



MONTGOMERY COUNTY PLANNING BOARD
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

**APPROVED
MINUTES**

The Montgomery County Planning Board met in regular session via Microsoft Teams video conference on Thursday, May 21, 2020, at 9:02 a.m., and adjourned at 11:39 a.m.

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

Items 1, 2, 4, and 5 are reported on the attached agenda.

Item 3 was removed from the Planning Board agenda.

There being no further business, the meeting was adjourned at 11:39 a.m. The next regular meeting of the Planning Board will be held on Thursday, May 28, 2020, via video conference.

James J. Parsons

James J. Parsons
Sr. Technical Writer/Editor

Montgomery County Planning Board Meeting
Thursday, May 21, 2020
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**

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: There were no Record Plats submitted for approval.

***C. Other Consent Items**

1. Clarksburg Fire Station #35: Final Forest Conservation Plan Amendment No.

MR2020025---Amendment to extend a stormdrain and to revise the off-site planting requirement in Planning Board Condition 2 of the Resolution MCPB No. 16-073 dated June 24, 2016 for MR2012001; Property located at 23420 Frederick Road (MD 355); 3.99 acres; CRN Zone and Clarksburg East Environmental Overlay Zone; Clarksburg Master Plan & Hyattstown Special Study Area (1994) and 10 Mile Creek Area Limited Amendment Master Plan (2014).

Staff Recommendation: Approval with Conditions and Adoption of Resolution

2. Adoption of Corrected Resolution for The Shops at Sumner Place Site Plan 820200060 MCPB No. 20-016

BOARD ACTION

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

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

Nay:

Other:

Action: **1. Approved staff recommendation for approval of the Final Forest Conservation Plan Amendment cited above, subject to conditions, and adopted the attached Resolution.**

2. Adopted the corrected Resolution cited above, as submitted.

***D. Approval of Minutes**

Planning Board Meeting Minutes of May 7, 2020

BOARD ACTION

Motion: CICHY/FANI-GONZÁLEZ

Vote:

Yea: 4-0

Nay:

Other: PATTERSON ABSTAINED

Action: Approved Planning Board Meeting Minutes of May 7, 2020, as submitted.

2. Roundtable Discussion

A. Planning Department Director's Report

B1. Operating Funds Nine Month Financial Report Including Projections to June 30, 2020

B2. Enterprise Funds Nine Month Financial Report Including Projections to June 30, 2020

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: Received briefing.

A. Planning Department Director’s Report – Planning Department Director Gwen Wright offered a multi-media presentation and briefed the Board on the following ongoing and upcoming Planning Department events and activities: the status of the Thrive Montgomery 2050 Update to the General Plan, specifically the Spring 2020 Distance Engagement activities, including the online Pints with a Planner event held on April 28, the recent Ask Me Anything Virtual Town Hall events held on May 15, 18, and 20, with an upcoming Spanish language session featuring Vice Chair Fani-González scheduled for May 23, and ongoing social media and digital advertising work, with the promotion of goals, policies, and actions, continued outreach to stakeholders, and virtual community chats with working groups scheduled through June; the recent presentation of two Awards of Excellence and four Awards of Distinction to the Planning Department Communications Team from Communicator Awards, a leading international awards program; the status of the Advancing the Pike District initiative, with an online community meeting held on May 19 that featured County Councilmember Andrew Friedson; the status of the Corridor Forward Plan and the recent unveiling of a live interactive online mapping tool for I-270 commuting patterns; and the status of the Spring 2020 Photo Contest, with this year’s theme titled “Spring in the Time of Quarantine.”

There followed a brief Board discussion with questions to Ms. Wright.

B1. & B2. Operating Funds and Enterprise Funds Nine-Month Financial Report Including Projections to June 30, 2020 – Commission Secretary-Treasurer Joseph C. Zimmerman briefly discussed the Nine-Month Financial Reports for the FY20 Operating Funds and the Enterprise Funds, including projections to June 30, 2020, as detailed in the May 1 memoranda to the Montgomery County Planning Board.

There followed a brief Board discussion with questions to Mr. Zimmerman.

3. ~~Bond Sale~~ **REMOVED**

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

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

***4. The Collection I & II**

A. The Collection I, Site Plan No. 82001021H---TSM zone, 4.78 acres, Request to reallocate 3,737 square feet of retail uses to restaurant uses without increasing commercial square footage, expand outdoor dining areas, adjust public use space, decrease parking, and adjust hardscape, landscaping, and lighting to accommodate changes associated with the Amendment; located at the intersection of Wisconsin Avenue and Wisconsin Circle; Friendship Heights Sector Plan. *Staff Recommendation: Approval with Conditions and Adoption of Resolution*

B. The Collection II, Site Plan No. 82001013F---CBD-1 zone, 3.44 acres, Request to reallocate 1,152 square feet of retail uses to restaurant uses without increasing commercial square footage, expand outdoor dining areas, adjust public use space, decrease parking, and adjust hardscape, landscaping, and lighting to accommodate changes associated with the Amendment; located at the intersection of Wisconsin Avenue and Wisconsin Circle; Friendship Heights Sector Plan. *Staff Recommendation: Approval with Conditions and Adoption of Resolution*

BOARD ACTION

Motion: A. & B. FANI-GONZÁLEZ/VERMA

Vote:

Yea: A. B. 4-0-1

Nay: A. & B. PATTERSON

Other:

Action: A. & B. Approved staff recommendation for approval of the Site Plans cited above, subject to conditions, and adopted the attached Resolutions.

Planning Department staff offered a multi-media presentation and discussed proposed Minor Site Plan Amendment requests to modify the previously approved amount of public use space, outdoor dining space, retail and restaurant square footage, and parking, and to make associated landscape, hardscape, and parking layout modifications for an existing shopping center. The 10.35-acre property is located on the northeast quadrant of the intersection of Wisconsin Avenue (MD355) and Wisconsin Circle and is zoned Commercial/Residential (CR) in the Friendship Heights Sector Plan area. According to staff, the approved Site Plans were submitted prior to the adoption of the 2014 Zoning Ordinance. The property was previously split-zoned Transit Station Mixed (TS-M) on the northern portion of the site, identified as the Collection I, and Central Business District 1.0 (CBD-1) on the southern portion of the site, identified as the Collection II, with the Chevy Chase Neighborhood Retail Preservation Overlay Zone over the Collection II portion. The site is currently developed with the Collection shopping center, which includes a vacant supermarket, several restaurants, and retail development. Staff

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***4. The Collection I & II**CONTINUED

noted that the Amendments under review today are the latest in a series of modifications to the shopping center dating back to 2001, which have addressed updates to public art, park space, parking calculation, the incorporation of outdoor seating, and other improvements. At each previous amendment review, the Planning Board has found that the findings of the original approvals, including those of the Friendship Heights Sector Plan, have remained intact as updated by the amendments.

Staff noted that the applicant proposes to amend the Site Plans to provide flexibility for additional restaurant space with minor modifications to landscaping and hardscaping to expand outdoor private dining space, which will run the length of the façade and wrap around the building along a portion of the internal public use space and MD355 frontage, with a small portion of the façade near the grocery store to be available for use as potential café seating associated with the grocery store use. Also to accommodate the expansion of private outdoor dining, the applicant proposes to decrease public use space by 6,415 square feet on the Collection I portion and by 2,848 square feet on the Collection II portion, to reallocate 3,737 square feet of retail density on the Collection I portion and 1,152 square feet on the Collection II portion to restaurant uses, and to modify the parking layout while providing a minimum of 1,186 parking spaces.

Staff received numerous inquiries from neighboring property owners about the proposed project expressing concerns regarding public participation in the planning process, the proposed reduction of public space, potential encroachment into pedestrian walkways, the proposed reduction in parking, and removal of trees. Staff stated that each of these concerns are addressed in the May 11 technical staff report.

The following speakers offered testimony: Mr. Lloyd Guerci, representing the Citizens Coordinating Committee of Friendship Heights, who offered a multi-media presentation; the Honorable Jeffrey Slavin, Mayor of the Town of Somerset; and Ms. Julie Davis, representing the Somerset House Condominiums, who also offered a multi-media presentation.

Mr. Steve Robins, attorney representing the applicant, offered comments and concurred with the staff recommendation.

Messrs. Joshua Sloan, Thomas Regnell, and Jeff Whitman, members of the applicant's team, also offered comments and answered questions from the Board.

There followed extensive Board discussion with questions to staff and Mr. Robins.

5. Staff Draft of Amended Administrative Regulations for Chapter 22A, Forest Conservation – Staff Presentation

Staff Recommendation: Approval to Release the Draft Regulations for Public Review as the Public Hearing Draft and to Tentatively Schedule the Planning Board’s Public Hearing on the Draft No Earlier Than June 25, 2020

BOARD ACTION

Motion: CICHY/FANI-GONZÁLEZ

Vote:

Yea: 5-0

Nay:

Other:

Action: Approved staff recommendation for approval of the Staff Draft of the Amended Administrative Regulations for Chapter 22A, Forest Conservation, as the Planning Board Public Hearing Draft and set the Public Hearing date for no earlier than June 25, 2020.

Planning Department staff offered a multi-media presentation and discussed proposed amendments to the administrative regulations for Chapter 22A of the Montgomery County Code, the Forest Conservation Law. According to staff, the Planning Board adopted the Forest Conservation Regulations in 2001, which were subsequently approved by the Montgomery County Council. The regulation details the Planning Department’s practices for reviewing and processing Natural Resources Inventories/Forest Stand Delineations (NRI/FSDs), exemptions from submitting a Forest Conservation Plan (FCP), and FCPs submitted to comply with the Forest Conservation Law. Since 2001, the Forest Conservation Law has been amended numerous times to update the law with relevant changes to the State’s enabling legislation – the Forest Conservation Act, the Zoning Code, the Subdivision of Land Code, and to clarify sections of the law. However, the Forest Conservation Regulations have not been updated since 2001. The proposed changes under review today will align the Forest Conservation Regulations with the amended and up-to-date Forest Conservation Law.

Staff noted that they are presenting two sets of draft amendments to the Forest Conservation Regulations today, the first set approved by the Planning Board in 2018, prior to proposed major changes to the Forest Conservation Act, and a second set of new changes, which incorporate the proposed and required changes to the County’s Forest Conservation Law, which were approved by the Planning Board on February 7, 2020, and transmitted to the County Council. Staff then discussed the more substantive revisions, which include changes to the Application section that clarify the development activities, or plan types, that are subject to the Forest Conservation Law, and where proposed buildings and infrastructure shown on FCPs must

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5. Staff Draft of Amended Administrative Regulations for Chapter 22A, Forest Conservation – Staff Presentation

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be located to avoid environmentally sensitive areas; changes to the General Forest Plan Provisions section that remove natural regeneration from the list of strategies to fulfill an FCP, but allows applicants to receive credit towards survivability requirements for any natural regeneration that does occur within planting areas, and incorporate recent proposed amendments to the Forest Conservation Law; changes to the Forest Conservation Plan Requirements section to allow an FCP to show either conceptual or final grading, require that mitigation trees be shown on a Preliminary FCP if required, require that FCPs include distance from trees greater than 24 inches to Limits of Disturbance (LOD), add removal of protective deer caging to the potential requirements of a maintenance plan, and require applicants who must acquire approval of an FCP to follow noticing requirements.

Staff then discussed changes to the Inspections section which clarify that the Planning Department Director can conduct inspections at any time, and that the developer must contact the Planning Department before removing any tree protection measures, incorporate the new inspection included in recent proposed amendments to the Forest Conservation Law, and incorporate semi-annual reporting requirements associated with the maintenance and management agreement into the Forest Conservation Regulation; changes to the Exemptions from Submitting a Forest Conservation Plan section to clarify the meaning of a FCP exemption, and incorporate the new FCP exemption expiration, which was included in recent proposed amendments to the Forest Conservation Law; changes to the Declaration of Intent section that clarify that a project for which a Declaration of Intent (DOI) is submitted is not exempt from the entire Forest Conservation Law, update the list of exemptions that require a DOI, clarify starting date of the DOI, and specify the enforcement actions the Planning Department Director or the Planning Board may take if a DOI is violated; changes to the Maintenance and Management Agreements section that require the maintenance and management agreement to be submitted and approved prior to any land disturbance activities, and clarify how financial security is calculated and released; and changes to the Forest Conservation Maintenance and Management Agreements sections that lengthen binding maintenance agreement to five years unless reduced pursuant to the Forest Conservation Law, add control of non-native invasive vegetation as a possible maintenance agreement requirement, and add mitigation trees to the list of items for which financial security is required.

There followed extensive Board discussion with questions to staff.