



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, December 2, 2010, at 9:10 a.m. in the Montgomery Regional Office in Silver Spring, Maryland, and adjourned at 8:00 p.m.

Present were Chair Françoise M. Carrier, Vice Chair Marye Wells-Harley, and Commissioners Norman Dreyfuss and Amy Presley. Commissioner Joe Alfandre joined the meeting shortly after it was called to order.

Items 1 through 3, 6, and 4, taken up in that order, are reported on the attached agenda. Item 5 was removed from the agenda.

The Board recessed at 1:45 p.m. for lunch and to take up Items 7 and 8 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 2:01 p.m. in the third floor conference room, on motion of Commissioner Presley, seconded by Vice Chair Wells-Harley, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Alfandre, Dreyfuss, and Presley present and voting in favor of the motion. The meeting was closed under authority of §10-508(a)(1), State Government Article, Annotated Code of Maryland, 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 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 Tonya Miles of the Legal Department; Edward Jackson of the Department of Human Resources and Management; Alison Davis of the Planning Department; and Ellyn Dye of the Commissioners' Office.

In Closed Session, the Board reviewed proposed spending scenarios for the Legal Department's FY2012 operating budget and approved Closed Session minutes.

The Closed Session was adjourned at 2:30 p.m.

The Board reconvened in the auditorium at 2:43 p.m.

Items 9 through 12 are reported on the attached agenda.

The Board recessed for dinner at 6:10 p.m. and reconvened in the auditorium at 6:50 p.m. Commissioner Norman Dreyfuss left the meeting following the afternoon session.

Items 13 and 14 are reported on the attached agenda.

There being no further business, the meeting was adjourned at 8:00 p.m. The next regular meeting of the Planning Board will be held on Monday, December 6, 2010, at 6:00 p.m. in the Montgomery Regional Office in Silver Spring, Maryland.

Ellyn Dye
Technical Writer

M. Clara Moise
Technical Writer

Montgomery County Planning Board Meeting
Thursday, December 2, 2010
8787 Georgia Avenue
Silver Spring, MD 20910-3760
301-495-4600

Consent Agenda

***A. Adoption of Resolutions**

1. Silver Spring Park Preliminary Plan 120070420 – ADOPTION OF MCPB RESOLUTION No. 10-151
2. Silver Spring Park Site Plan 820100120 – ADOPTION OF MCPB RESOLUTION No. 10-152

BOARD ACTION

Motion: WELLS-HARLEY/PRESLEY

Vote:

Yea: 4-0

Nay:

Other: ALFANDRE ABSENT

Action: Adopted the Board Resolutions as stated above.

***B. Record Plats**

1. Subdivision Plat No. 220052150, Wheaton Hills; R-60 zone, 1 lot; located in the northeast corner of the intersection of Viers Mill Road (MD 586) and Newport Mill Road; Kensington-Wheaton.

2. Subdivision Plat No. 220101100, Glen-Mar Park; R-60 zone, 1 lot; located on the east side of Carleton Street, 200 feet north of Namakagan Road; Bethesda-Chevy Chase.

Staff Recommendation: Approval

BOARD ACTION

Motion: PRESLEY/WELLS-HARLEY

Vote:

Yea: 4-0

Nay:

Other: ALFANDRE ABSENT

Action: Approved the Record Plats as stated above.

***C. Other Consent Items**

1. Century Technology Campus Site Plan 82003007A – ADOPTION OF MCPB CORRECTED RESOLUTION No. 10-153 [Note: Replaces Resolution No. 09-157]*

2. 1150 Ripley Street Site Plan 82008015B – ADOPTION OF MCPB CORRECTED RESOLUTION No. 10-154

Staff Recommendation: Approval

***Revised following publication of agenda.**

BOARD ACTION

Motion: WELLS-HARLEY/PRESLEY

Vote:

Yea: 4-0

Nay:

Other: ALFANDRE ABSENT

Action: Adopted the Corrected Board Resolutions as stated above.

***D. Approval of Minutes**

Minutes of October 28, 2010

BOARD ACTION

Motion: WELLS-HARLEY/PRESLEY

Vote:

Yea: 4-0

Nay:

Other: ALFANDRE ABSENT

Action: Approved the minutes of October 28, 2010, as presented.

2. [Board of Appeals No. S-2778: Robert Q. Gillespie](#)

Applicant requests a special exception for the operation of an airstrip with farm; RDT zone; located at 22620 Peach Tree Road, Boyds

Staff Recommendation: Approval with Conditions

(Action Required for Hearing by the Hearing Examiner on 12/17/10)

BOARD ACTION

Motion: DREYFUSS/ALFANDRE

Vote:

Yea: 5-0

Nay:

Other:

Action: Approved the staff recommendation for approval with revised conditions, further revising the conditions to specify the hours of operation and the maximum number of trips, and adding a condition that, based on the noise analysis, the applicant must secure a waiver of the noise ordinance from County Department of Environmental Protection (DEP), as stated in the attached Letter of Transmittal.

Development Review staff presented the request for a special exception for an airstrip on a farm, as detailed in the staff report. The 50- by 1,000-foot grass airstrip is approved by the FAA and has existed since 2005. No improvements or construction are proposed. Staff distributed and reviewed several proposed changes to the staff report and the conditions of approval.

Mr. Joe Lynott, attorney representing the applicant, concurred in the staff recommendation and discussed the requirements in the Zoning Ordinance for an airstrip on a

farm. Mr. Robert Gillespie, the applicant, discussed the proposed use of the airstrip, and Mr. Gerald Henning, the acoustical engineer, discussed the noise analysis.

Ms. Carolyn Laurencot, owner of abutting property; Ms. Anne Sturm, representing the Sugarloaf Citizens Association; and Ms. Dolores Milmoie, representing the Audubon Naturalist Society; and Mr. Barry Peoples of Kensington offered comments.

There followed considerable discussion about the noise analysis, inherent and non-inherent noise, and the anticipated violation of the noise ordinance, if only for short bursts. Chair Carrier noted that County Department of Environmental Protection (DEP) is responsible for enforcing the noise ordinance and granting waivers.

3. [CR Zones Zoning Text Amendment](#)

Proposed Zoning Text Amendment to amend the Zoning Ordinance by modifying the CR zone to restrict certain uses on properties near single-family residential properties; allow DPS to waive certain parking and drive-through design restrictions; modify public benefit provisions; and allow BLT purchases/payments to be waived in certain master-planned areas

Staff Recommendation: Transmit to the County Council for Introduction

BOARD ACTION

Motion:

1. ALFANDRE/PRESLEY
2. DREYFUSS/CARRIER
3. PRESLEY/ALFANDRE

Vote:

Yea:

1. 3-2
2. 2-3
3. 4-1

Nay:

1. CARRIER, DREYFUSS
2. ALFANDRE, PRESLEY, WELLS-HARLEY
3. DREYFUSS

Other:

Action:

1. Motion to approve the staff recommendation, incorporating revisions submitted by the Chair. **FAILED FOR LACK OF THE REQUIRED SUPERMAJORITY.**

2. Motion to approve the staff recommendation, incorporating revisions submitted by the Chair, and further revised to change references to specifics in master plans to references to specifics in overlay zones recommended in master plans. **FAILED FOR LACK OF THE REQUIRED SUPERMAJORITY.**

3. **Approved the staff recommendation to transmit the proposed Zoning Text Amendment to the County Council for introduction, incorporating revisions submitted by the Chair, with comments to the County Council conveying the Board's discussion about the issue of placing specific standards in master plans as opposed to placing specifics in the CR Zone or creating area-specific overlay zones, as stated in the attached Letter of Transmittal.**

Development Review staff presented the proposed Zoning Text Amendment to amend the CR Zone, as detailed in the staff report.

In discussion, staff elaborated on various proposed revisions to the Zone, how they would be implemented, and how the result would differ under the revisions from the current standards. Chair Carrier submitted a list of proposed revisions and the Board offered additional guidance for changes.

Mayor Peter Fosselman and Councilmembers Mackie Barch and Mary Donatelli, representing the Town of Kensington, discussed a Town Resolution with recommendations

3. [CR Zones Zoning Text Amendment](#)

related to the CR Zone, the proposed amendments, and how they apply to the pending Kensington Sector Plan.

There followed considerable discussion of the relative merits of retaining flexibility in the CR Zone and placing specific criteria in the area master plans, as recommended by staff, compared to including specifics in the CR Zone, as proposed by the Town of Kensington, or creating overlay zones for different areas to include the specific standards. There was much discussion of the process and length of time involved in revising specifics in a master plan.

Ms. Ilona Blanchard, representing the City of Takoma Park; Mr. William Kominers, land use attorney; Ms. Judy Higgins, representing the Kensington View Civic Association; Mr. Barry Peoples of Kensington; and Ms. Lydia Sullivan of Kensington offered comments on various elements of the proposed amendments.

In taking action on this item, Legal Counsel to the Board advised that pursuant to changes in Article 28, §8-112.2, a two-thirds majority vote (supermajority) of both the Planning Board and the District Council is required to take any action relating to zoning within the City of Takoma Park or the Town of Kensington that is contrary to a resolution of the Mayor and City/Town Council.

4. [Preliminary Plan 120100030, Brooke Park](#)

R-30 zone; 1.18 acres; 1 lot requested for 10 multi-family dwelling units; located in the northwest quadrant of the intersection of Brookes Lane and MacArthur Boulevard; Bethesda-Chevy Chase Master Plan

Staff Recommendation: Approval with Conditions

BOARD ACTION

Motion: PRESLEY/WELLS-HARLEY

Vote:

Yea: 5-0

Nay:

Other:

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

Development Review staff presented the plan to create one lot for the redevelopment of the existing 17-unit garden apartment building with 10 multifamily condominium units, as detailed in the staff report.

Mr. Jody Kline, attorney representing the applicant, concurred in the staff recommendation. Mr. Kline discussed the redevelopment and responded to questions from the Board.

5. Forest Conservation Variance Request for SC2011005, Landfare Stormwater Management Pond Maintenance - **REMOVED**

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: **This item was removed from the agenda.**

6. Amendment to Bylaws, Montgomery County Parks Foundation

The Bylaws ([Exhibit 1](#)) of the Montgomery County Parks Foundation require that the Planning Board accept amendments to the Bylaws and ratify the election of trustees to the Foundation Board. The trustees of the Foundation desire to amend the Bylaws of the Foundation to reduce the minimum number of trustees required from ten to five ([Exhibit 2](#)); and, as stated in the Memorandum of Understanding between M-NCPPC and the Foundation dated February 2010 ([Exhibit 3](#)), include the Chair of the Planning Board as a permanent “ex-officio” non-voting member [of the Board of Trustees], prohibit other members of the Planning Board or any elected officials from serving, and include as ex-officio non-voting members of the Board the Parks Department Director and the senior Parks Department staff assigned to the Foundation ([Exhibit 4](#)), and elect to the Foundation Board Joseph Isaacs and Edwin Grosvenor.

Staff Recommendation: Approval

BOARD ACTION

Motion: **1. WELLS-HARLEY/PRESLEY**
 2. PRESLEY/ALFANDRE

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

Nay:

Other:

Action: **1. Approved the staff recommendation to accept the proposed amendments to the Bylaws of the Montgomery County Parks Foundation, as stated above.**
 2. Approved the staff recommendation to ratify the election of Joseph Isaacs and Edwin Grosvenor to the Foundation Board.

Parks Department staff offered a brief presentation on the proposed amendments to the Bylaws of the Montgomery County Parks Foundation and election of trustees to the Foundation Board.

7. 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 State citation and open session report in narrative minutes.**

8. 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 State citation and open session report in narrative minutes.

9. [Site Plan Review No. 820100130, Safeway Store #2797](#)

MXTC zone, 3.92 acres, Proposal to replace the existing Safeway Store with a larger (59,821 square feet) Safeway Store and a parking waiver; located at 3333 Spartan Road, approximately 450 feet east of Georgia Avenue; Olney

Staff Recommendation: Approval with Conditions

BOARD ACTION

Motion: 1. ALFANDRE/WELLS-HARLEY
2. PRESLEY/DREYFUSS

Vote:

Yea: 1. 5-0

2. 5-0

Nay:

Other:

Action: 1. Approved the staff recommendation to approve the site plan, subject to conditions, as stated in the attached Board Resolution.

2. Agreed to transmit to County Department of Transportation (DOT) a recommendation that the PAMR mitigation payment be used to enhance pedestrian safety in relation to the new Safeway, including a pedestrian crossing of Spartan Road from the Safeway to the Giant grocery store, and support other modes of transportation in the Olney area.

Development Review staff presented the site plan for the redevelopment of the Safeway Store in Olney, including a new 59,821-square-foot store, a structured parking garage, surface parking, public use spaces, and a mid-block vehicular connection of Spartan Road and Buehler Road across the site in front of the store. Staff noted that the applicant requests a waiver of 26 of the required parking spaces. Staff also reported that there has been much community opposition to a Transportation Planning staff recommendation that the Policy Area Mobility Review (PAMR) payment required of the applicant to mitigate trips be used to construct the 160-foot unbuilt portion of Buehler Road adjacent to St. Peter's Church, to fulfill the master plan recommendation that Buehler Road extend from Prince Philip Drive to Spartan Road.

Chair Carrier noted that for purposes of the hearing, the site plan and the recommendation to use the PAMR payment to connect the two segments of Buehler Road will be taken up separately. The Chair pointed out that the site plan condition requires the payment, but does not recommend how it is used, and any recommendation for its use will be more appropriately made in a letter from the Board to County Department of Transportation (DOT).

Mr. Robert Brewer, attorney representing the applicant, concurred in the staff recommendation. Ms. Renee Montgomery of Safeway discussed the need for a larger, more modern grocery store. Mr. Jeffrey Satfield, the engineer, provided additional information about various elements of the site plan and responded to questions from the Board about how the mid-block Buehler Road/Spartan Road connector across the site will operate in terms of vehicular and pedestrian safety.

9. [Site Plan Review No. 820100130, Safeway Store #2797](#)

Mr. James Smith, representing the Olney Town Center Advisory Committee, offered comments on the site plan.

The following speakers offered testimony in opposition to the proposed use of PAMR funds to connect the two sections of Buehler Road: Mr. Matt Zaborsky, representing the Greater Olney Civic Association; Ms. Lori Goodwin of St. Theresa Drive; Mr. Adrian Karmazyn of Buehler Road; Mr. Arnold Gordon, representing the Norbeck Meadows Civic Association; Mr. David Reile, representing the South East Rural Olney Civic Association; Mr. Joe Fritsch of Buehler Road; Mr. Alexander Schaffer of Buehler; Ms. Lydia Rappolt, representing the Camelback Village Condominium Association; Ms. Phillis Schwartz of Lochness Circle; Mr. Reed Thorndahl of Buehler Road; Mr. Bill Jacobs, representing the Highlands of Olney Condominium Association; Ms. Dorothy Hagler of Lochness Circle; and Mr. Ken Schwartz of Lochness Circle.

Responding to testimony and questions from the Board, Transportation Planning staff discussed the master plan recommendation to connect Buehler Road, its function in the Olney road network, and the potential for cut-through traffic.

There followed some discussion of the relative merits of connecting Buehler Road and other alternatives for use of the PAMR payment.

10. [Air Rights Center - 7300 Pearl Street](#)

A. Project Plan Amendment Review No. 92000001B, Air Rights Center 7300 Pearl Street, CBD-2 zone; 3.15 acres; optional method of development consisting of a 132,421 square foot hotel, 4,600 square feet of retail space, and 513,711 square feet of office space; located on Pearl Street, approximately 160 feet south of Montgomery Avenue; Bethesda CBD

Staff Recommendation: Approval with Conditions

B. Preliminary Plan 120110010, Air Rights Center, 7300 Pearl Street, CBD-2 zone; 3.15 acres; 1 lot requested for 513,711 square feet of office; 4,600 square feet of retail; and 132,421 square feet of hotel use; located on Pearl Street, 160 feet south of Montgomery Avenue; Bethesda Central Business District.

Staff Recommendation: Approval with Conditions

C. Site Plan Amendment Review No. 82007001C, Air Rights Center, 7300 Pearl Street, CBD-2 zone; 3.15 acres; optional method of development consisting of a 132,421 square foot hotel, 4,600 square feet of retail space, and 513,711 square feet of office space; located on Pearl Street, approximately 160 feet south of Montgomery Avenue; Bethesda CBD

Staff Recommendation: Approval with Conditions

BOARD ACTION

**Motion: A. DREYFUSS/WELLS-HARLEY
 B. DREYFUSS/PRESLEY
 C. DREYFUSS/PRESLEY**

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

Nay:

Other:

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

B. Approved staff recommendation for approval, subject to conditions, as stated in the attached Board Resolution.

C. Approved staff recommendation for approval, subject to conditions, as stated in the attached Board Resolution.

In keeping with the November 22 technical staff report, Development Review and Parks Department staff discussed the request to create one lot for 513.711 square feet of office, 4,600 square feet of retail, and 132,421 square feet of hotel use on a 3.15-acre property located on Pearl

10. [Air Rights Center - 7300 Pearl Street](#)

Street south of Montgomery Avenue in Bethesda. Staff noted that the proposed amendments require resubdivision of two parcels on the Air Rights Center property to allow the redevelopment of an existing, obsolete commercial building. The applicant has been coordinating with the Parks Department staff and the Town of Chevy Chase to prepare a master plan for the redevelopment of the north end of Elm Street Park, and to implement a portion of that plan. The applicant is requesting a parking waiver seeking relief from 193 parking spaces and staff recommends granting this request.

Ms. Patricia Harris, attorney representing the applicant, introduced members of the applicant's team, and concurred with the staff recommendation.

Ms. Trini Rodriguez, architect for the applicant, offered a brief multi-media presentation on the proposed building design and architecture.

Ms. Patricia Burda, Council member for the Town of Chevy Chase offered comments.

11. [Forest Conservation Plan: MR 20102737 Town of Somerset Bathhouse Renovation](#)

Intersection of Falstone Avenue and Warwick Avenue, R-60 Zone, BCC Master Plan

Staff Recommendation: Approval with Conditions

BOARD ACTION

Motion: PRESLEY/ALFANDRE

Vote:

Yea: 4-0

Nay:

Other: DREYFUSS ABSENT

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

Environmental Planning staff offered brief highlights of the proposed forest conservation plan for the renovation of the Town of Somerset Bathhouse project, which will include sidewalk additions, parking lot reconfiguration, and stormwater management facilities. Staff noted that the Planning Board's action on the forest conservation plan is regulatory and binding.

Mr. Norman Knopf, attorney representing the Town of Somerset, introduced Mr. Jeffrey Slavin, Mayor of the Town of Somerset; Mr. Chuck Harris and Ms. Kathleen Kvlengoski, members of the applicant's team, offered brief comments, and concurred with the staff recommendation.

12. [Preliminary Plan 120040740, Bauer Tract – Preliminary Plan Extension Request](#)

I-1 zone; 2.42 acres; 1 lot previously approved for 67,963 square feet of industrial use; request to extend the preliminary plan validity period from August 25, 2010 until October 31, 2011; located on Oakmont Avenue, approximately 1,700 feet northeast of its intersection with MD-355; Gaithersburg Master Plan

Staff Recommendation: Grant 9-month extension until May 25, 2011

BOARD ACTION

Motion: ALFANDRE/WELLS-HARLEY

Vote:

Yea: 4-0

Nay:

Other: DREYFUSS ABSENT

Action: Approved staff recommendation to grant a 9-month extension of the preliminary plan validity period until May 25, 2011.

In keeping with the November 22 technical staff report, Development Review staff presented the request to grant a 9-month extension of the preliminary plan validity period for a previously approved lot for industrial use, located on Oakmont Avenue in Gaithersburg. Staff noted that the preliminary plan was approved by the Planning Board on October 21, 2004, and the plan remained valid until February 25, 2008. The plan was first extended to August 25, 2010, in 2009, but a record plat was not filed. The applicant is now requesting an extension under the Subdivision Regulations until October 31, 2011. Staff added that based on the justification provided by the applicant, i.e., illness and the slow economy, staff recommends an extension until May 25, 2011.

13. [Worksession and Action on Final Master Plan, Josiah Henson Special Park](#)

Approve/Adopt Final Master Plan for Josiah Henson Special Park; Approve/Adopt name change from Uncle Tom’s Cabin Special Park

Staff Recommendation: Approval

BOARD ACTION

Motion: WELLS-HARLEY/PRESLEY

Vote:

Yea: 4-0

Nay:

Other: DREYFUSS ABSENT

Action: Approved staff recommendation for the park name change and the moderate development option, and provided guidance to staff.

In keeping with the November 17 technical staff report, Parks Department staff discussed recommendations for the Josiah Henson Special Park Master Plan following the October 28 Public Hearing. Staff discussed the proposed name change to “Uncle Tom’s Cabin,” and three proposed development options and cost estimates, i.e., minimum, moderate, and maximum development options.

14. Approval of FY12 Budget

- A. Planning
- B. CAS

BOARD ACTION

Motion: ALFANDRE/WELLS-HARLEY

Vote:

Yea: 4-0

Nay:

Other: DREYFUSS ABSENT

Action: Approved FY12 budgets for the Planning Department and Central Administrative Services (CAS), as previously discussed, and as submitted.