



**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 25, 2012, at 9:12 a.m. in the Montgomery Regional Office in Silver Spring, Maryland, and adjourned at 7:59 p.m.

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

Prior to taking up the morning agenda, Chair Carrier invited Planning Department staff to offer some remarks in memory of James Sumler, a long-time Commission employee, who passed away unexpectedly last Sunday. The Planning Board members and staff observed a moment of silence in Jim's memory.

Items 1 through 4 are reported on the attached agenda.

The Board recessed for lunch at 12:00 p.m. and to take up Items 5, 12, and 13 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 12:15 p.m. in the third floor conference room, on motion of Vice Chair Wells-Harley, seconded by Commissioner Anderson, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Anderson, Dreyfuss, and Presley present and voting in favor of the motion. The meeting was closed under authority of the Annotated Code of Maryland, State Government Article, §10-508(a)(3), to consider the acquisition of real property for a Commission purpose and matters directly related thereto; §10-508(a)(1) to discuss the appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation, or performance evaluation of Commission appointees, employees, or officials; or to discuss any other personnel matter that affects one or more specific employees; and §10-508(a)(13), to comply with 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 Director Mary Bradford, Bill Gries, Dominic Quattrocchi, Mitra Pedoeem, and Brenda Sandberg of the Parks Department; Associate General Counsel Sean Dixon of the Legal Department; Acting Director Rose Krasnow, and Kristin O'Connor of the Planning Department; and Clara Moise of the Commissioners' Office.

In Closed Session, the Board discussed the proposed acquisition of parkland, approved Closed Session Minutes, and received briefing from the Acting Planning Department Director regarding personnel issues.

The Closed Session was adjourned at 1:40 p.m.

The Board reconvened in the auditorium at 2:05 p.m.

Items 6 through 11 are reported on the attached agenda. Item 11 was taken up out of order, prior to Item 7. Item 14 was postponed.

Commissioner Dreyfuss left the meeting at 7:25 p.m., following discussion of Item 9.

There being no further business, the meeting was adjourned at 7:59 p.m. The next regular meeting of the Planning Board will be held Thursday, November 1, 2012, in the Montgomery Regional Office in Silver Spring, Maryland.

M. Clara Moise  
Technical Writer

Ellyn Dye  
Technical Writer

**Montgomery County Planning Board Meeting**  
**Thursday, October 25, 2012**  
8787 Georgia Avenue  
Silver Spring, MD 20910-3760  
301-495-4600

**1. Consent Agenda**

**\*A. Adoption of Resolutions**

1. Clarksburg Cluster Elementary School Water Quality Plan MR2012026 – MCPB 12-124
2. Ashton Property Preliminary Plan 120110050 – MCPB 12-103

**BOARD ACTION**

**Motion:**                   **1. DREYFUSS/WELLS-HARLEY**  
                                  **2. DREYFUSS/WELLS-HARLEY**

**Vote:**  
    **Yea:**               **1. 4-0-1**  
                              **2. 5-0**

**Nay:**

**Other:**               **1. CARRIER ABSTAINED**

**Action:**           **Adopted Resolutions cited above, as submitted.**

**\*B. Record Plats**

**1. Subdivision Plat No. 220110930 – 220110950, Clarksburg Village**  
R-200/TDR zone; 35 lots, 4 parcels; located at the intersection of Emerald Green Drive and Heron Neck Terrace; Clarksburg Master Plan.  
*Staff Recommendation: Approval*

**2. Subdivision Plat No. 220121670, Indian Spring Terrace**  
R-60 zone; 2 lots; located in the northeast quadrant of the intersection of Colesville Road (US 29) and Indian Spring Drive; Four Corners Master Plan.  
*Staff Recommendation: Approval*

**BOARD ACTION**

**Motion:**                   **PRESLEY/WELLS-HARLEY**

**Vote:**

**Yea:** 5-0

**Nay:**

**Other:**

**Action:** Approved staff recommendation of approval of the Record Plats cited above, as submitted.

**\*C. Other Consent Items**

**1. Extension Request for Project Plan Amendment Review No. 92002002C: Village West at Germantown Center (formerly Martens Property) - REVISED;** Amendment to add 15 multi-family units, consolidate the multi-family building footprints and increase the building height to a maximum of 65 feet or 5 stories and increase the amenity areas, located near the intersection of Wisteria Drive and Waters Road, RMX-2 Zone, 26.48 acres, Germantown Sector Plan  
*Staff Recommendation: Approval of Extension Request*

**2. First Baptist Church of Wheaton Preliminary Plan 120100250-MCPB 12-126** per Remand from Circuit Court

**3. First Baptist Church of Wheaton Site Plan 820100080-MCPB 12-127** per Remand from Circuit Court

**BOARD ACTION**

**Motion:** PRESLEY/ANDERSON

**Vote:**

**Yea:** 5-0

**Nay:**

**Other:**

**Action:** Following a brief Planning Department staff presentation, approved the three Other Consent Items cited above, as submitted.

**\*D. Approval of Minutes**

Minutes of September 27, 2012

**BOARD ACTION**

**Motion:** ANDERSON/WELLS-HARLEY

**Vote:**

**Yea: 5-0**

**Nay:**

**Other:**

**Action: Approved the Planning Board Meeting Minutes of September 27, 2012, as submitted.**

**2. Worksession on Zoning Ordinance Rewrite**

- Agricultural and Rural Residential Zones

**BOARD ACTION**

**Motion:**

**Vote:**

**Yea:**

**Nay:**

**Other:**

**Action: Discussed and provided guidance to staff in a worksession on the Agricultural and Rural Residential Zones in the context of the draft Zoning Ordinance Rewrite.**

At the Board's request, Mr. Jeremy Criss of the Montgomery County Department of Economic Development, Ms. Caroline Taylor representing Montgomery Countryside Alliance, and Ms. Julie Davis of Wisconsin Avenue, offered comments.

**3. ~~Parks FY14 CIP Amendments~~ Amendments to Parks' FY13-18 CIP - REVISED**

Capital Budget Adjustments

**BOARD ACTION**

**Motion: PRESLEY/WELLS-HARLEY**

**Vote:**

**Yea: 5-0**

**Nay:**

**Other:**

**Action: Approved proposed capital budget amendments to specific projects in the Parks Department FY13-18 Capital Improvements Program (CIP).**

In keeping with the October 11 staff report, Parks Department staff discussed the proposed capital budget amendments to specific projects in the Parks Department FY13-18 CIP. Staff briefly discussed the projects which are proposed to be amended, i.e., Legacy Open Space, Enterprise Facilities Improvements, Falls Road Local Park, Laytonia Recreational Park, and Hard Surface Trails Renovation. Staff noted that the County Office of Management and Budget (OMB) will consider amendments to projects in the CIP that implement a new County Executive initiative or that address a significant change in the existing project's scope, cost, or timing. The proposed amendments are in line with these requirements.

There followed a brief Board discussion with questions to staff.

#### **4. Roundtable Discussion**

- A. Parks Director's Report
- B. Clarksburg Town Center Update

### **BOARD ACTION**

**Motion:**

**Vote:**

**Yea:**

**Nay:**

**Other:**

**Action: A. Parks Director's Report** - Parks Department Director Mary Bradford highlighted various parks-related activities and future events, as stated in the Director's Report distributed at the meeting. Ms. Bradford also offered a brief report on a regional parks conference she attended last week, and noted that the Park Police will be participating in the annual horse show taking place in Washington D.C. this weekend. Ms. Bradford also briefed the Board on the Park Police response to the recent attack on the Capital Crescent Trail.

**B. Clarksburg Town Center Update** - Commissioner Presley recused herself from the discussion of this item. Planning Department staff noted that this is the last required update from the developer on the project. Staff discussed the status of permits for the Clarksburg Town Center and noted that staff has been assisting the developer in obtaining these permits.

Ms. Kate Kubit, representing Third Try LLC., the developer, discussed comments received during previous community meetings held in September and early October, and the proposed changes

to the certified site plan. Ms. Kubit also noted that there are other community meetings scheduled for December 2012.

**5. Closed Session**

Pursuant to State Government Article Annotated Code of Maryland 10-508(a)(3) to consider the acquisition of real property for a Commission purpose and matters directly related thereto

**BOARD ACTION**

**Motion:**

**Vote:**

**Yea:**

**Nay:**

**Other:**

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

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**12. Closed Session**

Pursuant to State Government Article Annotated Code of Maryland 10-508(a)(3) to consider the acquisition of real property for a Commission purpose and matters directly related thereto

**BOARD ACTION**

**Motion:**

**Vote:**

**Yea:**

**Nay:**

**Other:**

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

**13. 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 official citation and open session report in narrative minutes.

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**15. 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

**BOARD ACTION**

**Motion:**

**Vote:**

**Yea:**

**Nay:**

**Other:**

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

**\*6. Sketch Plan 320120040, White Flint Mall Redevelopment**

Development of approximately 2,064,930 SF of non-residential uses, 280,350 SF of hotel uses, and 2,875,285 SF of residential uses, on approximately 45.3 gross acres in the CR 4 C3.5 R2.0 H250, CR3



C1.5 R2.5 H200, and CR1.5 C0.25 R1.5 H50 zones; located on Rockville Pike approximately 600 feet south of the intersection with Nicholson Lane within the White Flint Sector Plan area.

*Staff Recommendation: Approval with Conditions*

**BOARD ACTION**

**Motion:**                    **ANDERSON/PRESLEY**

**Vote:**

**Yea:**                    **5-0**

**Nay:**

**Other:**

**Action:**            **Approved staff recommendation for approval of the sketch plan cited above, subject to revised conditions, as stated in the attached Board Resolution.**

In keeping with the October 12 technical staff report, Planning Department staff offered a multi-media presentation and discussed the proposed sketch plan application for the White Flint Mall Redevelopment. Staff noted that the request is for the construction of 5.22 million square feet of development, including 2.87 million square feet of residential use, and 2.34 million square feet of non-residential uses on the existing 45.3-acre White Flint Mall property. The applicant will also provide a dedicated site for a future elementary school. Staff also discussed the transportation issues associated with the new development, and noted that in addition to the proposed underground parking for both the residential and retail development, and existing metro-rail service, there will be additional bike and bus routes added to the transportation network, with the possible addition of the Bus Rapid Transit (BRT) currently being studied.

Mr. Robert Brewer, Jr. attorney for the applicant, introduced Messrs. Ed Diablo, Edward DeAvila, Michael Cohen, and Ms. Francine Waters, members of the applicant team, briefly discussed the proposed project, and concurred with the staff recommendation.

The following speakers offered testimony: Paul Meyer representing the Wisconsin Condominium; Ms. Suzanne Hudson of Waycross Way; Ms. Jennifer Cope representing Walter Johnson High School Parents/Teachers Association Cluster; Mr. Robert Knoll representing the Garrett Park Estates/White Flint Park Citizens Association; Mr. Dan Hoffman representing the Randolph Civic Association; and Ms. Janice Turpin, representing Montgomery County Public Schools.

At the Board request, Legal Counsel to the Board provided clarification stating that if the school system does not use the school site proffered by the applicant, the site should reverse back to the applicant. Staff also provided clarification regarding the proposed location for the school site and the incentive density that the applicant will get in return.

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

**\*7. Preliminary Plan and Preliminary Final Water Quality Plan 120120290, Travilah Grove**

Development of 300 units and approval of the preliminary water quality plan on approximately 13.72 gross acres in the CR0.5 C0.5 R0.5 H80 zone; located on Travilah Road approximately 630 feet northeast of Unicorn Way within the Great Seneca Science Corridor (GSSC) Master Plan area.

*Staff Recommendation: Approval with Conditions*

**BOARD ACTION**

**Motion: DREYFUSS/PRESLEY**

**Vote:**

**Yea: 5-0**

**Nay:**

**Other:**

**Action: Approved the staff recommendation to approve the preliminary plan and the final water quality plan, subject to conditions as revised, as stated in the attached Board Resolution.**

Planning Department staff presented the water quality plan and the preliminary plan proposing to consolidate six parcels and one lot for construction of up to 300 apartments, as detailed in the staff report. Staff noted that the water quality plan is required because the property lies within the Piney Branch Special Protection Area. Staff also reviewed the request for a variance in the forest conservation plan to allow removal of one tree with the proposed mitigation. Staff also reviewed several revisions to the proposed conditions.

Mr. Steve Robins, attorney representing the applicant, concurred in the staff recommendation, including the proposed revisions to conditions of approval.

There followed some discussion of the variance request and the proximity of recreation opportunities. Staff and the applicant responded to questions and provided additional information as needed.

**8. Mandatory Referral No. MR2010815: Shawnee Lane, Clarksburg**

Shawnee Lane between Frederick Road (MD355) and Gateway Center Drive; Widening of existing two-lane Shawnee Lane to a four-lane divided arterial roadway with a shared use path and sidewalk.

**\*A. Water Quality Plan MR2010815**

*Staff Recommendation: Approval with Conditions and Adoption of Resolution*

**\*B. Forest Conservation Plan MR2010815**

*Staff Recommendation: Approval with Conditions and Adoption of Resolution*

**\*C: Forest Conservation Plan Amendment MR2004302 Clarksburg High School**

*Staff Recommendation: Approval with Conditions and Adoption of Resolution*

**D. Mandatory Referral No. MR#2010815**

*Staff Recommendation: Approval with Comments to MCDPS*

**BOARD ACTION**

**Motion:**                    **A, B, C. DREYFUSS/ANDERSON**  
                                     **D. DREYFUSS/WELLS-HARLEY**

**Vote:**  
    **Yea:**                    **A, B, C. 5-0**  
                                     **D. 5-0**

**Nay:**

**Other:**

**Action:**            **A, B, C. Approved the staff recommendation to approve the water quality plan and the forest conservation plan associated with the mandatory referral, and the forest conservation plan amendment associated with the Clarksburg High School mandatory referral, and adopted the associated Board Resolutions, attached.**

**D. Approved the mandatory referral with comments to County Department of Permitting Services, as stated in the attached Letter of Transmittal.**

Planning Department staff presented the water quality plan, forest conservation plan, and mandatory referral review, with the associated forest conservation plan amendment for Clarksburg High School, for the reconstruction of the existing two-lane Shawnee Lane as a four-lane divided roadway for approximately one-half mile between Gateway Center Drive and MD 355, as detailed in the staff report. The project will be completed as an off-site transportation requirement, under the Adequate Public Facilities Ordinance, of the approval of the preliminary plan and site plan for the adjacent Gallery Park development by the applicant, in partnership with County Department of Permitting Services and Montgomery County Public Schools. Staff noted that the property lies within the Clarksburg Special Protection Area (SPA), with a portion of the project on the Clarksburg High School property, with loss of trees in a designated forest conservation area. There is disagreement with the applicant related to the amount of mitigation required and some question as to the location for the mitigation.

**8.        Mandatory Referral No. MR2010815: Shawnee Lane, Clarksburg**

Mr. Robert Spalding, representing the applicant, elaborated on the applicant's position with regard to mitigation for tree loss.

There followed considerable discussion of the mitigation requirements, the forest conservation area on the school property, and potential mitigation on the school site or on an MCPS tree bank site. Legal Counsel to the Board, Planning staff, and the applicant responded to questions from the Board and provided additional information as necessary.

**\*9. Limited Preliminary Plan Amendment 12005101B: Gallery Park (Eastside)**

Approved for 256 units on 23.92 acres, located at 13000 Shawnee Lane approximately 80 feet east of Gateway Center Drive, PD-11 Zone, Clarksburg Master Plan

*Staff Recommendation: Approval with Conditions and Adoption of Resolution*

**BOARD ACTION**

**Motion: PRESLEY/WELLS-HARLEY**

**Vote:**

**Yea: 5-0**

**Nay:**

**Other:**

**Action: Approved the staff recommendation to approve, subject to conditions, and adopt the Board Resolution, as attached.**

Planning Department staff presented the limited amendment to the preliminary plan for the Gallery Park project, to increase the number of building permits allowed prior to acquisition of Shawnee Lane right-of-way and remove required intersection improvements at Stringtown Road and Gateway Center Drive that County Department of Transportation no longer desires, as detailed in the staff report. Staff noted that this preliminary plan required the improvements to Shawnee Lane discussed in the mandatory referral under Item 8.

Mr. Bob Spalding, representing the applicant, offered comments and concurred in the staff recommendation.

**10. Zoning Text Amendment 12-15**

Add conditions necessary for defining a guest house.

*Staff Recommendation: Transmit Comments to County Council*  
**(Action Required for County Council Public Hearing of 10/30/12)**

**BOARD ACTION**

**Motion:**

**Vote:**

**Yea:**

**Nay:**

**Other:**

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

Planning Department staff presented the Zoning Text Amendment (ZTA) to add conditions related to the provisions for guest houses to prohibit the use on a lot that is occupied by a renter; where a guest room for rent or a boardinghouse exists; or where the owner of the lot resides off-site for more than six months in any calendar year, as detailed in the staff report.

Ms. Soo Lee-Cho, attorney, offered comments about how the proposed ZTA will have a negative impact on her client.

There followed considerable discussion comparing the definitions and requirements for a guest house, a registered living unit, and an accessory apartment, and whether this change is better addressed separately, through the ZTA, or in the context of the Zoning Ordinance rewrite project that is underway. The Board generally expressed the view that a comprehensive review of accessory residential uses would be appropriate. Alternatively, the Board supported removing the guest house provision from the Zoning Ordinance, as recommended by staff in preliminary discussions of the rewrite project.

**11. Zoning Text Amendment 12-16**

Allow the construction of a one-family dwelling located on any size lot recorded before 1928; allow the reconstruction of any one-family dwelling located on any size lot recorded before 1928; and generally revise the grandfathering provisions for undersized lots.

*Staff Recommendation: Transmit Comments to County Council*  
**(Action Required for County Council Public Hearing of 10/30/12)**

**BOARD ACTION**

**Motion:**

**Vote:**

**Yea:**

**Nay:**

**Other:**

**Action: Recessed until Monday, October 29, 2012.**

Planning Department staff presented the Zoning Text Amendment to allow construction and reconstruction of any one-family dwelling located on any size lot recorded before 1928 and to revise the grandfathering provisions for undersized lots, as detailed in the staff report. Staff noted that the issue was raised as a result of an interpretation by the Board of Appeals prohibiting construction of a house on a lot recorded prior to 1928 that does not comply with the minimum lot area required in the 1928 Zoning Ordinance.

Mr. Matthew Waksmundski of Bethesda; Ms. Soo Lee-Cho, his attorney; Ms. Jean Cavanaugh of Silver Spring; and Ms. Lydia Sullivan of Kensington offered comments.

There followed considerable discussion of the existing grandfathering provisions related to residential construction and reconstruction on lots recorded prior to 1928 and the interpretation by County Department of Permitting Services in terms of issuing building permits, the variety of sizes of lots affected, and the potential for demolishing houses built across lot lines and constructing houses on the individual lots.

Due to time constraints, the Board agreed to recess this item and return to it on Monday, October 29.

**14. Budget (Continuation from 10/18/12) - POSTPONED**

FY14 Budget Planning Discussion for the Planning Department, ~~Commissioner's Office, and CAS Departments~~

**BOARD ACTION**

**Motion:**

**Vote:**

**Yea:**

**Nay:**

**Other:**

**Action: This item was postponed.**