

Montgomery County Planning Board

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

APPROVED MINUTES AND SUMMARY

SUMMARY

Thursday, January 12, 2023

2425 Reedie Drive
Wheaton, MD 20902
301-495-4605

The Montgomery County Planning Board met in regular session in the Wheaton Headquarters Building in Wheaton, Maryland, and via Microsoft Teams video conference on Thursday, January 12, 2023, beginning at 9:08 a.m. and adjourned at 3:07 p.m.

Present were Chair Jeff Zyontz, Vice Chair Amy Presley, and Commissioners Cheri Branson, David Hill, and Roberto Piñero.

Items 1 through 4, 6, 5, 7, and 8 were discussed in that order and reported in the attached Minutes.

Vice Chair Presley was necessarily Absent for Items 1-4 and joined the meeting during Item 6 at 10:25 a.m.

The Planning Board recessed for lunch at 12:18 p.m. and reconvened in the auditorium and via video conference at 1:18 p.m. to discuss Items 10 and 11 as reported in the attached Minutes.

Item 9 was removed from the agenda.

There being no further business, the meeting was adjourned 3:07 p.m. The next regular meeting of the Planning Board will be held on Thursday, January 19, 2023, in the Wheaton Headquarters Building in Wheaton, Maryland, and via video conference.

Rachel Roehrich

Rachel Roehrich
Technical Writer/Legal Assistant

MINUTES

Item 1. Preliminary Matters

A. Adoption of Resolutions

White Oak Self Storage Forest Conservation Plan H-147 – MCPB No. 23-001

BOARD ACTION

Motion: Hill/Branson

Vote: 4-0

Other: Vice Chair Presley Absent.

Action: Adopted the Resolution cited above, as submitted.

B. Approval of Minutes

BOARD ACTION

Motion:

Vote:

Other:

Action: There were no Minutes submitted for approval.

C. Other Preliminary Matters

BOARD ACTION

Motion:

Vote:

Other:

Action: There were no Other Preliminary Items submitted for approval.

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Item 2. Record Plats (Public Hearing)

BOARD ACTION

Motion:

Vote:

Other:

Action: There were no Record Plats submitted for approval.

Item 3. Regulatory Extension Requests (Public Hearing)

BOARD ACTION

Motion:

Vote:

Other:

Action: There were no Regulatory Extension Requests submitted for approval.

Item 4. Roundtable Discussion

Planning Director's Report

T. Stern

BOARD ACTION

Motion:

Vote:

Other: Vice Chair Presley Absent.

Action: Received briefing.

Acting Planning Director Tanya Stern gave a brief overview of an initiative the Planning Department has had for many years called Design Excellence. Acting Director Stern then introduced Paul Mortenson, Special Program Coordinator for Urban Design and leader of the Design Excellence initiative to present the presentation.

Mr. Mortenson presented a multi-media presentation regarding the Design Excellence initiative, which has become increasingly important as developable land in Montgomery County is shrinking. Some of the goals for Design Excellence include a focus on architecture's role in the design of neighborhoods and communities, creating high quality building designs, and establishing design criteria that evaluates projects passing through development review.

Design Excellence has been incorporated into many Planning initiatives such as: Thrive Montgomery 2050, Master Plans and Master Plan Guidelines, policy review and modifications, and regulatory development review. Design Excellence has been proven most significant during the Development Design Review stage of projects in which original submitted plans can be modified to align with the Design Excellence goals. Some examples of Development Design Review projects that were modified to incorporate Design Excellence goals include Battery Lane C, Wheaton Headquarters, and Marriott Headquarters.

The Design Excellence program also promotes photo contests with Planning Department staff which have different focus themes each year. Staff is encouraged to participate for recognition and awards, and the work product received from the photo contests is often used as a source for examples for staff projects.

Lastly, Mr. Mortenson noted the Design Excellence Awards will take place at Wheaton Headquarters on October 19, 2023, with submissions due by July 2023. The Design Excellence Awards bring together an independent jury of nationally recognized accomplished professionals, and the Planning Department who will be partnering with the American Institute of Architects (AIA) Potomac Valley Chapter. Mr. Mortenson then provided examples of past winners that included the Universities at Shady Grove Biomedical Sciences and Engineering Building, Glenstone Museum, and Silver Spring Civic Building.

The Board asked questions regarding the lack of vernacular style and offered comments encouraging the need for attention to the areas within the County that are in need of revitalization, such as the Long Branch area.

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Both Mr. Mortenson and Acting Director Stern offered comments and responses regarding style, high quality design within both the private and public sectors, and potential for redeveloped buildings such as public libraries and local structures.

Item 6. Thrive Montgomery 2050—Briefing
K. Afzal/C. McCarthy

BOARD ACTION

Motion:

Vote:

Other:

Action: Received briefing.

Acting Director Stern provided a brief introduction and overview of Thrive Montgomery 2050, the implementation of the plan as well as the main components of the plan.

Khalid Afzal presented a multi-media presentation regarding Thrive Montgomery 2050, which is an update to the County's General Plan that will help guide: countywide policies on housing and transportation, future master plans, planning for infrastructure, community amenities, and private development. Thrive Montgomery 2050 is the long-range vision for the future of growth within Montgomery County.

Carrie McCarthy continued with the presentation describing how Thrive Montgomery 2050 was created and offered comments regarding the years of research and studies that contributed to Thrive Montgomery 2050.

Maren Hill highlighted the community outreach, which launched in 2019, and had an estimated participation of approximately 12,000 people. Some examples of the outreach performed included over 200 meetings with the community, video promotions, 91,000 postcards sent to equity emphasis areas, an online quiz, and the website ThriveMontgomery.com.

Mr. Afzal explained the three key objectives of Thrive Montgomery 2050 include economic health, community equity, and environmental resilience, which will be constant objectives moving forward with future plans and projects.

Ms. McCarthy gave an overview of the economic competitiveness, racial equity and social justice, and environmental health and resilience, as well as discussed how Thrive Montgomery 2050 addresses climate change.

Mr. Afzal discussed how Thrive Montgomery 2050 incorporates compact growth and compatibility for equitable, diverse, affordable, and complete communities from rural to urban.

Ms. McCarthy then explained Thrive Montgomery 2050's transportation and communication networks which connect people, places and ideas. Safe and efficient transportation networks would support land use goals in order to reduce total dependence on automobile travel and encourage different modes of transit including walking, bicycling and rolling. The improved transit would ultimately provide better accessibility to jobs, education and other opportunities for lower income families.

Thrive Montgomery 2050 contains wide-ranging housing policies and actions to address housing for all. Some of the key policies include encouraging the production of more housing to better

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match supply with demand, planning for a wide range of housing types and sizes to meet diverse needs at all price points, and promoting racial and economic diversity and equity in housing in every neighborhood.

Lastly, Thrive Montgomery 2050 addresses Parks and Recreation for an increasingly urban and diverse community.

The Board asked questions regarding the impact Covid-19 had on the overall process of Thrive Montgomery 2050, what the next steps are, if there has been any recent plans or projects that have incorporated Thrive Montgomery 2050, and if the three key objectives are indicators.

The Board also offered comments regarding accessible opportunities to educate the general public on the basics of Planning 101 such as a training module, places for people to gather who do not have access to the internet, the creation of compact communities, and how the public envisions change within Montgomery County.

Staff offered comments and responses to the Board's questions and comments.

Acting Director Stern also offered comments on the actions appendix and noted it has been a part of Thrive Montgomery 2050 to serve as a resource for the Planning Department.

Acting Director Stern also took time to acknowledge and recognize the key staff and team leaders who had a part in developing Thrive Montgomery 2050.

Item 5. Silver Spring Urban Design presentation by U. Maryland Graduate Studio

Following three futuristic visions for the Silver Spring Metro Center by three nationally recognized architectural firms for the Makeover Montgomery V conference in September 2022, the Graduate Urban Design Studio at the University of Maryland followed up with an academic study and urban design for Downtown Silver Spring featuring grand boulevards, focused civic spaces and great streets in the recently completed fall semester. Professor Matthew Bell, FAIA and Principal at Perkins Eastman – DC, will discuss the need for a high-quality public realm in all of our cities and he will present his student’s work and visions for Silver Spring.

P. Mortensen

BOARD ACTION

Motion:

Vote:

Other:

Action: Received briefing.

Paul Mortensen gave a brief overview of the Graduate Urban Design Studio and introduced Professor Matthew Bell, FAIA Principal at Perkins Eastman – DC, who then gave a presentation regarding the Graduate Urban Design Studio at the University of Maryland and the academic study and urban design for Downtown Silver Spring.

Professor Bell gave an overview of the program at the Graduate Urban Design Studio and introduced the students who participated in the academic study. Professor Bell chose the location of Silver Spring as a focal point for the students as he felt the location is critical for future design.

Professor Bell then expanded the discussion to equity and design, and presented different housing models from around the world that provided potential models for a vision of the future of Downtown Silver Spring focusing on accessibility.

At this time Professor Georgeanne Matthews and Professor Bell presented the six different schemes and visions produced by the students which included: Silver Spring, Downtown Silver Spring, The Trail Yard at Silver Spring, Silver Spring High Point Plaza, Purple Plaza Silver Spring Maryland, and The Spina Silver Spring.

Professor Matthews explained how the students examined many different aspects of Silver Spring including housing, use of space in downtown Silver Spring, and pedestrian connections. Each of the different schemes presented offered different views and experiences, yet all had the overlaying idea of making Silver Spring a walkable, pedestrian friendly atmosphere for all members of the community.

The Board asked questions regarding the elevation of Silver Spring, if any of the students had looked into the limitations for demand for retail space, and whether the history of Silver Spring had any influence.

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Acting Director Stern asked questions regarding the experience along Colesville Road and offered comments regarding the hi-line experience presented in one of the schemes as well as potential future studios applying the Complete Streets Guideline into designs.

Students Miguel Mora, Judy Tram, Lea Roberts, Samanty Habib, and Austin Register offered comments and responses regarding their respective schemes, as well as answers to the Board's questions.

Professor Bell offered responses to the Board's questions and comments regarding Silver Spring's elevation, the challenge active retail space will present moving forward, and section regarding the history of Silver Spring within the report.

The Board and Acting Director Stern offered appreciation and thanked the students for their great work.

Item 7. ZTA 22-11 Technical Corrections (Public Hearing)

ZTA 22-11 changes the voting requirements for map amendments and zoning text amendments in response to the change in the number of council members from 9 to 11, and makes other technical corrections to the Zoning Ordinance.

Staff Recommendation: Transmit Comments to County Council. (Action required for County Council public hearing on 01/17/2023)

B. Berbert

BOARD ACTION

Motion: Hill/Branson

Vote: 5-0

Other:

Action: Approved staff recommendation to transmit comments to the County Council, as stated in the transmittal letter to be prepared at a later date.

Ben Berbert discussed Zoning Text Amendment (ZTA) 22-11 Technical Corrections. Further information can be found in the Staff Report dated January 5, 2023.

ZTA 22-11 makes changes to the voting requirements for map amendments and zoning text amendments in response to the number of Councilmembers increasing from 9 to 11. The ZTA also makes other technical corrections to the Zoning Ordinance.

The ZTA also would make technical corrections in multiple other sections of the code including:

- Section 3.1.4.A, Temporary Use, In General and Section 3.3.3.G.3 Accessory Residential Use, Home Health Practitioner (Low Impact) currently incorrectly reference permits required under Section 7.4.2, which instead should reference permits required under Chapter 8.
- Section 3.1.6. Use Table is updated to alphabetize the uses under the Office and Professional section, placing Biohealth Priority Campus as the first rather than the last use within this section.
- Section 3.7.2.B. Solar Collection System, Use Standards is updated to remove erroneous section references for use standards that are already contained within the section.
- Section 4.2.1.D. Agricultural Reserve Zone, Special Requirements for the Transfer of Density is amended twice to update current references to Section 4.9.15.B to Section 4.9.18.B, to correctly identify where the Transfer of Development Rights Overlay Zone is located.
- Section 7.3.6.B Biohealth Priority Campus, Application Requirements is amended to insert a missing comma in the list of requirements to be shown on submitted plans.

Item 8. ZTA 22-12 Overlay Zones – Clarksburg East and West Environmental Overlay – Exemptions (Public Hearing)

ZTA 22-12 clarifies that any master-planned bikeway or bicycle facility located in the Clarksburg East or Clarksburg West Environmental Overlay Zone is exempt from the impervious surface restrictions of private development.

Staff Recommendation: Transmit Comments to County Council. (Action required for County Council public hearing on 01/17/2023)

B. Berbert

BOARD ACTION

Motion: Branson/Presley

Vote: 5-0

Other:

Action: Approved staff recommendation to transmit comments to the County Council, as stated in transmittal letter to be prepared at a later date.

Ben Berbert discussed Zoning Text Amendment (ZTA) 22-12 Overlay Zones-Clarksburg East and West Environmental Overlay-Exemptions. Further information can be found in the Staff Report dated January 5, 2023.

The intent of the ZTA is to clarify which roads and bikeways are exempt from impervious restrictions in the Clarksburg East and Clarksburg West Environmental Overlay Zones. However, the utility of this clarification has diminished since 2020 given the limited sections of unclaimed bikeway left in the overlay zones.

Therefore, Planning staff's recommendation is for the Board to recommend to the District Council that action on ZTA 22-12 is no longer necessary.

The Board agreed with staff's recommendation.

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Item 9. Silver Spring Downtown and Adjacent Communities Plan – Approval of Design Guidelines

Staff will present the final SSDAC Plan Design Guidelines for approval by the Planning Board.

Staff recommendation: Approval

A. Margolies

BOARD ACTION

Motion:

Vote:

Other:

Action:

(REMOVED)

Item 10. Briefing: Overview of the MPDU program and 15% Moderately Priced Dwelling Unit (MPDU) Requirement Designation

Per the requirements of Chapter 25A, the Planning Board must annually designate Planning Areas in which at least 45 percent of the United States Census Tracts have a median household income of at least 150 percent of the County-wide median household income as having a MPDU requirement of 15%. Planning staff will brief the Planning Board on the 2023 update.

Planning staff will also provide an overview of the MPDU program
L. Govoni

BOARD ACTION

Motion:

Vote:

Other:

Action: Received briefing.

Lisa Govoni presented a multi-media presentation regarding the Moderately Priced Dwelling Unit (MPDU) program and 15 percent MPDU Requirement Designation. Further information can be found in the Staff Report dated January 5, 2023.

Ms. Govoni gave an overview of the various affordable housing programs that operate in Montgomery County today, with an emphasis on the inclusionary zoning Moderately Priced Dwelling Unit (MPDU) program.

Montgomery County's Moderately Priced Dwelling Unit (MPDU) program is recognized as the country's first mandatory, inclusionary zoning law. The program was enacted in 1974 with the aim of furthering the objective of providing a full range of housing choices for all incomes, ages, and households.

In 2018, Bill 38-17 was passed by the Montgomery County Council and created a 15 percent MPDU requirement in Planning Areas designated by the Planning Board annually, in which 45 percent of the census tracts have a median household income of at least 150 percent of the county-wide median household income.

Ms. Govoni stated the MPDU Program is a local Inclusionary Zoning program. The number and location of MPDUs are established during the land use and zoning approvals of a new construction development, usually during the Preliminary Plan of Subdivision, which is subject to the Planning Board's approval.

The requirement to provide a certain percentage of MPDUs applies to any new development in Montgomery County with twenty or more units. The minimum percentage of MPDUs required varies from 12.5 percent to 15 percent of the total number of units in the development, depending on the location of the development within the county. The actual percentage of MPDUs for any development is based upon the density bonus achieved, which can exceed the minimum required.

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The MPDU rental and sales programs are run completely differently. Rental rates are set based on income level, administered by the leasing offices, and require annual recertification by tenants for the life of their tenancy. Sales prices are based on construction costs, maintain a deeper affordability (down to 50 percent Area Median Income (AMI) for some units), are administered by the MPDU office, and once purchased do not require any future income level certification.

Currently, the program serves households earning up to 65 percent (garden style multifamily rental) or up to 70 percent (for-sale and high-rise multifamily rental) of Area Median Income. Per the U.S. Department of Housing and Urban Development, the Area Median Income (AMI) for a family of four was \$142,300 in FY 2022.

A household must have a minimum income of \$40,000, qualify for a mortgage loan of at least \$150,000 and have savings for a down payment and closing costs to purchase an MPDU.

The minimum income required to rent an MPDU varies from property to property.

The MPDU program has been very successful as the county has produced over 16,000 total MPDUs. At this time, over 8,300 units are under the control period (3,600 homeownership MPDUs, 3,100 rental MPDUs, and 1,600+ owned by the Housing Opportunities Commission and other non-profits).

Lastly, Ms. Govoni explained the 15 percent MPDU requirement. Several circumstances including Master Plan requirement, overlay zones, high income planning areas, and optional method development may be required to provide 15 percent MPDUs. In 2023 the Planning areas with a 15 percent requirement included Bethesda/Chevy Chase, Darnestown, Lower Seneca, North Bethesda, Poolesville, Potomac, and Travilah. In addition, a 15 percent MPDU requirement exists for both the Bethesda Downtown Plan (through the Plan recommendations and the Bethesda Overlay Zone) and the Silver Spring Downtown and Adjacent Communities (SSDAC) Plan (through the Plan recommendations and the Downtown Silver Spring (DSS) Overlay Zone).

The Board asked questions regarding how many Alternative Agreements Department of Housing and Community Affairs (DHCA) receive, if there is demographic data for MPDUs, if people who have been on the waitlist longer can receive a greater weight than others, how MPDU units that are tracked, if the percentages should be raised, and what the physical aspects of the MPDUs were, and how the lottery worked.

Lisa Govoni offered comments and responses to the Board's questions.

Somer Cross, of DHCA, offered comments and responses to the Boards questions regarding the Alternative Agreements, waitlist for MPDUs, and lottery.

Acting Director Stern mentioned there would be an affordable housing discussion on January 30, 2023 as well.

Item 11. Briefing on the Current Growth and Infrastructure Policy – Schools

Briefing on the schools element of the 2020 Growth and Infrastructure Policy

H. Baek

BOARD ACTION

Motion:

Vote:

Other:

Action: Received briefing.

Hye-Soo Baek presented a multi-media presentation on the current Growth and Infrastructure Policy regarding the schools element. Further information can be found in the Staff Report dated January 4, 2023.

Ms. Baek began the presentation by providing an overview of the history of the County's Adequate Public Facilities Ordinance (APFO) policies. The APFO policy names have changed throughout the years and have been updated with refined goals and objectives. During the last quadrennial update in 2020 there were major changes made to the schools information, and the policy was renamed the Growth and Infrastructure Policy.

The Growth and Infrastructure Policy is the tool by which the County ensures its essential public facilities keep pace with development. The current policy, which eliminated the residential development moratoria and instead requires Utilization Premium Payments (UPP) for new development in areas with overutilized schools, was approved by the Council on November 16, 2020, following numerous work sessions, a public hearing and 17 months of work by Montgomery Planning and the Planning Board. It will remain in effect until 2024, but Planning staff will begin the quadrennial process of reevaluating and updating the policy later this year to reflect the County's latest growth patterns.

Ms. Baek discussed the 2020 Growth and Infrastructure Policy update findings including the share of enrollment growth from new development, the share of students versus units by housing type, and the Student Generation Rates (SGR) of single-family detached units by year last sold.

Some of the key revisions to the schools element of the policy that were implemented from the last update include: eliminating residential development moratoria; designating areas of the county by School Impact Areas, which are characterized by the amount and type of residential development they experience and its impact on school enrollment; requiring developers of new housing to make Utilization Premium Payments (UPP) in areas with overutilized schools; and modifying the calculation and applicability of development impact taxes.

Ms. Baek also discussed the Annual School Test, which is how the adequacy of schools is evaluated each fiscal year. Ms. Baek stated the Planning staff use Montgomery County Public Schools (MCPS) enrollment projections and capacity data from the Educational Facilities Master Plan and Capital Improvement Program and test how each school will look like 4 years later. This

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timeframe is meant to account for how long it takes for a development application to be approved, get built and start generating its share of students. Then, each school's projected utilization is measured against pre-set standards which are a combination of utilization rate and seat-deficit thresholds.

With the Annual School Test results, Planning provides a table for each elementary, middle, and high school that shows details from projected capacity and enrollment that were used, to the UPP tier status and adequacy ceilings. Additionally, the Planning Department has started providing a School Utilization Report along with the Annual School Test. The Report has a countywide report, and an individual school report that helps understand enrollment trends from different perspectives.

Lastly, Ms. Baek gave an overview of the SGR, School Impact Tax, and UPP. SGRs can be defined as the average number of students coming from a certain housing type and/or area, and is simply calculated by dividing the number of students by the number of units. The School Impact Tax is tax assessed on new residential units to defray a portion of the costs associated with public school improvements that are necessary to accommodate the enrollment generated by the development. When the official SGRs are updated every other year, the school impact tax rates are also adjusted. The Utilization Premium Payments (UPP) were introduced during the 2020 policy update to replace the moratorium. Therefore, for development proposed in overutilized school service areas instead of blocking the source of additional impact tax revenue additional payments are charged on top of the school impact tax. The rates are calculated by applying the factors shown here to each applicable school impact tax rates.

The Board asked questions regarding if the school utilization term is used universally, what the numbers of share of students versus units by housing meant from a policy perspective, potential shift of threshold for multifamily housing, and confirmation that the Planning Board has never gotten involved with redistricting and UPP.

Ms. Baek, Jason Sartori, and Acting Director Stern all offered comments and responses to the Board's questions.