



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, July 11, 2013, at 9:30 a.m. in the Montgomery Regional Office in Silver Spring, Maryland, and adjourned at 9:43 p.m.

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

Items 1, 3, and 4 are reported on the attached agenda.

Item 2 was removed from the Planning Board Agenda.

The Board recessed for lunch at 12:06 p.m. and to take up Items 5, 6, and 18 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 12:25 p.m. in the 3rd floor conference room. on motion of Commissioner Anderson seconded by Commissioner Presley, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Anderson and Presley 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.

Also present for the Closed Session were General Counsel Adrian Gardner, Associate General Counsels Carol Rubin, Megan Chung, Sean Dixon, Christina Sorrento, Matthew Mills, Julio Aleman, and legal intern Allie Santacreu of the Legal Department; Director Gwen Wright, Rose Krasnow, and Cathy Conlon of the Planning Department; Director Mary Bradford, and Deputy Director Mike Riley of the Parks Department; and M. Clara Moise of the Commissioners' Office.

In Closed Session the Board received briefing and advice from legal counsel on the proposed conveyance of the Rock Creek Hills Local Park to Montgomery County, the proposed land exchange for the Farquhar Middle School, and pending issues with Farm Road.

The Closed Session meeting was adjourned at 2:15 p.m.

The Planning Board reconvened in the auditorium at 2:26 p.m.

MCPB, 7-11-13, APPROVED

Items 1C, 17, and Items 7 through 11 are reported on the attached agenda. Item 8 was discussed before Item 7.

The Board recessed for dinner at 6:02 p.m. and reconvened in the auditorium at 7:25 p.m.

Items 12 through 16 are reported on the attached agenda.

There being no further business, the meeting was adjourned at 9:43 p.m. The next regular meeting of the Planning Board will be held Thursday, July 18, 2013, in the Montgomery Regional Office in Silver Spring, Maryland.

M. Clara Moise
Sr. Technical Writer

Montgomery County Planning Board Meeting
Thursday, July 11, 2013, 9:30 A.M.
8787 Georgia Avenue
Silver Spring, MD 20910-3760
301-495-4600

1. Consent Agenda

***A. Adoption of Resolutions**

1. Tapestry Preliminary Plan 120050950 MCPB No. 13-84
2. Tapestry Site Plan 820050370 MCPB No. 13-85

BOARD ACTION

Motion: WELLS-HARLEY/ANDERSON

Vote:

Yea: 4-0

Nay:

Other: DREYFUSS ABSENT

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**

Site Plan Amendment No. 82007022B: Clarksburg Town Center

Amendment to clarify and reinstate accessory structure setbacks for lots in Block GG, K and N and confirmation that the lot standards apply to both one-family detached units and include both units with attached and detached garages, located in the southeast quadrant of the intersection with Burdette Forest Road and Grapevine Ridge Terrace, RMX-2 Zone, 270 acres
Clarksburg Master Plan

Staff Recommendation: Approval of Consent Agenda Item and Adoption of Resolution

BOARD ACTION

Motion: WELLS-HARLEY/ANDERSON

Vote:

Yea: 3-0-1

Nay:

**Other: PRESLEY ABSTAINED
DREYFUSS ABSENT**

Action: Approved staff recommendation for approval of the proposed site plan amendment cited above, and adopted the submitted Resolution.

***D. Approval of Minutes**

Minutes of June 6, 2013

BOARD ACTION

Motion: PRESLEY/WELLS-HARLEY

Vote:

Yea: 4-0

Nay:

Other: DREYFUSS ABSENT

Action: Approved the Planning Board Meeting Minutes of June 6, 2013, as submitted.

Item 2

Roundtable Discussion - REMOVED

9:40 am

20 min

A. Parks Director's Report

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

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

3. Montgomery County Parks Foundation Annual Report – 2012 Audit - MOVED FROM APRIL 11TH AGENDA/TIME CHANGED

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: Received briefing from Montgomery County Parks Foundation Executive Director, followed by brief Board discussion.

Ms. Debbie Rankin, Executive Director of the Montgomery County Parks Foundation (MCPF) offered a brief multi-media presentation and discussed MCPF Fiscal Year 2012 audit report. Ms. Rankin noted that the independent audit was approved by MCPF Board of Trustees on March 27, 2013, and is presented to the Planning Board as required by the Memorandum of Understanding between the

Commission and MCPF. Ms. Rankin also added that MCPF is proud to report a 153 percent return on investment, including the non-cash support of Montgomery Parks, and 244 percent including cash support only.

4. White Oak Science Gateway Master Plan – Worksession #3: Land Use, Zoning, Historic Preservation, Staging - **TIME CHANGED**

Staff Recommendations: Discuss and provide guidance to staff

BOARD ACTION

Motion: WELLS-HARLEY/ANDERSON

Vote:

Yea: 4-0

Nay:

Other: DREYFUSS ABSENT

Action: Received briefing, followed by discussion, and approved the Montgomery County Historic Preservation Commission recommendation to designate the Naval Ordnance Laboratory Administration Building, located on the campus of the U.S. Food and Drug Administration (FDA), on the Master Plan for Historic Preservation, and as an interim measure, adding the resource to the Locational Atlas and Index of Historic Sites as the building meets sections 1a, 1c, 2a, 2e of the Criteria for Historic Designation.

Planning Department staff offered a multi-media presentation focusing on zoning recommendations for the White Oak Science Gateway Master Plan area, and discussed several other property-specific issues, designation of a proposed historic site, and proposed staging recommendations. Staff noted that five worksessions were scheduled for the review of the Master Plan following the public hearing, and this is the second one. The three remaining worksessions will be as follows: Thursday, June 18 - discussion of staging and outstanding issues; Thursday, July 25 – discussion of design guidelines and outstanding issues; and September 4 – Planning Board approval to transmit the Draft Master Plan to the County Executive and the County Council.

The following speakers offered testimony: Mr. Steve Silverman, Director of the Montgomery County Economic Development Department; Mr. Gregory Ossont of the Montgomery County Department of General Services; Mr. Stephen Elmendorf, attorney representing PerContee Inc.; Mr. Dan Wilhelm representing the Greater Colesville Citizens Association; Mr. Jonathan Genn, owner of PerContee Inc.; Mr. Wes Guckert of the Traffic Group; and Ms. Eileen Finnegan representing the Hillandale Citizens Association.

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

5. Closed Session

Pursuant to State Government Article Annotated Code of Maryland 10-508(a)(7) to consult with counsel to obtain legal advice (Farquahar Middle School Land Swap Issue) - **MOVED FROM JUNE 27 AGENDA**

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

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

6. Closed Session

Pursuant to State Government Article Annotated Code of Maryland 10-508(a)(7) to consult with counsel to obtain legal advice (Rock Creek Hills Park Matter)

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

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

18. Closed Session - ADDED

Pursuant to State Government Article Annotated Code of Maryland 10-508(a)(7) to consult with counsel to obtain legal advice (Farm Road)

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

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

17. Rock Creek Hills Local Park - ADDED

Staff will present for Board's approval the conveyance of the Rock Creek Hills Local Park to Montgomery County, pursuant to the Transfer Agreement dated 02/09/1990

Staff Recommendation: Approval

BOARD ACTION

Motion: ANDERSON/WELLS-HARLEY

Vote:

Yea: 4-0

Nay:

Other: DREYFUSS ABSENT

Action: Approved staff recommendation to affirm the authority of the Montgomery County Planning Board to approve the conveyance of the Rock Creek Hills Local Park to Montgomery County pursuant to the terms of the transfer agreement dated February 9, 1990.

Parks Department staff discussed the transfer agreement between Montgomery County and The Maryland-National Capital Parks and Planning Commission, under which the County transferred the parcel of land constituting the former Kensington Junior High School site to the Commission for use as park land on the condition that the parcel must be returned if the Board of Education determined the land were needed for use as a school site again. This determination was made in 2012, and the Commission is required to return the Rock Creek Hills Local Park to the County in exchange for \$695,052 to reimburse the Commission for payments made at the time of the initial acquisition of the parcel, as well as the cost of improvements made to the parcel during its use as park land.

Ms. Donna Savage of McComat Court offered testimony stating that Rock Creek Hills Park is a treasured resource for local residents, and asked about the possibility of keeping the park open until construction of the new school facility begins rather than closing it immediately.

The Board noted that it will recommend that the County keep the park open as long as possible.

7. Parks FY 15-20 Capital Improvements Program – Strategy Session #2 – TIME CHANGED

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: Received briefing from Parks Department staff on the impact of the County budget projections on the FY15-20 Parks Capital Improvements Program.

Parks Department staff offered a multi-media presentation and discussed the projects slated for the Capital Improvements Program (CIP) funding in the coming Fiscal Years 2015-2020, as well as the updated County-wide budget projections from the Office of Management and Budget (OMB). Staff noted that OMB reports a number of factors leading to uncertainty about future budgets, including impacts of the Federal sequester, a pending court decision relating to state income tax credit, high unemployment, and unanticipated costs related to the implementation of Master Plans. The County has set a goal of \$100 million in budget reductions for FY15-18, of which \$4.7 million will be from the Montgomery County Parks and Planning Departments budget.

Staff described the difference between stand-alone CIP projects and Level-of-Effort projects, such as maintenance and parkland acquisition, which maintain a consistent level of funding from year to year. Staff also discussed the rubric staff uses to evaluate which projects are given high priority. Among stand-alone projects, the Brookside Gardens Plant Propagation Area was given priority because it is being funded through private donations from residents. Staff proposed increased funding for high-priority Level-of-Effort projects, including upgrading park facilities to be compliant with the Americans with Disabilities Act (ADA), and trail surface renovation. Staff also discussed results of residents' surveys, which recommend that trails be a top priority of the Parks Department and suggest maximizing the impact of the limited budget for trail surface renovation by using it to coordinate volunteers' contributions and efforts.

8. ADA Initiatives and Implementation – TIME CHANGED

Parks staff will present the status of ADA initiatives to date, the integration of ADA into Park operations, and proposed implementation strategies in future years.

Staff Recommendation: Discussion

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: Received briefing from Parks Department staff on the status of the Americans with Disabilities Act (ADA) initiatives to date, the integration of ADA into the parks operations, and the proposed implementation strategies for future years, followed by discussion.

Parks Department staff offered a multi-media presentation and discussed the progress and implementation of new initiatives to bring park facilities into compliance with the Americans with Disabilities Act of 1992 (ADA). In 2006 the Justice Department conducted an audit of numerous facilities in Montgomery County, including the parks, and identified barriers to accessibility to be corrected in order to bring the County into compliance. In 2011, Montgomery County and the Parks Department signed an agreement to correct these access deficiencies, review policies, update employee training, conduct public outreach, and create a comprehensive plan to transition into full ADA compliance. Under this agreement, new design standards were adopted on March 15, 2012 to make all future parks accessible.

Staff discussed how to identify which existing parks should be given high priority for renovation to improve accessibility. Staff also proposed using data management technology to identify areas with high concentrations of residents with disabilities and ensuring that each of these areas had access to ADA-compliant facilities. Staff displayed photographs of existing park facilities and explained what improvements would be required to bring the facilities into full compliance, and discussed efforts to address disabilities other than mobility restrictions, such as a recent redesign of the Parks Department website, intended to make it easier to navigate for residents with visual impairments.

***9. 7100 Wisconsin Preliminary and Site plans**

***A. Preliminary Plan Review No. 120130200, 7100 Wisconsin Avenue, CBD-R2 zone, 0.58 acres, 1 lot for 145 multi-family dwelling units, including 15% MPDUs and 6,500 square feet of commercial space, located in the northwest quadrant of the intersection with Wisconsin Avenue and Woodmont Avenue, Bethesda CBD**

Staff Recommendation: Approval with conditions

***B. Site Plan Review No. 820130230, 7100 Wisconsin Avenue, CBD-R2 zone, 0.58 acres, 145 multi-family dwelling units, including 15% MPDUs and 6,500 square feet of commercial space, located in the northwest quadrant of the intersection with Wisconsin Avenue and Woodmont Avenue, Bethesda CBD**

Staff Recommendation: Approval with conditions

BOARD ACTION

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

Vote:

**Yea: A. 4-0
 B. 4-0**

Nay:

Other: DREYFUSS ABSENT

Action: A. Approved staff recommendation for approval of the Preliminary Plan cited above, subject to conditions, as stated in the attached Board Resolution.

B. Approved staff recommendation for approval of the Site Plan cited above, subject to conditions, as stated in the attached Board Resolution.

Planning Department staff offered a multi-media presentation and discussed the proposal to develop 7100 Wisconsin Avenue with 145 multi-family dwelling units in a 120-foot-tall structure that steps down to 45 feet towards Woodmont Avenue. The subject property is a 0.58-acre L-shaped lot in the Bethesda Central Business District that currently houses a gas station and surface parking. The project plan for this development was approved on November 1, 2012. The Sector Plan recommends a maximum building height of 75 feet and maximum Floor Area Ratio (FAR) of 3.0 for this location but allows bonus height and density for development providing at least 15 percent affordable housing, which this proposal achieves by designating 22 of the proposed units as Moderately Priced Dwelling Units (MPDUs). The proposed development would house ground-floor retail facing Wisconsin Avenue and have access to the loading bay and resident parking garage from Woodmont Avenue. It provides 23.2 percent onsite public use space, which is greater than the 20 percent required, as well as a public art feature and improvements to the nearby Eastham Park.

***9. 7100 Wisconsin Preliminary and Site plans**

CONTINUED

Mr. Robert Dalrymple, attorney representing the applicant, offered a multi-media presentation discussing the building design, recreational features, landscaping, and proposed improvements to Eastham Park, answered questions from the Board, and concurred with the staff recommendation.

Staff discussed removing an approval condition calling for noise mitigation in the proposed pocket park, which was deemed to be impractical in an urban area.

The Board suggested adding specific numbers of square footage to the conditions of approval for the sake of clarity, and instructed staff to draft language for the resolution to make explicit that the

project's height and density increase was allowable under the Zoning Ordinance because it provided MPDUs.

There followed extensive Board discussion, with questions to staff and the applicant's representative.

10. Worksession #4: Countywide Transit Corridors Functional Master Plan

Staff Recommendation: Direct staff to prepare Planning Board Draft

BOARD ACTION

Motion: ANDERSON/PRESLEY

Vote:

Yea: 4-0

Nay:

Other: DREYFUSS ABSENT

Action: Approved staff recommendation to prepare the Planning Board Draft and authorized transmittal to the County Council

Planning Department staff offered a presentation of the most recent revisions to the draft of the Countywide Transit Corridors Functional Master Plan, which incorporates direction offered by the Board during the June 18 worksession. References to corridors planned as part of Phase 2 were moved to the appendix, except for certain corridors that had only been included in Phase 2 because they required approval from other jurisdictions such as the City of Rockville or the City of Gaithersburg. The University Boulevard corridor was updated to be consistent with the Long Branch Sector Plan and Purple Line development. Maps and graphics were updated and replaced, clarifications have been added to areas of the plan that elicited confusion from public comments, and a new section of the appendix compares Bus Rapid Transit travel time with typical auto travel time in standard traffic.

Responding to advice from the Chair, staff also added language explaining the different treatments under consideration, such as median bus lanes, dedicated curb lanes, and mixed traffic routes. In response to public comments involving issues beyond the scope of the plan, new language was added to make clear that the Functional Master Plan does not address operational issues such as the size of the buses, configuration of doors, hours of service, etc.

The Board suggested clarifying that the lane repurposing option was the most cost-effective way to provide transit service and discussed enforcement of minimum standards of service for the Bus Rapid Transit system.

***11. Edgemoor**

***A. Preliminary Plan Review No. 120130120, Edgemoor**, TS-R Zone, 0.15 acres, 1 lot for 4 multi-family units; located on Montgomery Lane at the intersection with West Lane, Bethesda CBD
Staff Recommendation: Approval with conditions

***B. Site Plan Review No. 820130150, Edgemoor**, TS-R Zone, 0.15 acres, 4 multi-family units; located on Montgomery Lane at the intersection with West Lane, Bethesda CBD
Staff Recommendation: Approval with conditions

BOARD ACTION

Motion: **A. ANDERSON/WELLS-HARLEY**
 B. ANDERSON/PRESLEY

Vote:
 Yea: **A. 4-0**
 B. 4-0

Nay:

Other: **DREYFUSS ABSENT**

Action: **A. Approved staff recommendation for approval of the Preliminary Plan cited above, subject to revised conditions, and adopted the attached Board Resolution.**
 B. Approved staff recommendation for approval of the Site Plan cited above, subject to conditions, and adopted the attached Board Resolution.

Planning Department staff offered a multi-media presentation and discussed a proposal to develop four multi-family dwelling units in a single structure on a 0.15-acre lot located at the intersection of Montgomery Lane and West Lane in the Bethesda Central Business District. Staff found the proposal to be in conformance with all recommendations and requirements of the Sector Plan and the Zoning Ordinance and recommends approval.

Mr. Kirk Shrepper, engineer representing the applicant, offered brief comments, and concurred with the staff's recommendation.

Staff pointed out that the subject property was in an area recommended for 45 dwelling units per acre, and despite achieving the maximum recommended height and density the proposed development only provided 27 units per acre.

Mr. Shrepper explained that the decision to use the ground floor as a parking area reduced the amount of space available for residential units.

The Board instructed staff to add language to the resolution acknowledging that the recommendation of 45 units per acre is not being met.

***12. Site Plan Amendment Review No. 82009001A, Woodmont View**

Site Plan Amendment Review No. 82009001A, Woodmont View, PD-75 zone, .52 acres, Amendment to waive the parking requirement for commercial use, modify the recreation facilities and modify the design of the building; located in the northwest quadrant of the intersection with Battery Lane and Woodmont Avenue, Bethesda CBD

Staff Recommendation: Approval with conditions

BOARD ACTION

Motion: PRESLEY/WELLS-HARLEY

Vote:

Yea: 4-0

Nay:

Other: DREYFUSS ABSENT

Action: Approved staff recommendation for approval of the Site Plan Amendment cited above, subject to conditions, and adopted the attached Board Resolution.

Planning Department staff offered a multi-media presentation and discussed a proposed Site Plan Amendment for Woodmont View. The subject property is a 0.52-acre lot located at the intersection of Battery Lane and Woodmont Avenue in the Bethesda Central Business District, and is currently the location of a three-story office building, proposed for demolition, and a single-family detached home that will be retained for use by a philanthropic organization. The Site Plan was originally approved on July 23, and proposed to construct a 46-unit multi-family residential building with a ground floor restaurant and associated amenities and parking spaces. The proposed amendment would eliminate parking spaces for the restaurant, alter the recreational amenities, and make minor changes to the footprint of the building and the design of the façade. County Code requires the development to provide 92 parking spaces, but this requirement can be waived under Section 59-E-4.5 of the Zoning Ordinance. The proposed amendment would provide 83 parking spaces, and the rooftop pool and Jacuzzi from the original application would be removed, and an exercise room would be relocated to the 2nd floor. Staff finds a nearby public parking garage would provide ample parking and safe pedestrian connections to the restaurant, and that the proposed development still meets all the requirements for recreational amenities, even without the pool and Jacuzzi.

Mr. Jody Kline, attorney representing the applicant, offered brief comments and concurred with the staff recommendation.

In reply to a question from the Board, Mr. Mark Dubick, member of the applicant's team, answered that market research had indicated that residents would not be likely to use the pool and that the penthouse residents were concerned about the possibility of leaks.

***13. Limited Site Plan Amendment 82011005A: Olney Springs (formerly Bowie Mill Property)**

Amendment to change the delivery date of certain recreation facilities to accommodate a larger than anticipated sediment trap, on Bowie Mill Road, 700 feet West of Daly Manor Place, 32.74 acres, PD-3 Zone, Olney Master Plan

Staff recommendation: Approval with conditions

BOARD ACTION

Motion: PRESLEY/ANDERSON

Vote:

Yea: 4-0

Nay:

Other: DREYFUSS ABSENT

Action: Approved staff recommendation for approval of the Site Plan Amendment cited above, subject to conditions, and adopted the attached Board Resolution.

Planning Department staff offered a multi-media presentation and discussed the proposed request to amend planned development on Bowie Mill Road in the Olney Master Plan area. On September 15, 2011, the Planning Board approved a site plan to develop mixed residential units on a 32.74-acre area of Olney. One condition of approval of this site plan was that the applicant was required to complete certain recreational amenities before the issuance of the 60th building permit. However, the applicant has since discovered that the sediment trap required for the southern section of the subject property will be larger than anticipated, and the recreational amenities in that section cannot be completed until after the sediment trap is removed. The applicant proposes amending the condition to state that the recreational amenities must be completed within six months of receiving approval to remove the sediment trap and replace it with a stormwater management lake. To compensate for this delay, the applicant proposes to accelerate construction of other recreational amenities elsewhere in the development, including a multi-age playground and a half basketball court.

Mr. John Clark, representing the applicant, offered brief comments and concurred with the staff recommendation.

14. Special Exception S-2871: Paws and Claws Animal Hospital

Request for a Special Exception for a Veterinary Hospital located in the existing Damascus Shopping Center at 9815 Main Street (MD 108), MXTC Zone, Damascus Master Plan

Staff recommendation: Approval with conditions

BOARD ACTION

Motion: PRESLEY/ANDERSON

Vote:

Yea: 4-0

Nay:

Other: DREYFUSS ABSENT

Action: Approved staff recommendation for approval of the Special Exception request cited above, subject to revised conditions, as stated in the attached Board Resolution.

Planning Department staff offered a multi-media presentation and discussed the request for a Special Exception to allow the Paws and Claws veterinary hospital to use an existing structure in the newly renovated Damascus Shopping Center located on Main Street in the Damascus Master Plan area. The surrounding uses include a grocery store, post office, optometry office, and assorted retail. A Public Hearing for the request is set to be held on July 26, 2013 before the Office of Zoning and Administration. Staff found the veterinary hospital use to be consistent with the 2006 Master Plan allowable special exceptions and found the proposal to be compliant with all requirements of veterinary hospitals, including incorporation of soundproofed walls and responsible elimination of animal waste.

Mr. Jody Kline, attorney representing the applicant, offered comments that his client acceded to all conditions proposed in the staff report.

The Board suggested amending the condition of approval related to the prohibition against walking or exercising the dogs, specifying that it also does not extend to taking the dogs to a back alley to relieve themselves.

***15. Preliminary Plan Limited Amendment No. 11991045A: Peterson Property (Lot 5)**

A request to remove a portion of the Category I Forest Conservation Easement, located on Norwood Road approximately 2,100 feet north of Norbeck Road, 2.1 acre lot, RE-2C Zone, Cloverly Master Plan

Staff Recommendation: Approval with Conditions

BOARD ACTION

Motion: ANDERSON/PRESLEY

Vote:

Yea: 4-0

Nay:

Other: DREYFUSS ABSENT

Action: Approved staff recommendation for approval of the Preliminary Plan Amendment cited above, subject to conditions, as stated in the attached Board Resolution.

Planning Department staff offered a multi-media presentation and discussed the proposed Preliminary Plan Limited Amendment for Lot 5 of the Peterson Property, a 2.1-acre pipe stem-shaped lot off of Norwood Road in the Cloverly Master Plan area. The lot was originally conceived of as an outlot that provided forest conservation easements and septic easements required for development of other lots on the Peterson Property. In 2001, a record plat was approved in anticipation of a water and sewer connection for the property, which would make the septic easements unnecessary and allow development of the outlots. However, this sewer connection proved to be infeasible and the septic easement was required to remain, meaning that the only way to build on the lot would be to remove the forest conservation easement. The applicant proposed an amendment that would release 0.96 acres of Category 1 forest conservation easement, which would be mitigated by the purchase of 1.92 acres in an approved offsite forest conservation bank. The amendment would also correct a minor error regarding property lines, as the current Preliminary Plan places into easement a piece of forest that is technically part of an adjacent property.

Mr. Ralph Mabley, representing the applicant, offered comments and concurred with the staff recommendation.

Mr. David Nunez of Norwood Road, owner of a neighboring lot, asked about the possibility of getting a water and sewer connection to his property and offered comments about the hazard of the unpaved access road.

Mr. David Little, member of the applicant's team discussed the possibility of tapping in to a water main being constructed for the sake of a nearby church.

In reply to a question from the Board, staff confirmed that credit applied to an offsite forest conservation bank would be acceptable as part of the Preliminary Plan which establishes the easements.

16. Zoning Text Amendment No. 13-06

To generally amend the provision for building heights in the Fenton Village Overlay zone

Staff Recommendation: Transmit Comments to the County Council
(Action required for County Council public hearing of 7/16/13)

BOARD ACTION

Motion: WELLS-HARLEY/ANDERSON

Vote:

Yea: 4-0

Nay:

Other: DREYFUSS ABSENT

Action: Approved staff recommendation to transmit comments to the County Council.

Planning Department staff discussed a proposed Zoning Text Amendment (ZTA) which would amend Section 59-C-18.192(b)(1)(B) of the Zoning Ordinance regarding height limits for the Fenton Village Overlay Zone in Silver Spring. The Sector Plan currently recommends that any building taller than 60 feet be set back from Fenton Street by one foot for every foot of height in excess of 60, and the proposed ZTA would formally incorporate that recommendation in the Zoning Ordinance.

Legal Counsel to the Board proposed clarifying that the first 60 feet of a building did not need to be set back, and that the requirements could be met by upper-story setbacks for portions of the building taller than 60 feet as long as there was at least one foot of setback for every foot of height beyond 60.

The Board discussed what language would best clarify the intent of the ZTA.

Mr. Robert Dalrymple, attorney from Linowes and Blocher LLP, offered testimony urging the Board to add a provision grandfathering projects pending site plan approval under the old requirements, claiming that the lack of a grandfathering provision could discourage investors.

Ms. Karen Roper, representing the East Silver Spring Civic Association, offered testimony in support of the ZTA.

Mr. Steve Robins, attorney representing Safeway Grocery Store, offered comments and noted that his client's property in the Fenton Village Overlay Zone might not be able to achieve full height and density under the proposed ZTA, and urged the Board to consider more flexibility rather than the proposed strict 1:1 ratio of setback to extra height.

Ms. Karen Burditt, architect, also offered comments and stated that the column grid spacing used during construction with concrete made it easy to meet the requirements of the ZTA, and urged the Board to support it.

The Board instructed staff to include a recommendation to add a grandfathering clause to the ZTA in the Chair's letter to the County Council.