



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, January 8, 2015, at 9:08 a.m. in the Montgomery Regional Office in Silver Spring, Maryland, and adjourned at 1:14 p.m.

Present were Chair Casey Anderson, Vice Chair Marye Wells-Harley, and Commissioners Amy Presley, and Natali Fani-González. Commissioner Norman Dreyfuss joined the meeting at 9:11 a.m.

Items 1 through 8 are reported on the attached agenda.

There being no further business, the meeting was adjourned at 1:14 p.m. The next regular meeting of the Planning Board will be held on Thursday, January 15, 2015, in the Montgomery Regional Office in Silver Spring, Maryland.

James J. Parsons
Technical Writer

Montgomery County Planning Board Meeting
Thursday, January 8, 2015
8787 Georgia Avenue
Silver Spring, MD 20910-3760
301-495-4600

1. Consent Agenda

***A. Adoption of Resolutions**

1. Preserve at Rock Creek Preliminary Plan 12006032B – MCPB No. 15-01
2. Preserve at Rock Creek Site Plan 82006011A – MCPB No. 15-02
3. Montgomery Hospice Preliminary Plan 11994021A – MCPB No. 15-03

BOARD ACTION

Motion: PRESLEY/WELLS-HARLEY

Vote:

Yea: 4-0

Nay:

Other: DREYFUSS ABSENT

Action: Adopted the Resolutions cited above, as submitted.

***B. Record Plats**

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: There were no Record Plats submitted for approval.

***C. Other Consent Items**

A. Preserve at Rock Creek (Bowie Mill Estates): Site Plan Amendment No. 82006011B

Changes to the Historic Farmhouse located on Lot 1, Block D and revise conditions 11b and 11c to change which lots are being withheld to ensure impervious compliance, located on the east side of the intersection of Muncaster Mill and Bowie Mill Roads, 438.2 acres, RNC-Zone, Upper Rock Creek Master Plan

Staff Recommendation: Approval with Conditions and Adoption of Resolution

B. Ripley II, Sketch Plan No. 320150030

CR-5.0 zone, C-4.0 R-4.75 H-200T, 1.66 acres, Request extension of review for a mixed-use project with up to 419,286 sf. of residential uses, with up to 440 multi-family dwelling units (including 15% MPDUs), and up to 18,008 sf. of non-residential uses, located on Dixon Avenue approximately 150 feet south of Ripley Street; Silver Spring CBD Sector Plan

Staff Recommendation: Approve Extension

C. Extension Request for Project Plan No. 920150030, Metro Plaza Silver Spring

CBD-3 zone, 1.44 acres, Mixed-use project with up to 552 multi-family dwelling units (including 15% MPDUs), and up to 14,206 sf. of non-residential uses, located on East-West Highway at the northeast intersection with Colesville Road; Silver Spring CBD Sector Plan

Staff Recommendation: Approve Extension

BOARD ACTION

Motion: WELLS-HARLEY/FANI-GONZÁLEZ

Vote:

Yea: 4-0

Nay:

Other: DREYFUSS ABSENT

Action: Approved staff recommendation for approval of the Site Plan Amendment for the Reserve at Rock Creek project, subject to conditions, and adopted the submitted Resolution; approved staff recommendation for approval of the Extension Requests for the Ripley II Sketch plan and the Metro Silver Spring project plan.

***D. Approval of Minutes**

Planning Board Meeting Minutes of December 4, and December 11, 2014

BOARD ACTION

Motion: PRESLEY/WELLS-HARLEY

Vote:

Yea: 4-0

Nay:

Other: DREYFUSS ABSENT

Action: Approved Planning Board Meeting Minutes of December 4, and December 11, 2014, as submitted.

2. Roundtable Discussion

- Parks Director's Report

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: Received briefing.

Parks Department Director's Report – Parks Department Director Michael Riley briefed the Board on the following Parks Department events and activities: this month's Joint Work Group/Co-Location Study between the Parks Department and Montgomery County Public Schools to review school capacity and the school-site selection process; maintenance of Montgomery County Public Schools' athletic fields; the Capital Crescent Trail, particularly a snow and ice removal initiative and the recently utilized new snow-removal equipment; the County Executive's five budget forums, particularly four initiatives presented at the most recent meeting, Children Prepared To Live and Learn, Healthy and Sustainable Communities, A Strong and Vibrant Economy, and Vital Living for All Residents; a January Kensington Historic Structures public meeting to discuss Warner House, Kensington Cabin, Noyes Library, and funding concerns; and the honoring of two Park Police officers at the upcoming Montgomery County Public Safety Awards, which recognizes the County's first responders.

There followed a brief Board discussion.

4. State Transportation Priorities

Staff Recommendation: Transmit comments to County Executive and County Council

BOARD ACTION

Motion: FANI-GONZÁLEZ/WELLS-HARLEY

Vote:

Yea: 5-0

Nay:

Other:

Action: Approved staff recommendation to transmit comments to the County Executive and County Council regarding their joint letter of recommendations for state transportation projects and studies to the Secretary of the Maryland Department of Transportation.

Planning Department staff discussed staff comments and proposed revisions to a joint County Executive and County Council letter of recommendations for state transportation projects and studies. The joint letter to the Secretary of the Maryland Department of Transportation, anticipated to be sent in February 2015, is meant as a guide to the Maryland Department of Transportation (MDOT) and the State Highway Administration (SHA) as to the County's transportation priorities. Staff noted the differences between the priorities the Planning Board recommended and the priorities the County Executive and the Council approved in 2014, which, other than some added language, are the same priorities listed in the 2015 letter. The staff's comments on the 2015 joint letter focus mainly on adding language to and revising the order of some priorities in two lists contained in the letter, "Priorities for the Construction Program" and "Priorities for the Development and Evaluation (D & E) Program." Staff recommended few changes to the "Priorities for the D & E Program," including language regarding specific segments of the Intercounty Connector hiker/biker trail. However, staff recommended not only revisions to the language and order of some items in the "Priorities for the Construction Program" list, but also additional priorities, namely a US 29 Bus Rapid Transit line from Burtonsville to Silver Spring and a MD 355 Bus Rapid Transit Line from Clarksburg to Bethesda. Board responded to the presentation with questions about the joint letter and the staff recommendations.

There followed extensive Board discussion with questions to staff regarding issues such as all-day MARC service, adding construction of a third lane to I 270 near Clarksburg to the lists of priorities, the criteria required for transportation projects to become priorities on the lists, and the proposed M83 MidCounty Highway.

***3. Preliminary Plan Amendment No. 12010027A, 7206 Meadow Lane (in Response to a Violation)** -- R-60 zone, 1.33 acres, Request modification of Forest Conservation Plan to permit existing concrete path within the conservation easement to remain, located on Meadow Lane, 125 ft. south of Underwood Street; Bethesda-Chevy Chase Master Plan
Staff Recommendation: Approval with Conditions

BOARD ACTION

Motion: DREYFUSS/PRESLEY

Vote:

Yea: 5-0

Nay:

Other:

Action: Approved staff recommendation for approval of the Preliminary Plan Amendment cited above, subject to conditions.

Planning Department staff offered a multi-media presentation and discussed the proposed Preliminary Plan Amendment for a 57,726 square-foot property zoned residential located in the northwest quadrant of the intersection of Meadow Lane and Oak Lane, 125 feet south of Underwood Street, in the Town of Chevy Chase within the Bethesda-Chevy Chase Master Plan. There are currently two detached single-family dwellings on the property. A concrete walkway with steps runs perpendicular to a steep slope area that runs north to south through the center of the property. The path, labeled as existing concrete steps on an approved 2010 Natural Resources Inventory/Forest Stand Delineation, had been partially covered by years of leaf deposits and was not fully mapped out on the plans. In 2012, the Board approved a Preliminary Plan for two lots, one outlot, and a modified Category I conservation easement for the steep slope area. The original project approval specified the removal of the paved pathway and nearby retaining walls, which was to be concurrent with other onsite construction. The original project approval also permitted the construction of four additional, more permeable mulch and flagstone pathways, two per lot, which have yet to be constructed.

On May 2, 2014, staff issued the applicant a Notice of Violation for failing to install three required boundary markers, excessively cutting back vegetation in the easement area, and failing to demolish the paved pathway and retaining walls. The applicant has addressed the first two violations and demolished the retaining walls, though rubble and up to three feet of exposed vertical soil remain. However, the applicant is contesting the requirement to demolish the paved path. Staff agreed to allow the paved path to remain if the applicant deletes the northern unbuilt pathway from the plans. In a December 17, 2014 correspondence, the applicant agreed to delete both unbuilt pathways from the plan if the paved path can remain and if staff withdraws a recommended condition requiring the re-recording of the easement agreement and the plat. Staff does not support the applicant's request, noting that if a revised easement is filed, a new plat

***3. Preliminary Plan Amendment No. 12010027A, 7206 Meadow Lane (in Response to a Violation)**

CONTINUED

should be filed to ensure consistent enforcement of property violations. Staff also noted that the Forest Conservation Plan and easement must be contained in the filed plat. Staff noted that although not specifically addressed by the Notice of Violation, the proposed plan will address the removal of the rubble and the grading of the unstable fill soil remaining from the demolished retaining walls.

Mr. Robert Brewer, attorney for applicant, argued that the plat does not even show the paved path, therefore there is no need to file a new plat or re-record the easement, citing the time and expense to the applicant and the adjacent property owner. Mr. Brewer also argued against the grading of the

exposed fill soil, stating that the grading process would damage existing root systems. Mr. Brewer then requested a modification to the Forest Conservation Plan.

Mr. Ed Albert of Ridgewood Terrace offered testimony.

There followed extensive Board discussion with questions to staff, the applicant's representative, and Mr. Albert, during which the Board agreed with staff that the fill soil must be graded.

***5. Marian Fathers Preliminary and Site Plans**

A. Preliminary Plan No. 120060330: Marian Fathers -- Request to re-subdivide an existing Parcel A into 55 total lots (including one lot for an existing assisted living facility), located on Georgia Avenue approximately 400 feet south of Gold Mine Road, 22.98 acres, RE-2/TDR-2 Zone, Olney Master Plan
Staff Recommendation: Approval with Conditions

B. Site Plan No. 820090130: Marian Fathers -- Request to construct 55 dwelling units (including an existing assisted living facility, 35 detached and 19 attached units with 8 MPDUs), streets, green area, and parking facilities, located on Georgia Avenue approximately 400 feet south of Gold Mine Road, 22.98 acres, RE-2/TDR-2 Zone, Olney Master Plan
Staff Recommendation: Approval with Conditions

BOARD ACTION

Motion: **A. FANI-GONZÁLEZ/DREYFUSS**
 B. FANI-GONZÁLEZ/DREYFUSS

Vote:

Yea: **A. 5-0**
 B. 5-0

Nay:

Other:

Action: **A. Approved staff recommendation for approval of the Preliminary Plan cited above, subject to conditions, and adopted the submitted Resolution.**

B. Approved staff recommendation of the Site Plan cited above, subject to conditions, and adopted the submitted Resolution.

Planning Department staff offered a multi-media presentation and discussed the proposed Preliminary Plan and Site Plan for the Marian Fathers residential development. The 22.98-acre property, zoned Residential Estate, is located on the east side of Georgia Avenue (MD 97) and 200 feet south of the Gold Mine Road intersection within the Olney Master Plan. Neighboring properties include Manor Oaks to the south and east, Oak Grove to the north, and Brookville Knolls to the west. The property is located in the Hawlings River sub-watershed within the Patuxent River Watershed. The majority of the property is located within the Patuxent River Primary Management Area (PMA). The site currently contains the Marian Assisted Living facility for the elderly, which includes overnight

accommodations for 44 elderly and 2 staff apartments. A 500-foot driveway running parallel to the northern property line is the facility's main access to Georgia Avenue. A second access point to Georgia Avenue located near the southern property line is no longer in use. The property contains no streams, but a portion of a

***5. Marian Fathers Preliminary and Site Plans**

CONTINUED

stream buffer for an offsite stream to the north extends onto the northeastern portion of the site. Two ponds exist on the property, but only the eastern pond contains a wetland fringe around the perimeter. The subject property contains no forest. The Preliminary Plan proposes to subdivide the lot into 55 total residential lots for 35 detached dwelling units and 19 attached townhouse units, eight of which will be designated Moderately Priced Dwelling Units (MDPUs). The dwelling units will be constructed in two clusters; one to the east and one to the west of the assisted living facility, which will remain between the two clusters of residences and occupy one of the 55 lots. Staff noted that each cluster will have road access through the extension of two roads currently on the property; St. Albert Drive to the east and Abbey Manor Drive to the west. These two roads will in turn be connected by a new street, Abbey Manor Terrace, thus connecting the two clusters. Staff reported that the applicant has requested a tree variance. Because nearly all the trees proposed for removal are located outside of an existing forest, staff recommends the variance be granted with onsite mitigation. Staff also noted that the revised plan calls for an increase in impermeable surfaces, but the increase is still within accepted limits. Staff offered an overview of proposed parking and traffic accommodations, public facilities, and landscaping plans. Proposed amenities include a pedestrian walkway, a play area, increased green space, and a 10-foot shared-use path.

Mr. Tom Natelli, the applicant, agreed with the proposed conditions and the staff recommendation.

There followed a brief Board discussion with questions to staff.

7. Proposed Amendments

Montgomery County Comprehensive Water Supply and Sewerage Systems Plan AD 2014-2 (15 Administrative Cases)

Staff Recommendation: Transmit Recommendations to County Executive

BOARD ACTION

Motion: WELLS-HARLEY/PRESLEY

Vote:

Yea: 5-0

Nay:

Other:

Action: **Approved staff recommendation to transmit recommendations to the County Executive, as stated in the attached transmittal letter.**

Planning Department staff offered a multi-media presentation and discussed 15 proposed sewer and water category change requests. All 15 requests were recommended for approval, with one request approved with recommendations and another approved with comments. Staff explained that Maryland law requires the Planning Board to evaluate all sewer and water category change requests for compliance with their respective Master Plans in order to preserve Smart Growth initiatives.

Mr. Alan Soukup of the Montgomery County Department of Environmental Protection (MCDEP) discussed a new approach aimed at streamlining the approval procedure. Mr. Soukup explained that rather than issuing a conditional approval that would require an applicant to wait until the Board has approved a plan that meets the requirements, then issuing a second action that grants the final approval, MCDEP is now issuing restricted approvals for selected projects within the Rural Neighborhood Cluster zone. According to Mr. Soukup the end result is the same, but it eliminates a step, which is especially helpful at the record plat stage.

Staff then discussed each request and any accompanying recommendations or comments.

8. County Council Bill 52-14 to prohibit the use of certain pesticides

Staff Recommendation: Transmit recommendations to County Council

BOARD ACTION

Motion: **WELLS-HARLEY/FANI-GONZÁLEZ**

Vote:

Yea: **5-0**

Nay:

Other:

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

Parks Department staff offered a multi-media presentation and discussed Montgomery County Council Bill 52-14, which prohibits the use of non-essential cosmetic pesticides and neonicotinoid insecticides on lawns in Montgomery County following concerns that any exposure may potentially harm children. Staff noted its support of the legislation's intent and is seeking only a few clarifications and amendments. Staff reported that over the past 25 years, the Parks Department has significantly reduced pesticide use in parks through the implementation of the University of Maryland's Integrated Pest Management program. Currently, the Parks Department employs 50 certified applicators, 200 registered applicators, and recently hired a Green Management coordinator to train staff in alternative pesticide methods. In the last ten years, pesticide use at the Fritz Greenhouse, which grows most of the plants for Brookside Gardens, has been reduced by 84 percent. Staff's recommendations result from meetings with Park managers, representatives from Safe Grow Montgomery and Beyond Pesticides,

and concerned citizens. Staff also met with Chris Gilles, aide to County Councilmember Leventhal, and Josh Hamlin, legislative attorney for the County Council, to get clarification on the language of the legislation. Staff was informed that the proposed legislation applies only to turf and lawns. Staff then contacted selected park agencies around the nation and Canada in order to determine how similar legislation has affected the maintenance of their parks. These jurisdictions reported that organic turf management practices are successful in low-use parks and lawn areas, but these same practices have not worked in heavy-use areas, especially playing fields. The same jurisdictions reported closures of playing fields due to insect damage, increased maintenance costs, and deterioration of infrastructure, causing some sites to revert to conventional turf management after the organic methods failed. Staff reported that Montgomery Parks currently maintains 300 local park fields and 39 regional and recreational fields, which are utilized by 24 user groups county-wide. The Commission collects \$355,222 in revenue from over 10,995 hours of athletic field usage. Staff recommendations include Parks Department representation in the drafting of non-essential pesticide and invasive plants lists; designation of glyphosate as an

8. County Council Bill 52-14 to prohibit the use of certain pesticides

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essential pesticide; language changes that will clearly define the legislation's intent; language that will exempt athletic fields, gardens noxious insects, and plants harmful to people from the legislation; and low-rate usage of neonicotinoids, a class of insecticides. Staff concluded that athletic fields cannot be maintained to safe and functional standards without some pesticide use.

Ms. Trish Heffelfinger of the Maryland Soccer Foundation offered comments.

Mr. Jay Feldman of Beyond Pesticides offered a multi-media presentation and discussed organic alternatives to pesticide use, including developing healthy soil and plants, aerating, de-thatching, maintaining proper pH, composting, proper watering, and correct mowing of lawns.

Ms. Ling Tan of Safe Grow Montgomery offered comments, discussing the health risks associated with exposure to chemical pesticides, such as adult and pediatric cancers, Parkinson's Disease, and asthma. Ms. Tan also discussed other organic options, including over-seeding, mulching, and less toxic or even non-toxic alternatives.

Ms. Julie Taddeo of Central Avenue offered testimony.

There followed extensive Board discussion with questions to staff and the speakers.

6. ~~CLOSED SESSION~~

~~According to MD ANN Code, General Provisions Article, §3-305(b)(7), to consult with counsel to obtain legal advice. The topic to be discussed: Proposed Legislation~~ **REMOVED**

BOARD ACTION

Motion:

Vote:

Yea:

MCPB, 11-20-14, NOT APPROVED

Nay:

Other:

Action: **This item was removed from the Planning Board Agenda.**