



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, November 10, 2011, at 9:06 a.m. in the Montgomery Regional Office in Silver Spring, Maryland, and adjourned at 2:55 p.m.

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

Chair Carrier opened the meeting with comments and a moment of silence in remembrance of Greg Presley, husband of Commissioner Amy Presley, who passed away on Monday.

Items 1, 9, and 2 through 6, taken up in that order, are reported on the attached agenda.

The Board recessed at 1:01 p.m. for lunch and to take up Items 7 and 8 in Closed Session. A scheduled training session on the County historic preservation program 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 1:20 p.m. in the third floor conference room, on motion of Commissioner Anderson, seconded by Commissioner Dreyfuss, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Anderson and Dreyfuss present and voting in favor of the motion, and with Commissioner Presley absent. 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, and §10-508(a)(7), to consult with counsel to obtain legal advice.

Also present for all or part of the Closed Session were Executive Director Patti Barney; Secretary-Treasurer Joe Zimmerman; General Counsel Adrian Gardner and Associate General Counsels Donna Calcote-Heatley and Sean Dixon of the Legal Department; Director Mary Bradford, Deputy Directors Gene Giddens and Mike Riley, Bill Gries, Mitra Pedoeem, Kate Stookey, David Tobin, and Shuchi Vera of the Parks Department; and Ellyn Dye of the Commissioners' Office.

In Closed Session, the Board discussed negotiations for proposed acquisition of property for South Germantown Recreational Park and consulted with Legal Counsel and provided guidance to staff on a draft Individual Park Naming and Dedication Rights policy.

The Closed Session was adjourned at 2:55 p.m.

There being no further business, the meeting was adjourned at 2:55 p.m. The next regular meeting of the Planning Board will be held Thursday, November 17, 2011, in the Montgomery Regional Office in Silver Spring, Maryland.

Ellyn Dye
Technical Writer

Montgomery County Planning Board Meeting
Thursday, November 10, 2011, 9:00 A.M.
8787 Georgia Avenue
Silver Spring, MD 20910-3760

1. Consent Agenda

***A. Adoption of Resolutions**

1. North Bethesda Center Parcels F, I, & J Plan 82008011A - MCPB No. 11-90
2. Weller Road Elementary School Modernization Forest Conservation Plan No. MR2011204 - MCPB No. 11-46 **DEFERRED FROM 11/3/2011**
3. Hunting Hill Preliminary Plan 120110130 –MCPB No. 11-60
4. Tregoning Preliminary Plan 12003063A – MCPB No. 11-59

BOARD ACTION

Motion: ANDERSON/WELLS-HARLEY

Vote:

Yea: 4-0 (3-0-1 FOR #1, MCPB NO. 11-90)

Nay:

**Other: CARRIER ABSTAINED FOR #1, MCPB NO. 11-90;
PRESLEY ABSENT**

Action: Adopted the Resolutions as cited above.

B. Record Plats

1. Subdivision Plat No. 22011150, Chevy Chase Terrace; R-60 zone; 1 lot; located on the south side of Chevy Chase Blvd, 150' west of Stratford Road; Bethesda-Chevy Chase.

Staff Recommendation: Approval

2. Subdivision Plat No. 220120030, Fort Sumner; R-90 zone; 2 lots; located on the south side of Westpath Way, 200' west of Sangamore Road; Bethesda-Chevy Chase.

Staff Recommendation: Approval

BOARD ACTION

Motion: WELLS-HARLEY/DREYFUSS

Vote:

Yea: 4-0

Nay:

Other: PRESLEY ABSENT

Action: Approved the Record Plats as stated above.

C. Other Consent Items

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: There were no Other Consent Items submitted for approval.

D. Approval of Minutes

Minutes of October 20, 2011

BOARD ACTION

Motion: ANDERSON/WELLS-HARLEY

Vote:

Yea: 4-0

Nay:

Other: PRESLEY ABSENT

Action: Approved the minutes of October 20, 2011, as presented.

9. Roundtable Discussion

Parks Director's Report

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: Received briefing.

Director of Parks Mary Bradford briefed the Board on her written report, presenting highlights of recent and upcoming events and activities, including a successful series of Halloween events; a successful celebration of Maryland Emancipation Day at Oakley Cabin; the Garden of Lights, due to open November 25 to January 8 at Brookside Gardens; and the Department's participation in the upcoming Thanksgiving Day parade in downtown Silver Spring. Ms. Bradford also provided a status report on capital and major maintenance projects and discussed the deer management program, including upcoming managed deer hunts.

There followed some discussion of issues related to deer management and issues faced by park managers across the country related to the Occupy Wall Street movement.

2. [Preliminary Plan No. 120080150: Ridge View Estates with a Preliminary/Final Water Quality Plan](#)

Five lots requested for five (5), one family detached residences; located on the west side of Ridge Road (MD 27) approximately 800 feet south of intersection with Wacomor Drive; R-200 zone; 2.53 acres, Clarksburg Master Plan area.

Staff Recommendation: Approval with Condition

BOARD ACTION

Motion: ANDERSON/DREYFUSS

Vote:

Yea: 4-0

Nay:

Other: PRESLEY ABSENT

Action: **Approved the staff recommendation to approve, subject to revised conditions, as stated in the attached Board Resolution.**

Planning Department staff presented the request to create five residential lots on a shared driveway, as detailed in the staff report. The existing house will be retained on one of the five lots. Staff noted revisions to conditions 2, 3, 4, and 5. Staff also reviewed the water quality plan, required because the property lies within the Clarksburg Special Protection Area, and discussed issues related to future sewer service to the property. Staff also discussed the requirements under the forest conservation plan and the requested variance to remove up to two specimen trees: one will be removed due to impact of construction of the house and sewer main extension and the other will be removed in the future due to its location in a public utility easement within the future right-of-way of Ridge Road.

Mr. David McKee, representing the applicant, concurred in the staff recommendation.

Ms. Judith Koenick offered comments.

There followed some discussion of stormwater management on the site.

3. [Preliminary Plan Amendment No. 11999001A: Montgomery Chinese Christian Church](#)

One lot previously approved for religious institution and related uses, request to amend Adequate Public Facilities and preliminary forest conservation plan; located in the southeast corner of the intersection of McKnew Road and Sandy Spring Road (MD198); R-200 zone; 4.95 acres, Fairland Master Plan area.

Staff Recommendation: Approval with Conditions

BOARD ACTION

Motion: **ANDERSON/DREYFUSS**

Vote:

Yea: **4-0**

Nay:

Other: **PRESLEY ABSENT**

Action: **Approved the staff recommendation to approve, subject to conditions as revised in discussion, as stated in the attached Board Resolution.**

Planning Department staff presented the proposal to amend an approved preliminary plan to scale down the proposed development, remove the adequate public facilities (APF) requirements based on the revised proposed use, and amend the forest conservation plan, as detailed in the staff report. Staff reported that the APF review period expired because building permits were not drawn. The applicant now wishes to proceed with development of the approved 240-seat house of worship, without the approved daycare, pre-school, and elementary school weekday uses, which had triggered the APF requirements. The applicant also proposes to amend the forest conservation plan, removing the three small conservation easements and creating one larger easement. Staff views this change as an improvement because it preserves a larger area of contiguous forest.

Mr. Charles Grimsley, representing the applicant, concurred in the staff recommendation and responded to questions from the Board.

Following questions from the Board and discussion with the applicant and staff about the required invasive species removal and management program, the condition on that subject was revised to require the removal prior to issuance of the building permit.

There followed considerable discussion of the revised forest conservation easement, its proximity to the proposed development, and whether a split-rail fence should be required to provide a physical barrier along the easement boundaries adjacent to the parking lot and corner of the building. Mr. Frank Yee, the architect, and Mr. Jonah Huang, the Pastor, participated in the discussion, with Mr. Yee interpreting for Mr. Huang. Following extensive discussion, it was agreed that a split-rail fence will be required to be installed from the existing retaining wall to the northeast corner boundary of the easement, and the conditions of approval were revised accordingly.

Ms. Judy Koenick also offered comments.

4. Site Plan Amendment and Final Water Quality Plan 81999024H, Shady Grove Adventist Aquilino Cancer Center

LSC Zone; 39.16 Acres; amendment to add an approximately 51,500-square foot hospital use resulting in 574,980 total square feet and removal of 111 parking spaces; located in the Northeast quadrant of the intersection of Medical Center Drive and Broschart Road in the Great Seneca Science Corridor (GSSC) Master Plan Area.

Staff Recommendation: Approval with Conditions

BOARD ACTION

Motion: ANDERSON/DREYFUSS

Vote:

Yea: 4-0

Nay:

Other: PRESLEY ABSENT

Action: Approved the staff recommendation to approve, subject to revised conditions, as stated in the attached Board Resolution.

Planning Department staff presented the proposed site plan amendment to add a 51,500-square foot medical building to the hospital campus, with other associated revisions, as detailed in the staff report. Staff noted some revisions to the conditions of approval, including a new condition.

Mr. Patrick O'Neil, attorney representing the applicant, introduced the members of the applicant team and concurred in the staff recommendation. Dr. Guarov Dayal, of Adventist Healthcare, provided information about the proposed cancer center.

5. [Preliminary Plan 11986115C JHU Montgomery County Medical Center](#)

Request for 169,071 square feet of development, in addition to 894,636 square feet of development that was previously approved, for a total of 1,294,636 square feet of commercial uses on one lot, zoned LSC, approximately 41.08 acres in size (gross) 30.83 acres (net), located on the south side of Key West Avenue between Broschart Road and Medical Center Drive, in the Great Seneca Science Corridor (GSSC) Master Plan area. The proposed use is subject to the staging requirements of Stage 1 for the Life Sciences Center (LSC) in the GSSC Master Plan.

Staff Recommendation: Approval with Conditions

BOARD ACTION

Motion: **ANDERSON/DREYFUSS**

Vote:

Yea: **4-0**

Nay:

Other: **PRESLEY ABSENT**

Action: **Approved the staff recommendation to approve, subject to revised conditions, as stated in the attached Board Resolution.**

Planning Department staff presented the proposed amendment to the approved preliminary plan for the Johns Hopkins University Medical Center in the Life Sciences Center, as detailed in the staff report. The proposed amendment will add 169,071 square feet of Research and Development office space and 9,998 square feet of retail space. The amendment requests a waiver of 721 parking spaces, for a total of 4,577 parking spaces, and the applicant is also requesting that the master planned business district roads be approved as private roads. Staff reviewed various aspects of the submitted concept plan, which is required by the master plan, including vehicular and pedestrian circulation, open space, location of the adjacent Corridor Cities Transitway alignment and station, building heights, and mix of uses. Staff also discussed traffic mitigation, intersection improvement requirements, and off-site afforestation requirements. Staff submitted several revisions to the proposed conditions of approval, noting particularly additions to condition 5, related to Local Area Transportation Review (LATR) and Policy Area Mobility Review (PAMR) requirements. Concluding, staff noted that the proposal for Board action encompasses the preliminary plan, including the requested parking waiver and conversion of business district roads to private roads; the concept plan; and the forest conservation plan.

Chair Carrier disclosed for the record that Mr. David McDonough had briefly discussed LATR/PAMR issues with her within the past week, without the Chair realizing that it pertained to a pending regulatory matter. She stated that the conversation would have no bearing on her vote on this matter.

Ms. Barbara Sears, attorney representing the applicant, concurred in the staff recommendation, including the revised conditions of approval. Mr. David McDonough discussed the proposed development and the importance of the Life Sciences Center in terms of scientific collaboration.

6. Subdivision Plat No. 220111080, Edgemoor

R-90 zone; request to consolidation of two parts of lots into 1 lot including, a request for a waiver of Section 50-35A(a)(3) of the Subdivision Regulations pursuant to Section 50-38; located on Moorland Lane west of Fairfax Road; Bethesda Chevy Chase Master Plan.

Staff Recommendation: Denial

BOARD ACTION

Motion: ANDERSON/DREYFUSS

Vote:

Yea: 2-2

Nay: CARRIER, WELLS-HARLEY

Other: PRESLEY ABSENT

Action: Contrary to the staff recommendation, to approve the requested waiver of the Subdivision Regulations and the submitted Subdivision Plat.

FAILED FOR LACK OF A MAJORITY

Planning Department staff presented the submitted record plat consolidating two recorded parts of lots into one lot, with a request for a waiver of the Subdivision Regulations to allow recordation of the new lot as a minor subdivision, without full subdivision review, to enable building permits to be issued. Staff recommends denial of the request, noting that because one of the parts of lots was created after June 1, 1958, the proposal does not meet the requirements for consolidation and recordation under the minor subdivision process. Staff noted that the Board can grant a waiver of the requirements, based on a finding that there are “practical difficulties or unusual circumstances that prevent full compliance with the requirements.” Staff expressed the view that the time and expense of subdivision review, cited in the applicant’s request, does not provide sufficient evidence to support that finding and justify a waiver.

Responding to questions from the Board, staff provided examples of situations for which waivers were granted under the required findings. There followed some discussion of how the waiver provisions have been applied in the past.

Mr. Robert Harris, attorney representing the applicant, elaborated on the request for the waiver of the subdivision regulations, noting that the applicants believed they could demolish the existing house and rebuild, only to find that a building permit could not be released. Mr. Harris noted that the way the law is written, only a portion of the lot area, the smaller of the two parts of lots, is excluded from recordation, based on the date of its creation. He argued that the minor subdivision process is intended to address such situations and there would be no detriment to the public interest.

There followed considerable discussion by the Board of the relative merits of the submitted justification for the waiver and about other options for review and recordation that might be considered. Commissioners Anderson and Dreyfuss agreed that the impact is de minimis and the subdivision review process is unnecessary in this case. Chair Carrier expressed

6. Subdivision Plat No. 220111080, Edgemoor

the view, and Vice Chair Wells-Harley concurred, that the waiver provisions are intended for cases with an impediment or inability to comply with the regulations, which does not appear to be the case. The Chair also noted that the Subdivision Regulations are undergoing revisions and it is likely that within a few months this proposal will be allowed without a waiver.

7. 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 (TOPIC: Land Acquisition)

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

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

8. Closed Session

Pursuant to State Government Article Annotated Code of Maryland 10-508(a)(7) to consult with counsel to obtain legal advice (TOPIC: Naming Rights)

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

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