



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, September 15, 2016, at 9:02 a.m. in the Montgomery Regional Office in Silver Spring, Maryland, and adjourned at 2:55 p.m.

Present were Chair Casey Anderson, Vice Chair Marye Wells-Harley, and Commissioners Natali Fani-González and Gerald Cichy. Commissioner Norman Dreyfuss was necessarily absent.

Items 1 through 3, and Items 5, 4, 14, and 6, discussed in that order, are reported on the attached agenda.

The Board recessed for lunch at 12:43 p.m. and convened in Closed Session at 12:53 p.m. to take up Items 13 and 15, Closed Session Items.

In compliance with State Government Article §3-305(b), Annotated Code of Maryland, the following is a report of the Board's Closed Session:

The Board convened in Closed Session in the 3rd floor conference room at 12:53 p.m. on motion of Vice Chair Wells-Harley, seconded by Commissioner Cichy, with Chair Anderson, Vice Chair Wells-Harley, and Commissioners Fani-González and Cichy voting in favor of the motion, and Commissioner Dreyfuss absent. The meeting was closed under authority of Annotated Code of Maryland §3-305(b)(3), to consider the acquisition of real property for a public purpose and matters directly related to the acquisition, and § 3-305(b)(7) and (8), to consult with legal counsel about potential litigation.

Also present for the meeting were Principal Counsel Carol Rubin, Senior Counsel Megan Chung, and Associate General Counsel Nick Dumais of the Legal Department; Planning Department Director Gwen Wright; Director Mike Riley, Bill Gries, Brenda Sandberg, and Josh Kaye of the Parks Department; and James Parsons of the Commissioners' Office.

In Closed Session, the Board discussed the proposed acquisition of land as an addition to the Ten Mile Creek Conservation Park, and received briefing and legal advice regarding the enforcement of a conservation easement.

The Closed Session meeting was adjourned at 1:34 p.m.

The Board reconvened in the auditorium at 1:57 p.m.

MCPB, 9-15-16, APPROVED

Items 7 through 11 are reported on the attached agenda.

Item 12 was removed from the Planning Board agenda.

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 on Thursday, September 22, 2016, in the Montgomery Regional Office in Silver Spring, Maryland.

M. Clara Moise
Sr. Technical Writer/Editor

James J. Parsons
Technical Writer

Montgomery County Planning Board Meeting
Thursday, September 15, 2016
8787 Georgia Avenue
Silver Spring, MD 20910-3760
301-495-4600

1. Consent Agenda

***A. Adoption of Resolutions**

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: There were no Resolutions submitted for adoption.

***B. Record Plats**

Subdivision Plat No. 220160760, Jacksons Acres

R-90 zone; 2 lots; located on the south side of Smith Village Road, approximately 1,300 feet east of East Randolph Road; White Oak Master Plan.

Staff Recommendation: Approval

Subdivision Plat No. 220160830, Clarksburg Town Center

CRT zone (formerly RMX-2); 36 lots, 1 parcel; located in the western quadrant of the intersection of Clarksburg Square Road and Clarksmeade Drive; Clarksburg Master Plan.

Staff Recommendation: Approval

Subdivision Plat No. 220160840, Kensington Gardens

R-90 zone; 1 lot; located on the north side of Everett Street 160 feet east of Connecticut Ave (MD-185); Kensington - Wheaton Master Plan.

Staff Recommendation: Approval

BOARD ACTION

Motion: WELLS-HARLEY/FANI-GONZÁLEZ

Vote:

Yea: 4-0

Nay:

Other: DREYFUSS ABSENT

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

***C. Other Consent Items**

1. Connecticut Avenue Culvert Replacement, Amended Forest Conservation Plan, 11993048A ---
Request to amend an approved Forest Conservation Plan for the Gate of Heaven cemetery to accommodate construction and land disturbance related to a culvert replacement under Connecticut Avenue; RE-2 Zone; 127.5 acres located at 13801 Georgia Avenue in the 1994 Aspen Hill Master Plan area.

Staff Recommendation: Approval with Conditions and Adoption of Resolution

2. 8015 Old Georgetown Road, Extension Request for Site Plan No. 820160090
PD-44 Zone, 2.0 acres, Extension request for 53,000 square feet of development for a religious/institutional building and a maximum of 107 multi-family dwelling units, including a minimum of 15 percent MPDUs; located at 8015 Old Georgetown Road near the northeast quadrant of the intersection with Glenbrook Road, 2006 Woodmont Triangle Amendment to the 1994 Bethesda CBD Master Plan.

Staff Recommendation: Approval

BOARD ACTION

Motion: **1. FANI-GONZÁLEZ/WELLS-HARLEY**
 2. WELLS-HARLEY/FANI-GONZÁLEZ

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

Nay:

Other: **DREYFUSS ABSENT**

Action: **1. Approved staff recommendation for approval of the Forest Conservation Plan Amendment cited above and adopted the attached Resolution.**
 2. Approved staff recommendation for approval of the Site Plan Extension cited above.

MCPB, 9-15-16, APPROVED

***D. Approval of Minutes**

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: There were no Planning Board Meeting Minutes submitted for approval.

2. Roundtable Discussion

- Parks Director's Report

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: Received briefing.

Parks Department Director's Report – Parks Department Director Mike Riley briefed the Board on the following ongoing and upcoming Parks Department events and activities: Director Riley's participation in a panel discussion at the Maryland Association of Counties (MACO) Conference in Ocean City regarding the augmented reality game Pokémon Go!; the recent participation of 20 staff members in a 3,000 runner half-marathon Sunday, September 11; the recent County Council staff tour of Wall Local Park, Ellsworth Dog Park, and North Four Corners Local Park held on September 6; the ribbon cutting ceremony for the six-mile Ten Mile Creek Trail at Black Hill Regional Park, which was attended by Maryland State Senator Brian J. Feldman and Maryland State Delegate David Fraser-Hidalgo, held on August 27; the recent staff tour of Raystown Lake and urban parks in Pittsburgh, Pennsylvania; the upcoming Ellsworth Dog Park opening scheduled for Saturday, September 24; the status of the next Park(ing) Day event, scheduled for Friday, September 16 at Fenton Street and Wayne Avenue in Silver Spring; the status of the recent improvements made at Wheaton Ice Arena, including new Americans with Disabilities Act (ADA) compliant benches and a new dehumidifier system; the status on the recent improvements made at the Little Bennett Campground, including the installation of new yurts, a jumping pillow, and a pedal car track; the recent completion and transmittal to the Department of Justice of the ADA Transition Plan, which entailed an assessment of all the parks within the Parks Department system; the status of an upcoming ice cream social hosted by County Councilmembers Nancy Navarro and George Leventhal at Wheaton Veterans Park scheduled for Tuesday, September 20; and the recent hiring of Amanda Aparicio as the new Sustainability Coordinator.

There followed a brief Board discussion, during which Chair Anderson recommended that staff coordinate more field trips to other areas around the country to observe other parks and park activities.

3. 2016 Fall Semi-Annual Report Outline

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: Received briefing from Planning and Parks Departments staff on the proposed outlines for the upcoming Fall 2016 Semi-Annual Report, followed by a brief Board discussion, and provided guidance to staff.

5. FY18 Budget Overview

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: Received briefing.

Department of Human Resources and Management staff offered a multi-media presentation and discussed FY18 budget estimates and the six-year outlook. Staff discussed Assessable Base trends, noting that from FY11 to FY13, the Assessable Base fell by six percent, but grew by 13 percent from FY13 to FY17, with Montgomery County Office of Management and Budget estimates projecting a five percent growth in FY18. The FY17 Administration Fund property tax rate was reduced by \$0.10 to \$1.70, while the Parks Fund rate was reduced by \$0.04 to \$5.48. Staff stated that preliminary projections require that tax rates for both funds increase in FY18. Though expenditures were substantially cut in FY11, the expenditure levels have since seen moderate growth through FY17. Personnel costs will continue to be the largest portion of the budget, with the heaviest impacts coming from wage increases, health insurance, retirement, and Other Post-Employment Benefits (OPEB). Staff did note that FY17 personnel cost increases will be mitigated by a substantial decrease in retirement costs. The property tax revenue required for FY18 is estimated at \$2,216,950 for the Administration Fund and \$5,258,150 for the Park Fund. Staff noted that all estimates assume a 0.05-cent property tax rate increase for both funds.

Staff discussed expenditure estimates, specifically internal cost pressures. Staff estimated that FY18 health insurance and other benefit rates will increase by approximately \$88,467 for the Administration Fund and \$297,441 for the Park Fund. Costs for OPEB in FY18 are estimated to increase by 8.3 percent, resulting in an increase of \$71,058 for the Administration Fund and \$359,586 for the Park Fund. Preliminary estimates for FY18 retirement costs show an increase of 24.4 percent, resulting in an increase in of \$503,101 for the Administration Fund and \$1,520,242 for the Park Fund. Staff noted that a \$3,245,966 compensation dollar marker is included in the FY18 projections. Staff recommended a budgeted compensation dollar marker at the fund level in the proposed budget, with the dollar amount to be determined by the Board. Capital Improvements Program (CIP) related Operating Budget Impact (OBI) is estimated at \$1,004,241, with \$400,000 for new facilities and \$604,241 for debt service. The projected ending fund balance as of June 30, 2018 is \$1,468,173 for the Administration Fund and \$3,354,912 for the Park Fund. Staff noted that without a tax rate increase, projected costs for both funds will exceed

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5. FY18 Budget Overview

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projected revenues. Staff noted that preliminary needs show that a property tax rate increase of 0.05 cents is needed to balance the two funds. Staff added that Merit and Cost of Living Allowance assumptions will be discussed at a future closed session meeting.

Staff then discussed the six-year budget outlook, noting a substantial expenditure increase for the Administration Fund in FY19 and subsequent decrease in FY20 due to the relocation to the new Wheaton headquarters. For the Park Fund, staff noted a projected insufficient FY17 fund balance, stating that the fund cannot balance without expenditure reductions or a tax rate increase.

The next steps for the proposed budget include development of the budget by staff scheduled for September through November, Planning Board worksessions scheduled for October and November, the Full Commission vote on the budget scheduled for December 21, production of a proposed budget book scheduled for December through January 2017, transmittal of the proposed budget to the County Executive and County Council scheduled for January 15, County Executive review and recommendations scheduled for January 15 through March 1, County Council public hearings scheduled for April, review by the County Council scheduled for April, a joint Prince George's County Council and Montgomery County Council meeting scheduled for May, adoption of the budget by the County Council scheduled for no later than June 1, and adoption of the budget Resolution by the Full Commission scheduled for June 21.

There followed a brief Board discussion with questions to staff.

4. Grosvenor-Strathmore Metro Area Minor Master Plan Scope of Work

Staff Recommendation: Approve the Grosvenor-Strathmore Metro Area Minor Master Plan Scope of Work

BOARD ACTION

Motion: CICHY/FANI-GONZÁLEZ

Vote:

Yea: 4-0

Nay:

Other: DREYFUSS ABSENT

Action: Approved staff recommendation for approval of the Scope of Work cited above.

Planning Department staff offered a multi-media presentation and discussed the Scope of Work for the proposed Grosvenor-Strathmore Metro Area Minor Master Plan Amendment. The Minor Master Plan Amendment area comprises approximately 105 acres located on the southeast quadrant of the intersection of Rockville Pike (MD355) and Strathmore Avenue, immediately adjacent to the Grosvenor-Strathmore Metro Station. Existing area zoning includes Residential, Residential/Townhouse, and Planned Development-Floating. The proposed Plan represents a smaller, more focused area within the southeastern portion of the 1992 North Bethesda Garrett Park Master Plan to address current and pressing planning issues. According to staff, the Washington Metropolitan Area Transit Authority (WMATA), which operates the Metrorail system, released a Joint Development Solicitation in 2013 that offered part of the Grosvenor-Strathmore Metro site for a predominantly residential joint development by WMATA and a private developer. Most of WMATA's original 45 acres at this Metrorail site have been developed for residential use since the adoption of the 1992 Plan. WMATA has selected Five Squares Development to develop the remaining 15 acres.

The purpose of the Plan is to encourage transit-oriented development at the existing Metro Station, enhance visibility and connectivity to the 1,976-seat Music Center at Strathmore, improve pedestrian linkages throughout the area, and create a shared community identity through public space and art. To that end, the Plan will focus on transportation and connectivity, school capacity concerns, environmental sustainability, and community placemaking. Regarding transportation, staff noted that analysis of intersections, parking, traffic signals, road capacity, and connectivity will be similar to a Local Area Transportation Review (LATR). In addition to an Express Bus Service that has been implemented to complement existing service from the Grosvenor-Strathmore Metro Station to Montgomery Mall and Rock Spring Park, Bus Rapid Transit (BRT) is also proposed. Although multifamily housing studies have demonstrated

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4. Grosvenor-Strathmore Metro Area Minor Master Plan Scope of Work

CONTINUED

relatively low student generation rates, staff is currently working with Montgomery County Public Schools (MCPS) staff to address any capacity issues in the Walter Johnson school cluster. Concerning environmental issues, the Plan recommends maintaining as much of the existing native trees and forest conditions as possible, promoting urban greening to increase canopy coverage, reducing urban heat island effects, managing stormwater more efficiently, providing more functional spaces for native flora and fauna, increasing pervious surface, encouraging environmental site design techniques, creating recreation loops, and considering safer and more inviting access to Rock Creek Park and other surrounding resources and recreation amenities. To achieve a sense of place, the Plan recommends a central public space, local retail service, building height transitions, walkable and bikeable streets, public art, and outdoor programs and activities. Public outreach has included a kick-off meeting held on July 7, community meetings, a community workshop with the developer, as well as a focus group meeting scheduled for September 27. The next steps for the Plan include completion of the Planning Board draft scheduled for March 2017, transmittal to the County Executive scheduled for May 2017, and a County Council Hearing scheduled for July 2017.

Ms. Marilyn Block representing the Strathmore Park at Grosvenor Condominium Association offered testimony regarding density.

There followed a brief Board discussion with questions to staff, during which Chair Anderson requested that staff continue to explore methods of improving pedestrian and bicycle safety at Tuckerman Lane and MD355 near I-495.

14. Friends of Brookside Gardens --- A briefing about the activities and contributions of the Friends of Brookside Gardens on the occasion of their 20th Anniversary.

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: Received briefing.

Parks Department staff introduced Ms. Barbara Schwartz, president of Friends of Brookside Gardens (FOBG), who offered a multi-media presentation and discussed the organization and its twentieth anniversary. FOBG supports and advocates for Brookside Gardens, located within Wheaton Regional Park, and its programs through volunteering and fundraising. Founded in 1996, FOBG currently consists of 14 voting board members who serve no more than three consecutive two-year terms, approximately 30 volunteers, and 800 members. Events sponsored by FOBG include the Green Matters symposium, the Wings of Fancy exhibit, Children’s Day, and the Twilight Concert Series. Fundraising events to help fund new infrastructure, repairs for existing infrastructure, and new garden plantings include the FOBG Event at Stadler Gardens, the Orchid Festival Weekend event, the Rare and Unusual Plant Auction, the Orchid Show and Sale, the Herb Fair, the Holiday Greens Sale, the Garden Party at Behnke Nurseries, the Fall and Spring Silent Auctions, and the Annual Plant Sale event.

There followed a brief Board discussion, during which the Board thanked Ms. Schwartz for the work done by FOBG for Brookside Gardens.

***6. Brightview Grosvenor, Preliminary Forest Conservation Plan and Conditional Use**

A. Preliminary Forest Conservation Plan CU 16-14: Request for the construction of a Residential Care Facility (Over 16 Persons) for up to 98 assisted living units with 104 beds on a 2.75-acre property located at 5510 Grosvenor Lane, Bethesda in the R-90 Zone; within the North Bethesda- Garrett Park Master Plan area.

Staff Recommendation: Approval with Conditions and Adoption of Resolution

B. Conditional Use No. CU 16-14: Request for a conditional use for a Residential Care Facility (Over 16 Persons) for up to 98 assisted living units with 104 beds, located at 5510 Grosvenor Lane, Bethesda in the R-90 Zone; within the North Bethesda- Garrett Park Master Plan area.

Staff Recommendation: Approval with Conditions

(NOTE: Action required for Hearing by Hearing Examiner on September 30, 2016)

BOARD ACTION

Motion: A & B. FANI-GONZÁLEZ/WELLS-HARLEY

Vote:

Yea: A & B. 4-0

Nay:

Other: DREYFUSS ABSENT

**Action: A. Approved staff recommendation for approval of the Preliminary Forest Conservation Plan cited above, subject to conditions, and adopted the attached Resolution
B. Approved staff recommendation to transmit comments to the Hearing Examiner, as discussed during the meeting, and as stated in the attached transmittal letter.**

Planning Department staff offered a multi-media presentation and discussed the proposed Conditional Use and the associated Preliminary Forest Conservation Plan request to construct a residential care facility for over 16 residents. The approximately 2.67-acre site, identified as parcels P963 and P980, is located on the southeast quadrant of the intersection of Grosvenor Lane and Fleming Avenue, and is zoned Residential in the North Bethesda-Garrett Park Master Plan area. The site is currently developed with a two-story, 3,488-square foot detached residence that the applicant proposes to demolish upon approval of the proposed Conditional Use request. Access from Grosvenor Lane is provided by a paved driveway. Pedestrian access will be provided via a proposed lead-in sidewalk to be located on the northwest portion of the site. The property slopes downward to the southeast, creating an elevation change of approximately 15 feet. An existing 0.98-acre forest stand located on the north and west sides of the property screen the view of the existing house from Grosvenor Lane and Fleming Avenue.

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***6. Brightview Grosvenor, Preliminary Forest Conservation Plan and Conditional**

CONTINUED

The applicant proposes to remove 0.65 acres of the existing forest and retain the remaining 0.33 acres within a proposed Category I Conservation Easement, resulting in a planting requirement of 0.49 acres. Details regarding the fulfillment of the planting requirement will be determined at the time of Final Forest Conservation Plan approval. The applicant is also requesting a variance to remove six specimen trees and impact two onsite. The applicant will also remove a stand of invasive bamboo from an existing Category I Conservation Easement located on the adjacent historic Wild Acres site to the east, which will require a variance for the removal of an additional tree and impact to 11 others on the historic site. Staff noted that a tree that is proposed to be disturbed on the historic site will suffer Critical Root Zone (CRZ) impacts estimated at 74 percent. While the applicant proposes to retain the tree, staff and the County arborist recommend that the variance approval includes permission to remove it, if necessary, due to the difficulty of retaining a tree subject to such significant impacts. Staff then noted a discrepancy regarding the planting requirement stated in the staff report, which staff stated will be corrected in the accompanying Resolution and the Final Forest Conservation Plan.

Staff then discussed the proposed development project, stating that the applicant proposes to redevelop the site with an 85,000-square foot, 40-foot high residential care facility to accommodate 98 units for a total of 104 beds, including 29 units dedicated for residents requiring specialized memory care, 14 surface parking spaces, and 37 below grade parking spaces. Due to the grading of the property, the proposed building will be three stories with a walk-out basement, with the east side and rear of the building, which face Grosvenor Mansion and the adjacent EYA Grosvenor Heights townhome community, at four stories, and the front and west sides, which face Grosvenor Lane and Fleming Avenue, at three stories. The proposed facility will offer residents personalized services such as concierge, meals, housekeeping, and recreational activities, among others. A 15-passenger shuttle bus will be provided for daily off-site excursions and will be parked overnight onsite. Limited health care management services will be provided by on-site nurses and four visiting health care professionals. The proposed facility will operate 24 hours a day, seven days a week, with controlled access after 8:00 p.m. Sixty-five full-time employees will work in three proposed shifts. An additional five managerial staff members will work onsite from 9:00 a.m. to 5:30 p.m. Screening will be provided by a 28-foot landscape buffer along Fleming Avenue, which in addition to five existing trees will include six three-inch caliper trees, ten 2.5-inch caliper trees, 21 eight-foot tall evergreen trees, 86 shrubs, and 456 perennials and ornamental grasses. Staff received several emails from residents expressing concerns regarding excessive noise levels, increased traffic, pedestrian safety, compatibility with the surrounding neighborhood, the size of the proposed building, the setback of the proposed building, landscape buffering, and the appraisal method used for the Real Estate Appraisal Report.

Mr. Jeffrey Klein of the Fleming Park Community Association, Ms. Anne Bowker of the Wild Wood Manor Citizens Association, and Ms. Umang Malhotra, adjacent property owner, offered testimony.

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***6. Brightview Grosvenor, Preliminary Forest Conservation Plan and Conditional**

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Mr. Andrew Teeters, member of the applicant's team, offered comments.

Ms. Patricia Harris, attorney representing the applicant, addressed the speakers' concerns, offered comments, and concurred with the staff recommendation.

There followed extensive Board discussion with questions to staff, Ms. Harris, and Mr. Teeters, during which the Board directed staff to amend the start time in existing Condition 6, which prohibits waste collection and truck deliveries from 9:00 p.m. to 9: a.m., to 7:00 p.m. The Board also directed staff to include three additional conditions that prohibit smoking on the Fleming Avenue side of the building, prohibit shuttle bus idling, and require the building generator to be relocated below grade.

13. CLOSED SESSION

According to MD ANN Code, General Provisions Article, §3-305(b)(3), consider the acquisition of real property for a public purpose and matters directly related to the acquisition.

The topic to be discussed is the proposed acquisition of land an addition to Ten Mile Creek Conservation Park.

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

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

15. CLOSED SESSION

According to MD ANN Code, General Provisions Article, §§ 3-305(b)(7) and (8) to consult with legal counsel about potential litigation.

The topic to be discussed is the enforcement of a conservation easement.

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

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

***7. Kentsdale Estates Lot 38, Block D, Limited Preliminary Plan Amendment No. 11997056B (In response to a Forest Conservation Violation)** --- Request to release 56,304 square feet of Category I Conservation Easement. Proposed mitigation consists of establishing a 16,949 square feet Category II Conservation Easement on site and acquiring 95,659 square feet of forest conservation credit at an offsite M-NCPPC-approved forest conservation bank. Located on Willowbrook Drive approximately 340 feet north of the intersection of Willowbrook Drive and Paytley Bridge Lane; Potomac Sub-Region Master Plan.

Staff Recommendation: Approval with Conditions and Adoption of Resolution

BOARD ACTION

Motion: FANI-GONZÁLEZ/WELLS-HARLEY

Vote:

Yea: 4-0

Nay:

Other: DREYFUSS ABSENT

Action: Approved staff recommendation for approval of the proposed Preliminary Plan Amendment cited above, subject to conditions, and adopted the attached Resolution.

In keeping with the September 2 technical staff report, Planning Department staff offered a multi-media presentation and discussed a preliminary plan amendment request in response to a Forest Conservation violation. Staff noted that the applicant is requesting the release of 56,304 square feet of Category I Easement with proposed offsite mitigation with the acquisition of 95,659 square feet of forest mitigation bank credit at an offsite M-NCPPC approved forest conservation bank, and onsite mitigation with the establishment of a 16,949-square feet of Category II Conservation Easement. Staff note that the property is located on Willowbrook Drive, approximately 340 feet north of the intersection of Willowbrook Drive and Paytley Bridge Lane in the Potomac Sub-Region Master Plan area. Staff noted that the proposed amendment is a path toward resolving the conservation easement and does not alter any other findings of the approved preliminary plan.

Mr. Steve Robins, attorney representing the applicant, introduced Ms. Diana Epstein and Mr. Michael Epstein, the applicants, briefly discussed the proposed request, and concurred with the staff recommendation.

Mr. Michael Epstein, the applicant, also offered comments.

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

***8. Damascus Hills, No. 12004080A: Preliminary Plan Amendment** --- Preliminary Plan No. 12004080A: Application to create 7 lots for 7 one-family detached dwellings, located at the end of Stanley Hills Way, approximately 1,100 feet south of the intersection with MD 108; 42.41 acres, RC Zone, 2006 Damascus Master Plan

Staff Recommendation: Approval with Conditions and Adoption of Resolution

BOARD ACTION

Motion: FANI-GONZÁLEZ/WELLS-HARLEY

Vote:

Yea: 4-0

Nay:

Other: DREYFUSS ABSENT

Action: **Approved staff recommendation for approval of the proposed Preliminary Plan Amendment cited above, subject to conditions, and adopted the attached Resolution.**

As discussed in detail in the September 2 technical staff report, Planning Department staff offered a multi-media presentation and discussed a preliminary plan amendment request to create seven lots for seven one-family detached dwelling units on a 42.41-acre property located at the end of Stanley Hills Way, approximately 1,100 feet south of the intersection with MD108 in the Damascus Master Plan area. Staff noted that the applicant is requesting the Planning Board to make a finding that it is not possible to meet the on-site forest retention as required by Section 22A-12(f)(3) of the Forest Conservation Law, which requires that a minimum of 25 percent of the site be retained as forest. Staff supports the applicant's request since there are only 12.3 acres of existing forest on the property, it is not possible to retain 25 percent of the net tract area. The applicant is required to plant 0.8 acres of forest and is offering an additional 1.02 acres of forest planting for not meeting the retention requirement. A total of 14.42 acres of existing forest and forest planting will be protected through a combination of 8.68 acres of Category I Conservation Easement and through park dedication.

Mr. James Clifford, attorney representing the applicant, introduced Mr. David McKee, member of the applicant's team, offered brief comments and concurred with the staff recommendation.

Legal Department staff also offered brief comments.

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

9. Zoning Text Amendment No. 16-09 --- Revise the number and the placement of location signs on buildings located in Commercial/Residential, Employment, and Industrial zones.

Staff Recommendation: Transmit Comments to County Council

(NOTE: Action required for County Council Public Hearing on 9/20/16)

BOARD ACTION

Motion: WELLS-HARLEY/FANI-GONZÁLEZ

Vote:

Yea: 4-0

Nay:

Other: DREYFUSS ABSENT

Action: Approved staff recommendation to transmit comments to the County Council prior to its Public Hearing scheduled for September 20, 2016, as stated in the attached transmittal letter.

Planning Department staff discussed a proposed Zoning Text Amendment (ZTA 16-09) which would revise the number and the placement of location signs on buildings located in Commercial/Residential Employment and Industrial (CR/EI) zones. Staff noted that the ZTA would allow a location sign, a wall sign at least 26 feet from the ground, in CR/EI zones on each face of a building. A location sign is a sign which portrays a logo, symbol, name, or address to identify the location of the building or its use. Currently, as interpreted by the Department of Permitting Services (DPS), a building in a CR/EI zone may have one location sign for the building and must be located over an entrance to the building. However, if the sign is placed on a wall at a location more than 26 feet from the ground, it must be at least 10 feet below the eave or parapet and at least 10 feet from the corner of the building.

The sponsor of the ZTA believes that a number of these conditions are too restrictive and that the proposed ZTA would give building owners the ability to place a sign on each building face for the major tenants in their building, and would also provide a significant enticement for major tenants to rent in Montgomery County. The proposed ZTA would also remove the requirement that a sign be located at least 10 feet below the top of a building.

There followed a brief Board discussion with questions to staff.

10. Zoning Text Amendment No. 16-10 --- Modify the Transferable Development Rights (TDRs) Overlay zone to clarify when the requirements under optional method Moderately Priced Dwelling Units (MPDUs) development must be followed and correct the minimum common open space requirements for optional method development using Transferable Development Rights.

Staff Recommendation: Transmit Comments to County Council

(NOTE: Action required for County Council Public Hearing on 9/20/16)

BOARD ACTION

Motion: CICHY/ FANI-GONZÁLEZ

Vote:

Yea: 4-0

Nay:

Other: DREYFUSS ABSENT

Action: Approved staff recommendation to transmit comments to the County Council prior to its Public Hearing scheduled for September 20, 2016, as stated in the attached transmittal letter.

Planning Department staff discussed a proposed Zoning Text Amendment (ZTA 16-10) which will modify the Transferable Development Rights (TDRS) Overlay zone to clarify when the requirements under the optional method Moderately Priced Dwelling Units(MPDUs) development must be followed, and correct the minimum common open space requirements for optional method development using TDRs. Staff noted that the proposed ZTA would amend the optional method for the TDRs Overlay zone by reducing the required common open space area. The 2014 Zoning Ordinance Rewrite redefined common open space to exclude private green space without appropriately adjusting the amount of space required for common open space, The County Council partially corrected this problem by approving ZTA 15-09 on December 1, 2015. However, ZTA 15-09 inadvertently omitted making the appropriate open space percentage adjustments to the TDR Overlay zone. This proposed amendment would correct that oversight by reducing the minimum common open space requirements for the TDR designations in the Rural/Residential and Residential zones consistent with changes made in ZTA 15-09. The ZTA would also clarify when the requirements under optional method MPDU development must be followed when developing under the TDR Overlay zone. As currently adopted, in a Rural/Residential or Residential zone, development using TDRs and providing MPDUs above 12.5 percent must follow the requirements under the optional method MPDU development.

There followed a brief Board discussion with questions to staff.

11. Zoning Text Amendment No. 16-14 --- Clarify that a special exception approved under the prior zoning code may be expanded under the procedures and substantive provisions of the prior zoning code.

Staff Recommendation: Transmit Comments to County Council

(NOTE: Action required for County Council Public Hearing on 9/20/16)

BOARD ACTION

Motion: FANI-GONZÁLEZ/WELLS-HARLEY

Vote:

Yea: 4-0

Nay:

Other: DREYFUSS ABSENT

Action: Approved staff recommendation to transmit comments to the County Council prior to its Public Hearing scheduled for September 20, 2016, as stated in the attached transmittal letter.

Planning Department staff discussed a proposed Zoning Text Amendment (ZTA 16-10) which would clarify that a Special Exception approved under the prior zoning code may be expanded under the procedures and substantive provisions of the prior Zoning Code. The Hearing Examiner and the Board of Appeals request clarification of the Zoning Code’s grandfathering provision. The Hearing Examiner holds the opinion that all Special Exceptions expansions above the lesser of 10 percent of the gross floor area, or 30,000 square feet of floor area, require the development to proceed under the new Zoning Code. The Board of Appeals believes that it must decide such expansions under the old Zoning Code unless the applicant chooses to proceed under the new code. One of the differences between the new and the old code is that the jurisdiction of the Hearing Examiner and the Board of Appeals changes. The Hearing Examiner has jurisdiction of the conditional uses under the new code, and the Board of Appeals decides all Special Exceptions under the old code. The proposed ZTA would codify the Board of Appeals’ understanding of the current code and allow Special Exception expansions for applications submitted or approved before October 30, 2014, to proceed under the old code.

Staff noted that if the County Council believes that the proposed policy should be implemented, staff would recommend clarification of two issues prior to adoption of the ZTA, i.e., does the ZTA apply to an expansion of the use only or does it also allow expansions of a structure beyond 10 percent or 30,000 square feet of floor area; will the expansion provision remain in effect indefinitely, as currently drafted, or will it sunset on October 30, 2039. In addition, the language in proposed Section 7.7.1.C.5 should be broadened to also cover existing Special Exceptions that may have been approved prior to the 2004 Zoning Ordinance.

At the Board’s request. Legal Department staff offered clarification regarding the requirements under the former and the updated Zoning Ordinance.

There followed a brief Board discussion with questions to staff.

~~*12. 8015 Old Georgetown~~ **REMOVED**

~~**A. Preliminary Plan No. 120160220**, 8015 Old Georgetown Road, PD-44 Zone, 2.0 acres, Request for 53,000 square feet of development for a religious/institutional building and a maximum of 107 multi-family dwelling units, including a minimum of 15 percent MPDUs; located at 8015 Old Georgetown Road near the northeast quadrant of the intersection with Glenbrook Road, 1994 Bethesda CBD Master Plan and 2006 Woodmont Triangle Amendment
Staff Recommendation: Approval with Conditions~~

~~**B. Site Plan No. 820160090**, 8015 Old Georgetown Road, CR 1.0 C 1.0 R 0.75 H 160 Zone, 19.38 acres, Request for 53,000 square feet of development for a religious/institutional building and a maximum of 107 multi-family dwelling units, including a minimum of 15 percent MPDUs; located at 8015 Old Georgetown Road near the northeast quadrant of the intersection with Glenbrook Road, 1994 Bethesda CBD Master Plan and 2006 Woodmont Triangle Amendment
Staff Recommendation: Approval with Conditions~~

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: **This Item was removed from the Planning Board agenda.**