



**MONTGOMERY COUNTY PLANNING BOARD**  
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

301-495-4616

**APPROVED**  
**MINUTES**

The Montgomery County Planning Board met in regular session on Thursday, November 6, 2008, at 9:00 a.m. in the Montgomery Regional Office in Silver Spring, Maryland, and adjourned at 11:55 p.m.

Present were Chairman Royce Hanson, Vice Chair John Robinson, and Commissioners Jean Cryor and Joe Alfandre. Commissioner Amy Presley was necessarily absent.

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 on Monday, November 3, 2008, at 6:40 p.m. in the third floor conference room, on motion of Commissioner Robinson, seconded by Commissioner Alfandre, with Commissioners Hanson, Robinson, and Alfandre present and voting in favor of the motion, and Commissioners Cryor and Presley absent. Vice Chair Robinson participated in the Closed Session via teleconference. Commissioner Cryor joined the Closed Session at 6:50 p.m. 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.

Also present for all or part of the Closed Session were Associate General Counsels Debra Daniel and David Lieb of the Legal Department; Cathy Conlon, Rose Krasnow, and Robert Kronenberg of the Planning Department; and Ellyn Dye of the Commissioners' Office.

In Closed Session, the Board consulted legal counsel on procedural issues related to the Clarksburg Town Center plans to be reviewed as item 5 on today's agenda.

Items 1 through 5 are reported on the attached agenda.

The Board recessed at 1:15 p.m. for lunch and to take up a Closed Session item, Item 7 on the agenda, with Item 5 to continue following the recess.

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 1:35 p.m. in the third floor conference room, on motion of Commissioner Cryor, seconded by Commissioner Alfandre, with Chairman Hanson, Commissioners Robinson, Cryor, and Alfandre present and voting in favor of the motion. Commissioner Presley was necessarily absent. The meeting was closed under authority of §10-508(a)(14), State Government Article, Annotated Code of Maryland, to discuss a matter directly related to a negotiating strategy or the contents of a bid or proposal before the contract is awarded or bids are opened, if public discussion or disclosure would adversely impact the ability of the Commission to participate in the competitive bidding or proposal process.

Also present for all or part of the Closed Session were Associate General Counsel Carol Rubin of the Legal Department; Director Mary Bradford, Deputy Director Michael Riley, and Dan Hertz of the Parks Department; Clara Moise of the Commissioners' Office; and SilverPlace Consultant Don Zuchelli.

In Closed Session, the Board discussed the status of the on-going negotiations with the developer for the SilverPlace project.

The Closed Session was adjourned at 1:55 p.m. and the Board reconvened in open session in the third floor conference room.

The Board reconvened in the auditorium at 2:20 p.m., with the same four Commissioners present, to continue discussion of Item 5, which is reported on the attached agenda.

Due to the lateness of the hour, the Board recessed at 6:05 p.m. for dinner and to meet in Closed Session, with Item 5 to continue following the recess.

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 6:20 p.m. in the River City Grille restaurant of the Crowne Plaza Hotel, 8777 Georgia Avenue, Silver Spring, Maryland, on motion of Commissioner Robinson, seconded by Commissioner Alfandre, with Commissioners Hanson, Robinson, Alfandre, and Cryor present and voting in favor of the motion. Commissioner Presley was 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.

Also present for the Closed Session were Associate General Counsels Debra Daniel and David Lieb of the Legal Department; Cathy Conlon, Rose Krasnow, and Robert Kronenberg of the Planning Department; and Ellyn Dye of the Commissioners' Office.

In Closed Session, the Board consulted legal counsel on procedural issues related to ongoing Item 5, the Clarksburg Town Center plans.

The Closed Session was adjourned at 6:50 p.m.

The Board reconvened in the auditorium at 7:05 p.m., with the same four Commissioners present, to continue discussion of Item 5, which is reported on the attached agenda.

There being no further business, the meeting was adjourned at 11:55 p.m. The next regular meeting of the Planning Board will be held Monday, November 10, 2008, in the Montgomery Regional Office in Silver Spring, Maryland.

M. Clara Moise  
Technical Writer

Ellyn Dye  
Technical Writer

**Montgomery County Planning Board Meeting**  
**Thursday, November 6, 2008**  
8787 Georgia Avenue  
Silver Spring, MD 20910-3760  
301-495-4600

**1. Adoption of Opinions/Resolutions**

**Group A: Four Commissioners Eligible to Vote [Commissioners Hanson, Cryor, Alfandre, and Presley]**

- i) Eton Square limited Site Plan 82004033B, ADOPTION OF RESOLUTION No. 08-136
- ii) Leaman Farm Preliminary Plan 12004060A, ADOPTION OF RESOLUTION No. 08-137
- iii) Leaman Farm Site Plan 82005040A, ADOPTION OF RESOLUTION No. 08-138

**BOARD ACTION**

**Motion: CRYOR/ALFANDRE**

**Vote:**

**Yea: 3-0-1**

**Nay:**

**Other: ROBINSON ABSTAINED; PRESLEY ABSENT**

**Action: Approved staff recommendation to adopt the Resolutions cited above.**

## **2. Record Plats**

### **Subdivision Plat No. 220081380 - 220081390, Baldwin Landing**

R-90/TDR zone; 42 lots, 3 parcels; located in the northeast quadrant of the intersection of Yellowstone Way and Chieftain Avenue; Shady Grove

*Staff recommendation: Approval*

### **Subdivision Plat No. 220071450 – 220071470, Clarksburg Village**

R-200/TDR and R-200(MPDU) zones; 21 lots, 19 outlots, 2 parcels; located at the intersection of Granite Rock Road and Bent Arrow Drive; Clarksburg

*Staff recommendation: Approval*

## **BOARD ACTION**

**Motion: ALFANDRE/CRYOR**

**Vote:**

**Yea: 4-0**

**Nay:**

**Other: PRESLEY ABSENT**

**Action: Approved staff recommendation.**

## **3. Consent Items**

## **BOARD ACTION**

**Motion:**

**Vote:**

**Yea:**

**Nay:**

**Other:**

**Action:**       **There were no consent items presented.**

**4. Board of Appeals No.: S-2735 (The Angels Garden Assisted Living)**

Tanie Guirand and Pierre Guirand, applicant, special exception request for a Senior Group Home (increase from 8 to 15 beds), R-200 Zone; located at 4101 Bel Pre Road, Rockville

*Staff recommendation: Approval with conditions*

**(Action required for hearing by Hearing Examiner on 11/14/08)**

**BOARD ACTION**

**Motion:**               **CRYOR/ROBINSON**

**Vote:**

**Yea:**               **4-0**

**Nay:**

**Other:**               **PRESLEY ABSENT**

**Action:**       **Approved staff recommendation for approval, subject to conditions, as stated in the attached transmittal letter to the Hearing Examiner.**

As discussed in detail in the October 27 technical staff report, Development Review Division staff presented a Special Exception request to increase the capacity for a Senior Group Home located on Bel Pre Road in Rockville from eight to fifteen beds. Staff also recommended approval of a waiver for the parking facility and for the rear and side yard setback requirements.

Mr. Pierre Guirand and Ms. Tanie Guirand, the applicants, offered comments and concurred with the staff recommendation.

**5. Compliance Program Stage III - Clarksburg Town Center**

Request to approve 194,720 gross square feet of commercial development, (including up to 48,000 square feet of specialty retail within live/work units); and 1,213 residential dwelling units, including 152 MPDUs, and a waiver to permit a reduction of parking spaces for the west side; on approximately 270 acres. Located at the southeast quadrant of the intersection with Clarksburg Road and Snowden Farm Parkway in the Clarksburg Master Plan

A. Project Plan Amendment No. 81994004B - Clarksburg Town Center

B. Final Water Quality Plan No. 820070220, and Preliminary Plan No. 11995042B – Clarksburg Town Center

C. Site Plan Review No. 820070220 - Clarksburg Town Center

*Staff recommendation: Approval with conditions*

**BOARD ACTION**

**Motion:**                    **A. CRYOR/ROBINSON**

**B. (1) ROBINSON/CRYOR**

**B. (2) ROBINSON/CRYOR**

**C. CRYOR/ROBINSON**

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

**B. (1) 4-0**

**B. (2) 4-0**

**C. 4-0**

**Yea:**

**Nay:**

**Other:**                    **PRESLEY ABSENT**

**Action:**                    **A. Approved the staff recommendation to approve the project plan amendment, subject to revised conditions and additional information/analysis on various issues, as identified in discussion. The final Board Resolution is attached.**

**B. (1) Approved the staff recommendation to approve the preliminary plan amendment, subject to revised conditions and additional information/analysis on various issues, as identified in discussion. The final Board Resolution is attached.**

**B. (2) Approved the staff recommendation to approve the water quality plan, subject to conditions. The final Board Resolution is attached.**

**C. Approved the staff recommendation to approve the site plan, subject to revised conditions and additional information/analysis on various issues, as identified in discussion. The final Board Resolution is attached.**

In accordance with the October 22 technical staff report, Development Review staff gave a multi-media presentation and discussed at length the request to approve 194,720 square feet of

## **5. Compliance Program Stage III - Clarksburg Town Center**

commercial development and 1,213 residential dwelling units, including 152 Moderately Priced Dwelling Units (MPDUs), and a request for a waiver to permit a reduction of parking spaces on the west side of the development on a 270-acre property located at the southeast quadrant of the intersection with Clarksburg Road and Snowden Farm Parkway in the Clarksburg Master Plan area.

Staff noted that the plans being presented to the Board represent the third and final stage of the Compliance Plan for Clarksburg Town Center. When the Compliance Plan was first approved, it was understood that it was conceptual in nature, but only to the degree that the plans still had to be reviewed by all appropriate agencies to ensure compliance with applicable laws and regulations. Staff further noted that after a year of what staff perceived as inactivity, the applicant resubmitted revised plans on May 19, 2008, and these plans were not in response to the Development Review Committee comments but instead presented significant changes from the April 2007 plans, and the applicant has been unwilling and/or unable to provide sufficient and adequate responses to many of the concerns raised by staff and other governmental agencies, claiming that he is bound by the order and direction of the Judge and the ruling made for the Plan of Compliance. Staff added that this had made it difficult to resolve many issues prior to bringing the application to the Board today, and staff did not want to recommend denial in light of the fact that more than three years have elapsed since the violations were first uncovered, and it is of the utmost importance to bring these hearings to a close so that construction of the community can move forward.

Judge Barbara Kerr Howe of Hampshire Woods Court, who arbitrated the proceedings for Clarksburg Town Center, offered comments at the request of the applicant.

Mr. Steve Kaufman and Mr. Todd Brown, attorneys representing the applicant, introduced Mr. Doug Delano of the applicant company and members of the applicant team, who made various multi-media presentations to the Board and discussed the issues raised by staff regarding setback violations; minimum net lot area and lot coverage standards for accessory buildings; elimination, rerouting, and reduction in size of alley and roadways; reduction in required green spaces; parking requirements; elimination of the Pedestrian Mews and O Street; discrepancies regarding the Site Plan for Phase II; issues related to Manor House Amendment; and modification of environmentally-related features.

Ms. Emily Lederer of Clarksburg; Mr. Jim Humphrey, representing the Montgomery County Civic Federation; Ms. Susan Payne, representing Citizens Above Party; Mr. Patrick Darby, representing the Clarksburg Chamber of Commerce; Mr. David Brown, Ms. Kim Shiley, and Ms. Lynn Fantle, representing the Clarksburg Town Center Advisory Committee (CTCAC); Ms. Kathie Hulley of Boyds; Mr. Barry Fantle, representing Citizens for a Better Clarksburg; and Mr. John Cook, representing the Clarksburg Civic Association, offered comments.

In rebuttal, Mr. Kaufman, Mr. Brown, and Mr. Delano responded to various issues raised.

There followed considerable discussion of various elements of the site plan, including the architectural guidelines, landscaping requirements, and the economic feasibility of the compliance program. There was extensive discussion of the required amount of parking and the need for garage parking.

The Board turned to the proposed conditions of approval, reviewing staff's proposed conditions and the extensive revisions submitted by the applicant. Staff; various members of the

**5. Compliance Program Stage III - Clarksburg Town Center**

applicant team; Mr. Greg Leck, representing Montgomery County Department of Transportation; Ms. Kathy Mitchell, representing the County Executive; a representative of the County Department of Public Libraries; and Mr. David Brown, representing CTCAC, participated in the discussion, providing information and responding to questions from the Board as needed.

In the course of the discussion, the Board identified several issues requiring additional information and analysis, including the parking/garage issue, deferring them for further discussion at a later date. Chairman Hanson emphasized that the Board's action is preliminary until the adoption and release of the Board's Resolution.

Note: Final action on these items was taken, following an additional worksession, on December 11, 2008.

**7. CLOSED SESSION – ADDED**

Pursuant to Maryland Annotated Code, State Government Article, Section 10-508(a)(14), To discuss a matter directly related to the contents of a bid or proposal

**BOARD ACTION**

**Motion:**

**Vote:**

**Yea:**

**Nay:**

**Other:**

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

**CLOSED SESSION – ADDED**

**Pursuant to Maryland Annotated Code, State Government Article, Section §10-508(a)(7), State Government Article, Annotated Code of Maryland, to consult with counsel to obtain legal advice**



**BOARD ACTION**

**Motion:**

**Vote:**

**Yea:**

**Nay:**

**Other:**

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

**6. Roundtable Discussion**

**(No public testimony will be taken at this time)**

- A. Commissioners' Report
- B. Approval of Minutes
- C. Director's Report
- D. County Council Activity

**BOARD ACTION**

**Motion:**

**Vote:**

**Yea:**

**Nay:**

**Other:**

**Action:** None.

- A. Commissioners' Report—None.**
- B. Approval of Minutes—None.**
- C. Director's Report—None.**
- D. County Council Activity—None.**