



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 17, 2013, at 9:12 a.m. in the Montgomery Regional Office in Silver Spring, Maryland, and adjourned at 7:30 p.m.

Present were Chair Françoise M. Carrier, Vice Chair Marye Wells-Harley, and Commissioners Casey Anderson, Norman Dreyfuss, and Amy Presley.

Items 1 through 5, Items 11 through 14, and Item 18 are reported on the attached agenda.

The Board recessed for lunch at 1:35 p.m. and to take up Items 8 and 9 in Closed Session.

In compliance with §10-509(c)(2), State Government Article, Annotated Code of Maryland, the following is a report of the Board's Closed Session:

The Board convened in Closed Session at 1:50 p.m. in the third floor conference room, on motion of Commissioner Anderson, seconded by Commissioner Presley, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Anderson, Dreyfuss, and Presley present and voting in favor of the motion. The meeting was closed under authority of Annotated Code of Maryland, State Government Article, §10-508(a)(13), to comply with a specific constitutional, statutory, or judicially imposed requirement that prevents public disclosures about a particular proceeding or matter; and §10-508(a)(7), to consult with counsel to obtain legal advice.

Also present for all or part of the Closed Session items were Executive Director Patti Barney; Secretary-Treasurer Joe Zimmerman; Associate General Counsel Sean Dixon of the Legal Department; Director Mary Bradford, Deputy Director Mike Riley, and Kate Stookey of the Parks Department; and M. Clara Moise of the Commissioners' Office.

In Closed Session, the Board received briefing and discussed the draft Montgomery County Parks Foundation Agreement and provided guidance to staff, and approved Closed Session Minutes for October and November 2012.

The Closed Session was adjourned at 3:05 p.m.

The Board reconvened in the auditorium at 3:15 p. m.

Items 10, 6, 7, 15, and 16 discussed in that order, are reported on the attached agenda.

The Board recessed for dinner at 4:50 p.m. and reconvened in the auditorium at 6:35 p.m., to take up Item 17, Worksession No. 5 on the Chevy Chase Lake Sector Plan, which is reported on the attached agenda.

There being no further business, the meeting was adjourned at 7:30 p.m. The next regular meeting of the Planning Board will be held Thursday, January 24, 2013, in the Montgomery Regional Office in Silver Spring, Maryland

M. Clara Moise
Technical Writer

Montgomery County Planning Board Meeting
Thursday, January 17, 2013
8787 Georgia Avenue
Silver Spring, MD 20910-3760
301-495-4600

1. Consent Agenda

***A. Adoption of Resolutions**

1. Goddard School - Olney Preliminary Plan 120120150 – MCPB No. 12-150
2. Goddard School – Site Plan 820120110 – MCPB No. 12-151

BOARD ACTION

Motion: **PRESLEY/WELLS-HARLEY**

Vote:

Yea: **5-0**

Nay:

Other:

Action: **Adopted the Resolutions cited above, as submitted.**

***B. Record Plats**

1. Subdivision Plat No. 220130400, Palatine

RE-2 zone; 1 lot; located on the north side of Centurion Way, approximately 640 feet west of Greenbriar Road; Potomac Sub-region Master Plan.

Staff Recommendation: Approval

2. Subdivision Plat No. 220130750, Ayrilawn

R-60 zone, 5 lots; located in the northeast quadrant of the intersection of Lindale Drive and Johnson Avenue. Bethesda- Chevy Chase Master Plan

Staff Recommendation: Approval

BOARD ACTION

Motion: DREYFUSS/PRESLEY

Vote:

Yea: 5-0

Nay:

Other:

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

***C. Other Consent Items**

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: There were no Consent Items submitted for approval.

***D. Approval of Minutes**

Minutes of December 3, 2012 and December 6, 2012

BOARD ACTION

Motion: WELLS-HARLEY/ANDERSON

Vote:

Yea: 5-0

Nay:

Other:

Action: Approved the Planning Board Meeting Minutes cited above, as presented.

4. Sectional Map Amendment: Burtonsville Crossroads Neighborhood Plan - TIME CHANGED

Staff Recommendation: Request to File and Transmit to County Council

BOARD ACTION

Motion: DREYFUSS/ANDERSON

Vote:

Yea: 5-0

Nay:

Other:

Action: Approved staff recommendation to file and transmit the Sectional Map Amendment for the Burtonsville Crossroads Neighborhood Plan to the County Council, as stated in the attached transmittal letter.

18. Council Bill 35-12 – Tree Canopy Conservation - ADDED

A bill to establish procedures, standards, and requirements to minimize the loss and disturbance of tree canopy as a result of development

*Staff Recommendation: Approved to Transmit Comments to County Council
(Action required for County Council public hearing of 1/17/13)*

BOARD ACTION

Motion: DREYFUSS/WELLS-HARLEY

Vote:

Yea: 5-0

Nay:

Other:

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

Planning Department staff noted that this is a continuation of the January 10 Planning Board meeting during which the Board instructed staff to prepare a draft letter transmitting comments and

recommendations to the County Council regarding proposed Bill 35-12, Tree Canopy Conservation in Montgomery County. Staff highlighted the main issues discussed by the Board and for which recommendations are made: i) The Parks Department should be exempt from the provision of this Bill; ii) Regulated entities should be given credit against their canopy for protecting individual trees and their critical root zones; iii) The Bill should articulate the rate at which the mitigation fee will be set; and iv) There should not be two different enforcement mechanisms as proposed by the Bill.

Ms. Kathleen Boucher of the Montgomery County Executive Office offered comments.

Ms. Laura Miller and Mr. Stan Edwards representing the Montgomery County Department of Environmental Protection also offered comments.

The following speakers offered testimony: Mr. Bob Kaufman of Elton Road; and Ms. Ginny Barnes representing Conservation Montgomery.

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

Chair Carrier instructed staff to finalize the letter, including today’s comments for the Chair’s signature, and to prepare a detailed list of recommendations for further discussion with Council staff.

11. Subdivision Regulation Amendment No. 12-02 - TIME CHANGED

Exempt small commercial additions in Community Legacy Plan areas near new roads, and adjoining state highways, from subdivision requirements.

Staff Recommendation: Transmit Comments to County Council
(Action required for County Council public hearing of 1/22/2013)

BOARD ACTION

Motion: WELLS-HARLEY/DREFYUSS

Vote:

Yea: 5-0

Nay:

Other:

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

Planning Department staff discussed proposed Subdivision Regulation Amendment (SRA) 12-02, which will exempt small commercial additions to structures located in Community Legacy Plan areas near new roads, and adjoining state highways, from subdivision platting requirements. Staff discussed the following proposed modifications to the proposed SRA, which will clarify the intent of the proposed amendment, i.e., that the recording of a subdivision plat under Chapter 50 of the Subdivision Regulations would not be required for: i) commercially zoned property which are adjoining a state highway, ii) is located within a state approved Community Legacy Plan area as of October 30, 2012; iii) has less than 10,000 square feet of gross floor area; and iv) includes a description and locational survey drawing of the lot and proposed structure.

There followed a brief Board discussion with questions to staff.

12. Subdivision Regulation Amendment No. 12-03 - TIME CHANGED

Authorize the approval and recordation of a plat for certain properties classified in a one-family residential zone under the minor subdivision procedure under certain circumstances.

*Staff Recommendation: Transmit Comments to County Council
(Action required for County Council public hearing of 1/22/2013)*

BOARD ACTION

Motion: **ANDERSON/WELLS-HARLEY**

Vote:

Yea: **5-0**

Nay:

Other:

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

Planning Department staff discussed Subdivision Regulation Amendment (SRA) 12-03 and Zoning Text Amendment (ZTA) 12-18, which propose to expand the existing provisions of Chapter 50 of the Subdivision Regulations to allow the Planning Board to approve plats for certain properties not classified in an agricultural zone under the minor subdivision process, and to allow any tract of land created by deed or plat before March 16, 1928, and containing a legally constructed one-family dwelling, to be platted into one building lot. Staff supports the proposed SRA because it bases the decision to eliminate the requirement for preliminary plans on the specific conditions of the subdivision rather than on a judgment based on the case by case argument by applicants. Moreover, the proposed ZTA allows substandard pre-1928 properties that have legal dwelling on them to come closer to compliance with certain zoning standards by allowing consolidation with adjacent commonly owned land.

There followed a brief Board discussion with questions to staff.

13. Zoning Text Amendment No. 12-18 - TIME CHANGED

Provide an exemption from current zoning standards for pre-1928 property that re-subdivide. Transmit Comments to County Council.

Staff Recommendation: Transmit Comments to County Council

(Action required for County Council public hearing of 1/22/2013)

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action:

This Item was discussed with Item 12 above. Please see Item 12 for Board vote and discussion.

14. Subdivision Regulation Amendment No. 12-04 - TIME CHANGED

Clarify the provisions for ownership lots in the minor subdivision process. - Transmit Comments to County Council.

Staff Recommendation: Transmit Comments to County Council
(Action required for County Council public hearing of 1/22/2013)

BOARD ACTION

Motion: DREYFUSS/WELLS-HARLEY

Vote:

Yea: 5-0

Nay:

Other:

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

Planning Department staff discussed proposed Subdivision Regulation Amendment (SRA) 12-04, which will clarify the existing provisions of Chapter 50 of the Subdivision Regulations for minor subdivisions pertaining to ownership lots. Currently, the creation of deed, mortgage, or lease lines within a commercial, industrial, or multi-family residential lot does not require the approval of a new subdivision plan. Staff proposes to modify the SRA to distinguish between the terminology used for delineating an internal ownership area of a subdivision lot from the language used to describe the

original subdivided lot, and recommends using “ownership parcel” instead of “ownership lot” to make the distinction.

Mr. Patrick O’Neal, attorney, offered comments.

There followed a brief Board discussion with questions to staff.

***2. Preliminary Plan 120110180, Parmjit & Saini Estates**

Four lots requested for four, one-family detached homes; located on the northern side of Travilah Road abutting Patrick Avenue; R-200/TDR zone, 2.63-acres, 2002 Potomac Sub-region Master Plan

Staff Recommendation: Approval with Conditions and Adoption of Resolution

BOARD ACTION

Motion: DREYFUSS/WELLS-HARLEY

Vote:

Yea: 5-0

Nay:

Other:

Action: Approved staff recommendation for approval, subject to revised conditions, and adopted the attached Board Resolution.

Planning Department staff discussed the request to create four lots for four one-family detached dwellings on a 2.63-acre property located on the northern side of Travilah Road abutting Patrick Avenue in the Potomac Sub-region Master Plan area. Staff noted that the applicant is requesting a tree variance, which staff and the County Arborist support. The applicant will also meet the 0.39-acre planting requirement through a fee-in-lieu payment.

Mr. Pritam Arora, Engineer representing the applicant, offered brief comments and concurred with the staff recommendation.

3. Special Exception Request S-2857, Layhill Learning Center, Inc. - REVISED

Request for a child daycare center for up to 62 children and up to 11 staff, R-200 Zone, located at 170 Randolph Road, Silver Spring.

Staff recommendation: Recommend Approval with Conditions and to transmit comment to the Hearing Examiner

(Action required for Hearing by the Hearing Examiner on 2/1/2013)

BOARD ACTION

Motion: **ANDERSON/PRESLEY**

Vote:

Yea: **5-0**

Nay:

Other:

Action: **Approved staff recommendation to approve the proposed request, subject to revised conditions, and to transmit comments to the Hearing Examiner, as stated in the attached transmittal letter.**

In keeping with the January 10 technical staff report, Planning Department staff reviewed a Special Exception request for a child daycare facility on Randolph Road in Silver Spring. This request will allow for the expansion of an existing daycare, previously approved in 2002, will increase enrollment from thirty children to sixty-two, and will also increase staff members from five to eleven. The applicant is also requesting a waiver of the minimum required parking facility setback of twice the side yard setback in the zone, which would require the proposed facility to be setback 24 feet from the side lot line. Staff discussed the proposed waiver, the height of the proposed lights, the safety of making a U-turn at the intersection of Locksley Lane and Randolph Road, the hours of operation, and restricting the drop-off and pick-up times. Staff added that the proposed child daycare request, with the modified conditions of approval as discussed, would satisfy all applicable code standards, subject to the Board approval of a waiver of the minimum required parking facility setback as discussed above.

Ms. Rebecca Walker, attorney representing the applicant Ms. Monika Mhabare, also present, introduced Messrs. Les Powell, Engineer, and Michael Lenhart, Traffic Engineer, members of the applicant's team, briefly discussed the proposed request, and concurred with the staff recommendation.

The following speakers offered testimony: Mr. Daniel Wilhelm representing The Greater Colesville Citizens Association; Mr. Juan Ruffino of Nina Court; Ms. De Sharmyn Falden of Valiant Terrace; and Mr. Damon Maning of Randolph Road.

Mr. Lenhart answered questions from the Board regarding traffic issues.

The Board requested that accident data be submitted prior to the hearing by the Hearing Examiner in order to fully assess the safety of the proposed U-turn at Randolph Road.

There followed a brief Board discussion with questions to staff, the applicant's representatives, and the speakers.

***5. Preliminary Plan Review No. 120070520, Chevy Chase View**

R-60, 0.96 acres, 2 lots for 2 one-family detached units and 2 outlots, located on 4311 Clearbrook Lane, approximately 125 feet west of the intersection with Cedar Lane, Bethesda Chevy-Chase

Staff Recommendation: Approval with Conditions and Adoption of Resolution

BOARD ACTION

Motion: **ANDERSON/PRESLEY**

Vote:

Yea: **5-0**

Nay:

Other:

Action: **Approved staff recommendation for approval, subject to conditions, and adopted the attached Board Resolution.**

In accordance with the January 4 technical staff report, Planning Department staff discussed the request to create two lots for two one-family detached dwellings and two outlots on a 0.96-acre property located on Clearbrook Lane in the Bethesda/Chevy Chase Master Plan area. Staff noted that this application was originally submitted for three lots in 2009 and was denied because the Board felt that the proposed units were not of the same character as the existing dwellings in the neighborhood. A reconsideration request was granted in March 2010 and a revised two-lot layout application was submitted. The application is a re-subdivision and a finding that the proposed lots are of the same character as existing lots in the neighborhood has been made, and staff recommends approval of a waiver for the two re-subdivision criteria, i.e., lot size and buildable area, for the proposed lots.

Mr. Dick Witmer, consultant representing the applicant, offered brief comments and concurred with the staff recommendation.

8. Closed Session

Approval of Closed Session Minutes

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: **Discussed in Closed Session. See State citation and open session report in narrative minutes.**

9. Closed Session

Pursuant to State Government Article Annotated Code of Maryland 10-508(a)(7) to consult with counsel to obtain legal advice. (NOTE: Foundation Agreement)

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: Discussed in Closed Session. See State citation and open session report in narrative minutes.

10. Roundtable Discussion

- Parks Director's Report

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: **Parks Director's Report**— Parks Department Director Mary Bradford highlighted various parks-related activities and future events, as stated in the Director's Report distributed at the meeting. Among other items, Ms. Bradford discussed the Whole Foods Markets Community Day event to benefit the Montgomery Parks Community Gardens Program; the Dog Park Fee Permit Program; the Montgomery Parks upcoming Summer Camps and Classes; and the Deer Management program.

6. Preliminary Plan No. 120110220, Knowles Estates - TIME CHANGED

Addition of second floor to an existing commercial building of 4,000 square feet for a total of 8,048 square feet on approximately 7,687- square foot lot in the CRT Zone; located on the south side of the intersection of Metropolitan Avenue and Saint Paul Street in the Kensington Sector Plan area.

Staff Recommendation: Approval with Conditions and Adoption of Resolution

BOARD ACTION

Motion: DREYFUSS/WELLS-HARLEY

Vote:

Yea: 5-0

Nay:

Other:

Action: Approved staff recommendation for approval, subject to revised conditions, and adopted the attached Board Resolution.

In keeping with the January 3 technical staff report, Planning Department staff discussed the proposed addition of a second floor to an existing 4,000-square foot commercial building for a total of 8,048 feet on a 7,687-square foot lot in the Commercial/Residential Transfer (CRT) Zone, located on the south side of the intersection of Metropolitan Avenue and Saint Paul Street in the Kensington Sector Plan area. Staff noted that a site plan is not required because this is a standard method project, and the parking requirement will be determined at the time of building permit. Staff supports a request for a parking waiver for required on-site parking. The Town of Kensington has forwarded comments on the parking waiver request, which staff has taken into consideration. Staff also recommends that frontage improvements, i.e., sidewalks, green panel, and curb, be required along Metropolitan Avenue as required by the Sector Plan and the Subdivision Regulations.

Mr. William Chen, attorney representing the applicant, offered brief comments and concurred with the staff recommendation.

There followed a brief Board discussion with questions to staff and Mr. Chen.

***7. Hanover Shady Grove**

A. Preliminary Plan No. 11986186A: Request to convert approximately 209,000 square feet of approved but un-built commercial uses for up to 452,152 square feet of residential uses with up to 367 multi-family residential units on platted parcels R-R and T-T; 6.92 gross acres zoned CR1.5 C1.5 R1.5 H100; located in the northeast quadrant of the intersection of Omega Drive and Research Boulevard, in the Great Seneca Science Corridor Master Plan area.

Staff Recommendation: Approval with Conditions and Adoption of Resolution

B. Site Plan No. 820120190: Construction of two multi-family residential buildings for 452,152 square feet for 367 multi-family residential units on 6.92 gross acres zoned CR1.5 C1.5 R1.5 H100; located in the northeast quadrant of the intersection of Omega Drive and Research Boulevard, in the Great Seneca Science Corridor Master Plan area

Staff Recommendation: Approval with Conditions and Adoption of Resolution

BOARD ACTION

Motion: **A. ANDERSON/PRESLEY**
 B. ANDERSON/PRESLEY

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

Nay:

Other:

Action: **A. Approved staff recommendation for approval, subject to revised conditions, and adopted the attached Board Resolution.**

B. Approved staff recommendation for approval, subject to revised conditions, and adopted the attached Board Resolution.

Planning Department staff discussed the preliminary plan and site plan applications to convert approximately 209,000 square feet of approved but un-built commercial uses for up to 452,152 square feet of residential uses with up to 367 multi-family residential units on a 6.92-acre property located in the northeast quadrant of the intersection of Omega Drive and Research Boulevard in the Great Seneca Science Corridor Master Plan area. Staff noted that the Planning Board previously approved a Sketch Plan for this site, and there is no modification to the binding elements. The previously approved Forest Conservation Plan is being amended and a Category I Conservation Easement is being expanded to accommodate the proposed development. The proposed transit access improvement public benefit, originally approved with the Sketch Plan, has been removed at the applicant’s request because of right-of-way constraints, and has been replaced with the energy conservation benefit to ensure compliance with the public benefit requirement. The project will be built in one phase and will provide the required public use space and public benefits, including structured parking facilities, tree canopy, and public parking.

Mr. Scott Wallace, attorney representing the applicant, briefly discussed the proposed application and concurred with the staff recommendation.

Mr. Adam Harbin representing the Hanover Company offered comments and answered questions from the Board.

***15. Bethesda Crescent - REVISED**

A. Site Plan Amendment Review No. 81984005A, Bethesda Crescent (4600 East-West Highway), CBD-2 Zone, 1.24 acres, Amendment to relocate and remove existing artwork; amend the public art requirement by using 1,200 square feet of retail space for public art exhibits, and make a contribution to

the metro tunnel art, located on Wisconsin Avenue southeast of the intersection with East-West Highway, Bethesda CBD

Staff Recommendation: Approval with Conditions and Adoption of Resolution

B. Site Plan Amendment Review No. 81984003A, Bethesda Crescent (7475 Wisconsin Avenue), CBD-2 Zone, 1.24 acres, Amendment to relocate and remove existing artwork; amend the public art requirement by using 1,200 square feet of retail space for public art exhibits, and make a contribution to the metro tunnel art, located on Wisconsin Avenue southeast of the intersection with East-West Highway, Bethesda CBD

Staff Recommendation: Approval with Conditions and Adoption of Resolution

BOARD ACTION

Motion: **A. DREYFUSS/PRESLEY**
 B. DREYFUSS/PRESLEY

Vote:

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

Nay:

Other:

Action: **A. Approved staff recommendation for approval, subject to conditions, and adopted the attached Board Resolution.**
 B. Approved staff recommendation for approval, subject to conditions, and adopted the attached Board Resolution.

Planning Department staff discussed two site plan amendment applications to amend approved site plans for Bethesda Crescent at 4600 East-West Highway and 7475 Wisconsin Avenue in order to relocate and remove existing artwork, amend the public art requirement by using 1,200 square feet of retail space for public art exhibits, and to make a contribution to the metro tunnel art located on Wisconsin Avenue in Bethesda. Staff noted that these buildings were built 25 years ago and the current owner is making improvements to the building lobby areas and wants to decommission three interior art works. To offset the loss of public art, the applicant is required to provide 1,200 square feet of built-out space rent free for a ten-year term and a financial support towards the art exhibition and other improvements to the metro tunnel. The Bethesda Urban Partnership has accepted the responsibilities for operations and maintenance of the 1,200 square feet of built-out space.

Mr. Bob Harris, attorney representing the applicant, introduced Ms. Anne Clinton and Ms. Laura Smelgus of Brookfield Properties, offered brief comments and concurred with the staff recommendation.

There followed a brief Board discussion with questions to staff and Mr. Harris.

***16. Limited Site Plan Amendment Review No. 82007011B, Gilbert & Wood**

C-1 Zone and CROZ (Commercial Revitalization Overlay Zone), 1.64 acres, Amendment to modify the approved plan to show the temporary parking for the site, located on Laurel Avenue at the northeast intersection with Eastern Avenue, Takoma Park

Staff Recommendation: Approval with Conditions and Adoption of Resolution

BOARD ACTION

Motion: DREYFUSS/WELLS-HARLEY

Vote:

Yea: 5-0

Nay:

Other:

Action: Approved staff recommendation for approval, subject to conditions, and adopted the attached Resolution.

Planning Department staff discussed the request to amend an approved site plan for a commercial building located on Laurel Avenue in the Takoma Park Metro Shopping Center in the City of Takoma Park. The proposed amendment will create a temporary parking lot, revised landscaping and lighting, and amenity seating in the landscaped open space. The proposed modifications do not alter the overall design character of the development and do not impact the efficiency, adequacy, or safety of the site with respect to vehicular and pedestrian circulation, open space, landscaping, and lighting.

Mr. Russell Reese, Engineer representing the applicant, offered brief comments and concurred with the staff recommendation.

17. Worksession No. 5: Chevy Chase Lake Sector Plan

Review of Proposed Planning Board Draft

Staff Recommendation: Approve Planning Board Draft and Transmit to County Executive and County Council

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: Approved staff recommendation for approval of the Planning Board Draft and to transmit the draft report to the County Executive and the County Council, as stated in the attached transmittal letter.

In the fifth and final worksession on the Chevy Chase Lake Sector Plan, Planning Department staff briefly discussed the Planning Board draft report, and reviewed comments and recommendations received from Board members during the last worksession. Staff noted that the County Council will set a public hearing date in the coming weeks.