

Montgomery County Planning Board

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

APPROVED
MINUTES AND SUMMARY

SUMMARY
Thursday, September 5, 2024

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, September 5, 2024, beginning at 10:41 a.m. and adjourning at 3:48 p.m.

Present were Chair Artie Harris, Vice Chair Mitra Pedoeem, and Commissioners James Hedrick and Josh Linden.

Commissioner Bartley was necessarily absent for the morning session of the meeting.

Chair Harris presented a brief multi-media presentation providing updates regarding activities the Planning Board took part in during the August recess.

Items 1 through 6 were discussed in that order and reported in the attached Minutes.

Due to audio and video technical issues the vote for Item 5 Burtonsville Elementary School was re-confirmed after the conclusion and vote for Item 6 Dickerson Power Plant – Terra Energy, LLC, as reported in the attached Minutes.

The Planning Board recessed for lunch at 12:14 p.m. and reconvened in the auditorium and via video conference to return to open session at 1:26 p.m. to discuss Items 7 and 8, as reported in the attached Minutes.

Commissioner Bartley joined the meeting via video conference at 1:26 p.m. for the afternoon session of the meeting, Items 7 and 8.

There being no further business, the meeting adjourned at 3:48 p.m. The next regular meeting of the Planning Board will be held on Thursday, September 12, 2024, 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

BOARD ACTION

Motion:

Vote:

Other:

Action: There were no Resolutions submitted for adoption.

B. Approval of Minutes

1. Minutes for June 27, 2024
2. Minutes for July 8, 2024

BOARD ACTION

Motion: Hedrick/Pedoeem

Vote: 4-0

Other: Commissioner Bartley was necessarily absent.

Action: Approved Planning Board Meeting Minutes of June 27, 2024 and July 8, 2024, as submitted.

3. Minutes for July 25, 2024

BOARD ACTION

Motion: Hedrick/Linden

Vote: 3-0-1

Other: Commissioner Bartley was necessarily absent and Vice Chair Pedoeem abstained due to being absent for the July 25, 2024 meeting.

Action: Approved Planning Board Meeting Minutes of July 25, 2024, as submitted.

C. Other Preliminary Matters

BOARD ACTION

Motion:

Vote:

Other:

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

Item 2. Record Plats (Public Hearing)

Subdivision Plat No. 220230740, Long Looked For 2

R-200 zone; 2 lots; located on the south side of Sugarland Road, approximately 2,000 feet west of Partnership Road; Agricultural and Rural Open Space Master Plan.

Staff Recommendation: Approval

Subdivision Plat No. 220240030, Potomac Station Estates

RE-2 zone; 3 lots; located on the west side of Oaklyn Drive, approximately 1,900 feet south of Falls Road (MD 189); 2002 Potomac Sub-Region Master Plan.

Staff Recommendation: Approval

Subdivision Plat No. 220241020, H.M. Martins Addition to Chevy Chase View

R-60 zone; 1 lot; located on the southwest side of Clearbrook Lane, 170 feet northwest of Clearbrook Place; Kensington-Wheaton Master Plan.

Staff Recommendation: Approval

Subdivision Plat No. 220241070, Hamer's Grove

AR zone; 1 lot; located on the east side of Mount Nebo Road, approximately 4,200 feet south of West Offutt Road; Agricultural and Rural Open Space Master Plan.

Staff Recommendation: Approval

Subdivision Plat No. 220241080, Bradley Hills

R-60 zone; 1 lot; located on the west side of Barrett Lane, 650 feet north of Bradley Boulevard (MD 191); Bethesda-Chevy Chase Master Plan.

Staff Recommendation: Approval

Subdivision Plat No. 220241210, Cabin Branch

CRT zone; 1 lot & 1 parcel; located on the south side of Little Seneca Parkway, opposite Cabin Branch Avenue; Clarksburg Master Plan.

Staff Recommendation: Approval

BOARD ACTION

Motion: Hedrick/Pedoeem

Vote: 4-0

Other: Commissioner Bartley was necessarily absent.

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

Item 3. Regulatory Extension Requests (Public Hearing)

BOARD ACTION

Motion:

Vote:

Other:

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

Item 4. The Great Seneca Plan: Connecting Life and Science, Plan Adoption

Staff Recommendation: Approve the Resolution of Adoption for transmittal to the full Commission.
M. Hill

BOARD ACTION

Motion: Hedrick/Pedoeem

Vote: 4-0

Other: Commissioner Bartley was necessarily absent.

Action: Approved Staff recommendation for approval of the Resolution of Adoption for The Great Seneca Plan: Connecting Life and Science and transmission to the Full Commission.

Maren Hill, Planner III, requested approval of the Resolution of Adoption for The Great Seneca Plan: Connecting Life and Science, with transmittal to the Full Commission (M-NCPPC). Further information can be found in the Staff Report dated August 29, 2024.

Item 5. Burtonsville Elementary School Mandatory Referral No. MR2024014 and Forest Conservation Plan Amendment No. F20240140 (Public Hearing)

A. Mandatory Referral No. MR2024014: Request to construct new Burtonsville Elementary School at 14709 Saddle Creek Drive, Burtonsville, 20866, 10.95 acres zoned PD-2.

Staff Recommendation: Approval to transmit comments to MCPS.

B. Forest Conservation Plan Amendment No. F20240140

Staff Recommendation: Approval with conditions.

A. BOARD ACTION

Motion: Hedrick/Pedoeem

Vote: 4-0

Other: Commissioner Bartley was necessarily absent. Due to audio and video technical issues the vote for this item was re-confirmed after the conclusion of Item 6 Dickerson Power Plant – Terra Energy, LLC on a motion of Commissioner Hedrick, seconded by Vice Chair Pedoeem, with a vote of 4-0; Chair Harris, Vice Chair Pedoeem, and Commissioners Hedrick and Linden voting in favor of the motion with Commissioner Bartley necessarily absent.

Action: Approved Staff recommendation for approval to transmit comments to Montgomery County Public Schools with an additional recommendation regarding additional traffic calming measures, 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 was necessarily absent. Due to audio and video technical issues the vote for this item was re-confirmed after the conclusion of Item 6 Dickerson Power Plant – Terra Energy, LLC on a motion of Commissioner Hedrick, seconded by Vice Chair Pedoeem, with a vote of 4-0; Chair Harris, Vice Chair Pedoeem, and Commissioners Hedrick and Linden voting in favor of the motion with Commissioner Bartley necessarily absent.

Action: Approved Staff recommendation for approval of the Forest Conservation Plan Amendment cited above, subject to conditions, which will be reflected in an associated draft Resolution to be adopted by the Planning Board at a later date.

Josh Penn, Planner Coordinator, offered a multi-media presentation regarding Burtonsville Elementary School. Further information can be found in the Staff Report dated August 23, 2024.

Mr. Penn noted receipt of email correspondence with questions about the proposed outfall and the forest stand in the southeast portion of the site, and provided Staff's responses.

Mr. Penn stated the Applicant is proposing to build a new 99,499 square foot, two-story elementary school on a 10.95-acre site. Vehicular access to the school is proposed from Saddle Creek Drive, and the proposed school will include a curb cut towards the north end of the site to accommodate

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access to the parent pick-up and drop-off loop and the main parking lot. There will be a separate entrance for the bus loop, and there will also be an auxiliary parking lot that can be used for the play fields as well as staff during the school day. The loading dock is also accessed from the bus loop and is tucked away at the back of the building. Mr. Penn noted the Proposal also features a grass play area, paved play space, and mulch play areas with separate play areas for kindergarten and Pre-K. New utilities, including water, sewer, gas, and electric services will support the needs of the new facility, and stormwater management requirements will be met with the installation of micro-bioretenion facilities and non-rooftop disconnect with level spreader.

Mr. Penn also discussed the access and circulation for the site, the transportation study performed, and the Forest Conservation Plan noting all forest planting requirements have been met through the original plan with no additional planting requirements.

The Board asked questions regarding future plans for the existing building, geothermal location, short-term versus long-term bike racks, and traffic calming measures.

Sean Lindeman of Clark Azar offered comments regarding the school's location, pedestrian improvements, the geothermal location, short-term versus long-term bike racks, and potential additional traffic calming measures.

Shiho Shibasaki of Montgomery County Public Schools (MCPS) offered comments regarding the future plan for the existing building once the new school is built.

The Board offered concerns and held further discussion regarding pedestrian improvements and traffic calming measures, agreeing by consensus to add an additional recommendation to consider installation of raised crosswalks and additional pedestrian safety and traffic calming measures.

Item 6. Dickerson Power Plant- Terra Energy LLC, Conditional Use No. CU202413 and Forest Conservation Plan No. F20240620 (Public Hearing)

A. Conditional Use No. CU202413: Request to transmit comments to the Hearing Examiner on a conditional use application to operate a Cable Communications System and a Public Utility Structure pursuant to Montgomery County Zoning Ordinance Sections 59.7.3.1.E (General Conditions) and 59.3.5.2.A and 59.3.6.7.E (Specific Conditions) at Intersection of Martinsburg Road, Darnestown Road and Dickerson Road, Dickerson; IH and AR Zones; 1980 Preservation of Agriculture & Rural Open Space Functional Master Plan

Staff Recommendation: Approval with conditions to transmit comments to the Hearing Examiner.

B. Forest Conservation Plan No. F20240620

Staff Recommendation: Approval with conditions.

M. Beall

A. BOARD ACTION

Motion: Hedrick/Linden

Vote: 4-0

Other: Commissioner Bartley was necessarily absent.

Action: Approved Staff recommendation to transmit recommendations to the Hearing Examiner regarding the Conditional Use request cited above, as stated in a transmittal letter to be prepared at a later date.

B. BOARD ACTION

Motion: Hedrick/Linden

Vote: 4-0

Other: Commissioner Bartley was necessarily absent.

Action: Approved Staff recommendation for approval of the Forest Conservation Plan cited above, subject to conditions, which will be reflected in an associated draft Resolution to be adopted by the Planning Board at a later date.

Mark Beall, Planner IV, offered a multi-media presentation regarding Dickerson Power Plant – Terra Energy LLC. Further information can be found in the Staff Report dated August 23, 2024.

Mr. Beall stated the property consists of 758 acres of an existing decommissioned Pepco coal fired power plant, coal storage area, and multiple substations. Mr. Beall explained the Conditional Use application will cover the entire property, but the Applicant is only utilizing 292 acres at this time, mainly in the IH zoned portion of the Property. Mr. Beall also noted the project consists of three Land Bays and the Applicant is proposing two uses for the Application including Data Centers, which fall under the Cable Communications System use, and a Battery Energy Storage System (BESS), which falls under the Public Utility Structure use. If approved, Mr. Beall stated the Applicant will file more detailed site plans and modify the Conditional Use as needed with each phase of the project which will address parking, lighting, and landscaping for each Data Center and BESS. Each phase will also be required to submit a Final Forest Conservation Plan for area within each phase.

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Mr. Beall also discussed the three Land Bays in greater detail stating Land Bay 1 will consist of two Data Centers, two Administration Buildings, and two warehouses with associated parking lots; Land Bay 2 will consist of a BESS, a substation, fencing, and associated ring road around the BESS; and Land Bay 3 will consist of five Data Centers, five Administration Buildings, and five warehouses with associated parking lots. Land Bay 3 will also consist of a power transmission substation and a fire safety storage area.

Josh Penn, Planner Coordinator, discussed the Forest Conservation Plan noting the Applicant's request for a tree variance due to the removal of four variance trees.

Caroline Taylor of Montgomery Countryside Alliance offered testimony regarding concerns for findings of approval and impacts to the surrounding community.

Robert Harris of Lerch, Early, and Brewer offered comments on behalf of the Applicant regarding the location, zoning, grid, and approval process. Mr. Harris also noted a letter of support received from the Montgomery County Economic Development Corporation, which he offered to the Board for review.

The Board asked questions regarding operations, environmental regulations/responsibility, energy usage, potential tenants, inclusion of solar on the property, impacts to the surrounding community, possibility for a future substation, existence of other battery storage facilities within Montgomery County, and potential for battery usage for emergency situations.

Jeff Ferrel of Terra Innovations, Inc., offered comments regarding the usage of the property, future operations of the data centers, battery storage, energy usage, a potential future substation, and water temperature. Mr. Ferral offered further comments regarding environmental responsibility, an environmental cleanup plan, impacts to the surrounding community utilities, existing battery storage facilities within Montgomery County, potential tenants, reasoning for not pursuing solar on the property, and emergency battery usage.

(After the conclusion and vote for Item 6 Dickerson Power Plant – Terra Energy, LLC, the Board re-confirmed the vote for Item 5 Burtonsville Elementary School due to audio and video technical issues as noted above under the Board Action for Item 5.)

Item 7. Chaberton Solar Sugarloaf, Mandatory Referral No. MR2024016 (Public Hearing)

Proposal to construct a Solar Collection System over 2 MW located at 20507 Darnestown Road, Dickerson, MD on 53 acres in the AR zone.

Staff Recommendation: Denial/Approval with Conditions of the Mandatory Referral and the transmittal of comments to the State of Maryland Public Service Commission.

M. Beall

BOARD ACTION

Motion: Hedrick/Pedoeem

Vote: 4-1

Other: Commissioner Bartley opposed Motion for Continuance due to agreeing with Staff's recommendation for Denial.

Action: Approved Motion for a Continuance.

Mark Beall, Planner IV, offered a multi-media presentation regarding Chaberton Solar Sugarloaf. Further information can be found in the Staff Report dated August 23, 2024 (amended August 27, 2024).

Mr. Beall stated the Applicant is proposing a ground-mounted Solar Collection System 4 Megawatts (MW) in size on 19.8 acres of the overall property, a fence surrounding the solar compound, and an onsite Fire Department access road and cistern. Mr. Beall noted the proposed development is not in compliance with Chapter 59 (Zoning Ordinance) because it is on prime agricultural soils (Class II), there are no details on agrivoltaics, and it is over 2MWs. Mr. Beall also noted Staff and the Planning Board Chair have received over 140 emails and letters opposing the application and two emails in support of the application. The primary concerns of the opposition include not conforming to the Master Plan, being located on Class II soils in the AR zone, not providing agrivoltaics, and exceeding 2MW.

Mr. Beall stated Staff recommends denial due to the following:

- The Application does not comply with the Comprehensive Plan for Montgomery County, Thrive Montgomery 2050.
- The Application is contrary to the goals of the 1980 Preservation of Agriculture & Rural Open Space Functional Master Plan.
- The Application fails to provide agrivoltaic solar installation, with an approved agricultural activity (by Montgomery County Office of Agriculture) occurring underneath and/or around the solar panels within the Solar Collection Compound on Prime Agricultural Soils in the AR zone.
- The Application does not comply with the Montgomery County Forest Conservation Law pursuant to Chapter 22A, which requires an approved Forest Conservation Plan from the Montgomery County Planning Board.
- The Application conflicts with the intent and requirements of the Agricultural Reserve (AR).

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Francoise Carrier of Bregman, Berbert, Schwartz and Gilday, LLC, offered comments on behalf of the Applicants regarding procedure, timeline of communications, Chaberton Solar's NRI/FSD, grid limitations, and agrivoltaics. Ms. Carrier offered further comments regarding the potential drafting of a Forest Conservation Plan and agreement to request an extension from the PSC.

Mike Doniger of Chaberton Solar Sugarloaf LLC, offered a multi-media presentation and comments regarding Chaberton Energy, project details and features, aspects of community solar, the need for more solar within Montgomery County, and grid limitations. Mr. Doniger offered further comments regarding agrivoltaics including potential crops and livestock production.

Caroline Taylor of Montgomery Countryside Alliance offered testimony regarding land usage within the Agricultural Reserve and urged denial of the project due to the size of the project and development on Class II soils.

Charlotte Baucher, the property owner, offered comments regarding the history and future for the property, community benefit, and the current farming operations.

Doug Baucher, the property owner, offered comments regarding reforestation on the property, potential climate impact, ZTA 20-01, environmental justice, and current farming operations.

The Board asked questions regarding solar policy, lack of NRI/FSD submittals, agrivoltaic production other than pollinator habitats, current farming operations, grid limitations, grading, and possibility for land to be farmed again if solar was removed.

Staff, including Planning Director, Jason Sartori and Chief of Upcounty Planning, Patrick Butler offered comments and responses to the Board's questions regarding solar policy, timeline of communications with the Applicant, and agrivoltaic commitment.

The Board held further discussion regarding potential for the Mandatory Referral to move forward with an agrivoltaic commitment (with specificity of crops or animals), submitted and approved NRI/FSD, and submittal of a Forest Conservation Plan. The Board also discussed the potential for granting a continuance, in which the Applicant would need to request an extension from the PSC.

On behalf of her client, Ms. Carrier consented to a longer review period pursuant to the Mandatory Referral Code provisions and Uniform Standards.

Commissioner Hedrick moved to Approve a Motion for Continuance with a second by Vice Chair Pedoeem, with Chair Harris, Vice Chair Pedoeem, and Commissioners Hedrick and Linden voting in favor. Commissioner Bartley opposed.

Item 8. Zoning Text Amendment 24-04 - Dormitory and Community-Serving Retail (CSR) Overlay Zone (Public Hearing)

This Zoning Text Amendment (ZTA) would add Group Living – Dormitory as a Limited Use in the CR and CRT Zones, and removes the Community Serving Retail (CSR) Overlay Zone.

Staff Recommendation: Transmit comments to the District Council.

B. Berbert

BOARD ACTION

Motion: Hedrick/Pedoeem

Vote: 5-0

Other:

Action: Approved Staff recommendation for approval to transmit comments, as amended during the meeting, to the District Council, as stated in a transmittal letter to be prepared at a later date.

Benjamin Berbert, Planner III, offered a multi-media presentation regarding Zoning Text Amendment (ZTA) 24-04 for a Dormitory and Community-Serving Retail (CSR) Overlay Zone. Further information can be found in the Staff Report dated August 28, 2024.

Mr. Berbert stated the Planning Board voted to request introduction of ZTA 24-04 on July 8, 2024 and gave a brief overview of the background of the ZTA. Mr. Berbert stated the ZTA would implement the zoning recommendations of the Takoma Park Minor Master Plan Amendment by adding Dormitory as a limited use in the Use Table under the CR and CRT Zones, adding a new limited use standard requiring a site plan where Dormitory is allowed as a limited use, and removing the CSR Overlay Zone from the zoning code.

Lastly, Mr. Berbert discussed the recommendations for the ZTA in greater detail and recommended support for the ZTA as introduced.

The Board asked what the ZTA will change and the definition of dormitory, and Staff offered comments and responses.