



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, March 11, 2010, at 9:05 a.m. in the Montgomery Regional Office in Silver Spring, Maryland, and adjourned at 8:15 p.m.

Present were Chairman Royce Hanson, Vice Chair Marye Wells-Harley, and Commissioner Norman Dreyfuss. Commissioner Amy Presley joined the meeting at 10:10 a.m., during discussion of Item 2. Commissioner Joe Alfandre was necessarily absent.

Items 1, 2, 4, 6, and 8 are reported on the attached agenda.

The Board recessed at 1:05 p.m. for lunch and to take up Items 12 and 13 in Closed Session. Closed Session Item 5 was postponed.

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 1:25 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 Dreyfuss and Presley present and voting in favor of the motion and Commissioner Alfandre necessarily absent. The meeting was closed under authority of §10-508(a)(14), State Government Article, Annotated Code of Maryland, to discuss a matter directly related to a negotiating strategy or the contents of a bid or proposal before the contract is awarded or bids are opened, if public discussion or disclosure would adversely impact the ability of the Commission to participate in the competitive bidding or proposal process.

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

In Closed Session, the Board received briefings and provided guidance to staff on issues related to lease and operations for the proposed Go Ape Lake Needwood partnership and Sligo Golf Course.

The Closed Session was adjourned at 2:26 p.m.

The Board reconvened in the auditorium at 2:35 p.m.

Items 3, 7, 9, and 10 are reported on the attached agenda.

The Board recessed for dinner at 5:50 p.m. and reconvened in the Auditorium at 7:15 p.m. with Chairman Hanson, Vice Chair Wells-Harley, and Commissioner Presley present. Commissioner Dreyfuss abstained from participating in the evening enforcement hearing, not having participated in the previous hearing for this item.

Commissioner Alfandre was necessarily absent.

Item 11, Forest Conservation Plan Enforcement Hearing for 21627 Ripplemead Drive is reported on the attached agenda.

There being no further business, the meeting was adjourned at 8:15 p.m. The next regular meeting of the Planning Board will be held on Monday March 15, 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, March 11, 2010
8787 Georgia Avenue
Silver Spring, MD 20910-3760
301-495-4600

1. Consent Agenda

A. Adoption of Resolutions

1. Rolling Ridge - Phase 2, Pre-Preliminary Plan No. 720090140 - ADOPTION OF MCPB RESOLUTION No. 10-06
2. Avery Village, Preliminary Plan No. 120070740 - ADOPTION OF MCPB RESOLUTION No. 10-15

MCPB, 3-11-10, APPROVED

3. The Village of Clopper's Mill East, Site Plan No. 81993013B - ADOPTION OF MCPB RESOLUTION No. 10-09
4. The Village of Clopper's Mill, Preliminary Plan No. 11991052A - ADOPTION OF MCPB RESOLUTION No. 10-10
5. 4823 Rugby Avenue, Preliminary Plan No. 120070760 - ADOPTION OF MCPB RESOLUTION No. 10-11
6. Victory Oaks at St. Camillus, Preliminary Forest Conservation Plan for Special Exception No. S-2751 - ADOPTION OF MCPB RESOLUTION No. 10-22

BOARD ACTION

Motion: **WELLS-HARLEY/DREYFUSS**

Vote:

Yea: **3-0**

Nay:

Other: **ALFANDRE, PRESLEY ABSENT**

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

B. Records Plats

Subdivision Plat No. 220100560, Chevy Chase, Section 2
R-60 zone, 1 lot; located on the south side of West Irving Street, 500 feet west of Magnolia Parkway; Bethesda-Chevy Chase.
Staff Recommendation: Approval

BOARD ACTION

Motion: **DREYFUSS/WELLS-HARLEY**

Vote:

Yea: **3-0**

Nay:

Other: **ALFANDRE, PRESLEY ABSENT**

Action: **Approved the Record Plat cited above.**

MCPB, 3-11-10, APPROVED

C. Other Consent Items

Singh [Holly Hill], Site Plan No. 819890010 - ADOPTION OF MCPB ORDER No. 10-23

BOARD ACTION

Motion: WELLS-HARLEY/DREYFUSS

Vote:

Yea: 3-0

Nay:

Other: ALFANDRE, PRESLEY ABSENT

Action: Adopted the Administrative Order cited above.

D. Approval of Minutes

Minutes of January 25, January 28, and February 1, 2010 meetings

BOARD ACTION

Motion: WELLS-HARLEY/HANSON

Vote:

Yea: 3-0

Nay:

Other: ALFANDRE, PRESLEY ABSENT

Action: Approved the minutes of January 25, January 28, and February 1, 2010, as presented.

2. Worksession No. 1 - Draft Urban Design Guidelines for the Germantown Employment Area Sector Plan

- Summary of public testimony

Staff Recommendation: Review Testimony and Revise Guidelines.

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: Received briefing, discussed, and provided guidance to staff.

Community-Based Planning staff presented summaries of the testimony and the staff response, including any recommended revisions to the Draft Urban Design Guidelines for the Germantown Employment Area Sector Plan, as detailed in the staff report.

Mr. Robert Simpson, County Department of Transportation (DOT), joined the discussion of parking and road issues, particularly related to location of utility easements.

The following speakers participated in the discussion related to specific properties and issues: Mr. Clark Wagner, Buzzuto Development Company, commented on the Middlebrook Mobile Home Park; Ms. Barbara Sears, attorney, Mr. Doug Wrenn, and Mr. Robert Elliott of Clark Enterprises offered comments on the Rolling Hills Property; Mr. Robert Dalrymple, attorney, discussed the Holy Cross Hospital property and the location of parking; Mr. Bradley Chod, Minkoff Development Corporation, discussed the retail layout and the civic green for Seneca Meadows; and Mr. Steven Kaufman, attorney, and Ms. Nicole Totah, discussed issues related to the Symmetry Development Company/Totah property.

In discussion, the Board offered guidance to staff for revisions to the Guidelines.

3. [Sectional Map Amendment for the Germantown Employment Area Sector Plan](#)

Approve recommendation to the Montgomery County Council concerning the Sectional Map Amendment for the Germantown Employment Area Sector Plan.

Staff Recommendation: Approval of the Sectional Map Amendment by the County Council.
(No Public Testimony Taken)

BOARD ACTION

Motion: PRESLEY/WELLS-HARLEY

Vote:

Yea: 4-0

Nay:

Other: ALFANDRE ABSENT

Action: **Approved the staff recommendation to approve for transmittal to the County Council.**

Community-Based Planning staff offered a brief presentation on the Sectional Map Amendment to implement the Germantown Employment Area Sector Plan, as detailed in the staff report.

4. [Zoning Text Amendment No. 10-02](#)

Zoning Text Amendment to amend the Zoning Ordinance to add a provision in the RT zones to make certain existing structures conforming

*Staff Recommendation: Transmit Comments to the County Council
(Action required for County Council public hearing of 3/16/10)*

BOARD ACTION

Motion: **PRESLEY/WELLS-HARLEY**

Vote:

Yea: **3-0**

Nay:

Other: **ALFANDRE ABSENT; DREYFUSS TEMPORARILY ABSENT**

Action: **Approved the staff recommendation, as stated in the attached Letter of Transmittal.**

Development Review staff presented the Zoning Text Amendment to allow multiple-family dwellings existing on a site before reclassification of the site to the R-T Zone to remain as conforming structures, with certain limits to alterations, repairs, or reconstruction, as detailed in the staff report.

6. [Preliminary Plan 12002041B, Islamic Center of Maryland \(Limited Amendment\) - \(Revised Staff Memo\)](#)

RE-2 zone; 9.92 acres; 1 lot previously approved for a house of worship; request to remove a previously approved on-site forest conservation easement and meet requirements off-site; located on Woodfield Road opposite its intersection with Cypress Hill Drive; Upper Rock Creek.

Staff Recommendation: Approval with Conditions

BOARD ACTION

Motion: PRESLEY/WELLS-HARLEY

Vote:

Yea: 4-0

Nay:

Other: ALFANDRE ABSENT

Action: Approved the staff recommendation to approve, subject to revised conditions, further revised to require a 25-foot-wide planting area along the southern property line, as stated in the attached Board Resolution.

Development Review staff presented the proposed limited amendment to a preliminary plan and associated forest conservation plan to remove the forest conservation easement and satisfy the forest conservation requirements off-site, as detailed in the staff report. Staff noted that additional planting will be required as compensation for loss of the easement. Staff also distributed a revised list of conditions of approval, with changes to condition 5.

There followed considerable discussion of the reasons for the proposed change, the impact of a State Highway Administration decision for alternative access to the site, and appropriate screening for the properties to the south and east.

8. [Preliminary Plan 120070650, Century XXI \(Reconsideration\)](#) - **ITEM MOVED**

I-3 zone; 11.53 acres; 1 lot previously approved for 235,000 square feet of office use; request to delete a condition of the previous approval requiring submittal of a Traffic Mitigation Agreement; located in the northwest quadrant of the intersection of I-270 and Germantown Road (MD 118); Germantown.

Staff Recommendation: Approval Subject to Revised Conditions

BOARD ACTION

Motion: WELLS-HARLEY/PRESLEY

Vote:

Yea: 4-0

Nay:

Other: ALFANDRE ABSENT

Action: Approved the staff recommendation to approve, subject to revised conditions to require the applicant to enter into a trip mitigation agreement to reduce site-generated trips by 10 percent, as stated in the attached Board Resolution.

In the reconsideration of an approved preliminary plan, Development Review staff presented the request to delete a condition, as detailed in the staff report. The preliminary plan condition required the applicant to “modify the existing I-3 Traffic Mitigation Agreement...to satisfy the requirements for development located on an I-3 zoned property.” Staff and the applicant believed at the time that a traffic mitigation agreement had been executed for an earlier development plan that included the subject site. When it was found that no such agreement exists, the applicant proposed to delete that condition. Staff maintains that the Zoning Ordinance requires an agreement to reduce trips for projects in the I-3 Zone by 10 percent and, therefore, if no agreement exists, an agreement must be created.

Mr. Robert Dalrymple, attorney representing the applicant, restated the arguments submitted in his letter dated February 9, 2010, maintaining that the Board had determined that the site design met the trip reduction burdens imposed by the zone; that the condition was included by mistake; and that it should be eliminated.

There followed considerable discussion of the trip reduction guidelines and the requirements for the I-3 Zone in terms of trip mitigation, with staff and the applicant providing additional information and responding to questions from the Board as needed.

5. Closed Session - **POSTPONED**

Pursuant to Annotated Code of Maryland, State Government Article, Section 10-508(a)(1) (to discuss the performance evaluation of an employee)

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: This item was postponed.

12. Closed Session - **ADDITION**

Pursuant to Annotated Code of Maryland, State Government Article, Section 10-508(a)(14) (to discuss terms of operating agreement)

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 - ADDITION

Pursuant to Annotated Code of Maryland, State Government Article, Section 10-508(a)(14) (to discuss terms of operating agreement)

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

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

7. [Johns Hopkins University-Montgomery County Medical Center](#)

A. Limited Amendment Preliminary Plan 11986115B - LSC zone; 35.57 acres; 894,636 square feet of office use previously approved; request to amend previously approved conditions to modify certain elements of the project phasing; located in the southwest quadrant of the intersection of Key West Avenue and Medical Center Drive; Shady Grove Special Study Area.
Staff Recommendation: Approval with Conditions

B. Limited Concept Plan Review No. 81986065B, LSC zone; 41.08 acres; Amendment to approved research and development square footage and building layout; located at the southeast quadrant of the intersection with Broschart Road and Key West Avenue; Shady Grove

Staff Recommendation: Approval of the Concept Plan.

BOARD ACTION

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

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

Nay:

Other: **ALFANDRE ABSENT**

Action: **A. Approved the staff recommendation to approve the limited amendment to the preliminary plan, subject to revised conditions, as modified in discussion, as stated in the attached Board Resolution.**

B. Approved the staff recommendation to approve the limited amendment to the concept plan, subject to conditions, as stated in the attached Board Resolution.

Development Review staff presented the proposed limited amendments to the preliminary plan and concept plan for Johns Hopkins Medical Center, as detailed in the staff report. The amendment to the preliminary plan relates to the timing of completion of required intersection improvements and the required Traffic Mitigation Agreement. Staff cited the applicant's proposed revisions to conditions 3 and 5 of the preliminary plan and the staff recommended revisions in the staff report. As a result of continuing discussions with the applicant on the wording of those conditions, staff presented a further revision. With regard to the concept plan amendment, the applicant proposes to reconfigure Buildings V and VI, including a connector between the buildings, and modify the parking structure, with accessory retail on the front of the building. Staff noted that the concept plan shows the general layout of buildings, roads, and major site features, but is not as detailed as the individual site plans that are based on it.

The Chief of the Development Review Division elaborated on the issues related to the timing of the road improvements, including the applicant's concerns and the staff's concerns, and she offered a final revision to the conditions.

Ms. Barbara Sears, attorney representing the applicant, concurred in the staff recommendation for the final revision to the conditions.

Ms. Diane Schwartz Jones, representing the County Executive, spoke in support of the project.

9. [Worksession No. 1 - Water Resources Functional Plan](#) (continued from February 18 Planning Board Meeting)

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

BOARD ACTION

Motion: WELLS-HARLEY/PRESLEY

Vote:

Yea: 4-0

Nay:

Other: ALFANDRE ABSENT

Action: Following a brief staff presentation, the Board approved the proposed changes discussed by staff as a result of the issues raised at the Public Hearing on December 17 and during the subsequent public comment period, and instructed staff to provide Board members with a redlined version of the draft report for final review before forwarding it to the County Council.

10. Roundtable Discussion - REVISED

1. Forest Conservation Annual Report

2. Transportation Studies Update

4. Development Special Revenue Fund - **ADDITION**

5. Monumentation - **ADDITION**

3. Update on Stormwater Management and State Environmental Site Design (ESD) Requirements - **REVISED**

6. Director's Report - Parks - **ADDITION**

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: 1. Unanimously approved staff recommendation to transmit the Forest Conservation Annual Report to the Maryland Department of Natural Resources.

1. Forest Conservation Annual Report - Environmental Planning Division staff presented highlights of the Forest Conservation Annual Report, which will be forwarded to the Maryland Department of Natural Resources (DNR) after Planning Board's approval.

There followed a brief Board discussion with questions to staff.

2. Transportation Studies Update - Transportation Planning Division staff offered a multi-media presentation and discussed the list of active transportation studies. The studies are: 1) Policy Area Mobility Review (PAMR) Studies due in Spring 2010; 2) Parking Study – Spring/Summer 2010; 3) Retail Trip Generation Study – Summer 2020; 4) GHG Modeling through 2010; and 5) BRT Study through 2010.

There followed a brief Board discussion with questions to staff.

3. Update On Stormwater Management And State Environment Site Design (ESD) Requirements - Environmental Planning and Development Review Divisions staff presented an update on stormwater management and state environmental site design requirements. Staff noted that for any project that had been approved by the Planning Board in the last few years, the major issue was grandfathering the Environmental Site Design to the maximum extent possible.

Ms. Raquel Montenegro representing the Montgomery County Building Association offered comments.

There followed extensive Board discussion with questions to staff and Ms. Montenegro.

10. Roundtable Discussion- REVISED

4. Development Review Special Revenue Fund—Planning Department Director Rollin Stanley, Development Review Division and Budget staff updated the Board on the Special Revenue Fund for Development Review Division. Staff noted that budget transfers from the Administrative Fund have been made to keep the Special Revenue Fund solvent.

Planning Board members offered recommendations and questioned staff.

5. Monumentation— Development Review Division staff briefed the Board on the “Monumentation” requirement, which is the process by which a surveyor establishes control points on a property to make sure that his and future measurements by others are accurately based on the same location points. Staff noted that Development Review Division had been charging \$100 for this service and with the GIS system the “Monumentation” requirement has become obsolete. Staff added that this request will be scheduled for approval by the Planning Board at the next Planning Board meeting.

6. Director’s Report – Parks - Parks Department Director Mary Bradford briefed the Board on activities and events that have taken place and will take place in the next two weeks in the Montgomery County Parks system. Ms. Bradford noted that she will provide a written report to the Planning Board next week.

11. [Enforcement Hearing - Forest Conservation Plan 119960710, Fairhill, 21627 Ripplemead Drive, Gaithersburg, MD](#)

Violation of forest conservation plan and conservation easements

BOARD ACTION

Motion: **WELLS-HARLEY/PRESLEY**

Vote:

Yea: **3-0**

Nay:

Other: **ALFANDRE/DREYFUSS ABSENT**

Action: **Approved staff recommendation to find respondent in violation of Forest Conservation Plan and Forest Conservation Easements, as stated in the attached Board Resolution.**

At the start of the meeting Chairman Hanson noted that the Planning Board has to decide whether or not there is a violation of the Forest Conservation Plan and Forest Conservation Easements based on the proceedings of the last Planning Board Enforcement Hearing on February 18, 2010.

Mr. Michael Crowe, attorney for the respondent, Mr. Daniel Smith, offered comments and noted that the respondent is still standing by his recommendation to dismiss the case.

Legal staff questioned Environmental Planning Division staff regarding their role in the findings of violation of the forest conservation plan and forest conservation easements.

Environmental Planning Division staff recommended that: i) the respondent submit and obtain approval of a limited amendment to the preliminary plan; ii) post a performance bond (amount to be determined by staff based on regulations in place) to be retained by the Planning Department, of which fifty percent will be refunded to the respondent after verification of replacement plantings; and iii) the respondent submit a signed and approved maintenance and management agreement to the Planning Department.

Mr. Earnest Sehay, an abutting property owner, offered testimony.