



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, February 18, 2010, at 9:11 a.m. in the Montgomery Regional Office in Silver Spring, Maryland, and adjourned at 10:05 p.m.

Present were Chairman Royce Hanson, Vice Chair Marye Wells-Harley, and Commissioners Joe Alfandre and Amy Presley.

Items 1 and 2 are reported on the attached agenda.

The Board recessed at 12:55 p.m. for lunch and 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 12:35 p.m. in the third floor conference room, on motion of Commissioner Presley, seconded by Commissioner Wells-Harley, with Chairman Hanson, Vice Chair Wells-Harley, and Commissioners Alfandre 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 David Lieb, via teleconference, and George Johnson of the Legal Department; and Ellyn Dye of the Commissioners' Office.

In Closed Session, the Board received a briefing by Legal Counsel on motions to dismiss two violation hearings and the Board unanimously agreed to deny the motions.

The Closed Session was adjourned at 1:12 p.m.

The Board reconvened in the auditorium at 1:20 p.m.

Items 3 through 5 and 8 through 10 are reported on the attached agenda. Item 6 was postponed. Vice Chair Wells-Harley left the meeting after discussion of Item 9.

The Board recessed for dinner at 6:00 p.m., and to take up Items 12 and 13 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 6:05 p.m. in the third floor conference room on motion of Commissioner Presley, seconded by Commissioner Alfandre, with Chairman Hanson, and Commissioners Alfandre and Presley present and voting in favor of the motion. Vice Chair Wells-Harley was necessarily absent. 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, and under authority of §10-508(a)(13), State Government Article, Annotated Code of Maryland, to comply with specific constitutional, statutory, or judicially imposed requirement that prevents public disclosures about a particular proceeding or matter.

Also present for the Closed Session were Carol Rubin, Associate General Counsel, Legal Office; Rose Krasnow and Cathy Conlon of the Planning Department; and Clara Moise of the Commissioners' Office.

In Closed Session the Board received briefing and advice from legal counsel regarding Resubdivision Criteria and approved Closed Session Minutes of December 10 & 17, 2009, and January 21 & 28, 2010, as submitted.

The Closed Session meeting was adjourned at 6:55 p.m.

The Board reconvened in the auditorium at 7:18 p.m. to take up Items 11 and 14 reported on the attached agenda.

There being no further business, the meeting was adjourned at 10:05 p.m. The next regular meeting of the Planning Board will be held Thursday, February 25, 2010, in the Montgomery Regional Office in Silver Spring, Maryland.

Ellyn Dye
Technical Writer

M. Clara Moise
Technical Writer

Montgomery County Planning Board Meeting
Thursday, February 18, 2010, 9:00 A.M.
8787 Georgia Avenue
Silver Spring, MD 20910-3760

Consent Agenda

A. Adoption of Resolutions

1. St. Luke's Serbian Church Preliminary Plan No. 120090290 - ADOPTION OF MCPB RESOLUTION No. 09-147
2. Muncaster Manor Preliminary Plan No. 120090190 - ADOPTION OF MCPB RESOLUTION No. 09-140
3. Luhn Property Preliminary Plan No. 120080390 - ADOPTION OF MCPB RESOLUTION No. 09-145
4. Potomac Grove Preliminary Plan No. 120080260 - ADOPTION OF MCPB RESOLUTION No. 09-146

BOARD ACTION

Motion: **WELLS-HARLEY/PRESLEY**

Vote:

Yea: **4-0**

Nay:

Other:

Action: **Adopted the Resolutions as stated above.**

B. Records Plats

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: **There were no Record Plats submitted for approval.**

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 7, 2010 Meeting

BOARD ACTION

Motion: **PRESLEY/ALFANDRE**

Vote:

Yea: **4-0**

Nay:

Other:

Action: **Approved the minutes of January 7, 2010, as presented.**

2. Zoning Code Rewrite

Code Studio will present a briefing and discussion on the draft project approach report and annotated outline for the zoning code rewrite. The presentation will focus on elements such as districts and uses, development standards, procedures, format, and adoption approach. This report, which is Code Studio's first major deliverable, is currently in draft only, and Code Studio is soliciting comments from stakeholders. When finalized, the report will set the approach and direction for rewriting the zoning code. Annotated Outline/Code Studio

(No Public Testimony will be Taken)

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: Received briefing and provided guidance.

Following opening remarks and introductions by Planning Department staff, Mr. Lee Einsweiler of Code Studio, the consultant, briefed the Board on the Approach and Annotated Outline Report on the proposed process and objectives of the zoning code rewrite, including the approach, function, and implementation of the zoning code and zoning districts, public outreach, and format and organization.

In discussion, the Board offered guidance in terms of approach and presentation of the information, including the need to distinguish between binding and non-binding elements, and to make clear the use of incentives and extractions.

7. Closed Session

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

(Discussion of Motions to Dismiss in two enforcement cases)

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

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

3. Special Exception Modification No. S-1424-A

A. Preliminary Forest Conservation Plan No. S-1424-A - University Gardens

Staff Recommendation: Approval with Conditions

B. Special Exception Modification No. S-1424-A - Korean Community Senior Housing Corp. of Maryland and Korean Community Senior Housing Corp. of Maryland, II, applicant, requests a special exception modification for housing and related facilities for senior adults and disabled persons; R-60 Zone; located at 440 E. University Boulevard, Silver Spring

Staff Recommendation: Approval with Conditions

(Action required for hearing by the Hearing Examiner on 03/05/10)

BOARD ACTION

Motion: **A. PRESLEY/WELLS-HARLEY**
 B. PRESLEY/WELLS-HARLEY

Vote:
 Yea: **A. 4-0**
 B. 4-0

Nay:

Other:

Action: **A. Approved the staff recommendation to approve the forest conservation plan, subject to conditions as revised in discussion, as stated in the attached Board Resolution.**
 B. Approved the staff recommendation to approve the special exception modification, subject to conditions, as stated in the attached Letter of Transmittal to the Board of Appeals.

Development Review staff and Environmental Planning staff presented, respectively, the proposed special exception modification and forest conservation plan, as detailed in the staff reports. The requested modification includes a 25,400- square-foot addition for 27 one-bedroom units of senior housing.

Ms. Casey Moore, attorney representing the applicant, introduced Mr. Dwight Mayes of the applicant company and other members of the applicant team. Ms. Moore concurred in the staff recommendations, requesting a revision to a condition of the forest conservation plan, which was accepted by staff. She also elaborated on several issues raised in the staff report.

4. Preliminary Plan 120090120, Alpha House

RE-2 zone; 8.17 acres; 1 lot requested for a multi-family dwelling containing 35 elderly housing units; located on the east side of Seneca Road, 500 feet south of Darnestown Road (MD 28); Potomac Subregion.

Staff Recommendation: Approval with Conditions

BOARD ACTION

Motion: **PRESLEY/WELLS-HARLEY**

Vote:

Yea: **4-0**

Nay:

Other:

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

Development Review staff presented the proposal to consolidate two unplatted parcels into one lot for a 24,725-square-foot special exception assisted living facility for seniors, as detailed in the staff report.

Mr. Jody Kline, attorney representing the applicant, concurred in the staff report.

5. Preliminary Plan 120070740, Avery Village - Resubdivision

RE-2 zone; 4.24 acres; 2 lots requested for 2 one-family detached dwelling units, one existing to remain; located on Serenity Lane, 450 feet east of Avery Road; Upper Rock Creek.

Staff Recommendation: Approval with Conditions

BOARD ACTION

Motion: **ALFANDRE/WELLS-HARLEY**

Vote:

Yea: **4-0**

Nay:

Other:

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

Development Review staff presented the proposal to resubdivide one lot into two, for two residential units, as detailed in the staff report. The existing dwelling will remain. Staff cited two letters submitted by adjacent property owners and addressed the concerns raised.

Mr. Curt Schreffler, the applicant's engineer, concurred in the staff recommendation.

6. Draft Zoning Text Amendments for the Rural Density Transfer Zone - POSTPONED

Staff Recommendation: Submit Two Draft Zoning Text Amendments to the District Council for Introduction.

(1) Rural Density Transfer Zone - Lot Area Limitations and Cluster Provisions.

(2) Rural Density Transfer Zone - Child Lot Standards.

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: This item was postponed.

8. Local Map Amendment No: G-886

Curtis & Carol Benesh, applicant, requests a local map amendment for rezoning from the RT-6 Zone to the C-T Zone (Commercial Transitional); located at 19330 Liberty Mill Road, Germantown

Staff Recommendation: Denial

(Action required for hearing by the Hearing Examiner on 02/26/10)

BOARD ACTION

Motion: PRESLEY/WELLS-HARLEY

Vote:

Yea: 3-1

Nay:

Other: ALFANDRE OPPOSED

Action: Approved the staff recommendation to deny.

Development Review staff presented the request to rezone property from the RT-6 Zone to the C-T Zone to continue the existing special exception dental office, as detailed in the staff report. Staff reported that, when the adjacent property to the south was rezoned to RT-6 for townhouses, that zone was erroneously applied to the subject property, which was zoned R-200. Rather than request a corrective map amendment to revert the zoning to R-200, the applicant proposes rezoning to C-T, a zone designated as suitable for the adjacent property to the north. Staff recommended denial of the rezoning request because it does not satisfy either of the criteria required to obtain the

C-T Zone: The property must be designated for C-T in the master plan or located between high-intensity commercial and single-family residential.

Ms. Anne Martin, attorney, introduced Mr. Curtis Benesh, the applicant. Ms. Martin argued that the master plan includes the subject property with the adjacent property to the north in its designation for the C-T Zone. She also noted that the subject property shares joint parking and driveway access with that adjacent property. Ms. Martin emphasized that the existing structure and use will continue with no changes under the proposed binding elements. The use will become a permitted use, rather than a special exception. Mr. Benesh, elaborated on the proposal and the existing use.

There followed extensive discussion of the language and maps in the master plan pertaining to the C-T Zone and the RT-6 Zone, and which section applies to the subject property.

9. Remand of Local Map Amendment No: G-864 (Remand by the District Council)

Christ Evangelical Lutheran Church of Bethesda-Chevy Chase, applicant, requests a local map amendment for rezoning from the R-60 Zone to the PD-44 Zone (Planned Development Zone); located at 8011 and 8015 Old Georgetown Road, Bethesda

Staff Recommendation: Approval

(Action required for hearing by the Hearing Examiner on 02/19/10)

BOARD ACTION

Motion: 1) PRESLEY
 2) ALFANDRE/WELLS-HARLEY

Vote:
 Yea: 3-1

 Nay: PRESLEY

Other:

Action: 1) Motion to deny the remand of Local Map Amendment G-864.
 Motion failed for lack of a second.
 2) Approved staff recommendation for approval, as stated in the attached transmittal letter to the Hearing Examiner.

Development Review and Community-Based Planning Divisions staff offered a detailed presentation of the remanded Local Map Amendment from the District Council to the Planning Board for Christ Evangelical Lutheran Church of Bethesda/Chevy Chase. Staff noted that the applicant is requesting a local map amendment for rezoning from the R-60 to the PD-44 Zone for a property located on Old Georgetown Road in Bethesda.

Mr. Steve Kaufman, attorney representing the applicant, introduced members of the applicant team, briefly discussed the remanded Local Map Amendment, and concurred with the staff recommendation.

The following speakers offered testimony: Mr. Steve Teitelbaum of Exeter Road; Mr. Herb Estreicher of Glenbrook Road; Mr. David Brown of East Jefferson Street; and Mr. Jim Humphrey of Elm Street and representing the Montgomery County Civic Federation.

At the Board's request, Environmental Planning Division staff offered comments.

There followed extensive Board discussion with questions to staff, the applicant's representative, and the speakers.

10. Revised Preliminary Plan 120080290, Miracle Temple of God (Resubdivision)

R-200 zone; 2.23 acres; 2 lots requested for a place of worship and associated parking facility; located on Alderton Road, 2,000 feet south of Bonifant Road; Aspen Hill

Staff Recommendation: Approval with Conditions

BOARD ACTION

Motion: ALFANDRE/PRESLEY

Vote:

Yea: 3-0

Nay:

Other: WELLS-HARLEY ABSENT

Action: Approved staff recommendation for approval, as stated in the attached Board Resolution.

Development Review Division staff presented the request to create two lots for a place of worship and associated parking facility on a 2.23-acre property located on Alderton Road, 2,000 feet south of Bonifant Road in Aspen Hill. Staff discussed the proposed request and noted that this is the third time that this request has been before the Board due to compatibility issues.

Mr. Michael Nagy, attorney representing the applicant, discussed the proposed request, and concurred with the staff recommendation.

The following speakers offered testimony: Mr. David Brown of East Jefferson Street, attorney representing the Layhill Village East Community, and Mr. David Humphrey of Alderton Road.

There followed extensive Board discussion, with questions to staff, the applicant's representative, and the speakers.

12. Closed Session

Pursuant to Annotated Code of Maryland, State Government Article, Section 10-508(a)(7) (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.

13. Closed Session

Closed Session pursuant to Maryland State Government Code Annotated Section (10-508) (a)(13), to comply with specific constitutional, statutory, or judicially imposed requirement that prevents public disclosures about a particular proceeding or matter. (Subject: Approval of Closed Session Minutes)

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

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

11. Buffington Building II

A. Preliminary Plan 120090310: C-1 & R-200 zones; 0.96 acres; 1 lot requested for 14,288 square foot commercial building containing a combination of office, retail and restaurant uses (building will be located in the C-1 zone with parking in the R-200 zone); located on the east side of MD Route 355, 325 feet north of Stringtown Road; Clarksburg.

Staff Recommendation: Approval with Conditions

B. Site Plan Review No. 820100010: C-1/R-200 zones; 0.96 acres; 14,288 square foot commercial building consisting of office space, retail, and restaurant. The 0.96 acre site is in the C-1 and R-200 zones, the proposed building will be located in the C-1 zone and surface parking will be located in the R-200 zone; located on (MD 355), approximately 325 feet north of Stringtown Road; Clarksburg
Staff Recommendation: Approval with Conditions

BOARD ACTION

Motion: A) PRESLEY/ALFANDRE

B) PRESLEY/HANSON

Vote:

Yea: A) 3-0

B) 3-0

Nay:

Other: WELLS-HARLEY ABSENT

Action: A) Approved staff recommendation for approval, subject to revised conditions discussed during the meeting, and as stated in the attached Board Resolution.

B) Approved staff recommendation for approval, subject to revised conditions discussed during the meeting, and as stated in the attached Board Resolution.

Development Review Division staff presented the request to create one lot for a 14,288-square-foot commercial building containing a combination of office, retail, and restaurant uses on a 0.96-acre property located on the east side of MD Route 355, north of Stringtown Road in Clarksburg. Staff distributed and discussed a list of revised conditions at the meeting. Staff noted that the proposed development is in accordance with the Clarksburg Master Plan.

At the Board's request, Historic Preservation Division staff offered comments.

Mr. Gus Bauman, attorney representing the applicant, introduced the applicant and members of the applicant's team, briefly discussed the proposed revised conditions and requested modifications to Conditions 2, 6, and 10.

Mr. Alain Soukoup representing the Department of Environmental Protection offered comments.

The following speakers offered testimony: Mr. Patrick Darby representing the Clarksburg Chamber of Commerce, and Mr. Paul Majewski of Piedmont Road representing the Clarksburg Civic Association.

There followed extensive Board discussion with questions to staff, the applicant's representative, and the speakers.

14. Water Resources Functional Plan - Worksession #1

Review and discussion of issues raised at the Public Hearing on December 17, 2009, and during the subsequent public comment period.

(No Public Testimony Will Be Taken)

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: Received briefing followed by Board discussion.

Following a brief presentation by Environmental Planning Division, the Board discussed issues raised during the Public Hearing meeting on December 17, 2009, and comments received during the subsequent public comment period.

At the Board's request, Messrs. Alan Soukup, representing the Department of Environmental Protection, and Roland Steiner of Washington Suburban Sanitary Commission offered comments.

The Board instructed staff to schedule another worksession on the next Planning Board agenda in order to complete the review of comments received.