to staff and the City of Rockville representatives.

6. Annual School Test - Adequate Public Facility requirements for FY12 under Subdivision Staging Policy

Staff Recommendation: Adopt FY12 School Test effective July 1, 2011

BOARD ACTION

Motion: PRESLEY/DREYFUSS

Vote:

Yea: 3-0

Nay:

Other: WELLS-HARLEY, ALFANDRE ABSENT

Action: Approved staff recommendation to adopt the FY12 School Test Results effective July 1, 2011.

Planning Department staff offered a detailed multimedia presentation of the Annual School Test results for FY12 and the adequate public facility requirements. Staff noted that the school test determines if residential subdivisions in any school clusters should be subject to either a school facilities payment or a moratorium. Staff is requesting the Planning Board's approval of the attached school test results for FY12, as determined from data provided by Montgomery County Public Schools. These results found that thirteen school clusters exceed the 105 percent program capacity ceiling; four clusters exceed only at the elementary level; three clusters exceed at the elementary and middle school levels; four clusters exceed at the elementary and high school levels; one cluster exceeds only at the high school level; and one cluster exceeds at all three school levels. Residential development in these thirteen clusters will be subject to a school facility payment, and for those clusters that are inadequate at more than one school level, a school facility payment will be required for each inadequate level. Staff also added that Richard Montgomery school cluster exceeds the 120 percent program capacity ceiling and residential subdivisions will be in moratorium in FY12.

At the Board's request, Mr. Bruce Crispell, representing the Montgomery County Public Schools, offered comments.

There followed a brief Board discussion with questions to staff and Mr. Crispell.

14. 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 State citation and open session report in narrative minutes.

7. Closed Session

Pursuant to State Government Article Annotated Code of Maryland 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 1 or more specific employees; and 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: Discussed in Closed Session. See State citation and open session report in narrative minutes.

15. 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 State citation and open session report in narrative minutes.

5. Preliminary Plan Amendment No. 11994094A: Srour Falls Lot 9 - Modify the Category I Conservation Easement

Along rear of property, located on Woodford Road east of Falls Road (Md-189), 0.47 Acres, R-200 Zone, Potomac Master Plan

Staff Recommendation: Approval with Conditions

BOARD ACTION

Motion: PRESLEY/DREYFUSS

Vote:

Yea: 3-0

Nay:

Other: ALFANDRE, WELLS-HARLEY ABSENT

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

Planning Department staff presented the preliminary plan to modify an existing Category I Conservation Easement, as detailed in the staff report. The plan proposes to remove 1,781 square feet, which is currently maintained as turf grass and a play area, and to add 1,213 square feet of previously unprotected 100-year floodplain area to the Easement. The applicant proposes to provide supplemental planting in the forest within the stream valley buffer to compensate for the 568 square feet of Easement that is not being replaced. Staff noted corrections to the plan number and date in condition 3.

Mr. Steve Robbins, attorney, introduced the applicant, Mr. Daniel Ball, and the consultant, Mr. Dusty Rood. He concurred in the staff recommendation and thanked staff for working with the applicant to resolve the Easement issue.

8. 2017 Policy Area Mobility Review (PAMR) - POSTPONED

Presentation to Board and discussion of the year 2017 Policy Area Mobility Review (PAMR) analysis and results, including the FY 2012 PAMR trip mitigation requirements as required annually under the Annual Growth Policy Legislation.

Staff Recommendation: Adopt FY 2012 PAMR Mitigation Requirements Effective July 1, 2011

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: This item was postponed.

9. Zoning Text Amendment 11-02

To allow the reinstatement of nonconforming uses on historic resource sites.

*Staff Recommendation: Transmit Comments to County Council
(Action Required for County Council Public Hearing of 6/14/11)*

BOARD ACTION

Motion: PRESLEY/DREYFUSS

Vote:

Yea: 3-0

Nay:

Other: ALFANDRE, WELLS-HARLEY ABSENT

Action: Approved the staff recommendation to approve, with modifications, as stated in the attached Letter of Transmittal to the County Council.

Planning Department staff presented the Zoning Text Amendment to allow a non-conforming use that has ceased operations for more than six months to be reestablished in a designated historic structure or on a historic site, consistent with the historic use, as detailed in the staff report. Staff noted that the Zoning Text Amendment seeks to address a conflict between the Historic Preservation Ordinance and the nonconforming use provisions in the Zoning Ordinance, which could potentially benefit approximately 14 historic resources.

Ms. Erica Latham, attorney, and Ms. Cris Bombaugh, representing the Montgomery County Humane Society, noted that the Aspin Hill Memorial Park, a pet cemetery, is a designated historic resource, although the cemetery and associated uses are non-conforming in the R-60 Zone. The Humane Society would like to reestablish the associated uses in the existing residential structure.

At the Chair's request, Historic Preservation staff discussed the safeguards that would preclude the reestablishment of uses not associated with the historic designation.

In discussion, the Board agreed to modify the amendment to remove eligibility based solely on documentation in the land records.

10. Zoning Text Amendment 11-03

To amend the standards for allowing professional non-residential offices near public safety facilities; and generally amend the provisions for professional non-residential offices allowed as a special exception.

*Staff Recommendation: Transmit Comments to County Council
(Action Required for County Council Public Hearing of 6/14/11)*

BOARD ACTION

Motion: DREYFUSS/PRESLEY

Vote:

Yea: 3-0

Nay:

Other: ALFANDRE, WELLS-HARLEY ABSENT

Action: Approved the staff recommendation to approve, with modifications, as stated in the attached Letter of Transmittal to the County Council.

Planning Department staff presented the Zoning Text Amendment to allow, by special exception, professional non-residential offices in the R-200 Zone if they abut public safety facilities along two property lines, as detailed in the staff report. Staff noted that special exception professional non-residential offices are allowed only in the R-60 and R-90 Zones. Staff proposes modifications to add appropriate notations to the land use tables.

Mr. Stan Abrams, attorney, introduced his client, Dr. Allan Farsaii. Mr. Abrams noted that a large fire station was built next to the Farsaii residence, where Dr. Farsaii also maintains his medical practice. The fire station property abuts the Farsaii property on two property lines. Mr. Abrams said the noise and activity from the fire station render the house unsuitable for residential use and Dr. Farsaii wishes to convert it to professional non-residential office use.

11. Site Plan No. 81999001F: Panera Bread Restaurant in the Germantown Town Center

Century Boulevard, near Crystal Rock Drive, TS zone, 0.11 acres, Parcel D, 5,097 square feet (including 800 square feet for outdoor sitting) - This building was previously approved for 5,100 square feet. Master Plan for the Germantown Employment Corridor

Staff Recommendation: Approval with Conditions

BOARD ACTION

Motion: DREYFUSS/PRESLEY

Vote:

Yea: 3-0

Nay:

Other: ALFANDRE, WELLS-HARLEY ABSENT

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

Planning Department staff presented the proposal for a reduction of three square feet for one of nine retail pad sites in Parcel D of the approved Germantown Town Center site plan, as detailed in the staff report. Staff noted that this type of minor revision would normally be handled administratively by staff, but it is being brought to the Board because concerns about adequate parking were raised by the owners of an adjacent pad site. Staff reported that the Development Plan and Certified Site Plan require 599 parking spaces, which include parking for a park and ride lot. While the Development Plan required 200 park and ride spaces, the Certified Site Plan was approved for 175 spaces. Staff provided a detailed review of parking requirements for Parcel D, as specified in an existing shared parking agreement. Concluding, staff reviewed several distributed revisions to the staff report and conditions of approval.

Mr. Robbie Brewer, attorney representing the applicant, concurred in the staff recommendation. In regard to the number of park and ride parking spaces, he reported that 200 spaces were originally contemplated, and the County subsequently requested 175. Mr. Brewer stated that the 599 total required parking spaces have been verified and the issues raised by the operators of Green Turtle Restaurant have been addressed. Mr. Peter Henry of the applicant company discussed efforts being put into place to address the parking issues raised, including restriping of spaces, employee stickers, and towing.

Mr. Todd Brown, attorney representing Noble Victory Court LLC and Germantown Green Turtle LLC, owners and operators of the Green Turtle Restaurant, offered comments on the parking problems, which relate primarily to the demand for park and ride spaces.

Ms. Deanna Archey, representing County Department of Transportation (DOT), offered comments, noting that there is more demand than capacity for the park and ride spaces and the County is investigating supplemental parking options. She said she did not know why the County reduced the number of spaces for the park and ride lot, but verified that is the number required in the Memorandum of Understanding.

3. Draft GSSC Implementation Guidelines

Provide input on draft Implementation Guidelines for the Life Sciences Center area of the Great Seneca Science Corridor Master Plan.

Staff Recommendation: Provide Guidance to Staff

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: Provided guidance to staff.

Planning Department staff presented the draft Implementation Guidelines for the Great Seneca Science Corridor Master Plan, noting that the guidelines are based on preliminary staff recommendations and Planning Board guidance at two previous worksessions.

There followed considerable discussion of staging procedures, particularly the implementation of the Stage 1 development queue.

Mr. Robert Brewer, attorney representing Adventist Healthcare and Alexandria Real Estate Equities, and Mr. Scott Wallace, attorney, offered comments on the staging procedures.

Continuing, Planning staff discussed the monitoring program and presented preliminary web pages to demonstrate how the various items will be tracked and shown online.

13. Roundtable Discussion

- Planning Director's Report

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: Received briefing.

Planning Director Rollin Stanley and Planning Department staff briefed the Board on three new reports related to smart growth that are required by the State Department of Planning. The Department must report legislative changes that affect the development pattern; goals and measures of the implementation of the State's planning visions; and restrictions on development in priority funding areas caused by the Adequate Public Facilities (APF) Ordinance. Staff discussed the various items being tracked and demonstrated how they are being reported, including the location of new

subdivisions; master plans in process; numbers and types of residential units within and outside of priority funding areas; new master plan elements and process changes that affect development, such as the General Plan Housing Element and staging allocation monitoring; and the results of the APF tests for transportation and schools. Staff reported that this information will be updated quarterly.

Mr. Stanley noted that the State is prioritizing expenditures in smart growth areas and, because the County emphasizes smart growth in the State's priority funding areas, it is anticipated that these reports will assist the County in securing State funding.