



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, February 21, 2019, at 8:59 a.m. in the Montgomery Regional Office in Silver Spring, Maryland, and adjourned at 11:39 a.m.

Present were Chair Casey Anderson, and Commissioners Natali Fani-González, Gerald R. Cichy, and Tina Patterson.

Vice Chair Norman Dreyfuss was necessarily absent.

Items 1 through 6 are reported on the attached agenda.

There being no further business, the meeting was adjourned at 11:39 a.m. The Thursday February 28, 2019 meeting was cancelled, and the next regular meeting of the Planning Board will be held on Thursday, March 7, 2019, in the Montgomery Regional Office in Silver Spring, Maryland.


James J. Parsons
Sr. Technical Writer/Editor

**Montgomery County Planning Board Meeting
Thursday, February 21, 2019
8787 Georgia Avenue
Silver Spring, MD 20910-3760
301-495-4600**

1. Consent Agenda

***A. Adoption of Resolutions**

1. Checkers Restaurant Site Plan 820180210 – MCPB No. 19-004

BOARD ACTION

Motion: FANI-GONZÁLEZ/CICHY

Vote:

Yea: 4-0

Nay:

Other: DREYFUSS ABSENT

Action: Adopted the Resolution cited above, as submitted.

***B. Record Plats**

Subdivision Plat No. 220180830, Highland Park

CR zone, 1 lot; located in the southeast quadrant of the intersection of Wisconsin Avenue (MD 355) and Montgomery Avenue (MD 410); Bethesda Downtown Master Plan. **Staff**

Recommendation: Approval

BOARD ACTION

Motion: PATERSON/FANI-GONZÁLEZ

Vote:

Yea: 4-0

Nay:

Other: DREYFUSS ABSENT

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

***C. Other Consent Items**

1. Bethesda Market, Sketch Plan No. 320190030, Extension Request No. 2---CR 3.0 C 3.0 R 2.75 H 35, CR 3.0 C 3.0 R 2.75 H 175, CRT 0.5 C 0.25 R 0.5 H 70, CR 3.0 C 2.0 R 2.75 H 90, CR 3.0 C 3.0 R 2.75 H 225, and CR 3.0 C 3.0 R 2.75 H 200 zones and the Bethesda Overlay zone, 6.32 acres, Second request to extend review of up to 692,500 square feet of total development, with up to 650,000 square feet of multi-family residential uses with 15 percent MPDUs, 42,500 square of non-residential, and a request of density from the Bethesda Overlay Zone; located at the intersection of Wisconsin Ave and Bethesda Ave and Willow Lane, 46th Street and Leland Street; 2017 Bethesda Downtown Sector Plan.

Staff Recommendation: Approval with Conditions

2. Viasat: Site Plan Amendment No. 82018011A---Amendment to remove a vehicle drop-off lane, adjust pedestrian circulation between the parking garage and building, relocate the trash enclosure, adjust the multi-use trail route and minor landscaping and lighting adjustments; on approximately 5.8 acres; CR 0.75, C-0.5 R-0.5 H-145T and Germantown Transit Mixed Use Overlay Zone, but reviewed under the TMX-2 zone; 2009 Germantown Employment Area Master Plan.

Staff Recommendation: Approval of the Site Plan Amendment

BOARD ACTION

**Motion: 1. PATTERSON/FANI-GONZÁLEZ
2. FANI-GONZÁLEZ/PATTERSON**

Vote:

Yea: 1 & 2. 4-0

Nay:

Other: DREYFUSS ABSENT

Action: 1. Approved staff recommendation for approval of the Sketch Plan Extension request cited above.

2. Approved staff recommendation for approval of the Site Plan Amendment cited above, subject to conditions, as stated in the attached adopted Resolution.

***D. Approval of Minutes**

Planning Board Meeting Minutes of February 7, 2019

BOARD ACTION

Motion: FANI-GONZÁLEZ/PATTERSON

Vote:

Yea: 3-0

Nay:

**Other: DREYFUSS ABSENT
CICHY ABSTAINED**

Action: Approved Planning Board Meeting Minutes of February 7, 2019, as submitted.

2. Roundtable Discussion

- Planning Director's Report

BOARD ACTION**Motion:****Vote:****Yea:****Nay:****Other:****Action: Received briefing.**

Planning Department Director's Report – Planning Department Director Gwen Wright briefed the Board on the following ongoing and upcoming Planning Department events and activities: an upcoming walking tour of murals in Downtown Silver Spring scheduled for the spring; the status of the Veirs Mill Corridor Master Plan, with County Council worksessions pending; the status of the MARC Rail Communities Sector Plan, with a County Council tour of the Plan area scheduled for next week, and Council worksessions scheduled to begin in March; the status of the Forest Glen/Montgomery Hills Sector Plan, with the working draft scheduled to be presented to the Planning Board at the end of March, and a Planning Board public hearing and worksessions to follow; the status of the Germantown Plan for the Town Sector Zone, which is scheduled to be presented to the Planning Board in the spring; the status of upcoming regulatory cases, including the Westwood Shopping Center and VOB-Grand Park projects, among others; and the status of the Update to the General Plan, with outreach strategies to be presented to the Planning Board at an upcoming meeting, and the strategic framework and trends report to be presented to the County Council at a yet to be determined date.

Ms. Molline Jackson, Public Art Coordinator, then offered a brief multi-media presentation and discussed recent updates to the public art section of the Montgomery Planning website, including an introductory video, new photographic images, and an upgraded interactive map of existing County public art. Upcoming public art related events include the Just Economy Conference scheduled for March 12 in Silver Spring, which will cover such topics as affordable studio space for public artists.

Ms. Jackson then introduced Ms. Judy Sutton Moore, public artist and member of the Art Review Panel, who offered brief comments regarding public art.

There followed a brief Board discussion with questions to Ms. Wright and Ms. Moore, during which Commissioner Patterson requested an update on the planned Audio/Visual improvements proposed for the MRO auditorium.

3. Spring 2019 Semiannual Outline Presentation

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: Received briefing from Planning and Parks Departments staff on the proposed outlines for the upcoming Spring 2019 Semi-Annual Report, followed by a brief Board discussion, and provided guidance to staff.

4. **Warrior One Yoga: CU-19-06---**Request to approve a Conditional Use for a major home occupation to operate a yoga studio in the R-200 zone, located at 12632 Falconbridge Drive, (North Potomac), Gaithersburg, MD 20866, within the Potomac Sub-Region Master Plan.

Staff Recommendation: Approval with Conditions

(NOTE: Action Required for Public Hearing by Hearing Examiner of March 4, 2019)

BOARD ACTION

Motion: FANI-GONZÁLEZ/CICHY

Vote:

Yea: 4-0

Nay:

Other: DREYFUSS ABSENT

Action: 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 a Conditional Use request to operate a yoga studio in a residence. The 0.32-acre site is located on the southeast quadrant of Falconbridge Road and Falconbridge Terrace and is zoned Residential in the Potomac Sub-Region Master Plan area. The property is currently developed with a 3,220-square foot detached single-family home with an attached two-car garage, which is accessed via a 70-foot long, 15-foot wide private driveway from Falconbridge Road. According to staff, the property owner obtained an approved low-impact home occupation certificate in 2017 that permits up to five client visits per day, up to 20 client visits per week, one on-site non-resident employee in any 24-hour period, and a maximum of two non-resident vehicles parked on the lot at the same time. Following several zoning violation complaints concerning the number of visitors at one time associated with the home occupation, the Department of Permitting Services (DPS) issued a citation in January of this year. That citation was resolved and closed with the filing of the Conditional Use application under review today.

Staff noted that the applicant is requesting approval for a major-impact home occupation, which will allow the expansion of the existing home occupation for a maximum of six 75-minute sessions with up to ten clients per week, for a maximum of 60 client visits per week. The applicant has informed staff that typical sessions normally consist of four to six clients. However, occasional classes conducted in the past for charitable purposes have had up to 12 attendees. It is for this reason that the applicant is seeking approval for up to 10 clients per session. All sessions will be conducted within the residence in a 378-square foot dedicated yoga studio room. The studio will operate Monday, Wednesday, and Friday from 9:15 to 10:30 a.m., with an additional session from 7:45 to 9:00 p.m. on Mondays; Thursday from 5:00 to 6:15 p.m.; and Saturday from 8:45 to 10:00 a.m. Parking will be provided by five spaces on the existing

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4. Warrior One Yoga: CU-19-06CONTINUED

driveway, three additional street parking spaces located on Falconbridge Road, and two additional street parking spaces on Falconbridge Terrace. No new construction is proposed with the application. Staff noted that while they generally support the applicant's request, they recommend that the proposed use be limited to no more than 40 visitors per week.

Staff did receive six letters from neighboring property owners in opposition to the proposed expansion expressing concerns regarding pedestrian safety, parking, increased traffic during school arrival and departure times, locating a commercial establishment within a residential area, and potential conflicts with homeowners association covenants and restrictions. Staff addressed each of these issues, as detailed in the February 11 technical staff report.

Mr. Benjamin Klopman, attorney representing the applicant, Ms. Natasha Romano, also present, offered comments and concurred with the staff recommendation but requested that the maximum number of weekly visitors be increased to 60.

Ms. Romano also offered comments.

The following speakers offered testimony: Mr. Jay Shankman of Tuckahoe Way; Mr. Robert Placious of Upper Rock Circle; Ms. Sarah Harrington of Turkey Foot Road; Mr. Kevin Platt of Bluff Avenue; and Ms. Sandra Thomas of Straw Bale Lane.

There followed a brief Board discussion with questions to staff, Mr. Klopman, and Ms. Romano, during which the Board instructed staff to include a recommendation in the comments that the Conditional Use allow up to 60 visitors per week.

5. Planning Board Briefing on the DRAFT Planning Board Guidelines for Burial Sites and Inventory of Burial Sites

Staff Recommendation: Review the DRAFT Planning Board Guidelines for Burial Sites and Inventory of Burial Sites and Provide Comments for Staff

BOARD ACTION**Motion:****Vote:****Yea:****Nay:****Other:****Action: Received briefing followed by discussion.**

Following brief introductory comments, staff introduced Ms. Eileen McGuckian, At-Large President of Montgomery Preservation, Incorporated (MPI), who offered a multi-media presentation and discussed the Planning Board Draft of the Burial Site Inventory. Ms. McGuckian offered background information regarding comprehensive inventories of the County's burial sites, including a 2004 volunteer project led by Peerless Rockville Historic Preservation, Ltd., that resulted in the identification of 269 cemeteries, the creation of a cemetery database and a Geographic Information System (GIS) map, the creation of a watch list of most-threatened cemeteries, the development of protection and preservation strategies, and the compilation of data on various formats for public access. In 2018, MPI began the intensive Montgomery County Cemetery Inventory Revisited (MCCI-R) volunteer program, which has identified 55 additional burial sites, surveyed 12 of the County's 16 relocated cemeteries, and located 22 of the County's lost cemeteries. Recommendations from the MCCI-R project include continued maintenance of cemetery data for public access; the Planning Board appointment of a cemetery advisory group; the creation of site groupings, such as endangered sites, African-American cemeteries, and sites that are candidates for GPS surveys, mapping, and improvements; enforcement of existing State and local cemetery protection laws; the addition of cemeteries to County tax maps; and funding for cemetery maintenance and restoration.

The next steps for MCCI-R include a Volunteer Appreciation event scheduled for February 23 at the Red Brick Courthouse in Rockville, continued maintenance of the existing cemetery data, continued work with the Planning Board in the finalization and establishment of the Guidelines and Inventory, and the promotion of cemetery preservation through educational workshops.

Staff then briefly discussed the proposed draft of the Burial Sites Guidelines, which will establish procedures and policies for making an electronic Burial Sites Inventory available to the public, making additions or exclusions to the Inventory, adequately establishing the location of

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5. Planning Board Briefing on the DRAFT Planning Board Guidelines for Burial Sites and Inventory of Burial SitesCONTINUED

burial sites, and establishing standards to ensure adequate preservation and maintenance of existing burial sites. The next steps for the proposed Guidelines include direct mailing to property owners enumerated by the Maryland State Department of Assessments and Taxation; two public open houses, the first scheduled for March 26 in Silver Spring, with the date and location of the second open house to be determined; an online survey; targeted outreach to stakeholders, the National Association for Industrial and Office Parks, and archaeologists statewide; and the formal adoption of the Inventory and the Guidelines in April or May.

There followed extensive Board discussion with questions to staff and Ms. McGuckian, during which the Board recommended that staff host a third open house. The Board also recommended that the Guidelines be consulted by the State's Attorney's Office, local law enforcement, and the Montgomery County Department of Permitting Services if and when human remains are found, and that it be clearly stated that Guideline recommendations do not apply to verified homicide crime scenes.

6. Zoning Text Amendment No. 19-02: Clinics - Limited Use in Residential Zones---
 ZTA 19-02 amends the Montgomery County Zoning Ordinance to allow medical and dental clinics as a limited use in Residential Zones and establish standards for medical and dental clinics as a limited use in Residential zones.

Staff Recommendation: Transmit Comments to County Council

(NOTE: Action required for County Council public hearing of February 26, 2019)

BOARD ACTION

Motion: PATERSONFANI-GONZÁLEZ

Vote:

Yea: 4-0

Nay:

Other: DREYFUSS ABSENT

Action: Approved staff recommendation to transmit comments to the County Council, as stated in the attached transmittal letter.

Planning Department staff discussed a proposed Zoning Text Amendment (ZTA) request to amend the Montgomery County Zoning Ordinance to allow and establish standards for medical and dental clinics as a limited use in Residential Zones. Staff noted that under the previous Zoning Code, an accessory use could be any use that was incidental and subordinate to the principal use, which allowed medical and dental clinics as accessory uses to some institutional uses. However, under the current Zoning Code, any permitted or limited use in a zone may be an accessory use to any other use in the same zone. Rather than allowing any incidental or subordinate use as an accessory use as the previous Zoning Code did, ZTA 19-02 would apply the accessory use rules only for clinics with four or more medical practitioners in large residential care facilities with over 16 residents, charitable or philanthropic institutions, large day care centers with over 30 attendees, private educational institutions, or places of religious assembly.

Staff noted that while they do not object to allowing clinics in these types of facilities, they are unclear on how allowing four or more medical practitioners as an accessory to a principal use that is governed by special exception or conditional use provisions will impact the existing conditions of approval, including traffic and parking concerns. To that end, staff recommended that the proposed legislation should clarify that the accessory use must also adhere to the Minor Amendment provisions of a conditional use or special exception, as applicable. Staff also recommended that the proposed ZTA limit the number of medical practitioners allowed as an accessory use to a permitted or limited principal use to less than four, and to limit the maximum floor area for all accessory use clinics to five percent or less of the floor area of the principle use.

There followed a brief Board discussion with questions to staff.