

Montgomery County Planning Board

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

These Minutes were approved via email by Chair Zyontz, Vice Chair Pedoeem and Commissioners Hedrick and Pinero as noted below in section 1.B.3.

APPROVED
MINUTES AND SUMMARY

SUMMARY

Thursday, June 8, 2023

2425 Reddie 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, June 8, 2023, beginning at 11:02 a.m. and adjourning at 2:21 p.m.

Present were Chair Jeff Zyontz, Vice Chair Mitra Pedoeem, and Commissioners James Hedrick and Roberto Piñero.

Commissioner Shawn Bartley was necessarily absent.

Items 1 through 4, Items 6 through 9, and Item 5 were discussed in that order and reported in the attached Minutes.

There being no further business, the meeting was adjourned 2:21 p.m. The next regular meeting of the Planning Board will be held on Thursday, June 22, 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

1. Evolution Labs Preliminary Plan Amendment No. 12015001B – MCB No. 23-060
2. Evolution Labs Site Plan Amendment No. 82015001B – MCPB NO. 23-061
3. Evolution Labs North Bethesda Sketch Plan Amendment No. 32013001A – MCPB No. 23-064

BOARD ACTION

Motion: Hedrick/Piñero
Vote: 4-0
Other: Commissioner Bartley absent.
Action: Adopted the Resolutions cited above, as submitted.

4. Poplar Grove Preliminary Plan Amendment No. 12019004B – MCB No. 23-028
5. Park Potomac Preliminary Plan No. 12003029B – MCPB No. 23-062
6. Park Potomac Site Plan No. 820230030 – MCPB No. 23-063

BOARD ACTION

Motion: Hedrick/Pedoeem
Vote: 3-0-1
Other: Commissioner Bartley absent. Vice Chair Pinero abstained due to being absent for the underlying matter.
Action: Adopted the Resolutions cited above, as submitted.

B. Approval of Minutes

1. Minutes for May 25, 2023
2. Minutes for June 1, 2023

BOARD ACTION

Motion: Hedrick/Pedoeem
Vote: 4-0
Other: Commissioner Bartley absent.
Action: Approved Planning Board Meeting Minutes of May 25, 2023, as submitted and June 1, 2023, with change to indicate that Vice Chair Pedoeem was effective June 1, 2023.

3. Request by Legal Counsel to approve June 8, 2023 Minutes by email.

BOARD ACTION

Motion: Pedoeem/Hedrick
Vote: 4-0
Other: Commissioner Bartley absent.
Action: Approved as Requested.

C. Other Preliminary Matters

BOARD ACTION

Motion:
Vote:
Other: Commissioner Bartley absent.
Action: There were no Other Preliminary Items submitted for approval.

Item 2. Record Plats (Public Hearing)

BOARD ACTION

Motion:

Vote:

Other: Commissioner Bartley absent.

Action: There were no Record Plats submitted for approval.

Item 3. Regulatory Extension Requests (Public Hearing)

Federal Plaza West, Regulatory Extension Request No. 5 - Extend the regulatory review period from June 22, 2023 to June 29, 2023.

The Applications propose to redevelop a surface parking lot and vacant commercial development into a mixed-use development with up to 500 residential units and 108,965 square feet of commercial development; On approximately 6.52 acres zoned CRT-2.25 C-0.75 R-1.5 H-150; Within the 2018 White Flint 2 Sector Plan area.

- A. Sketch Plan No. 320220100
- B. Preliminary Plan No. 120220140

Staff Recommendation: Approval

A. Lindsey

BOARD ACTION

Motion: Pedoeem/Hedrick

Vote: 4-0

Other: Commissioner Bartley absent.

Action: Approved staff recommendation for approval of the Regulatory Extension Request cited above.

Item 4. Roundtable Discussion

Parks Director's Report
M. Riley

BOARD ACTION

Motion:

Vote:

Other: Commissioner Bartley absent.

Action: Received briefing.

Montgomery Parks Director Mike Riley offered a multi-media presentation highlighting Chair Jeff Zyontz's service during his time as interim Planning Board Chair. Director Riley also noted congratulations and appreciation to Commissioner Piñero for his service.

Mr. Riley noted the thirteen Director's Reports given during the time Chair Zyontz served, and continued by listing numerous items approved during his term including: Montgomery Parks FY24 Budget, Long Branch Local Park, Spring Semiannual, Little Falls Parkway, Wheaton Regional Park Master Plan, and the Disposition of 7800 and 7810 Wisconsin Avenue properties.

Mr. Riley also discussed the many events and ribbon cuttings Chair Zyontz attended including: a ribbon cutting at The Pit at Fairland Bike Park, the Thanksgiving Day Parade, the Hillwood Manor Neighborhood Park Renovation, and recognition of Montgomery Parks employees.

Lastly, Director Riley presented a timeline of the Chair's employment beginning in 1973 as a summer intern with Montgomery Planning through his official retirement in June 2023. Director Riley noted the positions held by Chair Zyontz throughout the years both with M-NCPPC and Montgomery County Government, and ended by inviting Chair Zyontz to re-apply for the Planning Board Chair in 2031.

Both Chair Zyontz and Commissioner Piñero offered comments regarding their time on the Board.

Item 6. Bethesda Downtown Sector Plan, Park Impact Payment Adjustment

Staff Recommendation: Approve adjustment of the Park Impact Payment and adoption of Resolution

E. Hisel-McCoy/B. Ali

BOARD ACTION

Motion: Pedoeem/Hedrick

Vote: 4-0

Other: Commissioner Bartley absent.

Action: **Approved Staff recommendation for approval to increase the Bethesda Downtown Sector Plan Park Impact Payment (PIP) by \$1.08 totaling \$12.49 per square foot; and adopted the Resolution.**

Elza Hisel-McCoy, Chief of Downcounty Planning, offered a multi-media presentation regarding the Park Impact Payment Adjustment recommendation for the Bethesda Downtown Sector Plan. Further information can be found in the Staff Report dated May 22, 2023.

Mr. Hisel-McCoy stated the Park Impact Payment (PIP) was established to fund the acquisition and development of public open space in the Bethesda Downtown Sector Plan area. The Bethesda Overlay Zone (BOZ) set the PIP rate at \$10 per square foot of approved BOZ density but requires the Planning Board to “adjust this payment rate on July 1 of each odd-numbered year by the annual average increase or decrease in a published construction cost index for the two most recent calendar years”.

For the two-year period encompassing calendar years 2021 and 2022, the change in the Engineering-News Record's Baltimore Construction Cost Index was 9.47 percent. Applying this rate to the existing PIP (\$11.41 per square foot) results in an increase of \$1.08 per square foot to \$12.49 per square foot of approved BOZ density. The new PIP rate will become effective July 1, 2023.

Mr. Hisel-McCoy explained that since the BOZ does not include a legacy provision for the revised PIP rate, Sketch Plans and Site Plans that require a PIP and are approved by the Planning Board after July 1, 2023, will be assessed at the increased rate of \$12.49 per square foot of BOZ density. A Site Plan approved prior to July 1, 2023 that is amended after this effective date will be subject to the new rate only for any BOZ density above the previously approved amount.

The Board asked questions regarding need for information to be provided to the County Council, if the published rate and construction cost index expands further than Baltimore, number of times the PIP rate has been adjusted, and if the rates were applied cumulatively.

Staff, including Real Estate Market Researcher Bilal Ali offered comments and responses to the Board's questions.

Item 7. AB 785 Northfield Road Right-of-Way Abandonment (Public Hearing)

R-60, 3,405 square feet, Request for partial abandonment of Northfield Road between Moorland Lane and Greenwich Neighborhood Park in Bethesda; 1990 Bethesda Chevy Chase Plan. MCDOT requests comments from the Planning Board prior to public hearing scheduled for July 24, 2023.

Staff Recommendation: Approval with Conditions

K. Mencarini

BOARD ACTION

Motion: Pinero/Hedrick

Vote: 3-0-1

Other: Commissioner Bartley absent. Vice Chair Pedoeem abstained due to concerns about losing right-of-way public access to the park.

Action: Approved Staff recommendation for approval, subject to conditions, as stated in a transmittal letter to be prepared at a later date to Montgomery County Department of Transportation.

Katie Mencarini, Planner III, offered a multi-media presentation regarding AB 785 Northfield Road Right-of-Way Abandonment. Further information can be found in the Staff Report dated May 29, 2023.

Ms. Mencarini gave a brief overview of the Right-of-Way Abandonment process, and stated the Applicant seeks partial abandonment of the northern half of the eastern terminus of Northfield Road, east of Moorland Lane, in Bethesda. The northern half of this right-of-way has been improved and used as a gravel driveway for 8401 Moorland Lane and 5423 Northfield Road. The Applicant owns both properties, plans to combine these two lots, and demolish the existing residence on 5423 Northfield Road, which will be replaced with a private swimming pool.

The southern portion of the Northfield Road right-of-way will continue to provide pedestrian and bicycle access to Greenwich Neighborhood Park by way of a paved trail. There are no plans to extend Northfield Road eastward to connect with Old Georgetown Road (through Greenwich Neighborhood Park), and the Subject Abandonment does not interfere with the existing park access trail. Northfield Road has never been platted to extend beyond (or through) Greenwich Neighborhood Park, and it is not master planned to do so in the future.

Patricia Harris of Lerch Early and Brewer offered comments and responses regarding the Right-of-Way, noting the Applicant has been maintaining it for years. Ms. Harris further stated Montgomery County would benefit from tax revenue if the Right-of-Way was abandoned.

The Board asked questions regarding the conditions of approval, function of the Right-of-Way, reasoning and public benefit for the abandonment, what type of hardship the Right-of-Way was creating, and ownership of Right-of-Way.

Staff, including Parks Development Review Coordinator Henry Coppola offered comments and responses to the Board.

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Vice Chair Pedoeem offered further concerns regarding the abandonment due to loss of land that could potentially offer a second entrance to Greenwich Neighborhood Park as well as no clear Public benefit.

Item 8. Takoma Park Minor Master Plan Amendment, Presentation of Working Draft

Staff Recommendation: Approve the Working Draft of the Takoma Park Minor Master Plan Amendment as the Public Hearing Draft and set a Public Hearing Date.

M. Williams

BOARD ACTION

Motion: Hedrick/Pedoeem

Vote: 4-0

Other: Commissioner Bartley absent.

Action: Approved Staff recommendation for Approval of the Working Draft of the Takoma Park Minor Master Plan Amendment as the Public Hearing Draft and set the Public Hearing Date for September 14, 2023 at 6:00 pm.

Melissa Williams, Planner III, offered a multi-media presentation regarding the Working Draft of the Takoma Park Minor Master Plan Amendment. Further information can be found in the Staff Report dated May 22, 2023.

Ms. Williams stated the Takoma Park Minor Master Plan Amendment is a joint effort with the City of Takoma Park to amend the approved and adopted 2000 Takoma Park Master Plan. Although it is a minor amendment, the Plan area is made up of roughly 132 acres and has its own vision, defined boundary, and provides recommendations typically found in a Master Plan. These recommendations address land use and zoning, historic preservation, environment, transportation, parks, housing and community and public facilities. The goals of these recommendations are to improve quality of life, guide future development and encourage improvements to the natural and built environments within the Plan area.

Ms. Williams explained the Plan's existing conditions, equity, and community engagement performed thus far which included: in-person and virtual outreach efforts at local farmers markets, community events, neighborhood pop-ups, canvassing, hosting student led events at Washington Adventist University, and meetings with civic and neighborhood associations.

Ms. Williams described the key takeaways from the public engagement performed to date and stated the Plan also prioritizes the goals and policies of Thrive Montgomery 2050, the General Plan for Montgomery County. The Plan themes include: a reimagined community with new and improved uses for existing spaces and places, and flexible, market-responsive tools to realize them; a resilient community prepared for and able to adapt to, mitigate for, and thrive in the face of climate change; and a reconnected community with improved, safe, and inviting ways to get to parks, shopping, and home and a stronger sense of its past.

Some of the key recommendations of the Working Draft include:

- promoting safe, healthy, and convenient connectivity within and between the plan's districts to high-capacity transit beyond the plan area, and to the existing trail network and nearby activity centers

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- protecting historic resources and provide for the interpretation of community history to promote a unique sense of place
- embracing climate forward design to minimize climate threats associated with existing site conditions, impacts and local stressors
- implementing the green promenade to provide a green, efficient and attractive connection through the plan area
- envisioning a vibrant, mixed-income community, where the housing stock meets the needs of an economically, socially, and racially diverse community
- rezoning the multi-family residential, municipal, and Washington Adventist campus properties from single-use residential zones to the mixed-use Commercial/Residential Town (CRT) zone at sufficient densities to provide incentives for private reinvestment, to support new development compatible with the adjoining properties, and to create opportunities for new public amenities and needed public facilities

Ms. Williams then discussed the Plan area, and stated it is divided into three districts which include the Municipal District, the Flower Avenue District, and the Maple Avenue District. Ms. Williams described each of the three districts, which will have their own set of recommendations, and discussed the zoning and Plan recommendations for each in greater detail.

Lastly, Ms. Williams stated the presentation presented was the Working Draft and Staff is requesting to accept as the Public Hearing Draft, and set a Public Hearing date for September 14, 2023.

The Board asked questions regarding clarity for Maps 5 and 6, reasoning for the five foot height difference for the CRN zone for areas one and two, potential development proposed for the Washington Adventist University side of the Plan, if FAR and 1.25 of density stated within the Plan was sufficient, potential lighting of Parks within the Plan boundary, and cross reference of the Pedestrian Master Plan to confirm any BiPPA locations within the Plan area.

The Board also offered comments regarding the flexible zoning created by the Plan which may increase affordable housing and suggested addition of comparisons to other areas throughout the Plan.

The Board held further discussion regarding increasing the zoning height in the CRN zone to 50 feet, which would be an increase of five feet.

Staff, including Chief of Downcounty Planning Elza Hisel-McCoy, Planner IV Lisa Govoni, Planner III Charles Kines, and Planning Supervisor Hyojung Garland offered comments and responses to the Board's questions and comments.

Staff noted context will be added to the Plan draft regarding comparisons to other areas, updating to the zoning recommendations for the CRN zone areas one and two to be 50 feet, cross reference the Pedestrian Master Plan to regarding BiPPAs, and updating of the legend of Map 5 for clarity.

Item 9. Rules of Procedure

Annual Review and Proposed Changes to the Rules of Procedure of the Montgomery County Planning Board

Staff Recommendation: Adopt the changes

E. Vaias

BOARD ACTION

Motion: Pedoeem/Hedrick

Vote: 4-0

Other: Commissioner Bartley absent.

Action: Approved Staff recommendation for approval and adoption of changes to the Rules of Procedure.

Emily Vaias, Principal Counsel, offered a multi-media presentation regarding the revised Rules of Procedure. Further information can be found in the attachment provided on the Planning Board website for the June 8, 2023 Agenda.

Ms. Vaias gave a brief overview of the policy to review the Rules of Procedure and presented changes to the Planning Board. Ms. Vaias noted one substantive change was made regarding Requests for Reconsideration.

The Board asked questions regarding Rules of Procedure for Mandatory Referrals and Violations, and Ms. Vaias offered comments and responses.

Item 5. Briefing – Bill 25-23, Taxation – Development Impact Taxes for Transportation and Public-School Improvements – Amendments & Potential ZTA – Park Improvement Payment (PIP) and Civic Improvement Fund (CIF)

A. Bill 25-23, Taxation – Development Impact Taxes for Transportation and Public-School Improvements – Amendments

Bill 25-23 would modify the calculations for transportation impact tax rate adjustments by requiring a cumulative increase or decrease in the construction cost index rather than an annual average every two years. Bill 25-23 would also establish a cap on the development impact tax rate for school and transportation improvements, allow certain increases to the biennial tax rate adjustments, and generally amend the law governing transportation and school development impact taxes.

B. Potential ZTA – Park Improvement Payment (PIP) and Civic Improvement Fund (CIF)

This ZTA would amend the Bethesda Overlay Zone’s PIP and Downtown Silver Spring Overlay Zone’s CIF to adjust the methodology for recalculating the payment rates to match the transportation impact tax rate adjustments under Bill 25-23, based on cumulative changes in the construction cost index rather than average changes.

Staff recommendation: Brief the Planning Board and transmit comments and the draft ZTA to the County Council (public hearing 6/13)
L. Govoni/B. Berbert

A. BOARD ACTION

Motion: Hedrick/Piñero

Vote: 4-0

Other: Commissioner Bartley absent.

Action: Approved Staff recommendation for approval to transmit comments regarding Bill 25-23 to the County Council with modifications as identified by Staff, as stated in a transmittal letter to be prepared at a later date.

B. BOARD ACTION

Motion: Hedrick/Pedoeem

Vote: 4-0

Other: Commissioner Bartley absent.

Action: Approved Staff recommendation for approval to transmit comments regarding potential ZTA - Park Improvement Payment (PIP) and Civic Improvement Fund (CIF) to the District Council, as stated in a transmittal letter to be prepared at a later date.

Lisa Govoni, Planner IV and Benjamin Berbert, Planner III, offered a multi-media presentation regarding Bill 25-23 as well as potential ZTA - Park Improvement Payment (PIP) and Civic Improvement Fund (CIF). Further information can be found in the Staff Report dated May 22, 2023.

Ms. Govoni provided a brief overview and background for Transportation Impact Taxes and School Impact Taxes. Bill 25-23 would amend the following listed below:

Transportation

Ms. Govoni stated Bill 25-23 would amend Section 52-49 regarding the calculation of tax rate adjustments for development impact taxes for transportation improvements by using a cumulative approach over the prior two years rather than an annual average. Applying the cumulative inflation factor to the current transportation impact tax rates would increase the rates by approximately 19 percent instead of the previously published increase of 9.47 percent.

There would also be a cap on biennial tax rate increases. The Director of Finance would have to cap the biennial tax rate to not exceed 20 percent. If the biennial tax rate adjustment is calculated to exceed 20 percent, the excess percentage amount must be carried over and added to the next biennial adjustment. If the next biennial tax adjustment again exceeded 20 percent, the excess percentage is then again carried over and added to the next biennial adjustment.

Ms. Govoni stated Planning Staff supports the cumulative approach, the 20 percent cap and the use of a carryover balance.

At this time, Chief of Countywide Planning and Policy Jason Sartori described the different scenarios for the Transportation Impact Taxes including the true rate, rate with cap only, the rate with cap and percentage carryover, and the rate with cap and excess dollar amount carryover.

School Impact Taxes

Ms. Govoni explained that Section 52-55, pertaining to the update of the school impact tax rates, would be amended to follow similar procedures as proposed for transportation impact taxes. The Director of Finance would have to cap the biennial impact tax adjustment to not exceed 20 percent. If the biennial tax rate adjustment is calculated to exceed 20 percent, the excess percentage amount must be carried over and added to the next biennial adjustment. If the next biennial tax adjustment again exceeded 20 percent, the excess percentage is then again carried over and added to the next biennial adjustment.

On the school side, Planning Staff supports the 20 percent cap. Given the large increase seen in impact tax rates in the most recent biennial update, a cap will lessen the impact and ensure that impact taxes are not increasing at unattainable rates that could make development in Montgomery County untenable. Ms. Govoni stated Staff does not support the carryover, however, if the County Council keeps the school impact tax carryover provision, the carryover should be banked as a dollar amount, not a percentage.

Mr. Sartori then described the different scenarios for School Impact Taxes including the true rate, rate with cap only, the rate with cap and percentage carryover, and the rate with cap and excess dollar amount carryover.

Park Impact Payment (PIP) / Civic Improvement Fund (CIF) Zoning Text Amendment

Mr. Berbert stated within the Bethesda Overlay Zone, there is a provision allowing applicants to exceed their mapped zoning by making a payment to the Park Impact Payment (PIP) fund. A similar provision exists in the Downtown Silver Spring Overlay Zone with payment to the Civic Improvement Fund (CIF) as well. To update the inflation calculation to the cumulative rate, and to also mirror the 20 percent maximum bi-annual increase, a ZTA is recommended. Mr. Berbert discussed the language for the sections of the PIP and CIF that would be amended and recommended using the same updated methodology included in Bill 25-23 for transportation impact tax rate adjustments including the cumulative increases, the 20 percent biannual cap, and the carry-over provisions.

Lastly, Ms. Govoni explained Planning Staff supports modifications to the transportation impact tax recalculations, which includes a 20percent cap and a dollar amount carryover system. For school impact taxes, Staff supports the 20 percent cap on impact tax increases, but does not support the carryover. Planning Staff is also recommending a Zoning Text Amendment be introduced to update the language for the PIP in the Bethesda Overlay Zone and the CIF in the Downtown Silver Spring Overlay Zone.

The Board asked questions regarding the averaging of construction costs for schools and if a reset to the impact taxes has ever been performed.

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