



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, June 4, 2015, at 9:04 a.m. in the Montgomery Regional Office in Silver Spring, Maryland, and adjourned at 1:36 p.m.

Present were Chair Casey Anderson, Vice Chair Marye Wells-Harley, and Commissioners Norman Dreyfuss and Natali Fani-González.

Commissioner Amy Presley joined the meeting at 9:25 a.m.

Items 1 through 4, and Items 6 and 7 are reported on the attached agenda.

Item 5 was postponed.

There being no further business, the meeting was adjourned at 1:36 p.m. The Planning Board will participate in an all-day tour of Montgomery County Parks facilities, organized by Parks Department staff, on Thursday, June 11. The next regular meeting of the Planning Board will be held on Thursday, June 18, 2015, in the Montgomery Regional Office in Silver Spring, Maryland.

James J. Parsons
Technical Writer

Montgomery County Planning Board Meeting
Thursday, June 4, 2015
8787 Georgia Avenue
Silver Spring, MD 20910-3760
301-495-4600

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**

Subdivision Plat No. 220140950, Jordan's and Smith's Addition to Silver Spring Park

CR and R-60 zones, 2 lots; located in the east quadrant of the intersection of Fenton Street and Wayne Avenue; Silver Spring CBD Master Plan.

Staff Recommendation: Approval

Subdivision Plat No. 220150430, Potomac Chase

R-200 zone, 4 lots; located on the north and south sides of Altice Court, 100 feet east of Jones Lane; Potomac Sub-region Master Plan.

Staff Recommendation: Approval

BOARD ACTION

Motion: **WELLS-HARLEY/FANI-GONZÁLEZ**

Vote:

Yea: **4-0**

Nay:

Other: PRESLEY TEMPORARILY ABSENT

Action: Approved staff recommendation for approval of the Record Plats cited above, as submitted.

***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**

Planning Board Meeting Minutes of May 21, 2015

BOARD ACTION

Motion: FANI-GONZÁLEZ/WELLS-HARLEY

Vote:

Yea: 4-0

Nay:

Other: PRESLEY TEMPORARILY ABSENT

Action: Approved Planning Board Meeting Minutes of May 21, 2015, as submitted.

2. Roundtable Discussion

- Planning Director's Report

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: Received briefing.

Planning Director's Report – Planning Department Director Gwen Wright briefed the Board and discussed the following Planning Department events and activities: the status of the Bethesda Downtown Sector Plan, the public hearing and Planning Board tour scheduled for Wednesday, June 24, and the first worksession scheduled for Monday, July 20; the status of a rental housing study and an advisory group meeting scheduled for Friday, June 26; the status of an office study by the Research and Special Projects Division; the Planning Department picnic scheduled for Friday, June 6; a 15-mile bicycle tour of Lyttonsville, Bethesda, and Westbard scheduled for Friday, June 12; the status of the working draft of the Westbard Plan, scheduled to be presented to the Planning Board on Thursday, July 16; the status of the working draft of the Montgomery Village Master Plan, scheduled to be presented to the Planning Board on Thursday, July 23; the status of the White Flint II scope of work, scheduled to be presented to the Planning Board on Thursday, July 30; and a staff retreat to discuss organizational issues, scheduled for Tuesday, June 16.

There followed a brief Board discussion.

***3. Mt. Jezreel Baptist Church Street**

A. Special Exception S-2877, Mt Jezreel Baptist Church Street, R-60 Zone, 3.18 acres out of 9.73 acres, Request for housing and related facilities for senior adults and persons with disabilities, located at 420 East University Boulevard; East Silver Spring Master Plan

Staff Recommendation: Approval to Transmit Comments to the Hearing Examiner

(Action required for Hearing Examiner by Hearing Date on August 17, 2015.)

B. Preliminary Forest Conservation Plan S-2877, Mt. Jezreel Baptist Church Street, R-60 Zone, 3.18 acres out of 9.73 acres, Request for housing and related facilities for senior adults and persons with disabilities, located at 420 East University Boulevard; East Silver Spring Master Plan

Staff Recommendation: Approval with Conditions and Adoption of Resolution

BOARD ACTION

Motion:

A. DREYFUSS/PRESLEY

B. PRESLEY/WELLS-HARLEY

Vote:

Yea:

A. 5-0

B. 5-0

Nay:

Other:

Action: A. Approved staff recommendation to transmit comments to the Hearing Examiner regarding the Special Exception cited above, as stated in the attached transmittal letter.

B. Approved staff recommendation for approval of the Preliminary Forest Conservation Plan cited above, subject to conditions, and adopted the attached Resolution.

Planning Department staff offered a multi-media presentation and discussed a Special Exception request and an associated Preliminary Forest Conservation Plan (FCP) request regarding the proposed construction of a 74,500-square foot independent-living facility for senior adults and adults with disabilities. Staff noted that the proposed project was reviewed under the 2004 Zoning Ordinance. The 9.73-acre site, which consists of two unrecorded lots, is located on University Boulevard (MD 193), approximately 1,625 feet south of its intersection with Franklin Avenue, and zoned Residential within the 2000 East Silver Spring Master Plan area. Currently, the 6.55-acre lot 1, which fronts on MD 193, is developed with an existing church, surface parking, and an associated school. The applicant proposes to develop the 3.18-acre lot 2 with a three-story, 75-unit residential facility to accommodate a maximum of 86 residents, 4 staff, and parking for 55 vehicles. Two points of vehicular access to MD 193 are provided by an existing one-way circular driveway. The applicant also proposes the abandonment of a 110-foot unimproved segment of Malibu Drive that abuts the southern portion of the property and to

***3. Mt. Jezreel Baptist Church Street**

CONTINUED

incorporate the resulting 11,950 square feet into each proposed lot. Staff noted that the proposed abandonment will be addressed in the project's forthcoming Preliminary Plan request. The applicant is also requesting a waiver for relief from Zoning Ordinance parking facility standards and two waivers of 25 feet each for relief from 25-foot rear-yard setback requirements.

An approved July 2014 Natural Resources Inventory/Forest Stand Delineation Plan identified approximately three acres of forest on the site. The applicant proposes to clear approximately 1.56 acres of forest, to retain 1.41 acres, and to plant 0.66 acres, resulting in 2.07 acres of on-site forest to be placed within a Category I conservation easement. The applicant is also requesting a variance to impact three trees and remove one tree, which staff noted is a Norway maple, an invasive species.

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

Mr. Paul Roue, member of the applicant's team, offered comments and discussed the daily activities currently conducted at the site.

Ms. Donna Creedon, member of the applicant's team, offered comments and discussed the proposed staffing of the facility.

Mr. Todd Reddan, member of the applicant's team, offered comments and discussed the existing site constraints and addressed the proposed orientation of the building.

Mr. Mel Thompson, member of the applicant's team, offered comments and discussed the proposed terrace and retaining walls at the rear of the building.

Ms. Victoria Baldassano of Compton Street offered testimony.

Following extensive Board discussion with questions to staff and Messrs. Kline and Roue, Chair Anderson recommended including the construction of a shared-use path that connects Malibu Drive to MD 193 in the Board recommendations to the Hearing Examiner.

***4. Vance Residence: Preliminary Plan Amendment 11997035A (In Response to a Forest Conservation Violation) ---** Request to amend the forest conservation plan to remove and replace existing Category I conservation easements.

Staff Recommendation: Approval with Conditions and Adoption of Resolution

BOARD ACTION

Motion: DREYFUSS/PRESLEY

Vote:

Yea: 5-0

Nay:

Other:

Action: Approved staff recommendation for approval of the Preliminary Plan Amendment cited above, subject to conditions discussed during the meeting.

Planning Department staff offered a multi-media presentation and discussed a proposed Preliminary Plan Amendment request to revise an existing Forest Conservation Plan. The 2.12-acre property, lot 15, is located on Little Bennett Court, approximately 1,100 feet west of the intersection of Little Bennett Drive and Frederick Road (MD 355), and zoned Residential Estate (RE-2) within the Clarksburg Vicinity Master Plan area. The site is currently developed with a single-family dwelling unit. According to staff, lot 15 is narrower than typical RE-2 lots and contains approximately 37,383 square feet of Category I conservation easement, which amounts to 40 percent of the lot's total area.

As a result of a July 2014 required easement inspection, staff issued a Notice of Violation (NOV) to the applicant for placing fencing, a portion of a swimming pool, a portion of a shed, and turf grass within an easement, and, though it was not specified in the NOV, for mowing within the easement. According to staff, the Montgomery County Department of Permitting Services (DPS) issued the applicant a permit to install the pool and fence on February 20, 2002. Planning Department staff does not review pool permits and was not asked to attend a pre-construction meeting regarding the applicant's pool.

The applicant proposes to remove 3,424 square feet of existing conservation easement, a portion of which contains the pool, shed, and fence. The applicant proposes to mitigate the loss by relocating 1,998 square feet of easement to an on-site location, and utilizing an off-site forest bank at a rate of 2:1 for the remaining 1,426 square feet. Any easement on the remainder of the property will remain in place. Staff agrees with the removal of the conservation easement, but recommends locating all mitigation off-site, noting that the applicant's proposed plan will create an irregular easement boundary that is difficult to enforce.

***4. Vance Residence: Preliminary Plan Amendment 11997035A (In Response to a Forest Conservation Violation)**

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Ms. Soo Lee-Cho, attorney for the applicant, Mr. Larry Vance, also present, offered comments, and argued that the on-site easement boundary lines proposed in the applicant's plan are not difficult to enforce. Ms. Lee-Cho recommended waiving all off-site mitigation, noting that DPS approved the construction of both the pool and fence. Ms. Lee-Cho added that the cost of off-site mitigation is significantly higher than on-site mitigation.

In response, staff noted that if the off-site mitigation requirement is waived, the Forest Conservation Plan will no longer be compliant with current Forest Conservation Laws.

Mr. Larry Vance, the applicant, offered testimony.

Following extensive discussion with questions to staff and Ms. Lee-Cho, the Board agreed with the applicant's proposed plan to utilize both on-site and off-site mitigation.

Staff stated that a revised Resolution would be submitted at a later date as a Consent Agenda Item.

~~5. Zoning Text Amendment No. 15-04 (continuation of hearing from April 16, 2015)~~

~~Clarify the private institutions exemption provisions and amend the building height standards for a private educational institution.~~ **POSTPONED**

Staff Recommendation: Transmit Comments to County Council

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: **This Item was postponed.**

***6. Artis Senior Living Preliminary Forest Conservation Plan and Conditional Use**

A. Preliminary Forest Conservation Plan CU201505: Request for a residential care facility consisting of 72 beds for seniors suffering from Alzheimer's disease or other forms of dementia or

memory loss; RE-2 zone; 4.39 acres; located at 8301 River Road, Bethesda; 2002 Potomac Sub-region Master Plan

Staff Recommendation: Approval with Conditions

B. Conditional Use 15-05: Conditional Use Request for a residential care facility consisting of 72 beds for seniors suffering from Alzheimer's disease or other forms of dementia or memory loss; RE-2 zone; 4.39 acres; located at 8301 River Road, Bethesda; 2002 Potomac Sub-region Master Plan

Staff Recommendation: Approval with Conditions

(Action required for Hearing Examiner by Hearing Date on June 25, 2015.)

BOARD ACTION

Motion: **A. WELLS-HARLEY/FANI-GONZÁLEZ**
 B. FANI-GONZÁLEZ/WELLS-HARLEY

Vote:

Yea: **A. 5-0**

B. 5-0

Nay:

Other:

Action: **A. Approved staff recommendation for approval of the Preliminary Forest Conservation Plan cited above, subject to conditions.**

B. Approved staff recommendation to transmit recommendations to the Hearing Examiner regarding the Conditional Use request cited above, as stated in the attached transmittal letter.

Planning Department staff offered a multi-media presentation and discussed a proposed Conditional Use request and an associated Preliminary Forest Conservation Plan (FCP) request regarding the proposed construction of a 40,000-square foot residential senior-care facility. The 4.39-acre site is located on River Road and is zoned Residential Estate within the 2002 Potomac Subregion Master Plan and the Bikeways Functional Master Plan areas. The property is currently improved with an existing single-family dwelling unit, six-car garage, pool, pool house, and tennis court. River Road will be accessed by an existing driveway, a portion of which is in Cabin John Stream Valley Park, property owned by Montgomery County. The applicant proposes to construct a single-story, 72-unit residential care facility for seniors suffering from Alzheimer's disease, dementia, and other conditions involving memory loss. The applicant also proposes to construct a total of 38 parking spaces, 35 of which will be located below grade. A maximum of 18 staff members will be present onsite at any one time. Staff noted that the proposed design is

***6. Artis Senior Living Preliminary Forest Conservation Plan and Conditional Use**

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consistent with the 2002 Potomac Subregion Master Plan and the Bikeways Functional Master Plan and conforms to the general residential character of the adjacent neighborhoods.

According to staff, the property consists of 2.14 acres of existing priority forest, including numerous significant and specimen trees. Staff stated that the proposed construction has been designed

to minimize the limit of disturbance by utilizing the existing driveway and open space, and by locating a generator, a dumpster, and the majority of parking below grade. The applicant proposes to remove 0.71 acres of forest and to place 1.41 acres of forest in permanent Category I easement adjacent to existing parkland. The applicant is also requesting a variance to remove one tree and impact six others. Staff added that the proposed FCP meets on-site mitigation requirements.

Ms. Erin Girard, attorney representing the applicant, offered comments and expressed concern with staff-recommended Condition 4 regarding construction of a 10-foot wide shared use path along the frontage of the property. Ms. Girard stated that steep slopes and numerous trees restrict construction of the proposed path on a short segment of the western portion of the frontage, and proposed using the existing River Road shoulder for the last segment of the path. Ms. Girard also noted that in regard to the stormwater management recommendations in Condition 13, the required analysis of soil borings may not be completed by the time of the Hearing Examiner meeting.

Mr. Patrick LaVay, member of the applicant's team, offered comments.

The following speakers offered testimony: Mr. Carl Koenig, representing the West Bradley Civic Association; Mr. William Moore, representing the Carderock Springs Citizens Association; Ms. Anne Carlson of Fenway Road; and Ms. Linda Guest, representing the Riverhill Home Owners Association.

Following extensive Board discussion with questions to staff and Ms. Girard, Chair Anderson recommended that staff transmit letters to the Maryland State Highway Administration and the Montgomery County Department of Transportation regarding existing safety concerns on River Road.

7. Parkland Acquisition Program --- Status Report

Staff Recommendation: Discussion

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: Received briefing.

Parks Department staff offered a multi-media presentation and briefed the Planning Board on the Parkland Acquisition Program. The briefing was in response to a suggestion by the Board to request a one-time waiver from the Maryland Department of Natural Resources in order to re-allocate Program Open Space (POS) acquisition funds to the Parks Development Program. Currently, 50 percent of State POS funds are required to be used for acquisition only. The remaining 50 percent may be used for either acquisition or development. According to staff, there are currently four acquisition programs implemented by the Parks Department through the Land Acquisition and the Legacy Open Space Sections.

The Land Acquisition Section, managed by the Park Development Division, utilizes three separate land acquisition programs. The Non-Local Park Acquisition Program funds the acquisition of parkland that serves residents on a County-wide basis, including regional, recreational, conservation, special, and stream valley parks. Recent POS funding for the Non-Local Park Program has averaged \$550,000 per year. The Local Park Acquisition Program funds the acquisition of parkland that serves residents on a neighborhood or community basis, including, urban, local, and neighborhood parks. Recent POS funding for the Local Park Program has averaged \$600,000 per year. Staff noted that both the Non-Local and Local Acquisition Programs are funded primarily by POS funds. The Advance Land Acquisition Revolving Fund is used to acquire property that has been designated for public uses on master plans, such as rights-of-way, schools, libraries, recreation center sites, and other government buildings and lands.

The Legacy Open Space Section, managed in close collaboration with the Land Acquisition Section by the Park Planning and Stewardship Division, implements the Legacy Open Space Program (LOS), which acquires, protects, and preserves open spaces, including environmentally sensitive natural resources, water supplies, heritage resources, greenway

7. Parkland Acquisition Program

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connections, farmland, and rural and urban open space. The LOS Functional Master Plan has added 3,400 acres of parkland to the Parks system since its adoption by the Planning Board and the County Council in 2001. Funding for LOS comes primarily from County General Obligation bonds and Commission bonds. Recent average LOS funding has been approximately \$3,300,000 per year.

According to staff, parkland acquisition spending is fairly balanced, with 48 percent going to the acquisition of facility-based parkland and 51 percent to natural resource recreation parkland. Staff added that although the acquisition budget accounts for only about 10 percent of the total Parks Department Capital Improvements Program budget, the portion of POS funding allocated to acquisitions is critical to providing space for future recreational facilities and parkland. Staff then recommended against the use of POS acquisition funds for park development purposes.

Mr. Robert Jamison, representing the Maryland Farm Bureau, offered comments regarding the Beverly Property located in the Broad Run Watershed.

There followed a brief Board discussion with questions to staff.