



MONTGOMERY COUNTY PLANNING BOARD
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

301-495-4616

APPROVED
MINUTES

The Montgomery County Planning Board met in regular session on Thursday, September 11, 2008, at 9:05 a.m. in the Montgomery Regional Office in Silver Spring, Maryland, and adjourned at 8:21 p.m.

Present were Chairman Royce Hanson, Vice Chair John Robinson, Commissioners Joe Alfandre, Jean Cryor, and Amy Presley.

Items 1 through 8 are reported on the attached agenda.

The Board recessed at 12:30 p.m. for lunch and to take up Closed Session Items 5 through 8.

In compliance with Section 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 in the third floor conference room at 12:50 p.m., on motion of Commissioner Robinson, seconded by Commissioner Cryor, with Chairman Hanson, Vice Chair Robinson, and Commissioners Alfandre, Cryor, and Presley present and voting in favor of the motion.

The meeting was closed under authority of State Government Article, Annotated Code of Maryland Section §10-508(a)(13), to comply with a specific constitutional, statutory, or judicially imposed requirement that prevents public disclosures about a particular proceeding or matter; §10-508(a)(3), to consider acquisition of real property for a public purpose; §10-508(a)(7), to consult with counsel to obtain legal advice.

Also present for all or a part of the Closed Session were Associate General Counsels Debra Daniel, Carol Rubin, David Lieb, Derrick Rogers Kathleen Drohan, and Christina Sorrento; Director Mary Bradford, Deputy Director Mike Riley, April O'Neal, Bill Gries, and Tanya Schmieler of the Parks Department; Director Rollin Stanley, Rose Krasnow, Callum Murray, Pam Dunn, Ralph Wilson, Cathy Conlon, Robert Kronenberg, Karen Kumm Morris, and Sharon Suarez of the Planning Department; and Clara Moise of the Commissioners' Office.

In Closed Session, the Board approved Closed Session Minutes of July 10, 24, and 31, 2008, as submitted by the Technical Writers' office. The Board also considered acquisition of the

Piedmont Crossing Local Park, and received briefing by Legal Counsel on Amendment to Chapter 2B of the Council Bill 39-07, and on the calculations of Moderately Priced Dwelling Units (MPDUs) and Transferable Development Rights (TDRs).

The Closed Session was adjourned at 1:55 p.m., and the Board reconvened in the third floor auditorium.

The Board reconvened in the auditorium at 2:07 p.m.

Items 9 through 16 are reported on the attached agenda.

The Board recessed for dinner at 5:25 p.m. and reconvened in the auditorium at 7:30 p.m. with all five commissioners present to hear testimony and receive evidence submitted into the record on Item 17, Public Hearing on the Upper Rock Creek Trail Corridor Plan.

There being no further business, the meeting was adjourned at 8:21 p.m. The next regular meeting of the Planning Board will be held Monday, September 15, 2008, in the Montgomery Regional Office in Silver Spring, Maryland.

M. Clara Moise
Technical Writer

Ellyn Dye
Technical Writer

Montgomery County Planning Board Meeting
Thursday, September 11, 2008
8787 Georgia Avenue
Silver Spring, MD 20910-3760
301-495-4600

1. Adoption of Opinions/Resolutions

Group A: Three Commissioners Eligible to Vote [Commissioners Cryor, Hanson and Robinson]

- i) The Woods Academy Site Plan No. 82001018A, ADOPTION OF RESOLUTION No. 08-90
- ii) The Woods Academy Subdivision Review Waiver No. SRW01006A, ADOPTION OF RESOLUTION No. 08-71
- iii) North Bethesda Center, Parcels F, I, J, Site Plan No. 820080110, ADOPTION OF RESOLUTION No. 08-70

Group B: Five Commissioners Eligible to Vote [Commissioners Alfandre, Robinson, Cryor, Hanson, and Presley]

iv) Symphony Park Site Plan 820080010, ADOPTION OF RESOLUTION No. 08-112

BOARD ACTION

Motion: ROBINSON/CRYOR

Vote:

Yea: 5-0

Nay:

Other:

Action: Adopted Resolutions as stated above.

2. Record Plats

Subdivision Plat No. 220061950, Moxley Estates

RDT zone; 1 lot, 1 outlot; located on the east side of Clarksburg Road, approximately 2,200 feet north of Moxley Road; Damascus

Staff recommendation: Approval

Subdivision Plat No. 220080070, Montgomery Hills Forest

R-60 zone; 2 lots; located on the south side of Seminary Road, at the intersection of Fraser Avenue; North & West Silver Spring

Staff recommendation: Approval

Subdivision Plat No. 220081990, Section 1, Garrett Park

R-90/Garrett Park overlay zone; 1 lot; located on the west side of Kenilworth Avenue, 50 feet north of Albermarle Avenue; North Bethesda/Garrett Park

Staff recommendation: Approval

BOARD ACTION

Motion: ALFANDRE/PRESLEY

Vote:

Yea: 5-0

Nay:

Other:

Action: **Approved the record plats as stated above.**

3. Consent Items

Site Plan Amendment No. 82002031B, Clarksburg Ridge

RMX-2/R-200 zone; 34.84 acres; amendment to modify or add retaining walls in several places; located on MD 121, approximately 600 feet north of MD 335; Clarksburg

Staff recommendation: Approval of the Consent Amendment

BOARD ACTION

Motion: **ROBINSON/CRYOR**

Vote:

Yea: **5-0**

Nay:

Other:

Action: **Approved staff recommendation for approval of Site Plan Amendment for Clarksburg Ridge.**

4. Discussion: White Flint I Sector Plan

Discussion with the Planning Board regarding the direction of White Flint I Sector plan
(No public testimony will be taken at this time)

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: Discussed the White Flint I Sector Plan.

Community-Based Planning staff presented an overview of the scope of work for the approach to the White Flint I Sector Plan, including goals and objectives, issues to be addressed, outreach, and schedule, as detailed in the staff report, followed by discussion and questions to staff.

Parks Department staff offered comments.

5. CLOSED SESSION

In accordance with State Government Article 10-508(a)(13), Annotated Code of Maryland, to comply with a specific constitutional, statutory, or judicially imposed requirement that prevents public disclosures about a particular proceeding or matter. (Approval of Closed Session Minutes)

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

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

6. CLOSED SESSION

In accordance with State Government Article, Section 10-508 (a) (3), Annotated Code of Maryland, to consider acquisition of real property for a public purpose – Piedmont Crossing Local Park.

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

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

7. CLOSED SESSION

In accordance with State Government Article, Section 10-508(a)(7), State Government Article, Annotated Code of Maryland, to consult with counsel to obtain legal advice (Amendment to Chapter 2B).

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

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

8. CLOSED SESSION

In accordance with State Government Article, Section 10-508(a)(7), State Government Article, Annotated Code of Maryland, to consult with counsel to obtain legal advice (MPDU/TDR calculations).

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

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

9. Piedmont Crossing Local Park

Authorization to acquire 9.7761 acres, more or less, unimproved from Toll MD II, LLC., located north of the proposed Intercounty Connector, south of Ridge Road, Derwood, Maryland.

Staff recommendation: Approval

BOARD ACTION

Motion: ROBINSON/ALFANDRE

Vote:

Yea: 5-0

Nay:

Other:

Action: Approved staff recommendation to submit acquisition request to County Council for authorization to use Advance Land Acquisition Revolving Funds.

Parks Department staff presented the proposal to acquire property to create a new local park to serve the Shady Grove area, as detailed above, for a purchase price of \$4.0 million. Staff noted that the Advance Land Acquisition Revolving Fund is proposed as the funding source, which requires County Council approval.

10. Bill No. 39-07 Montgomery County Code Chapter 2B Agricultural Land Preservation - Amendments

Bill No. 39-07 Montgomery County Code Chapter 2B Agricultural Land Preservation – Amendments

Staff recommendation: Approval to transmit comments to Montgomery County Council

BOARD ACTION

Motion: ALFANDRE/PRESLEY

Vote:

Yea: 5-0

Nay:

Other:

Action: Approved staff recommendation to transmit comments, amended by the Board in discussion, as stated in the attached Letter of Transmittal.

Community-Based Planning staff presented the proposed Bill to generally amend County law governing the purchase of agricultural easements and conform County law to the requirements of State law, with staff's proposed amendments, as detailed in the staff report.

Mr. Jeremy Criss and Mr. John Zawitoski, representing the Department of Economic Development, participated in the discussion.

11. Site Plan Review No. 820080180, North Bethesda Center Parcel "A", "C" and Infrastructure

TS-M Zone; 15.63 acres; Parcel A-103,910 gross square feet of retail, restaurant and theatre; Parcel C-411,980 gross square feet of restaurant; and infrastructure bridge, roads and sewer outfall; located at the southwest quadrant of the intersection of Nebel Street and Old Georgetown Road; North Bethesda/Garrett Park.

Staff recommendation: Approval with conditions

BOARD ACTION

Motion: (1) ROBINSON/ALFANDRE
(2) ALFANDRE/ROBINSON
(3) ROBINSON/CRYOR
(4) ROBINSON/CRYOR

Vote:

Yea: (1) 5-0
(2) 5-0
(3) 5-0
(4) 5-0

Nay:

Other:

Action: (1) Approved the staff recommendation to approve, subject to conditions, as stated in the attached Board Resolution.

(2) Adopted Board Resolution No. 08-105, subject to incorporation of the revisions added during discussion.

(3) Agreed to reconsider the adoption of Board Resolution No. 08-105.

(4) Adopted the submitted revised Board Resolution No. 08-105, which includes the revisions added during discussion.

Development Review staff presented conditions of approval for the site plan, which the Board reviewed in July. Contrary to the staff recommendation to deny, the Board was inclined to approve the site plan, given the extensive constraints imposed by the Development Plan, and requested that staff come back with proposed conditions of approval and the draft Board Resolution for Board review. Staff also distributed a list with revisions to the proposed conditions.

Mr. Mike Smith of the applicant company and attorney Steve Elmendorf offered comments.

In discussion, the Board added language to the draft Resolution.

Following action on the site plan, the Board took action on the draft Resolution as noted above, directing staff to incorporate the revisions added during discussion.

Following discussion and action on Item 14, Legal Counsel to the Board distributed the revised Board Resolution No. 08-105. The Board reconsidered its previous action and adopted the revised Resolution.

12. AB 716: Kensington Boulevard

Abandonment of a portion of Kensington Boulevard, Kensington View Subdivision, Kensington/Wheaton

Staff recommendation: Denial

BOARD ACTION

Motion: ALFANDRE/CRYOR

Vote:

Yea: 5-0

Nay:

Other:

Action: Approved the staff recommendation to deny, to allow the proposed abandonment to be considered in the context of the pending Wheaton Sector Plan amendment.

Transportation Planning staff presented the request to abandon a portion of Kensington Boulevard, noting that a portion of the right-of-way is improved, but the portion that would connect to Veirs Mill Road remains unimproved. Staff recommends denial of the abandonment for the reasons set forth in the staff report.

Mr. David Freishtat, attorney representing the applicant, discussed the justification for the abandonment and responded to the staff concerns, elaborating on the information in his letter dated September 8, 2008.

Ms. Virginia Sheard, Ms. Judy Higgins, and Ms. Stephanie Savolaine, representing the Kensington View Civic Association, spoke in opposition to the proposed abandonment.

There followed considerable discussion about the need for the right-of-way, the impact of the proposed use of the abandoned right-of-way on the adjoining neighborhood, the likelihood that the right-of-way would be constructed through to Veirs Mill Road, and the pending Wheaton Sector Plan.

13. Preliminary Plan No. 120061180, Stern Property

RE-2C zone; 30.03 acres; 7 lots and 1 outlot requested; 7 one-family detached dwelling units, one existing dwelling to remain; located on Bonny Brook Lane, 350 feet northwest of Heather Field Court; Damascus

Staff recommendation: Approval with conditions

BOARD ACTION

Motion: ROBINSON/ALFANDRE

Vote:

Yea: 5-0

Nay:

Other:

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

Development Review staff presented the proposal to create seven lots and one outlot in a cluster development, as detailed in the staff report. Staff noted that the cluster development will preserve forested area and a stream buffer, but a waiver for the minimum lot size is needed. In the presentation, staff revised proposed condition 10 and added a new condition of approval.

Mr. David Bernstein, the applicant, concurred in the staff recommendation and stated that the outlot likely will be developed when access issues have been resolved with the adjoining property owner.

14. Special Protection Area (SPA) Water Quality Plan for Impervious Surface Removal: M-NCPPC Parkland

Demolition of buildings and impervious surfaces on Parcels P963 and P968, M-NCPPC Parkland. Upper Paint Branch SPA

Staff recommendation: Approval with conditions

BOARD ACTION

Motion: PRESLEY/CRYOR

Vote:

Yea: 5-0

Nay:

Other:

Action: Approved the staff recommendation to approve, subject to revised conditions.

Environmental Planning staff provided an overview of the Water Quality Plan for removal of impervious surface on parkland in the Upper Paint Branch Special Protection Area, as detailed in the staff report. Staff added a revision to condition 2a.

15. Zoning Text Amendment No. 08-16 and Subdivision Regulation Amendment No. 08-04

A. ZTA No. 08-16

Introduced by Councilmember Floreen: to amend the Zoning Ordinance to allow certain development plans or project plans to exceed density or building height limits to permit the construction of all Workforce Housing units on-site.

Staff recommendation: Transmit Comments to County Council
(Action required for County Council public hearing of 9/16/08)

B. Subdivision Regulation Amendment No. 08-04

Introduced by Councilmember Floreen: to amend the Subdivision Regulations to allow certain preliminary plans to exceed density or building height limits to permit the construction of all Workforce Housing units on-site

Staff recommendation: Transmit Comments to County Council
(Action required for County Council public hearing of 9/16/08)

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: With no objection, directed staff to transmit comments, adding that in order to avoid confusion, the language in the Zoning Ordinance and Subdivision Regulations should mirror the language in the workforce housing law, as stated in the attached Letter of Transmittal.

Development Review staff presented the proposed amendments to the Zoning Ordinance and the Subdivision Regulations to restate the workforce housing law provisions that allow development to exceed density and height limits to accommodate workforce housing, as detailed in the staff report.

Legal Counsel to the Board participated in the discussion.

16. Roundtable Discussion

(No public testimony will be taken at this time)

- A. Commissioners' Report
- B. Approval of Minutes
- C. Director's Report
- D. County Council Activity

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action:

A. Commissioners' Report—None.

B. Approval of Minutes—None.

C. Director's Report—Planning Director Rollin Stanley reported on staffing in the Department and the status of Department activities related to development activity and the growth policy. At the Director's request, Mary Beth O'Quinn of the Urban Design Division reported on discussions with staff of the University System of Maryland about addressing concerns raised by the Board last week in the mandatory referral review of a large parking garage at the Shady Grove campus.

D. County Council Activity—Chairman Hanson reported on discussions with the Council Committees on Planning, Housing, and Economic Development (PHED) and Transportation, Infrastructure, Energy, and Environment (T&E) on amendments to the forest conservation law and the TOMX Zone.

17. Public Hearing: Upper Rock Creek Trail Corridor Plan

Staff Draft Upper Rock Creek Trail Corridor Plan

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: Received testimony and evidence submitted into the record and agreed to hold the record open until close of business Monday, September 8, 2008.

The following speakers offered testimony to the Board: Mr. Joe Fritsch, representing the Mid-Atlantic Off-Road Enthusiasts (MORE); Mr. Dave Magill of Potomac; Mr. Charles Doring of Laytonsville; Mr. James Fullerton of Baltimore; Mr. Ronald MacNab, representing Trail Riders of Today (TROT); Mr. Kurt Lehman of Derwood; Ms. Jean Cooper of Ashton; and Mr. E. Lee Moser, representing the Maryland Horse Council Trails and Greenways and the Friends of Patapsco Valley Heritage Greenway.