



**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, October 21, 2010, at 9:08 a.m. in the Montgomery Regional Office in Silver Spring, Maryland, and adjourned at 5:50 p.m.

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

Items 1 through 3 and 10 are reported on the attached agenda.

The Board recessed at 12:37 p.m. for lunch and to take up Items 4 and 11 in Closed Session. Closed Session Item 12 was postponed.

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 1:16 p.m. in the third floor conference room, on motion of Vice Chair Wells-Harley, seconded by Commissioner Alfandre, with Chair Carrier, Vice Chair Wells-Harley, and Commissioner Alfandre present and voting in favor of the motion. Commissioners Dreyfuss and Presley were necessarily absent. The meeting was closed under authority of §10-508(a)(7), State Government Article, Annotated Code of Maryland, to consult with counsel to obtain legal advice; and §10-508(a)(13), to comply with a specific constitutional, statutory, or judicially imposed requirement that prevents public disclosures about a particular proceeding or matter.

Also present for all or part of the Closed Session were General Counsel Adrian Gardner and Associate General Counsels David Lieb and Carol Rubin of the Legal Department; Director Rollin Stanley, Rose Krasnow, and Robert Kronenberg of the Planning Department; and Ellyn Dye of the Commissioners' Office.

In Closed Session, the Board received a briefing, in preparation for the development activity update on the afternoon agenda, on the history of issues related to the Clarksburg Town Center development, including the violations, the mediated Compliance Plan, the certified site plan, the staging of development in the master plan, and previous approvals and actions by the Board. The Board also approved submitted Closed Session minutes.

The Closed Session was adjourned at 2:43 p.m.

The Board reconvened in the auditorium at 2:50 p.m.

Items 5 through 9 are reported on the attached agenda.

There being no further business, the meeting was adjourned at 5:50 p.m. The next regular meeting of the Planning Board will be held Thursday, October 28, 2010, in the Montgomery Regional Office in Silver Spring, Maryland.

Ellyn Dye  
Technical Writer

M. Clara Moise  
Technical Writer

**Montgomery County Planning Board Meeting**  
**Thursday, October 21, 2010, 9:00 A.M.**  
8787 Georgia Avenue  
Silver Spring, MD 20910-3760

**1. Consent Agenda**

**\*A. Adoption of Resolutions**

1. 9490 River Road Preliminary Plan 120090370 – ADOPTION OF MCPB RESOLUTION No. 10-78
2. Burton Woods, Phase III, Preliminary Plan No. 12006027B – ADOPTION OF MCPB RESOLUTION No. 10-143

**BOARD ACTION**

**Motion:** WELLS-HARLEY/ALFANDRE

**Vote:**  
**Yea:** 3-0

**Nay:**

**Other: DREYFUSS, PRESLEY ABSENT**

**Action: Adopted the Resolutions as stated above.**

Chair Carrier stated for the record that she reviewed the record for Preliminary Plan No. 120090370 – 9490 River Road and, therefore, is able to vote to adopt the Resolution commemorating the Board’s action on that plan.

**B. Record Plats**

**1. Subdivision Plat No. 220100610, Bradley Farms;** RE-2 zone; 1 lot; located in the northeast quadrant of the intersection of River Road (MD 190) and Harrington Drive; Potomac Subregion

*Staff Recommendation: Approval*

**2. Subdivision Plat No. 220100890, Mt. Zion Square;** RE-2 zone; 1 lot; located on the west side of Zion Road, approximately 2,500 feet north of Brookeville Road; Olney

*Staff Recommendation: Approval*

**3. Subdivision Plat No. 220110010, West Chevy Chase Heights;** R-60 zone; 1 lot; located on the north side of West Virginia Avenue, 150 feet east of Tilbury Street; Bethesda-Chevy Chase

*Staff Recommendation: Approval*

**BOARD ACTION**

**Motion: ALFANDRE/WELLS-HARLEY**

**Vote:**

**Yea: 3-0**

**Nay:**

**Other: DREYFUSS, PRESLEY ABSENT**

**Action: Approved the Record Plats as stated above.**

**C. Other Consent Items**

**Extension Request for Project Plan Amendment Review No. 92000001B, Air Rights Center** 7300 Pearl Street, CBD-2 zone; 3.73 acres; optional method of development to add 149,611 sf. of office space.; located on Pearl Street, approximately 160 feet south of Montgomery Avenue; Bethesda CBD

*Staff Recommendation: Approval of the Extension Request*

**BOARD ACTION**

**Motion:** WELLS-HARLEY/ALFANDRE

**Vote:**

**Yea:** 3-0

**Nay:**

**Other:** DREYFUSS, PRESLEY ABSENT

**Action:** Approved the extension of the review period to no later than November 18, 2010, as stated in the staff memorandum.

**D. Approval of Minutes**

**BOARD ACTION**

**Motion:**

**Vote:**

**Yea:**

**Nay:**

**Other:**

**Action:** No minutes were submitted for approval.

**2. Zoning Code Rewrite – Code Studio Update**

Code Studio, the consultant working with staff on the Zoning Code Rewrite, will provide an overall update on the code drafting phase of the project. Items such as process, timing, and key issues that are related to the first module (Agricultural and Residential zones) will be discussed. Code Studio will report back on highlights of the 3-day visit, including sessions with the Zoning Advisory Panel and other internal stakeholder groups.

**BOARD ACTION**

**Motion:**

**Vote:**

**Yea:**

**Nay:**

**Other:**

**Action: Received briefing and discussed.**

Following introductory remarks by Planning staff, Mr. Lee Einsweiler of Code Studio, the consultant, presented the discussion draft of the Zoning Ordinance (Code) rewrite, including the proposed new organizing principles, districts, development patterns, housing types, and the issues that are being addressed in this effort. Mr. Einsweiler emphasized that this is a draft document, and the specific standards and development patterns may change dramatically during the refining process.

There followed extensive discussion of various aspects of the proposed standards, including how specific zones, development patterns, and building types would work on the ground. Considerable discussion was devoted to infill development, the proposed new method of measuring building heights, where and how the existing development patterns are being retained and clarified as compared to where and how significant new development patterns are being introduced, and the policy goals and intentions underlying the new development patterns and building types.

### **3. CR Incentive Density Implementation Guidelines**

Review of the guidelines needed to implement the incentive density provisions for the CR zones for optional method applications. The guidelines establish the calculation methods and criteria for public benefits that allow increases in density above the standard method up to the maximum set by the zone.

*Staff Recommendation: Approval*

#### **BOARD ACTION**

**Motion:**

**Vote:**

**Yea:**

**Nay:**

**Other:**

**Action: Discussed and provided guidance to staff.**

Development Review staff reviewed the CR Incentive Implementation Guidelines and responded to Board queries on specific sections of the Guidelines and how they will be applied.

**10. Amendments to the Department of Parks' FY11-16 Capital Improvements Program (CIP)**

Description: The Department of Parks' biennial FY11-16 CIP is due to the Council by November 1. The Department is recommending changes to its adopted FY11-16 CIP that it would like to include in its biennial submission to the Council.

*Staff Recommendation: Approval*

**BOARD ACTION**

**Motion: WELLS-HARLEY/ALFANDRE**

**Vote:**

**Yea: 3-0**

**Nay:**

**Other: DREYFUSS, PRESLEY ABSENT**

**Action: Approved the staff recommendation to add two PDFs to the approved FY11-16 Capital Improvements Program to comply with 2010 revisions to the American Disabilities Act.**

Department of Parks staff presented proposed changes to the FY11-16 Capital Improvements Program (CIP), as detailed in the staff report. Staff proposes adding two project description forms (PDFs) to the approved FY11-16 CIP to make necessary design improvements to several parks and recreational facilities to comply with 2010 revisions to the American Disabilities Act. Staff also discussed the issue of operating budget impacts associated with new Parks projects and the possible need to delay the opening of a number of projects due to budget restrictions. Staff will provide project-by-project analysis and recommendations for delays to the Board for discussion on October 28, 2010.

**11. Closed Session**

Pursuant to Maryland State Government Code Annotated Section 10-508(a)(13) to comply with specific constitutional, statutory, or judicially imposed requirement that prevents public disclosures about a particular proceeding or matter (Note: Approval of Closed Session minutes)

**BOARD ACTION**

**Motion:**

**Vote:**

**Yea:**

**Nay:**

**Other:**

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

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**4. Closed Session**

Pursuant to Maryland State Government Code Annotated Section 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.

**12. Closed Session**

Pursuant to Maryland State Government Code Annotated Section 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

**BOARD ACTION**

**Motion:**

**Vote:**

**Yea:**

**Nay:**

**Other:**

**Action:** This item was postponed.

**6. Potomac Crest**

**A. Preliminary Plan 12002119A, Potomac Crest, Limited Amendment, in response to a Forest Conservation Violation;** R-90 zone; 9.1 acres; 21 lots previously approved for 21 one-family detached residential dwellings; request to modify existing conservation easement boundaries; located on Seven Locks Road, 200 feet north of Tuckerman Lane; Potomac Subregion Master Plan

*Staff Recommendation: Approval with Conditions*

**B. Limited Site Plan Amendment Review No. 82003035A, Potomac Crest, in response to a Violation;** R-90; 9.10 acres; amendment to modify the entry sign and forest conservation easement; located on Seven Locks Road, approximately 200 feet north of the intersection with Tuckerman Lane; Potomac

*Staff Recommendation: Approval of the Limited Amendment*

**BOARD ACTION**

**Motion:**                   **A. WELLS-HARLEY/ALFANDRE**  
                                  **B. ALFANDRE/WELLS-HARLEY**

**Vote:**

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

**Nay:**

**Other:**               **DREYFUSS, PRESLEY ABSENT**

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

In keeping with the October 11 technical staff report, Development Review and Environmental Planning staff offered a multi-media presentation of the request to amend the previously approved Preliminary Plan to modify the existing conservation easement boundaries and the entry sign for a 9.1-acre property located on Seven Locks Road in the Potomac Subregion Master Plan. Staff noted that these amendments were initiated by two violations cited in October 2008 consisting in the removal of a forest protection fence, and encroachment into a Category I forest conservation easement to accommodate the construction of an entrance sign. Staff discussed and recommended approval of the applicant's proposed amendments to remove a portion of the conservation easement on the lot, i.e., 289 square feet of Category I conservation easement and to replace this easement by adding 600 square feet of wooded area to an adjacent forest retention area, and to allow the entrance sign to remain in the same location.

Ms. Rebecca Walker, attorney representing the applicant, introduced members of the applicant's team, offered brief comments, and concurred with the staff recommendation.



**5. Preliminary Plan 11999034A, Alvermar Woods, Lot 17, Limited Amendment, In Response to a Forest Conservation Violation**

RE-2 zone; 2.07 acres; 1 existing lot containing a one-family residential dwelling; request to modify an existing forest conservation easement; located on Riverwood Drive, 381 feet south of River Road; Potomac Subregion Master Plan

*Staff Recommendation: Denial*

**BOARD ACTION**

**Motion:** ALFANDRE/WELLS-HARLEY

**Vote:**

**Yea:** 3-0

**Nay:**

**Other:** DREYFUSS, PRESLEY ABSENT

**Action:** Approved staff recommendation for denial, as stated in the attached Board Resolution.

In accordance with the October 13 technical staff report, Development Review staff offered a multi-media presentation of the request to modify an existing forest conservation easement on a 2.07-acre property located on Riverwood Drive in the Potomac Subregion Master Plan. Staff discussed the proposed request noting that the applicant has constructed a shed, a driveway, and a pathway in a Category I conservation easement on the property and has also removed the entire understory within the easement area. Staff noted that two notices of forest conservation violation issued to the applicant in July and August 2009 were ignored, and the applicant's attorney was notified during a September 1, 2010 meeting with staff that the Planning Board hearing will occur in October and staff's recommendation on the proposed amendment would be one of denial.

Ms. Michele Rosenfeld, attorney for the applicant, introduced Dr. Kambiz Kazemi, the applicant, and Messrs. Jim Bash and John Martin, members of the applicant's team. Ms. Rosenfeld offered a multi-media presentation and discussed in detail the proposed amendment and the site history.

Mr. Jim Bash, Land Planner for the applicant, discussed the existing Category I forest conservation easement on the site.

Mr. Mehdi Mirzaie of Riverwood Drive, an adjacent property owner, offered testimony.

There followed extensive Board discussion with questions to Legal staff, and the applicant's representatives regarding the Category I conservation easement requirements and the previous notices of violation issued to the applicant.

In response to Ms. Rosenfeld, Chair Carrier noted that the applicant is welcome to work with staff and resubmit a request to the Board.

**7. A. Preliminary/Final Water Quality Plan;  
B. Record Plat No. 220090500, Granby Woods**

RE-2 zone; 3.59 acres; request to convert an existing outlot to a lot for a one-family detached dwelling unit under the minor subdivision process; located within the Upper Rock Creek Special Protection Area on Shremor Drive, 500 feet south of Granby Road; Upper Rock Creek Master Plan.

*Staff Recommendation: Approval with Conditions*

**BOARD ACTION**

**Motion: A. ALFANDRE/WELLS-HARLEY  
B. ALFANDRE/WELLS-HARLEY**

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

**Nay:**

**Other: DREYFUSS, PRESLEY ABSENT**

**Action: A. Approved staff recommendation for approval of the Final Water Quality Plan, subject to conditions, as stated in the attached Board Resolution.  
B. Approved staff recommendation for approval of the Record Plat.**

In keeping with the October 7 technical staff report, Development Review and Environmental Planning staff discussed the request to convert an existing outlot to a lot for a one-family detached dwelling unit located on a 3.59-acre property in the Upper Rock Creek Special Protection Area, under the minor subdivision process. Staff noted that the adjacent property owner has submitted testimony into the record in opposition to this request. Staff added that this request meets the requirements of the subdivision regulations and of the Forest Conservation Law.

Mr. Josh Maiser, Engineer, representing the applicant, offered brief comments and concurred with the staff recommendation.

**9. Proposed Amendments: Montgomery County Comprehensive Water Supply and Sewerage Systems Plan- AD 2010-4 (Administrative Cases)**

*Staff Recommendation: Transmit Recommendations to County Executive*

**BOARD ACTION**

**Motion: A. WELLS-HARLEY/ALFANDRE  
B. ALFANDRE/WELLS-HARLEY**

**Vote:**

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

**Nay:**

**Other:           DREYFUSS, PRESLEY ABSENT**

**Action:        A. Approved staff recommendation to transmit recommendations to the County Executive for the Ross-Boddy Community Center Water and Sewer request, as stated in the attached transmittal letter.**

**B. Approved staff recommendation for approval of the other five Water and Sewer requests listed in the October 13 technical staff report, and transmit recommendations to the County Executive, as stated in the attached transmittal letter.**

Environmental Planning staff discussed proposed amendments to the Montgomery County Comprehensive Water Supply and Sewerage Systems Plan, as discussed in the October 13 technical staff report. Staff noted that recommendations for six requests requiring action by the County Executive have been sent to the Department of Environmental Planning (DEP), including staff's recommendations regarding the water and sewer request for the Ross-Boddy Community Center in the Chandlee Mill Road & Brooke Road area. Staff added that the Sandy Spring/Ashton Master Plan states that a study should be done to assess the potential for provision of water and sewer service to this area and staff is in support of this study.

At the Board's request, Community-Based Planning staff discussed the Master Plan's recommendations for the study mentioned above.

Mr. Alan Soukoup of DEP offered comments regarding the Ross-Brodby Community Center request.

**8.       Roundtable Discussion**

**A. White Flint Finance Legislation**

**B. Clarksburg Town Center, Site Plan Review No. 820070220**

Update on development activity by the Applicant with the Planning Board; Condition 18 of the adopted resolution requires the Applicant to provide a status report to the Planning Board every 3 months

**C. Update on Clarksburg Stage 4 Ad Hoc Water Quality Working Group (CWQWG) Report to the County Council**

**D. Master Plan Program**

**E. Legislative Update**

**BOARD ACTION**

**Motion:**

**Vote:**

**Yea:**

**Nay:**

**Other:**

**Action:**

**A. White Flint Finance Legislation** – Community-Based Planning staff briefed the Planning Board on proposed White Flint financing legislation. Staff noted that the County Executive submitted a proposal to create a special tax district, and Bill 50-10: Creation of Special Taxing District for White Flint, sponsored by the County Council President at the request of the Executive, is scheduled for public hearing on October 26, 2010.

**B. Clarksburg Town Center, Site Plan Review No. 820070220** – Development Review staff noted that Condition 18 of the adopted Planning Board Resolution for the project requires the applicant to provide a project status report to the Planning Board every three months and Messrs. Douglas Delano, Vice President of Newland Communities, and Todd Brown, attorney for the applicant, briefed the Board on the project’s progress and any pending issues.

**C. Update on Clarksburg Stage 4 Ad Hoc Water Quality Working Group (CWQWG) Report to the County Council** – Planning Director Rollin Stanley, Community-Based Planning, and Environmental Planning staff discussed the status of the CWQWG’s report to the County Council. Staff noted that the report was presented to the Planning, Housing, and Economic Development (PHED) Committee, and a series of recommendations were forwarded to the Executive but no action has been taken. Staff added that mention of the report is likely to come up during the Semi-Annual discussion with the County Council next week.

## **8. Roundtable Discussion**

**D. Master Plan Program** – Planning Director Rollin Stanley and Community-Based planning staff discussed the proposed FY10-14 Master Plans and projects work program schedule, and noted that discussion of the Semi-Annual is scheduled for next Tuesday with the County Council. Staff noted that the County Council requested that staff prepare a report on a proposed amendment to the Shady Grove Sector Plan for the Reed Brothers property and staff informed the Council that this would impact the current work program by delaying some Master and Sector Plans. Staff proposes to delay delivery of the Long Branch Sector Plan and the Burtonsville Master Plan. Staff also added that the County Council wants staff to complete three Sector/Master Plans per fiscal year, and this needs to be discussed further with the Council.

**E. Legislative Update** – Legal staff briefed the Board regarding four proposed legislative items for the 2011 Legislative Session of the Maryland General Assembly, which will be presented to The Maryland-National Capital Park and Planning Commission for approval:

- 1) Submission date for the Capital Improvements Program for Prince George’s County;
- 2) Bond Bill Funding – Warner Manor in Montgomery County;
- 3) Bond Bills Statewide – Expenditure Period; and
- 4) Reforestation and Mitigation Statewide.

Staff added that there will likely be other legislative initiatives proposed for consideration during the 2011 Session, and these items will be brought to the Board’s attention as needed.