



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 20, 2012, at 9:18 a.m. in The Montgomery Regional Office in Silver Spring, Maryland, and adjourned at 9:25 p.m.

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

Items 1 through 3 and Items 2 and 9 are reported on the attached agenda. Item 4 was postponed.

The Board recessed for lunch at 1:55 p.m. and reconvened in the auditorium at 2:42 p.m.

Items 5 through 8 are reported on the attached agenda. Item 8 was taken up.

Vice Chair Wells-Harley left the meeting at 7:30 p.m., during discussion of Item 6.

Due to the lateness of the hour, the Board did not recess for dinner. Following a brief break after discussion of Item 6, the Board took up Item 8, out of order, followed by Item 7.

There being no further business, the meeting was adjourned at 9:28 p.m. The next regular meeting of the Planning Board will be held Thursday, January 10, 2013, in the Montgomery Regional Office in Silver Spring, Maryland.

M. Clara Moise
Technical Writer

Ellyn Dye
Technical Writer

Montgomery County Planning Board Meeting
Thursday, December 20, 2012
8787 Georgia Avenue
Silver Spring, MD 20910-3760
301-495-4600

1. Consent Agenda

***A. Adoption of Resolutions**

White Flint Mall Sketch Plan 320120040 – MCPB No. 12-115

BOARD ACTION

Motion: **ANDERSON/PRESLEY**

Vote:

Yea: **5-0**

Nay:

Other:

Action: **Adopted the Resolution cited above, as submitted.**

***B. Record Plats**

1. Subdivision Plat No. 220121860, Westmore

I-1 zone; 1 parcel; located at the northwestern quadrant of the intersection of Westmore Avenue and North Horners Lane; Upper Rock Creek Area Master Plan.

Staff Recommendation: Approval

2. Subdivision Plat No. 220130180, Bradley Hills, Section 2

R-90 zone; 1 lot; located on the west side of Fairfax Road, approximately 875 feet north of Wessling Lane; Bethesda-Chevy Chase Master Plan.

Staff Recommendation: Approval

3. Subdivision Plat No. 220130260 – 220130280, The Towns at Germantown Park

RT-12.5 zone; 104 lots, 13 parcels; located in the northwest quadrant of the intersection of Clopper Road (MD 117) and Cinnamon Drive; Germantown Master Plan.

Staff Recommendation: Approval

BOARD ACTION

Motion: PRESLEY/WELLS-HARLEY

Vote:

Yea: 5-0

Nay:

Other:

Action: Approved staff recommendation to approve the Record Plats cited above, as submitted.

***C. Other Consent Items**

Site Plan Amendment 82008021D, Washington Adventist Hospital, 44.86 acres, I-1 and I-3 Zones, construction of an interim parking lot with associated bus shelter, landscape, lighting, and grading; a pedestrian canopy between Building A and the South Parking Garage; modified locations of handicap ramps on Plum Orchard Drive; and minor architectural elevation changes. Located on the West Side of Plum Orchard Drive, 400 feet southwest of Broadbirch Drive within the 1997 Fairland Master Plan

Staff Recommendation: Approval

BOARD ACTION

Motion: PRESLEY/ANDERSON

Vote:

Yea: 5-0

Nay:

Other:

Action: Approved staff recommendation for approval of the Site Plan Amendment for Washington Adventist Hospital, as presented.

***D. Approval of Minutes**

Minutes of April 19, 2012, November 8, 2012 and November 13, 2012

BOARD ACTION

Motion: **WELLS-HARLEY/PRESLEY**

Vote:

Yea: **5-0**

Nay:

Other:

Action: **Approved Planning Board Meeting Minutes cited above, as submitted.**

9. Remand of Memorandum Opinion and Order of the Circuit Court for Montgomery County, Maryland in Hyde et al. v. The Montgomery County Planning Board Civil Nos. 360249-V, 363941-V

1) To approve Rural Open Space Easement; 2) To approve Plat of Correction for Parcel B, Block C (Formerly Parcel A) adding reference to the Rural Open Space Easement; and 3) To adopt Resolution reaffirming the validity of the Plat Nos. 220120260, 220120270, 220120280, 220120290, and 220120300.

BOARD ACTION

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

Vote:

Yea: **5-0 (1, 2, & 3)**

Nay:

Other:

Action: **1. Approved Rural Open Space Easement.**
2. Approved Plat of Correction for Parcel B, Block C (Formerly Parcel A)
3. Adopted the Resolution reaffirming the validity of Plat Nos. 220120260, 220120270, 220120280, 220120290, and 220120300.

Legal staff offered a brief presentation regarding the remand of a Memorandum of Opinion and Order of the Circuit Court for Montgomery County, Maryland, regarding the Batchellors Forest Subdivision court case.

Mr. Bill Chen, attorney representing the applicant, offered brief remarks and concurred with the staff recommendation.

Mr. Scott Wallace, attorney representing Pulte Homes, also offered comments.

2. Worksession on Zoning Ordinance Rewrite

Worksession on Administration and Procedure

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: Continued discussion on Administration and Procedures and provided guidance to staff in a worksession in the context of the draft Zoning Ordinance Rewrite.

***3. Project Plan Review No. 920130020, 8001 Newell Street**

CBD-1 and the Ripley/South Silver Spring Overlay Zone, 0.94 acres, Mixed-use project totaling 159,900 square feet of development including up to 187 multi-family dwelling units, and 3,100 square feet of non-residential use, located at the northeast intersection of Newell Street and Eastern Avenue, Silver Spring CBD

Staff Recommendation: Approval with Conditions

BOARD ACTION

Motion: PRESLEY/WELLS-HARLEY

Vote:

Yea: 5-0

Nay:

Other:

Action: Approved the applicant's request for a deferral.

Planning Department staff discussed the project plan for Newell Street consisting of 187 multi-family dwelling units, and 3,100 square feet of non-residential use on a 0.94-acre property located on the northeast intersection of Newell Street and Eastern Avenue at the Washington, D.C. district line. Staff noted that there is an existing one-story self-storage building on the proposed site, which will be demolished. The proposed project will not conform to a uniform 60-foot building set back as required for the majority of Newell Street. Staff also discussed the proposed public use space and amenities, the

vehicular and pedestrian circulation, and the proposed green space. Staff also noted that the applicant has met on nine separate occasions with the nearby residents and local community groups.

Ms. Anne Mead, attorney for the applicant, introduced members of the applicant's team, briefly discussed the proposed project, and concurred with the staff recommendation.

Ms. Trini Rodriguez, member of the applicant's team, discussed the proposed project's design and architecture.

The following speakers offered testimony: Ms. Dawn Brosnan of Newell Street; Mr. Daniel Meijer of Grist Avenue; Ms. Renee Tatusko of Newell Street; Ms. Eileen LaFleur of Newell Street; Ms. Jourdinia Brow of 14 Street N.W.; Mr. David Brown, attorney representing the Newell Street Condominium Association; Mr. Brian Holland of Newell Street; Mr. David Fairweather of Maple Avenue; Mr. Steven Fine of Newell Street; Mr. Maynard Mack of Newell Street; and Ms. Joan King of Eastern Avenue, an abutting property owner.

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

Board members expressed concerns regarding the proposed building setback and informed the applicant that the Board will most likely deny the application as submitted.

4. Closed Session - POSTPONED

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

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: This item was postponed.

5. Local Map Amendment No. G-881: Theodore H. Butz, Et Al

A. Local Map Amendment No. G-881: Theodore H. Butz, et al., applicant - Reclassification of ±54 acres of land from the RE-2 Zones to the Planned Retirement Community (PRC) Zone for the development of up to 140 one-family dwelling units, located on the northwest corner of Brink Road and Ridge Road (MD 27) 1994 Clarksburg Master Plan and Hyattstown Special Study Area.

Staff Recommendation: Denial

(Action Required for Hearing by the Hearing Examiner on 1/14/2013)

***B. Preliminary Forest Conservation for Local Map Amendment G-881**, Theodore H. Butz, et. Al., for the PRC Zone on ±54 acres of land located on the northwest corner of Brink Road and Ridge Road (MD 27) 1994 Clarksburg Master Plan and Hyattstown Special Study Area.
Staff Recommendation: Approval with Conditions and Adoption of Resolution

***C. Preliminary Water Quality Plan for Local Map Amendment G-881**, Theodore H. Butz, et. al., for the PRC Zone on ±54 acres of land located on the northwest corner of Brink Road and Ridge Road (MD 27) 1994 Clarksburg Master Plan and Hyattstown Special Study Area.
Staff Recommendation: Approval with Conditions and Adoption of Resolution

BOARD ACTION

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

Vote:
 Yea: **5-0 (A, B, & C)**

Nay:
Other:

Action: **A. Approved staff recommendation for denial of the Local Map Amendment Request, as stated in the attached transmittal letter to the Hearing Examiner.**
 B. Approved staff recommendation for approval of the Forest Conservation Plan, subject to conditions, and adopted the attached Resolution.
 C. Approved staff recommendation for approval of the Water Quality Plan, subject to conditions, and adopted the attached Resolution.

In keeping with the December 7 technical staff report, Planning Department staff discussed the local map amendment request to rezone a 54-acre property from the RE-2 zone to the Planned Retirement Community (PRC) Zone for the development of up to 140 one-family dwelling units, and the related forest conservation plan and water quality plan. The property is located on the northwest corner of Brink Road and Ridge Road (MD27) in the Clarksburg Master Plan and Hyattstown Special Study area. Staff discussed in detail the proposed application and noted that the project does not substantially comply with the density

5. Local Map Amendment No. G-881: Theodore H. Butz, Et Al

CONTINUED

provision for the specific site in the Master Plan. The project also does not provide adequate transition in density between the adjacent properties designated in the Master Plan, and requires public sewer and water service, which is not recommended in the Master Plan. The project does not meet the purpose and the requirements of the PRC Zone.

Mr. Jody Kline, attorney for the applicant introduced members of the applicant’s team, discussed the proposed request and noted his objection to the staff recommendation for denial.

Ms. Jennifer Russell, Mr. Gary Unterberg, and Mr. Rich Thometz, members of the applicant's team, offered comments and answered questions from the Board.

Mr. Tom Butz, the applicant, also offered comments.

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

6. 4831 West Lane, LLC

1. Local Map Amendment DPA G-954, 4831 West Lane, LLC, R-60 zone, 12,521 square feet, Request rezoning from the R-60 zone to the TS-R zone for Lot 26 and previous right-of-way dedications attributable to Lot 26, Lot 24, and Lot 25; located in the northwest quadrant of the intersection with West Lane and Montgomery Lane; Bethesda-CBD (Central Business District) Master Plan

Staff Recommendation: Approval

(Action Required for Hearing by Hearing Examiner 1/11/2013)

2. Development Plan Amendment DPA 13-01, 4831 West Lane, LLC, TS-R zone, 38,804 sf., Request amendment to increase the number of residential units from 48 with 12.5% MPDUs to 100-120 with 15% MPDUs; located at 4831 West Lane; Bethesda-CBD (Central Business District) Master Plan

Staff Recommendation: Approval

(Action Required for Hearing by Hearing Examiner 1/11/2013)

BOARD ACTION

Motion: ANDERSON/PRESLEY

Vote:

Yea: 4-0

Nay:

Other: WELLS-HARLEY ABSENT

Action: Approved the staff recommendation to approve the Local Map Amendment and Development Plan Amendment, with revisions identified in discussion, as stated in the attached Letter of Transmittal.

Planning Department staff presented a proposal to rezone one lot from the R-60 Zone to the TS-R Zone, for consolidation with other adjacent TS-R-zoned lots, and to amend a previously approved development plan and increase the number of units from 48 to 120, increase the number of moderately priced dwelling units (MPDUs) to 15 percent, and increase the height from 65 to 70 feet on the larger consolidated piece of property, as detailed in the staff report. Staff reviewed the binding elements of the amended development plan, including two proposed by staff, and responded to various concerns raised by the community. Staff noted that concerns raised about the double-parking of service and delivery vehicles relate to existing conditions and an enforcement issue, which cannot be addressed in this context.

Ms. Pat Harris, attorney representing the applicant, elaborated on the proposal, noting that it furthers the County policies related to creation of market rate and affordable housing adjacent to public transit.

6. 4831 West Lane, LLC

CONTINUED

The following speakers offered testimony on the proposal: Ms. Susan Turnbull and Mr. Bruce Turnbull of Montgomery Lane; Mr. Norman Knopf, attorney representing the Edgemoor Condominiums; Mr. Andrew Niebler, Mr. Louis Phoryles, Mr. Jon Wientraub, Mr. Alfred Goldberg, Ms. Gail Quigley, Mr. James O’Sullivan, and Mr. Girardeau Spann, owners at the Edgemoor Condominiums on Montgomery Lane; Mr. Stan Abrams, attorney representing City Homes of Edgemoor; Mr. David Obryon, Mr. Richard Lawch, Ms. LeeAnn Whiteside Lawch, property owners at City Homes; Mr. Theodore Chipouras of West Lane; Ms. Linda Skalet, representing the Bethesda Civic Coalition; and Mr. Daniel Joseph of Montgomery Lane.

There followed extensive discussion of various issues, including density, height, massing, the proposed step-back, public use space, undergrounding of utilities, and design elements that might help to alleviate some of the double-parking of delivery and service vehicles.

***7. Village West at Germantown Town Center (formerly Martens Property)**

A. Project Plan Amendment 92002002C: Village West at Germantown Town Center (formerly Martens Property)

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; revise the adjacent amenity areas, parking and loading layout, near the intersection of Wisteria Drive and Waters Road, 26.48 acres, RMX-2 Zone, Germantown Employment Sector Plan

Staff Recommendation: Approval with Conditions and Adoption of Resolution

B. Preliminary Plan Amendment 12011009A: Village West at Germantown Town Center (formerly Martens Property)

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; revise the adjacent amenity areas, parking and loading layout, near the intersection of Wisteria Drive and Waters Road, 26.48 acres, RMX-2 Zone, Germantown Employment Sector Plan

Staff Recommendation: Approval with Conditions and Adoption of Resolution

C. Site Plan Amendment 82011013A: Village West at Germantown Town Center (formerly Martens Property) including the Final Forest Conservation Plan

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; revise the adjacent amenity areas, parking and loading layout, near the intersection of Wisteria Drive and Waters Road, 26.48 acres, RMX-2 Zone,

Germantown Employment Sector Plan

Staff Recommendation: Approval with Conditions and Adoption of Resolution

BOARD ACTION

Motion: **A. ANDERSON/PRESLEY**
 B. ANDERSON/PRESLEY
 C. ANDERSON/PRESLEY

Vote:
 Yea: **A, B, C. 4-0**

Nay:
 Other: **WELLS-HARLEY ABSENT**

Action: **A. Approved the staff recommendation to approve the project plan amendment, subject to conditions, and adopt the attached Board Resolution.**
 B. Approved the staff recommendation to approve the preliminary plan amendment, subject to conditions, and adopt the attached Board Resolution.
 C. Approved the staff recommendation to approve the site plan amendment, subject to conditions as revised, and adopt the attached Board Resolution.

Planning Department staff presented proposed amendments to the project plan, preliminary plan, and site plan to add 15 multi-family units, consolidate the multi-family

7. Village West at Germantown Town Center (formerly Martens Property)

CONTINUED

building footprints and increase the building height to a maximum of 65 feet or 5 stories, and make other associated changes, as detailed in the staff report. Staff noted that at the Board's request under the previous approval, the applicant eliminated three townhouse units and is increasing the multi-family units. Staff reported that the applicant has raised an issue about the required schools test, and whether the applicant must make a payment. As of FY 2013, no school facilities payment is required and, therefore, staff finds that the 15 new units are not subject to a payment. The applicant, however, believes that none of the units should be subject to a schools facilities payment, including the 455 units approved in FY 2011, when a schools facilities payment was required.

There followed some discussion with Planning and Legal staff about retroactively applying changes to Adequate Public Facilities (APF) requirements.

Mr. Robert Brewer, attorney representing the applicant, and Mr. Russell Gestl of the applicant company, presented arguments in support of retroactive application of the elimination of the schools facilities payment for all the units in the project.

There followed additional discussion of the APF issue, and the Board ultimately endorsed the staff interpretation.

8. Staff Draft Glenmont Sector Plan

Glenmont Staff Draft Plan: <http://www.montgomeryplanning.org/community/glenmont/>

Staff Recommendation: Approve Staff Draft as Public Hearing Draft and set Public Hearing Date for February 14, 2013

(No Public Testimony will be taken)

BOARD ACTION

Motion: DREYFUSS/PRESLEY

Vote:

Yea: 4-0

Nay:

Other: WELLS-HARLEY ABSENT

Action: Approved the Staff Draft Glenmont Sector Plan as the Public Hearing Draft and set the Public Hearing Date for February 14, 2013.

Planning Department staff reviewed several proposed changes in the Staff Draft Glenmont Sector Plan, based on further analysis of some identified discrepancies in the traffic modeling data, as contained in the staff report, and requested that the Board approve the Staff Draft as the Public Hearing Draft and set the Public Hearing date.