



MONTGOMERY COUNTY PLANNING BOARD
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

APPROVED
MINUTES

The Montgomery County Planning Board met on Thursday, February 9, 2012, at 10:16 a.m. in the Montgomery Regional Office in Silver Spring, Maryland, and adjourned at 1:11 p.m.

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

Prior to taking up the morning agenda, the Board participated with the members of the Prince George's County Planning Board in a conference call meeting of The Maryland-National Capital Park and Planning Commission (M-NCPPC). The official citation and open session report of the Closed Session portion of the meeting, and the report of the open session action that followed, are contained in the M-NCPPC minutes of this date.

The Planning Board convened in the third floor conference room to take up Item 7 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 10:16 a.m. in the third floor conference room, on motion of Commissioner Presley, seconded by Commissioner Anderson, 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 §10-508(a)(7), State Government Article, Annotated Code of Maryland, to consult with counsel to obtain legal advice.

Also present for all or part of the Closed Session were Associate General Counsels Derrick Rogers and Carol Rubin of the Legal Department; Director Mary Bradford, Deputy Directors Gene Giddens and Mike Riley, and Bill Gries of the Parks Department; and Ellyn Dye of the Commissioners' Office.

In Closed Session, the Board consulted with Legal Counsel on the issues related to a request to remove the Batchellors Forest record plats from the consent agenda.

The Closed Session was adjourned at 10:55 a.m.

The Board convened in open session in the auditorium at 11:02 a.m.

MCPB, 2-9-12, APPROVED

Items 1, 9, 8, and 2 through 6 are reported on the attached agenda. Item 6 was postponed to a later date.

There being no further business, the meeting was adjourned at 1:11 p.m. The next regular meeting of the Planning Board will be held Thursday, February 16, 2012, in the Montgomery Regional Office in Silver Spring, Maryland.

Ellyn Dye
Technical Writer

Montgomery County Planning Board Meeting
Thursday, February 9, 2012
8787 Georgia Avenue
Silver Spring, MD 20910-3760
301-495-4600

MEETING OF THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION - BY CONFERENCE CALL - (THIRD FLOOR CONFERENCE ROOM) - ADDITION

Closed Session

Pursuant to State Government Article Annotated Code of Maryland, State Government Article, §10-508(a)(9), to conduct collective bargaining negotiations or consider matters that relate to the negotiations.

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: Discussed in Closed Session. See official citation and open session report, and report of open session actions following the Closed Session, in the minutes of The Maryland-National Capital Park and Planning Commission.

MONTGOMERY COUNTY PLANNING BOARD MEETING

7. Closed Session

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

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

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

1. Consent Agenda

***A. Adoption of Resolutions**

Beverly Farms Elementary School Forest Conservation Plan MR2011304 - MCPB No. 11-40

BOARD ACTION

Motion: DREYFUSS/ANDERSON

Vote:

Yea: 5-0

Nay:

Other:

Action: Adopted Resolution MCPB No. 11-40 as stated above.

***B. Record Plats**

1. Subdivision Plat No. 220111250-220111270, Quince Trace; RT-8 Zone, 45 lots, 7 parcels; located on the south side of Darnestown Road, approximately 200 feet northwest of Kent Oaks Drive; Potomac Subregion Master Plan.

Staff Recommendation: Approval

2. Subdivision Plat No. 220120250, Ketcham's Subdivision; R-200 Zone, 1 lot; located on the south side of Holly Hill Place, approximately 600 feet southwest of Woodford Road; Potomac Subregion Master Plan.

Staff Recommendation: Approval

3. Subdivision Plat No. 220120260-220120300 and 220120830, Batchellors Forest; RNC Zone, 37 lots, 8 parcels; located on Batchellors Forest Road, approximately 400 feet northeast of Norbeck Farm Drive; Olney Master Plan.

Staff Recommendation: Approval

4. Subdivision Plat No. 220111100, Millers addition to Bethesda; TS-M zone, 1 lot; located on the south side of Bethesda Avenue, at the intersection of Woodmont Avenue; Bethesda CBD Sector Plan. *Staff Recommendation: Approval*

BOARD ACTION

Motion: 1. PRESLEY/WELLS-HARLEY
 2. ANDERSON/WELLS-HARLEY

Vote:
 Yea: 1. 5-0
 2. 5-0

Nay:

Other:

Action: 1. Agreed to remove the Batchellors Forest record plats, item 3, above, from the Consent Agenda to receive testimony.
 2. Approved the remaining record plats, cited as items 1, 2, and 4, above.

Having removed the Batchellors Forest record plats from the Consent Agenda, due to a submitted request for a hearing, the Board took up that item following action on the remaining Consent Agenda items, as shown under new Item 9 on page 6.

***C. Other Consent Items**

BOARD ACTION

Motion:

Vote:
 Yea:

Nay:

Other:

Action: **There were no Other Consent Items submitted for approval.**

***D. Approval of Minutes**

Minutes of January 12, 2012

BOARD ACTION

Motion: PRESLEY/WELLS-HARLEY

Vote:

Yea: 5-0

Nay:

Other:

Action: Approved the minutes of January 12, 2012, as presented.

9. Subdivision Plat No. 220120260-220120300 and 220120830, Batchellors Forest – NEW ITEM AND NUMBER; DEFERRED FROM CONSENT AGENDA

RNC Zone, 37 lots, 8 parcels; located on Batchellors Forest Road, approximately 400 feet northeast of Norbeck Farm Drive; Olney Master Plan.

Staff Recommendation: Approval

BOARD ACTION

Motion: PRESLEY/DREYFUSS

Vote:

Yea: 5-0

Nay:

Other:

Action: Approved the Subdivision Plat No. 220120260-220120300, Batchellors Forest, as stated above, and deferred action on Subdivision Plat No. 220120830, also referred to as plat 6 of 6, which includes the 17+ acre Parcel A, Block C, which will be presented to the Board for approval after the deed of dedication has been filed and the appropriate reference to the deed is placed on the plat.

Legal Counsel to the Board provided an introductory overview of the issues presented in the request that prompted the removal of the Batchellors Forest record plats from the Consent Agenda.

Mr. Scott Wallace, attorney representing the applicant, Pulte Home Corporation, provided information about the status of the deed of dedication, referenced on record plat 6 of 6 (220120830), for the 17+ acre Parcel A, Block C, which is to be dedicated to Park and Planning to fulfill the rural open space requirements of the subdivision.

Ms. Marianne Hyde Bloomquist and Mr. William Chen, attorney, representing the Hyde family, adjacent property owners, raised concerns about record plat 6 of 6 and the required dedication of Parcel A, as detailed in Mr. Chen's letter dated February 3, 2012. Ms. Bloomquist and Mr. Chen stated that

the reference to dedication on the record plat does not comply with requirements in the Zoning Ordinance and the conditions of the approved site plan and preliminary plan, which collectively require that the dedicated rural open space area be conveyed prior to record plat and preserved in perpetuity through an easement restricting the uses and development to those allowed under the zone and master plan. Mr. Chen noted that the land has not been conveyed, no restrictive easement has been placed on it, and the dedication language on the plat does not reference the stated restrictions. He also opposed a potential future land swap of Parcel A with Montgomery County Public Schools (MCPS) for construction of a new Farquhar Middle School, as addressed in his letter, which the Chair noted is not before the Board at this time. Ms. Bloomquist and Mr. Chen requested that the Board refrain from approving that record plat until the applicable requirements are met.

9. Subdivision Plat No. 220120260-220120300 and 220120830, Batchellors Forest

Mr. Troy Kimmel, representing the Brooke Grove Elementary PTA, offered comments in support of approval of the record plat.

Mr. Wallace stated that he has been working with staff on the timing and wording for the deed of dedication, which should be accomplished within a short amount of time. He asked that the plats be approved, or, alternatively, that the remaining five plats be approved, if the Board wishes to defer action on the plat with the dedication.

8. Legislative Update

Direction on Bill SB ~~236~~ 16-12
Staff Recommendation: Approval

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: Received briefing and provided guidance to staff.

Legal Counsel to the Board provided an update on pending Bill SB 16-12, which would render unenforceable any covenants or restrictions on agricultural uses of agricultural property. The unintended consequences of the Bill, that it would also render unenforceable other covenants and restrictions, such as forest conservation easements and easements under the Maryland Agricultural Land Preservation Foundation (MALPF) program, have been addressed in proposed amendments. Counsel noted that two new issues are now being addressed, which are the effective date and the process of deciding which easements are contrary to a public purpose.

There followed some discussion in which the Board emphasized that the language in the Zoning Ordinance lays out the purpose of the Agricultural Reserve and the Board does not wish to be put in the position of ruling on private covenants.

2. Briefing: Parks' Department Leases, Partnerships and Tenants - POSTPONED

Briefing/overview on the current status of Parks' property management and public-private partnership programs

Staff Recommendation: Discussion

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: This item was postponed.

***3. [Preliminary Plan Review No. 120090210, 6450 New Hampshire Avenue](#)**

C-2 zone and the Commercial Revitalization Overlay zone (CROZ), 0.28 acres, requesting to convert one existing parcel into one record lot; located on the west side of New Hampshire Avenue, approximately 300 feet south of Sheridan Street; Takoma Park

Staff Recommendation: Approval with Conditions

BOARD ACTION

Motion: WELLS-HARLEY/ANDERSON

Vote:

Yea: 5-0

Nay:

Other:

Action: Approved the staff recommendation to approve, subject to revised conditions, as stated in the attached Board Resolution.

Planning Department staff presented the plan to convert an existing parcel in the C-2 Zone into a recorded lot for development of a 2,011-square foot dry cleaning and laundry use, as detailed in the staff report. Staff noted that layout issues will be addressed at site plan review, which is required because the property lies within the Commercial Revitalization Overlay Zone. Staff also corrected the date of the stormwater management plan in condition 6.

Mr. Andrew Husbands, representing the applicant, concurred in the staff recommendation.

4. Proposed Amendment to the Local Area Transportation Review and Policy Area Mobility Review Guidelines

Proposal to change language on page 19 to modify the requirements that must be met in order for a project to receive a building permit

Staff Recommendation: Discussion.

BOARD ACTION

Motion: DREYFUSS/ANDERSON

Vote:

Yea: 5-0

Nay:

Other:

Action: Approved the amendment to the Local Area Transportation Review and Policy Area Mobility Review Guidelines, conditioned on the withdrawal of the pending amendment to the Subdivision Staging Policy.

Planning Department staff provided an overview of the impetus for the proposed change to the language on page 19 of the Local Area Transportation Review and Policy Area Mobility Review Guidelines related to release of building permits for development that is dependent upon completion of road improvements by more than one developer or project, as detailed in the staff report. This issue was identified when the approved Goddard School daycare center in Clarksburg could not receive building permits. To address the issue, an amendment to the Subdivision Staging Policy is pending before the County Council to exclude daycare centers from the required transportation adequacy tests. Rather than amend the Subdivision Staging Policy, staff proposes to amend the Guidelines for implementing the transportation adequacy tests and releasing building permits, to provide a process to allow intersection improvements to be accomplished through a Road Club. Staff distributed revisions to the proposed amendment, which has been worked out in conjunction with the affected property owners.

Mr. Robert Harris, attorney representing Cabin Branch Management; Mr. Steve Kaufman, attorney representing the Goddard School; and Mr. Bob Spaulding, representing Miller and Smith, spoke in support of the proposed amendment, as revised.

Following a brief recess, Planning staff and the affected property owners, above, requested that the Board approve the amendment to the Guidelines, conditioned on the withdrawal of the pending amendment to the Subdivision Staging Policy.

5. Review of County Executive's Recommended FY13 Capital Budget and FY13-18 Capital Improvements Program

Staff Recommendation: Transmit Comments to County Council

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: By consensus, approved the staff recommendation and provided guidance in terms of drafting the transmittal of comments to the County Council, as shown in the attached Letter of Transmittal.

Planning Department staff discussed the County Executive's Recommended FY13 Capital Budget and FY13-18 Capital Improvements Program (CIP), as it pertains to non-park items, and reviewed the proposed comments and recommendations on the CIP, including projects recommended to be added to the CIP and projects that should be retained in the CIP, to support implementation of adopted master plans, as detailed in the staff report.

There followed considerable discussion of specific projects, the CIP process, the interaction between the CIP and the Planning Department's project priority list, and guidance in terms of drafting the presentation of the Board CIP recommendations for the County Council.

6. Roundtable Discussion

- Planning Director's Report

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: Received briefing and discussed.

At the Planning Director's request, Mr. Mark Pfefferle, Chief of the Division of Regulatory Coordination and Development Applications Management, presented a comparison of the number of plans submitted for review, by plan type, during the first seven months of FY2010, FY2011, and FY2012, and discussed the reduced processing times as a result of efforts to streamline the various review processes.