



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, April 21, 2011, at 9:07 a.m. in the Montgomery Regional Office in Silver Spring, Maryland, and adjourned at 4:35 p.m.

Present were Chair Françoise M. Carrier, Vice Chair Marye Wells-Harley, and Commissioners Joe Alfandre and Amy Presley. Commissioner Norman Dreyfuss was necessarily absent.

Items 1 through 5 are reported on the attached agenda.

The Board recessed at 12:57 p.m. for lunch and to take up Item 6 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 1:15 p.m. in the third floor conference room, on motion of Commissioner Presley, seconded by Vice Chair Wells-Harley, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Alfandre and Presley present and voting in favor of the motion, and Commissioner Dreyfuss absent. The meeting was closed under authority of §10-508(a)(3), State Government Article, Annotated Code of Maryland, to consider the acquisition of real property for a Commission purpose and matters directly related thereto.

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, Mitra Pedoeem, and Mark Wallis of the Parks Department; Robert Kronenberg of the Planning Department; and Ellyn Dye of the Commissioners' Office.

In Closed Session, the Board discussed the consideration of parkland by Montgomery County Public Schools (MCPS) as possible school sites, including the mechanisms and funding through which the parkland was acquired, use restrictions on the land due to the use of federal or State funds for acquisition and/or improvements, recall rights for park sites surplus by and acquired from MCPS, and the general issue of conversion of parkland to non-park use.

The Closed Session was adjourned at 2:30 p.m.

The Board reconvened in the auditorium at 2:39 p.m.

MCPB, 4-21-11, APPROVED

Items 7, 8, and the continuation of Item 5, taken up in that order, are reported on the attached agenda.

Item 9 was postponed.

There being no further business, the meeting was adjourned at 4:35 p.m. The next regular meeting of the Planning Board will be held Thursday, April 28, 2011, in the Montgomery Regional Office in Silver Spring, Maryland.

Ellyn Dye
Technical Writer

M. Clara Moise
Technical Writer

Montgomery County Planning Board Meeting

Thursday, April 21, 2011, 9:00 A.M.

8787 Georgia Avenue

Silver Spring, MD 20910-3760

1. Consent Agenda

***A. Adoption of Resolutions**

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: There were no Resolutions submitted for adoption.

***B. Record Plats**

1. Subdivision Plat No. 220110520, Potomac Edge; R-200/TDR zone, 2 parcels; located on the south side of Travilah Road at the intersection of Potomac Edge Way; Potomac Subregion.

Staff Recommendation: Approval

2. Subdivision Plat No. 220110980, Hillmead- Bradley Hills; R-60 zone, 1 lot; located on the south side of Greentree Road, 150 feet west of Ewing Drive; Bethesda-Chevy Chase.

Staff Recommendation: Approval

BOARD ACTION

**Motion: 2) PRESLEY/WELLS-HARLEY
3) PRESLEY/WELLS-HARLEY**

Vote:

**Yea: 2) 4-0
3) 4-0**

Nay:

Other: DREYFUSS ABSENT

- Action:**
- 1) By consensus, removed item 1, Subdivision Plat No. 220110520, Potomac Edge, from the Consent Agenda.
 - 2) Approved item 2, Subdivision Plat No. 220110980, Hillmead- Bradley Hills, as presented.
 - 3) Approved item 1, Subdivision Plat No. 220110520, Potomac Edge, as presented.

Commissioner Presley requested that item 1, Subdivision Plat No. 220110520, Potomac Edge, be removed from the Consent Agenda to have staff provide additional information on that record plat.

The Board took action on the remaining record plat, as reported above and on the other items on the Consent Agenda before returning to this item.

Planning Department staff responded to questions, clarifying that the corrected record plat for Potomac Edge changes the limits of the Conservation Easement on the property and changes the Easement from Category I to Category II.

***C. Other Consent Items**

Corrected Resolution for Rock Spring Centre Preliminary Plan 11998092B - ADOPTION OF MCPB CORRECTED RESOLUTION No. 11-15

BOARD ACTION

Motion: WELLS-HARLEY/ALFANDRE

Vote:

Yea: 4-0

Nay:

Other: DREYFUSS ABSENT

Action: Adopted the Corrected Board Resolution cited above.

***D. Approval of Minutes**

Minutes of March 10, 2011, March 17, 2011, and Monday, March 28, 2011.

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: Approved the minutes of March 10, 17, and 28, 2011, as presented.

**2. Reconsideration Request for Downcounty Consortium School #29 (McKenney Hills) -
POSTPONED**

Final Forest Conservation Plan No. MR2010720; MCPB Resolution No. 11-19

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: This item was postponed.

***3. Woodmont Central, Phase 1A, 1B, and 2**

A. Project Plan Amendment Review No. 92009001A, Woodmont Central Phases 1A, 1B & 2, CBD-1/CBD-R2 zones; 2.59 acres; amendment: addition of tract area and revisions to conditions to coincide with newly submitted site plan; locations: southwest quadrant of the intersection of Battery Lane and Wisconsin Avenue, southwest quadrant of the intersection of Rugby Avenue and Del Ray Avenue; Bethesda CBD

Staff Recommendation: Approval with Conditions

B. Preliminary Plan 12009014A, Woodmont Central, Phase 1A, 1B, and 2; CBD-1 and CBD-R2 zones; 2 lots previously approved; request to reconfigure an existing lot and to modify the approved uses to add 10,739 square feet of retail and up to 21,066 square feet of multi-family residential; located southwest quadrant, intersection of Battery Lane and Wisconsin Avenue and the southwest quadrant of the intersection of Rugby Avenue and Del Ray Avenue; Woodmont Triangle Amendment to the Bethesda CBD Sector Plan.

Staff Recommendation: Approval with Conditions

C. Site Plan Review No. 820110020, Woodmont Central Phases 1A, 1B & 2; CBD-1/CBD-R2 zones; 2.59 acres; Commercial building with 81,107 square feet of office space and 10,505 square feet

of retail (Phase 1A site) and a high-rise building with 455 residential dwelling units, including 15% MPDUs and 19,790 square feet of ground floor retail (Phases 1B & 2); locations: southwest quadrant of the intersection of Battery Lane and Wisconsin Avenue, southwest quadrant of the intersection of Rugby Avenue and Del Ray Avenue; Bethesda CBD
Staff Recommendation: Approval with Conditions

BOARD ACTION

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

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

Nay:
Other: **DREYFUSS ABSENT**

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

3. Woodmont Central, Phase 1A, 1B, and 2

Planning Department staff presented a project plan amendment, preliminary plan amendment, and site plan for a three-phased mixed-use development on two non-contiguous sites, consisting of two high-rise multifamily residential buildings with ground floor retail uses on property at the intersection of Rugby and Del Ray Avenues and one commercial office building at the intersection of Battery Lane and Wisconsin Avenue, as detailed in the staff report. The proposal relies on a transfer of office/retail density from the residential site to the commercial site and a transfer of residential density from the commercial site to the residential site. Staff also reported that there are two alternatives for the residential development, with higher maximum square footage and height permitted if the project earns a density bonus by providing 15 percent, rather than the required 12.5 percent, moderately priced dwelling units (MPDUs). In addition, the applicant is requesting a 37 percent waiver of the parking, which staff supports. Staff discussed the changes proposed in the amendments to the project plan and preliminary plan. Staff also discussed various elements of the project, including the timing of amenities and improvements, and offered a number of revisions to the conditions of approval for the three plans.

There followed considerable discussion of the transfer of density between the two properties, particularly in terms of the Sector Plan commercial density limit of one FAR (floor area ratio) and the applicant’s proposal to retain the existing commercial development on the future residential site until after the new commercial building and the first residential building are constructed.

Ms. Emily Vaias, attorney representing the applicant, elaborated on the need to retain the existing commercial building and the applicant request to revise or delete the restrictions on retaining that use. Mr. Jad Donohoe of the applicant company also added comments.

Discussion of the density transfer, the rationale and provisions for allowing such density transfers, and the Sector Plan commercial density limits continued. Staff reported that retaining the existing commercial building in addition to the new commercial building, or in addition to both the new commercial building and the first new residential building, will cause the project to exceed the Sector Plan commercial density limit by approximately 1,000 square feet and 6,000 square feet, respectively. Various mechanisms for limiting the new commercial uses while the existing commercial uses are retained were discussed, such as limiting the use and occupancy permits for the new commercial building, to ensure that the Sector Plan density limit is not exceeded. Site plan condition 9, related to the density transfer and the continued occupancy of the existing commercial building, was discussed at length and revised during discussion. Several other conditions of approval were also revised.

Additional discussion ensued about participation by the commercial development in the Transportation Management District; the requested parking waiver; the applicant's request to remove the Silver LEED requirement for the residential development; and a request from the community to commemorate the historic and cultural importance of the Twist and Shout Club, a long-term, popular music venue formerly on the Auburn Avenue property.

***4. Preliminary Plan No. 1-04011 Meadowsweet Termination of Traffic Mitigation Agreement Condition of Approval**

Staff Recommendation: Approve termination of Traffic Mitigation Agreement and subsequent remit of \$341,772.00 (posted security instrument) by the applicant to DOT for the cost of trip reduction programs in Olney Policy Area

BOARD ACTION

Motion: PRESLEY/WELLS-HARLEY

Vote:

Yea: 4-0

Nay:

Other: DREYFUSS ABSENT

Action: Approved the staff recommendation.

Planning staff presented the proposal to terminate the traffic mitigation agreement (TMA) required under an approved preliminary plan in Olney and require the applicant to remit \$341,772 to the Montgomery County Department of Transportation for use in other traffic mitigation projects in the Olney Policy Area, as detailed in the staff report. Under the preliminary plan approval, staff said, the applicant was required to post a bond of \$368,832 and enter into the TMA to satisfy the Planning Area Transportation Review requirements. The TMA included a provision that it could be terminated, and the remaining funds used for other traffic mitigation programs, if the program failed to meet its goals.

Mr. Scott Wallace, attorney, and Mr. Patrick Williams of the applicant company, concurred in the staff recommendation.

5. Roundtable Discussion

- A. Site Plan 820070220, Clarksburg Town Center; to provide a briefing to the Planning Board as a requirement of the conditions of site plan approval
- B. Total Maximum Daily Loads (TMDLs): Implications for Local Governments

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

**Other: DREYFUSS ABSENT
PRESLEY RECUSED DUE TO POSSIBLE CONFLICT OF
INTEREST ON ITEM 5A.**

Action: Received briefings as noted below.

A. Briefing on status of Site Plan 820070220, Clarksburg Town Center—Following a presentation by Planning staff on the Clarksburg Master Plan and implementation of the infrastructure of the Plan, Mr. Doug Delano, of the applicant company, and Mr. Steve Kaufman, attorney, presented a status report on development of the Clarksburg Town Center site plan, including commercial development and roads, as required under the site plan approval.

B. Total Maximum Daily Loads (TMDLs) of pollutants: Implications for local governments—Planning staff briefed the Board on new implementation requirements of the Clean Water Act, noting that local governments must develop and implement comprehensive plans to meet new water pollution limits for the Chesapeake Bay and local streams. Staff discussed the implications of these requirements on the way the Board and staff approach land use planning, development review, and other aspects of their work.

Mr. Meosotis Curtis, representing County Department of Environmental Protection (DEP), discussed that agency's role and responsibilities in reaching the new standards.

6. Closed Session

Pursuant to State Government Article Annotated Code of Maryland 10-508(a)(3) to consider the acquisition of real property for a Commission purpose and matters directly related thereto

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

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

***7. 8711 Georgia Avenue**

A. Project Plan Amendment Review No. 92005002B, 8711 Georgia Avenue, CBD-2 zone; 0.71 acres; Amendment to eliminate the office square footage and replace that space with 160 residential units; keeping the retail space with minor modifications to the loading area; located at 8711 Georgia Avenue, approximately 250 feet northeast of the intersection with Cameron Street; Silver Spring CBD
Staff Recommendation: Approval with Conditions

B. Preliminary Plan Amendment Review No. 12006042A, 8711 Georgia Avenue, CBD-2 zone; 0.71 acres; Amendment to eliminate the office square footage and replace that space with 160 residential units; keeping the retail space with minor modifications to the loading area; located at 8711 Georgia Avenue, approximately 250 feet northeast of the intersection with Cameron Street; Silver Spring CBD
Staff Recommendation: Approval with Conditions

C. Site Plan Amendment Review No. 82008023A, 8711 Georgia Avenue, CBD-2 zone; 0.71 acres; Amendment to eliminate the office square footage and replace that space with 160 residential units; keeping the retail space with minor modifications to the loading area; located at 8711 Georgia Avenue, approximately 250 feet northeast of the intersection with Cameron Street; Silver Spring CBD
Staff Recommendation: Approval with Conditions

BOARD ACTION

Motion: A. ALFANDRE/WELLS-HARLEY
B. ALFANDRE/PRESLEY
C. ALFANDRE/WELLS-HARLEY

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

Nay:

Other: DREYFUSS ABSENT

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

B. Approved staff recommendation for approval, subject to conditions, as stated in the attached Board Resolution.

C. Approved staff recommendation for approval, subject to conditions, as stated in the attached Board Resolution.

7. 8711 Georgia Avenue

In keeping with the April 8 technical staff report, Planning Department staff discussed the proposed amendments to the Project, Preliminary, and Site Plans to change the use from retail and office use to retail and residential use. There will be no changes to the approved building footprint, setbacks, and heights. The plans propose 152,740 gross square feet of mixed-use development, with 150,340 square feet of residential use above 2,400 square feet of ground-floor commercial uses, on 0.87 acres in the Central Business District Zone located on the east side of Georgia Avenue, 250 feet north of the intersection of Georgia Avenue and Cameron Street, in the Silver Spring Central Business District Sector Plan. Staff reviewed the proposed modifications concurrently as a combined application. Staff noted that the applicant has complied with all submission and noticing requirements and no correspondence from citizens or community groups has been received as of the date of this report.

Mr. Jody Kline, attorney representing the applicant, offered brief comments, and concurred with the staff recommendation.

Mr. Brian Lang, the applicant, and Messrs. Dan Derosa, Carlos Ostria, and George Dove, members of the applicant’s team, offered comments and answered questions from the Board.

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

***8. Preliminary Plan No. 120090160: Weaver Property (Deferred from 11/5/09 Hearing)**

One (1) 7.56 acre lot; located at 13931 Esworthy Road, approximately 2,350 feet east of Seneca Road (MD 112); 7.56 acres, RE-2 zone; Potomac Master Plan.

Staff Recommendation: Approval with Conditions

BOARD ACTION

Motion: ALFANDRE/WELLS-HARLEY

Vote:

Yea: 4-0

Nay:

Other: DREYFUSS ABSENT

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

In keeping with the April 8 technical staff report, Planning Department staff presented the request to create one lot on a 7.56-acre property located on Esworthy Road, approximately 2,350 feet east of Seneca Road (MD 112) in the Potomac Master Plan area. Staff discussed the proposed request

and noted that the lot meets all the subdivision requests except for the frontage. Staff noted that this request was denied the last time it was presented to the Planning Board due to a forest conservation issue. Staff noted that the applicant has submitted a variance request from the definition of forest in section 22A-3 of the Montgomery County Forest Conservation Law and Section 22A.00.01.08 D (1) of the Forest Conservation Regulations.

Staff noted that the Parks Department has been trying to acquire the Potter property, which is adjacent to this property, and the applicant has the choice of waiting until this is done to develop or can decide to go forward with the request without a waiver. Staff does not support the variance request but does support the preliminary plan request with the conditions cited in the staff report and with the required off-site planting.

At the Board's request, Legal staff noted that the Board does have the authority to approve the waiver.

Mr. David McKee, attorney representing the applicant, offered comments and concurred with the staff recommendation.

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

5. Roundtable Discussion (continuation)

C. Discuss Proposed Amendments to Parks' CIP

BOARD ACTION

Motion: ALFANDRE/WELLS-HARLEY

Vote:

Yea: 4-0

Nay:

Other: DREYFUSS ABSENT

Action: Received briefing followed by discussion and approved staff recommendation to keep the North Four Corners Local Park project in the Capital Improvements Program (CIP), with the design study to be done in FY12-14 and construction to start in FY15 and complete in FY16.

Parks Department staff offered a multi-media presentation of the proposed renovation and expansion of the North Four Corners Local Park located on the north side of University Boulevard at Brunett Avenue near the commercial node of Four Corners. Staff noted that this project will be financed by Program Open Space funds (POS) and there might not be funds available to do construction in years prior to 2015.

Planning Department staff offered comments and noted that staff is in agreement with Parks staff recommendation for the North Four Corners Local Park.

Parks Department Director Mary Bradford noted that because two County Council members recommended that this project be pushed to another year in the CIP, and because this will be the

fifteenth year that this project has been delayed, staff is recommending to continue with the design study and to delay the construction to fiscal year 2015.

There followed a brief Board discussion with questions to staff.

***9. Preliminary Plan No. 120110110: Willerburn Acres (Resubdivision) - POSTPONED**

Two lots requested for two single family detached dwellings; located on the east side of Gainsborough Road, 400 feet southwest of Whistler court; R-90 zone; 1.91 acres; Potomac Subregion Master Plan.

Staff Recommendation: Approval with Conditions

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: **This item was postponed.**