



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 25, 2013, at 9:10 a.m. in the Montgomery Regional Office in Silver Spring, Maryland, and adjourned at 9:10 p.m.

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

In recognition of National Bring Your Child to Work Day, Vanessa Berton, daughter of Planning Department staff member Valerie Berton, struck the gavel to bring the meeting to order. Chair Carrier welcomed the children to the day's activities, and Robbin Brittingham of the Planning Department, discussed the day's schedule, and thanked the many volunteers who worked tirelessly to make this day a success.

Items 1 and 3 are reported on the attached agenda.

The Board recessed for lunch at 1:45 p.m., and convened in open session in the third floor conference room, to participate with the members of the Prince George's County Planning Board in a Closed Session conference call meeting of The Maryland-National Capital Park and Planning Commission (M-NCPPC) at 2:00 p.m. 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 to conduct collective bargaining negotiations.

Also present for the Closed Session on the Montgomery County side were Associate General Counsel Carol Rubin; Director Mary Bradford and Deputy Director John Nissel of the Parks Department; and Acting Planning Department Director Rose Krasnow.

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

Minutes of the Closed Session meeting are reported in the M-NCPPC Closed Session meeting Minutes.

The Planning Board reconvened in open session and voted to go back into Closed Session, on motion of Commissioner Presley, seconded by Vice Chair Wells-Harley, 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)(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 the Closed Session were Associate General Counsel Carol Rubin; Director Mary Bradford, and Dan Hertz of the Parks Department.

In Closed Session the Board briefly discussed the proposed relocation of the Montgomery County Park and Planning Commission Headquarters to Wheaton.

There was no Technical Writer present at the Closed Session meeting.

The Closed Session was adjourned at 3:00 p.m.

The Board reconvened in the auditorium at 3:08 p.m.

Items 2 through 8 are reported on the attached agenda.

Commissioner Presley left the meeting at 5:30 p.m.

The Board recessed for dinner at 6:20 p.m. and reconvened in the auditorium at 7:15 p.m. to continue discussion of Item 7, the Zoning Code Revision Implementation, started during the afternoon session.

There being no further business, the meeting was adjourned at 9:10 p.m. The next regular meeting of the Planning Board will be held Thursday, May 2, 2013, in the Montgomery Regional Office in Silver Spring, Maryland.

M. Clara Moise
Sr. Technical Writer

Montgomery County Planning Board Meeting
Thursday, April 25, 2013
8787 Georgia Avenue
Silver Spring, MD 20910-3760
301-495-4600

1. Consent Agenda

***A. Adoption of Resolutions**

1. Tomahawk Estates Preliminary Plan 12000094A - MCPB No. 13-48
2. Bethesda Mews Site Plan No. 820130030 – MCPB No. 13-52
3. Studio Plaza Preliminary Plan 120130020 – MCPB No. 13-22
4. Studio Plaza Site Plan 820130010 – MCPB No. 13-23
5. Corrected Resolution for Alta Vista Preliminary Plan 120070750 – MCPB No. 12-78
6. 8415 Fenton Street Site Plan 820130050 – MCPB No. 13-26

BOARD ACTION

Motion: PRESLEY/ANDERSON

Vote:

Yea: 5-0

Nay:

Other:

Action: Adopted the Resolutions cited above, as submitted.

***B. Record 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 March 21, 2013

BOARD ACTION

Motion: WELLS-HARLEY/PRESLEY

Vote:

Yea: 5-0

Nay:

Other:

Action: Approved Planning Board Meeting Minutes of March 21, 2013, as submitted.

***3. Chelsea Court**

A. Preliminary Plan Review No. 120130060, Chelsea Court, RT-12.5, 5.25 acres, 64 lots for 1 one-family detached home and 63 townhouses, located in the southeast quadrant of the intersection with Springvale Road, Ellsworth Drive and Pershing Drive, Silver Spring
Staff Recommendation: Approval with Conditions

B. Site Plan Review No. 820130040, Chelsea Court, RT-12.5, 5.25 acres, 64 dwelling units including 1 one-family detached home and 63 townhouses, located in the southeast quadrant of the intersection with Springvale Road, Ellsworth Drive and Pershing Drive, Silver Spring
Staff Recommendation: Approval with Conditions

BOARD ACTION

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

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

Nay:

Other:

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

In keeping with the April 12 technical staff report, Planning Department staff discussed the preliminary and site plan requests for the Chelsea Court project, which proposes to create 64 lots for 63 townhomes, of which eight will be Moderately Priced Dwelling Units (MPDUs), and one lot for an existing one-family detached dwelling, the historic Riggs-Thompson House, which will be retained and converted to a one-family detached dwelling on a 5.25-acre property located on Pershing Drive, south of Springvale Road in Silver Spring. The preliminary plan proposes three open space parcels, which will be open to the public, and one parcel to contain a proposed private street providing access to the townhouses, with access points from Ellsworth Drive and Springvale Road, and the associated alleys. The one-family detached dwelling will be accessed by an existing driveway on Pershing Drive. Staff discussed the forest conservation requirements for the proposed project, and noted that there are four trees that are proposed for removal. The applicant requests a waiver of the requirement that the Planning Board finds that the proposed private street attained the status of a public road, but staff finds that the waiver is not necessary and recommends that the Board makes the necessary finding. Staff has received a considerable amount of correspondence in opposition to this application.

***3. Chelsea Court - Preliminary Plan Review No. 120130060 & Site Plan Review No. 820130040,**

CONTINUED

The main issues of concern include the steep slopes, tree preservation, through traffic, the provision of green area on proposed Lot 64, the density, and parking. Staff noted that many of these issues were discussed during the review of the rezoning case associated with this project.

Mr. Robert Harris, attorney representing the applicant, introduced Mr. Askash Thakkar of EYA Development, member of the applicant’s team, discussed the proposed request, and concurred with the staff recommendation.

At the Board's request, Mr. Askash Takkar offered comments.

The following speakers offered testimony: Messrs. Robert Bacon of Dale Drive, Michael O'Halloran of Rowen Road, Peter Perernyi of Woodside Park, Alex Posorske, representing the Coalition for Smarter Growth, Jim Teller of Kingsburg Road, Tom Armstrong of Greenbrier Drive, Ms. Liz Brent of Mayfair Place, Ms. Vicki Warren of Pershing Drive, Ms. Diane Martin of Ellsworth Court, Mr. Michael Gurwitz of Springvale Road, Ms. Maria Schmit of Springvale Road, Mr. Jonathan Bernstein of Kingsburg Drive, Ms. Anne Vorce of Bennington Drive, Ms. Dana Davidson of Blair Mill Road, Ms. Dianne Cameron representing the Audubon Naturalist Society, Ms. Vicki Warren of Pershing Drive, Mr. Tom Armstrong of Greenbrier Drive, Ms. Jean Cavanaugh of Worth Avenue, Ms. Kathleen Samiy of Bennington Drive, Ms. Michele Rosenfeld, attorney representing Seven Oaks-Evanswood Citizens Association (SOECA), and Ms. Anne Spielberg of Greenbrier Drive.

In rebuttal Mr. Harris noted that the applicant has met the stormwater management plan requirements as approved by the Department of Permitting Services (DPS), and has also met the requirements for the removal of trees, for which a variance has been reviewed by staff and found to be in conformance with the forest conservation law. The applicant proposes to do outside planting as required in a forest conservation bank in the same watershed.

Legal counsel to the Board clarified that there is no forest conservation bank in the proposed project watershed and under the law if there is no bank in the watershed, planting can be done in the closest watershed that has a bank, and a condition of approval should be added to the site plan to that effect.

There followed extensive discussion and the Board instructed staff to add conditions preventing cut-thru traffic through the private road, and posting a sign, with approval from the Department of Transportation, and selecting a forest conservation bank for the required planting.

9. Closed Session – ADDED

Teleconference Meeting of The Maryland-National Capital Park and Planning Commission (M-NCPPC) - *MRO 3rd Floor Conference Room*

Pursuant to Section 10-508(a)(9) and (a)(7) of the State Government Article Annotated Code of Maryland to conduct collective bargaining negotiations and consult with Counsel.

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: **Discussed in Closed Session. See State citation and open session report in narrative minutes of the M-NCPPC Minutes.**

10. Closed Session - ADDED

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.

8. Budget Request - ADDED / TIME CHANGED

Request to Spend Department of Human Resources and Management FY13 Salary Lapse

BOARD ACTION

Motion: WELLS-HARLEY/ANDERSON

Vote:

Yea: 4-0

Nay:

Other: DREYFUSS TEMPORARILY ABSENT

Action: Approved budget transfer request from the Commission Human Resources and Management Department.

The Commission Executive Director Patti Barney requested approval to transfer \$756,963 from the Department of Human Resources and Management FY13 salary lapse to various other functions, as detailed in the April 22 staff memorandum.

4. Budget Transfer Request from the Department of Parks

Staff Recommendation: Approval

BOARD ACTION

Motion: PRESLEY/WELLS-HARLEY

Vote:

Yea: 5-0

Nay:

Other:

Action: Approved staff recommendation for approval of the proposed budget transfer request discussed below.

Parks Department staff noted that the Parks Department is projecting savings of \$2.9 million in Personnel Services for FY2013 as a result of revised retirement compensation amounts, fewer unemployment payments than budgeted, prepayment of group long-term disability with funds from FY2012, and unfilled personnel vacancies, therefore staff is requesting a transfer of \$2,212,900 from the Personnel Services budget to pay for technology systems upgrades, equipment maintenance, system repairs, and marketing and sponsorship needs.

2. Budget Transfer Request from the Planning Department

Staff Recommendation: Approval

BOARD ACTION

Motion: ANDERSON/WELLS-HARLEY

Vote:

Yea: 5-0

Nay:

Other:

Action: Approved staff recommendation for approval of the proposed budget transfer, as requested, and approved additional expenditures to hire environmental analysis consultants up to but not in excess of \$50,000.

The Planning Department is projecting a FY2013 budget surplus in Personnel Services as a result of hiring deferrals and salary lapse. As detailed in the April 22 staff memorandum, staff is

requesting a transfer of \$440,000 from the Personnel Services to Other Services and Charges to pay for professional services to complete the environmental analysis of the Ten Mile Creek Clarksburg Master Plan Amendment, professional services to update LIDAR data for the GIS, and professional services to provide additional programming for Project DOX and staff training.

The Board enquired about the funds that have already been allocated to professional services for environmental analysis of the Ten Mile Creek watershed.

Staff explained that the additional modeling scenarios requested by the Board and consultant participation in public hearings were not anticipated in the original contract.

The Board instructed staff to calculate how much the additional modeling would cost without any public hearing attendance, and approved the budget transfer in its entirety, but limited spending approval for professional services for the Ten Mile Creek environmental analysis to the amount required for modeling only.

***5. Forest Conservation Plan Amendment CBA 1206, E-3 – in Response to a Violation, Congressional Country Club**

Forest Conservation Plan Amendment CBA 1206 E-3, Congressional Country Club RE2 and R200 zone; 358 acres; Parcel A and B Congressional Country Club; Request to relocate portions of conservation easements on-site, remove 1.41 acres of conservation easement and mitigate offsite; located at 8500 River Road, south of Bradley Boulevard and southwest of River Road in Bethesda; Potomac Sub-region 2002 Master Plan.

Staff Recommendation: Approval with Conditions

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 submitted Resolution approving the Forest Conservation Plan Amendment.

Planning Department staff offered a multi-media presentation detailing the proposed Forest Conservation Plan (FCP) Amendment for the Congressional Country Club, in response to a violation. The Congressional Country Club located on River Road in Bethesda, a 358-acre property, subject to the Potomac Sub-region 2002 Master Plan, received approval for an amendment of their original FCP on June 21, 2007 that established 58.52 acres of on-site Category I conservation easements, 19.83 acres of on-site Category II conservation easements, required 7.98 acres of onsite forest planting, and 1.67 acres of off-site planting at an approved Forest Conservation Bank. However, as a result of the annual AT&T National Professional Golf Association (PGA) tournament, temporary structures, such as viewing

stands for spectators, were placed within some of the easement areas, making it impossible for the applicant to complete the planting required by the 2007 FCP Amendment.

Staff issued a notice of violation on October 17, 2012 because of the applicant’s failure to complete planting within the time allowed, as well as for mowing and storage activity observed on Category I Easement in violation of the FCP. In response to this notice, the applicant submitted an amendment to the FCP in November 2012. Planning Department staff reviewed the applicant’s FCP amendment request, and offered comments. The applicant made revisions accordingly, and the final proposal was submitted on April 12, 2013. The proposed amendment will alter eleven of the Category I easements, with some expanding, some being reduced, and

***5. Forest Conservation Plan Amendment CBA 1206, E-3 – in Response to a Violation, Congressional Country Club**

CONTINUED

three being removed entirely, with a net loss of 0.92 acres. Some Category II easements will be subject to new planting, and a net total of 0.49 acres will be converted to Category I easements. There will be a net loss of 1.41 acres of on-site planting, which will be mitigated by 2.82 acres of planting in an approved forest conservation bank.

Mr. Jody Kline, attorney representing the applicant, discussed the proposed amendment request and concurred with the staff recommendation.

Mr. Michael Giuffre, member of the applicant’s team, noted that spectator traffic from the PGA tournament would have destroyed new plantings in the original easements, so the applicant identified other on-site planting areas, and ultimately concluded that off-site mitigation would also be required. The proposed amendment would not affect any existing forest, but merely changes which areas will be subject to new planting.

***6. Site Plan Amendment Review No. 82008023B, 8711 Georgia Avenue**

CBD-2 zone, .8 acres, amendment to revise the artist and artwork in the public use space; located at 8711 Georgia Avenue, approximately 250 feet north of the intersection with Cameron Street, Silver Spring CBD

Staff Recommendation: Approval with Conditions

BOARD ACTION

Motion: ANDERSON/WELLS-HARLEY

Vote:

Yea: 5-0

Nay:

Other:

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

Planning Department staff offered a multi-media presentation describing the proposed Site Plan Amendment request for 8711 Georgia Avenue. The original Site Plan was approved on October 23, 2008, and a Site Plan Amendment was approved on April 4, 2011. Both the original Site Plan and the amendment included a public art feature, “Urban Oasis” as a condition of approval, along with the requirement that any modification of this art feature be approved by the Planning Board. The applicant reconsidered the design of the art feature, and proposes to replace it with a new design, “Bolero’s Ballerina.” The Art Review Panel reviewed the new design proposal on January 30, 2013, and recommended approval with conditions.

Mr. Jody Kline, attorney representing the applicant, introduced his client, Mr. Brian Lang, briefly discussed the proposed application, and concurred with the staff recommendation.

Mr. Brian Lang explained that public mosaic art such as the original “Urban Oasis” proposal tended to become chipped and degraded over time, and that the new “Bolero’s Ballerina” proposal would be much more durable.

Mr. Barton Rubenstein, sculptor, member of the applicant’s team, explained his concept for a wind-driven, stainless steel kinetic sculpture, and presented a video displaying a similar kinetic sculpture of his creation.

7. Zoning Code Revision Implementation - CONTINUED

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: Continued discussion of the Zoning Code Revision Implementation.