



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 9, 2011, at 4:05 p.m. in the Montgomery Regional Office in Silver Spring, Maryland, and adjourned at 8:30 p.m.

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

Items 1, 12, 6, 9, and 11, taken up in that order, are reported on the attached agenda.

Items 4, 10, and 13 were cancelled.

Items 3, 5, 7, and 8 were postponed.

There being no further business, the meeting was adjourned at 8:30 p.m. The next regular meeting of the Planning Board will be held Thursday, June 16, 2011, in the Montgomery Regional Office in Silver Spring, Maryland.

M. Clara Moise
Technical Writer

Montgomery County Planning Board Meeting
Thursday, June 9, 2011
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**

1. Subdivision Plat No. 220081500, Montco addition to Damascus; RE-2C zone, 2 lots; located on the north side of Bethesda Church Road, approximately 1,300 feet east of Johnson Drive; Damascus.
Planning Board Action/Decision: Approval

2. Subdivision Plat No. 220110090, Burtonsville Industrial Park; I-3 zone, 1 parcel; located in the southeast quadrant of the intersection of Sandy Spring Road (MD 198) and Columbia Pike (US 29); Fairland.
Planning Board Action/Decision: Approval

3. Subdivision Plat No. 220110310, Spring Meadows; RC zone, 2 lots; located on the east side of Poplar Hill Road, approximately 3,800 feet south of Kelley Farm Drive; Potomac.
Planning Board Action/Decision: Approval

BOARD ACTION

Motion: DREYFUSS/PRESLEY

Vote:

Yea: 3-0

Nay:

Other: ALFANDRE, WELLS-HARLEY ABSENT

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

***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 May 5, 2011

Planning Board Action/Decision: Approval

BOARD ACTION

Motion: DREYFUSS/PRESLEY

Vote:

Yea: 3-0

Nay:

Other: ALFANDRE, WELLS-HARLEY ABSENT

Action: Approved Planning Board Meeting Minutes of May 5, 2011, as presented.

12. Central Administrative Services (CAS) Budget Transfer Request
- CAS Transfer request from DHRM to the Merit System Board

Planning Board Action/Decision: Approval

BOARD ACTION

Motion: DREYFUSS/PRESLEY

Vote:

Yea: 3-0

Nay:

Other: ALFANDRE, WELLS-HARLEY ABSENT

Action: Approved Central Administrative Services (CAS) \$266,000 budget transfer request from Personnel Services category to Other Services and Charges to support contracts for professional services to provide policy, classification, compensation, and labor counsel services, and \$20,000 from the Department of Human Resources and Management (DHRM) FY11 budget to the Merit System Board.

Executive Director Patti Barney presented and discussed two FY11 budget transfer requests from the Central Administrative Services budget and the Department of Human Resources and Management budget, followed by a brief Board discussion.

6. Worksession: Draft Kensington and Vicinity Sector Plan

Staff Memo; Redline Version Planning Board Draft; Clean Version Planning Board Draft

Staff Recommendation: Approval to Transmit Planning Board Draft Plan to the County Executive and County Council

BOARD ACTION

Motion: DREYFUSS/PRESLEY

Vote:

Yea: 3-0

Nay:

Other: ALFANDRE, WELLS-HARLEY ABSENT

Action: Approved staff recommendation for approval to transmit Planning Board Draft Kensington and Vicinity Sector Plan to the County Executive and the County Council.

Planning Department staff offered a multimedia presentation of the Draft Kensington and Vicinity Sector Plan and noted that the Plan includes the zoning recommendations discussed and approved at the Planning Board worksession of May 12, 2011, and also includes new language in the Plan's implementation section regarding parking and regulatory review as well as revised maps for the proposed CRN and CRT zones and building heights. Staff also added that planning staff is working on the Urban Design Guidelines for the Sector Plan that will provide detailed guidance for implementing the Plan's recommendations. The Planning Board is tentatively scheduled to start the review of these guidelines on July 28.

There followed Board discussion with questions to staff.

9. Proposed Amendments: Montgomery County Comprehensive Water Supply and Sewerage Systems Plan- March 2011 Category Change Requests and 2011-1 Administrative Cases

Staff Recommendation: Transmit Recommendations on Individual Cases to the County Executive and the County Council

BOARD ACTION

Motion:

- 1. PRESLEY/DREYFUSS**
- 2. DREYFUSS/PRESLEY**
- 3. PRESLEY/DREYFUSS**
- 4. PRESLEY/DREYFUSS**
- 5. DREYFUSS/PRESLEY**
- 6. PRESLEY/DREYFUSS**
- 7. PRESLEY/DREYFUSS**
- 8. PRESLEY/DREYFUSS**
- 9. PRESLEY/DREYFUSS**

Vote:

Yea: 3-0

Nay:

Other: ALFANDRE, WELLS-HARLEY ABSENT

Action:

- 1. Approved staff recommendation to defer action on Case 09A-CKB-01, Orchard Run, pending outcome of rezoning case G-881, RE-2 to PRC, as stated in the attached transmittal letter to the County Executive and County Council President.**

- 2. Approved staff recommendation to approve Water and Sewer services for Case 10G-CLO-01, Ross Boddy Community Center, as stated in the attached transmittal letter to the County Executive and County Council President.**

- 3. Approved staff recommendation to deny sewer service for Case 09A-PAX-01, Eglise De Dieu de Silver Spring, as stated in the attached transmittal letter to the County Executive and County Council President.**

4. Approved staff recommendation to approve water service and deny sewer service for Case 09A-PAX-04, Sunny Varkey, as stated in the attached transmittal letter to the County Executive and County Council President.

5. Approved staff recommendation to deny water and sewer services for Case 09A-PAX-05, Burtonsville Crossing, as stated in the attached transmittal letter to the County Executive and County Council President.

6. Approved staff recommendation to deny water and sewer services for Case 09A-PAX-06, Burtonsville Associates, as stated in the attached transmittal letter to the County Executive and County Council President.

9. Proposed Amendments: Montgomery County Comprehensive Water Supply and Sewerage Systems Plan- March 2011 Category Change Requests and 2011-1 Administrative Cases

7. Approved staff recommendation to deny sewer service for Case 09A-TRV-02 & 03, Ted and Roxanne Smart, as stated in the attached transmittal letter to the County Executive and County Council President.

8. Approved staff recommendation to deny sewer service for Case 11A-TRV-01, Christopher and Christina Marshall, as stated in the attached transmittal letter to the County Executive and County Council President.

9. Approved staff recommendation for approval of the five Administrative Delegation Cases discussed at the meeting, as stated in the attached transmittal letter to the Montgomery County Department of Environmental Protection Director.

In keeping with the June 2 technical staff report, Planning Department staff discussed the proposed amendments to the Montgomery County Comprehensive Water Supply and Sewerage Systems Plan and the proposed category change requests and administrative cases received and reviewed by Planning Department staff.

The following speakers offered testimony: Mr. Jody Kline, attorney representing the applicant for Orchard Run; Mr. Scott Wallace, attorney representing Eglise De Dieu de Silver Spring; Pastor Joseph Berluche of Eglise De Dieu de Silver Spring; Mr. Donald Chamberlin representing the Patuxent Watershed Protective Association; Mr. James Putman of Dustin Road; Mr. Michael Nagy, attorney representing New Hope Korean Church; Mr. Elijah Anh, Pastor of New Hope Korean Church; Mr. Scott Nichols of Dustin Road; Mr. George Krouse representing Timber Hills Civic Association; Mr. Michael Snyder of Amina Drive; Mr. Carlo Faustini of Dustin Road; Ms. Elsie Stephens of Dustin Road; Ms. Patricia Keane of Dustin Road; Mr. Ted Smart of Cleveland Drive; and Ms. Susanne Lee representing the West Montgomery County Citizens Association.

At the Board's request Mr. Alan Soukup of the Montgomery County Department of Environmental Protection offered comments.

There followed a brief Board discussion with questions to staff and Mr. Soukup.

11. Enforcement Hearing; Montgomery County Planning Department v. Oluseyi & Oyinlola Fashina - ADDITION

BOARD ACTION

Motion: DREYFUSS/PRESLEY

Vote:

Yea: 3-0

Nay:

Other: ALFANDRE, WELLS-HARLEY ABSENT

Action: Concurred in the Hearing Officer's finding of violation. Agreed to allow the respondents a choice of one of the following two alternative corrective actions:

1) To file a limited preliminary plan amendment to convert a portion of the Category I Conservation Easement to a Category II within 60 days of the mailing of the Board's Order with offsite planting/mitigation required at a 2:1 ratio, and with stipulated penalties, offset by the amount for offsite planting, within 60 days of the mailing of the Board's Order. The plan amendment must be filed within 60 days of the mailing of the Board's Order and to be presented to the Board within 120 days of mailing. The administrative civil penalty of \$1,232.24 will cover part of The M-NCPPC preliminary plan and record plat fees, and the \$250 civil fine will be waived, as well as the requirement for a professional survey.

2) To accept the Hearing Officer's recommended penalty and corrective actions, with the penalty of \$1,232.24 to be paid within 60 days of the mailing of the Board's Order, and offsite planting/mitigation required at a 2:1 ratio to be done as stipulated in the Board's Order. The \$250 civil fine and the requirement for a professional survey are waived, but the respondents are required to work with planning staff to provide a marker for the Category I Easement on their property, and to stop mowing the grass in the easement.

Further, agreed that if the conditions for alternative 1 are not met as set forth, alternative 2 will go into effect.

Legal Department staff representing the Planning Department in the enforcement case against Oluseyi and Oyinlola Fashina of Silver Spring, the respondents, briefed the Board on the Hearing Officer's conclusions and recommendations, including a finding of violation of the Forest Conservation Law and the recommended administrative civil penalty and corrective actions, as stated in the Hearing Officer's decision. Legal staff called the Board's attention to the Fashina's submitted written letter dated March 12, 2011, citing exceptions to the findings and recommendations and responded to issues raised, in keeping with the Legal Department's written response. Legal staff and Planning Department staff recommended that the Board approve the Hearing Officer's recommended order. Staff requested that the Board stipulate that the penalties be paid within 60 days of the mailing of the Board's Order.

11. Enforcement Hearing; Montgomery County Planning Department v. Oluseyi & Oyinlola Fashina

Mr. Oluseyi Fashina and Ms. Oyinlola Fashina, the respondents, offered comments on their own behalf and participated in the Board discussion.

Legal Counsel to the Board discussed the Board's prerogatives at this point in the enforcement process, including options in terms of the penalties and corrective actions.

Ms. Judy Koenick of Chevy Chase offered testimony.

There followed considerable discussion of the issues of the case, including the location of the Conservation Easement, the Hearing Officer's recommended penalty and corrective actions, and other options. Planning Department staff responded to questions from the Board about the process, requirements, and costs for converting a Category I Conservation Easement to a Category II, including the 2:1 offsite mitigation that would be required, and the differences between the two easement categories.

10. Closed Session - CANCELLED

Pursuant to State Government Article Annotated Code of Maryland 10-508(a)(9) to conduct collective bargaining negotiations or consider matters that relate to the negotiations

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: This item was cancelled.

3. Department of Parks' FY 13 - 18 CIP Strategy Session #1 - POSTPONED

Set priorities and initiatives for FY13-18 Parks' CIP

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: This item was postponed.

4. Roundtable Discussion - CANCELLED

Parks Director's Report

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: This item was cancelled.

5. Preliminary Plan Amendment No. 11996019B: Winterset - Modify the Category I Conservation Easements - POSTPONED TO JUNE 23

Located on Winterset Terrace and Broad Green Court west of the intersection of Falls Road (Md-189) and Glen Road, 2.71 Acres, R-200 Zone, Potomac Master Plan

Staff Recommendation: Approval with Conditions

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: This item was postponed.

7. Zoning Text Amendment 11-04 - POSTPONED TO JUNE 16

To amend the definitions of “Public facilities and amenities” and “Public use space”; amend the development standards for an optional method project to allow the provision of a building or land for a publicly owned and operated government facility to meet the public facility and amenity requirements and to satisfy the public use space requirement; and to exclude the floor area of the publicly owned and operated government facility in the calculation of gross floor area.

Staff Recommendation: Transmit Comments to County Council
(Action Required for County Council Public Hearing of 6/14/11)

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: This item was postponed.

8. Zoning Text Amendment 11-05 - POSTPONED TO JUNE 16

To delete certain automobile related uses from the list of prohibited land uses in the U.S. 29/Cherry Hill Road Employment Area Overlay zone; and require existing automobile repair, service, and sales and related offices, storage, and parking uses to satisfy the requirements of the underlying zone.

Staff Recommendation: Transmit Comments to County Council
(Action Required for County Council Public Hearing of 6/14/11)

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: This item was postponed.

13. Closed Session - CANCELLED

Pursuant to State Government Article Annotated Code of Maryland 10-508(a)(1) to discuss the appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation, or performance evaluation of Commission appointees, employees, or officials; or to discuss any other personnel matter that affects 1 or more specific employees

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: This item was cancelled.