



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 12, 2008, at 10:00 a.m., after congratulating Commissioner Allison Bryant, at this his last meeting, for his years of service and wishing him well in his future endeavors. The meeting was held in the Montgomery Regional Office in Silver Spring, Maryland, and adjourned at 9:00 p.m.

Present were Chairman Royce Hanson, Vice Chair John Robinson, Commissioner Allison Bryant and Commissioner Jean Cryor, who joined the meeting shortly after it was called to order.

Items 1 through 8 are reported on the attached agenda. Items 9 and 10 were postponed. Item 15, scheduled for the morning session, was postponed to another date.

The Board recessed at 10:25 a.m.

The Board convened in Closed Session in the third floor conference room, Items 16 and 17 on the regular agenda, at 10:32 a.m., on motion of Vice Chair Robinson, seconded by Commissioner Cryor, with Chairman Hanson, Vice Chair Robinson, and Commissioners Bryant and Cryor present and voting in favor of the motion. The meeting was closed under authority of State Government Article, Annotated Code of Maryland Section 10-508(a)(1), to discuss the appointment, employment ...; or to discuss any other personnel matter that affects one or more specific employees; and Section 10-508(a)(7), to consult with counsel to obtain legal advice.

Also present for all or a part of the Closed Session were Planning Director Rollin Stanley, John Carter, Rose Krasnow, Glenn Kreger, and Joshua Sloan of the Planning Department; Associate General Counsels Debra Daniel, Kathleen Drohan, and David Lieb of the Legal Office; and Ann Daly of the Commissioners' Office.

In Closed Session, the Board consulted with Counsel and received legal advice on the process related to Project Plan Amendment No. 91991004B, 4 Bethesda Metro Center, in preparation for the open session hearing, Item 12 on today's agenda.

The Closed Session was adjourned at 12:10 p.m. and the Board recessed for lunch.

The Board reconvened in the auditorium at 1:04 p.m.

Items 11, 12, and 13 are reported on the attached agenda. Item 14, the sole item scheduled for the evening session, was postponed.

There being no further business, the meeting was adjourned at 9:00 p.m. The next regular meeting of the Planning Board will be held Thursday, June 19, 2008, in the Montgomery Regional Office in Silver Spring, Maryland.

E. Ann Daly
Technical Writer

Ellyn Dye
Technical Writer

Montgomery County Planning Board Meeting
Thursday, June 12, 2008
8787 Georgia Avenue
Silver Spring, MD 20910-3760
301-495-4600

1. Adoption of Opinions/Resolutions

Group A: *No Group A*

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

ii) Preliminary Plan No. 120070200, Woodmont East Phase II, ADOPTION OF RESOLUTION No. 08-43

iii) Project Plan No. 920070070, Woodmont East Phase II, ADOPTION OF RESOLUTION No. 08-44

iv) Preliminary Plan No. 120070620, Commerce Bank-Nicholson Lane, ADOPTION OF RESOLUTION No. 08-76

BOARD ACTION

Motion: **ROBINSON/BRYANT**

Vote:

Yea: **3-0**

Nay:

Other: **CRYOR ABSTAINED**

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

2. Record Plats

Subdivision Plat No. 220061270 - 220061280, Clarksburg Village

R-200 zone; 41 lots; 3 parcels; located on the east side of Stringtown Road, approximately 1800 feet south of Snowden Farm Parkway; Clarksburg

Staff recommendation: Approval

BOARD ACTION

Motion: **ROBINSON/BRYANT**

Vote:

Yea: **4-0**

Nay:

Other:

Action: **Approved staff recommendation for approval.**

3. Consent Items

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: No Items Submitted for Action.

4. Special Appropriation: Rock Creek Pedestrian Bridge

Located on the east and west sides of Veirs Mill Road near its intersection with Aspen Hill Road

Staff recommendation: Approval of special appropriation

BOARD ACTION

Motion: ROBINSON/BRYANT

Vote:

Yea: 4-0

Nay:

Other:

Action: Approved staff recommendation for approval to transmit a request to the County Council for an amendment and special appropriation to the FY 09-14 Capital Improvements Program (CIP) for design and construction of the Rock Creek Trail Pedestrian Bridge.

As noted in the June 6 technical staff report, the proposal seeks increased funding in the amount of \$1,589,000 and will receive additional funding also from the Transportation Enhancement Program (TEP) of the Maryland State Highway Administration.

The pedestrian bridge will provide a grade-separated crossing over Veirs Mill Road, remove the need for the on-road segment, and connect a heavily used trail that extends 15 miles from Beach Drive at the District of Columbia line to Lake Needwood in Rock Creek Regional Park.

5. Reconsideration Request: Preliminary Plan No. 120061220 Strawberry Knoll

Request to reconsider Planning Board Decision on Preliminary Plan No. 120061220 Strawberry Knoll

BOARD ACTION

Motion: **ROBINSON/BRYANT**

Vote:

Yea: **4-0**

Nay:

Other:

Action: **Approved the request for reconsideration of the September 20, 2007, Board approval of this preliminary plan, based on information in the June 6 memorandum from the Legal Department.**

15. Reconsideration Request: Preliminary Plan No. 120060710 Sutton Property - POSTPONED

Request to reconsider Planning Board Decision on Preliminary Plan No. 120060710 Sutton Property

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: **This item was postponed.**

6. The Woods Academy - REVISED (Attachment A)

A. Subdivision Regulations Waiver No. SRW01006A, The Woods Academy (Continuation of 1/10/08 MCPB Hearing)

R-200 zone; 6.15 acres; existing private educational facility on an unrecorded parcel of land; request to waive the requirements for a preliminary plan of subdivision and record plat; located in the north quadrant of the intersection of Greentree Road and Burdette Road; Potomac.

Staff recommendation: Grant conditional waiver

B. Site Plan Amendment No. 82001018A

R-200 zone; 6.15 acres, amendment to increase enrollment of students from 302 to 410; located at the northern quadrant of the intersection of Green Tree Road and Burdette Road; Potomac

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 for approval of Subdivision Review Waiver SRW01006A, a request to waive submittal of a preliminary plan and record plat, subject to conditions, as stated in the attached Board Resolution.**

B. Approved the staff recommendation for approval of Site Plan Amendment 82001018A, a phased increase in enrollment of students from 302 to 362, with permission to request an amendment to increase enrollment to a maximum of 410 students, subject to conditions, as stated in the attached Board Resolution.

In a continuation of a January 10, 2008, hearing, Ms. Anne Martin, attorney representing the applicant, The Woods Academy, introduced The Woods Academy Board Chair Randy Brannitsky, and Head of School Mary Worth, members of the development team, and representatives of the community and the Bradley Hills Citizens' Association, who were parties to negotiations to address concerns about the proposed Transportation Management Plan (TMP), resident traffic, access to the site, and compatibility. As noted in the June 12 technical staff report, The Bradley

6. The Woods Academy - REVISED (Attachment A)

Hills Citizens Association has joined with the applicant in presenting a consolidated report in accepting the increase in school enrollment with specific conditions and a revised TMP that is acceptable to all parties.

Presenting testimony were Ms. Linda Kauskay, representing the Bradley Hills Citizens Association, who reported a good working relationship with the school and establishment of a successful framework to work out issues; and Mr. Martin Klauber, Office of People's Counsel, who offered positive comments about this successful process.

7. Extension Request: Preliminary Plan No. 120050180, Westfield Montgomery

C-2 Zone; 57.72 acres; 1,767,177 square feet gross leasable area of general retail uses previously approved; request for extension of the plan validity period; located in the northeast quadrant of the intersection of Democracy Boulevard and Westlake Drive; Potomac
Staff recommendation: Grant one-year extension until May 28, 2009

BOARD ACTION

Motion: ROBINSON/BRYANT

Vote:

Yea: 4-0

Nay:

Other:

Action: Granted a one-year extension of the validity period until May 28, 2009.

8. Extension Request: Preliminary Plan No. 12002020A, Chevy Chase Lake East

C-1, C-2, R-30, I-1 zones; 8.08 acres; 74,356 square feet of office use and 174,016 square feet of commercial use previously approved; request to extend the preliminary plan validity; located in the southeast quadrant of the intersection of Connecticut Avenue and Manor Road; Bethesda-Chevy Chase.

Staff recommendation: Grant six-year extension until December 22, 2014

BOARD ACTION

Motion: **BRYANT/ROBINSON**

Vote:

Yea: **4-0**

Nay:

Other:

Action: **Granted an approximately six-year extension of the validity period until November 22, 2014, as recommended in the technical staff report and as reflected in the attached copy of the letter to the applicant..**

 Mr. Bob Darylmp, attorney representing the applicant, sought approval of the staff recommendation.

9. Site Plan Review No. 820060290, Cabin Branch-Winchester I - POSTPONED

 RMX-1/TDR/MXPD zones; 141.26 acres; 427 residential dwelling units including 64 MPDUs, park and school site; located at the northwest quadrant of the intersection with I-270 and West Old Baltimore Road; Clarksburg
 Staff recommendation: Approval with conditions

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: **This item was postponed.**

10. Longdraft Road - DPWT Facility Planning Study Phase I - POSTPONED

 DPWT Facility Planning Study Phase I Recommendation - Longdraft Road, North Potomac
 Staff recommendation: Transmit comments regarding preferred alternative to Montgomery County Department of Public Works and Transportation (DPWT)

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: This item was postponed.

16 . CLOSED SESSION

In accordance with the Annotated Code of Maryland, State Government Article, Section 10-508(a) (1) to discuss personnel matters that affect one or more specific employees.

17. CLOSED SESSION

In accordance with the Annotated Code of Maryland, State Government Article, Section 10-508(a) (7) to consult with counsel to obtain legal advice (4 Bethesda Metro Center and Falklands).

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: Items 16 and 17 were handled in Closed Session. See narrative minutes for the State citation and a brief open session report.

11. Zoning Text Amendment No. 08-11

Introduced by Councilmembers Berliner, Andrews, Elrich, and Trachtenberg: to amend the Zoning Ordinance to implement recommendations of the Infill Housing Task Force as follows: to amend the provisions concerning an established building line; require regulations

to implement the provision concerning a sloping lot; amend the maximum height for certain lots in the R-200 zone; and amend the maximum building coverage for certain lots in certain one-family residential zones. *Staff recommendation: Transmit Comments to County Council*

BOARD ACTION

Motion: ROBINSON/HANSON

Vote:

Yea: 2-2

Nay: BRYANT, CRYOR

Other:

Action: To approve the staff recommendation, adding comments raising concerns about the grandfathering provisions to the Letter of Transmittal.
(FAILED FOR LACK OF A MAJORITY)

Development Review staff presented the Zoning Text Amendment to implement recommendations in the Infill Housing Task Force, as detailed in the staff report.

Mr. Joe Davis and Mr. Richard Mandell, members of the Infill Housing Task Force, offered comments on the Task Force process and the Zoning Text Amendment.

In discussion, the Board focused on issues related to the impact on property owners, the inclusion of garages in the lot coverage calculations, and grandfathering provisions.

Commissioners Bryant and Cryor did not support the motion, stating that there are too many unanswered questions about the potential impact on existing structures and the grandfathering provisions, which should be addressed in the Zoning Text Amendment.

12. Project Plan Amendment No. 91992004B, 4 Bethesda Metro Center

CBD-3 zone; 3.48 acres; 12,800 gross square feet retail, 233,284 gross square feet office; located at the southwest quadrant of the intersection of Old Georgetown Road and Wisconsin Avenue; Bethesda. *Staff recommendation: Approval with conditions*

BOARD ACTION

Motion: BRYANT/CRYOR

Vote:

Yea: 4-0

Nay:

Other:

Action: Contrary to the staff recommendation to approve, denied the proposal.

Development Review staff presented the proposal to amend a project plan and existing development to add 246,084 square feet of office and retail space, as detailed in the staff report. Staff reviewed in detail the density analysis, the dedication of roads in relation to the density calculations, the sector plan recommendations, open space and other amenities, and the required Board findings for approval.

Mr. Robert Harris, attorney representing the applicant; Mr. Gary Dick of the applicant company; Mr. Bill Hellmuth, the architect; and Ms. Suzette Goldstein, the landscape architect, provided a lengthy presentation on the proposed development, the desirability of replacing a failed food court and public plaza with office and retail space, the proposed improvements to the public plaza and the Bethesda bus station, and the desirability of additional density at the Metro station. Mr. Harris also discussed at length the issue of density calculations in terms of the dedication of right-of-way and the sector plan recommendations.

The following group made a joint presentation as abutting and confronting property owners opposing the proposal: Mr. Gus Bauman, attorney representing Chevy Chase Land Company; Mr. Jody Kline, attorney, and Mr. Robert Flanagan, representing Clark Enterprises; and Mr. Harry Lerch, attorney, and Mr. John Westbrook, representing Chevy Chase Bank. In their presentation, they argued that the density calculations are incorrect in determining the gross tract area and there is insufficient density available for development on the site because of a density cap stipulated in the 1976 sector plan, which carried forward to the 1994 sector plan. In addition, they discussed the detrimental impact of the proposal on the abutting building and maintained that the applicant is already required, under a previous site plan approval, to renovate the food court and plaza.

The following speakers also offered comments on the proposal: Former Governor Parris Glendening, representing Smart Growth Investments, consultant to the applicant;

12. 4 Bethesda Metro Center

Mr. Steven Skalet of Bethesda, speaking on his own behalf and on behalf of the Bethesda Civic Coalition; Ms. Karen Mitrano Snyder of Bethesda; Mr. Jon Weintraub, representing the Bethesda Civic Coalition; Mr. Jim Humphrey, representing the Montgomery County Civic Federation; Ms. Deborah Miness, representing the Washington Smart Growth Alliance; Ms. Kathie Hulley of Boyds; Ms. Jeannette Koonce, representing the Costar Group; Mr. Samuel Flax, representing American Capital Strategies, a potential tenant of the proposed development; Mr. Michael Kay, manager of Bethesda Metro Center for the applicant company; and Mr. Jay Hellman, an adjacent property owner.

Mr. Harris offered rebuttal testimony, elaborating on his previous points and maintaining that the density calculations are correct and the proposed development is permissible under the provisions of the sector plan.

Mr. Bauman, Mr. Kline, and Mr. Lerch also elaborated on their previous testimony, emphasizing that the proposal does not comply with the recommendations in the sector plan, the proposed density calculations are incorrect, and a sector plan amendment is required to allow the proposed development.

There followed extensive discussion of the salient issues raised, with staff, the applicant, and the opposition group responding to questions and providing additional information as requested.

In discussing the motion, the Board found that the development as proposed does not conform to the recommendations in the sector plan and advised that a sector plan amendment process, including a community design charrette, should be pursued to determine the maximum density on the site. The Board concurred that the food court, plaza, and bus station are in great need of renovation. In addition, several Commissioners noted concerns about the proximity and impact on the abutting buildings.

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

- A. Commissioners' Report
- B. Director's Report
- C. Approval of Minutes
- D. Maple Ridge - Disbursement of Fines

BOARD ACTION

Motion: C. ROBINSON/CRYOR
D. ROBINSON/BRYANT

Vote:
Yea: C. 4-0
D. 4-0

Nay:

Other:

Action: C. Approved minutes of May 8, 2008, as presented.
D. Directed staff to disburse collected Maple Ridge fines, absent any previous determination to the contrary, in accordance with recent practice, with 75% to the homeowners association and 25% retained by the Commission.

A. Commissioners' Report—None.

B. Director's Report—None.

C. Approval of Minutes – May 8, 2008

D. Maple Ridge - Disbursement of Fines—Received a presentation by the Chief of the Development Review Division, Rose Krasnow, with a recommendation to disburse fines collected from the Maple Ridge violation case to the homeowners association, for purposes stated in the staff report. In discussion, Ms. Krasnow reported that the procedure for disbursement of fines has evolved since the hearing on this case, and the current procedure is to disburse 75% of fines to the homeowners association, with the Commission retaining 25%. Mr. Jim Humphrey, representing the Montgomery County Civic Federation, suggested that a portion of the funds be retained for a use that would benefit the larger community, such as repainting the buildings on Colesville Road owned by the Washington Suburban Sanitary Commission (WSSC). The Board was disinclined to specify how the funds should be used and noted that staff could look at options for getting the WSSC buildings upgraded.

14 Public Hearing and Worksession: Falklands- POSTPONED

Public Hearing, Worksession, and Action on Evaluation for Master Plan for Historic Preservation Eligibility, Falkland Apartments, Locational Atlas Resource #36/12
(Note: New testimony will be limited to three (3) minutes; previous testimony from December 6, 2007 MCPB will be incorporated into the record of this hearing.)

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: This item was postponed.