



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, September 19, 2013, at 9:17 a.m. in the Montgomery Regional Office in Silver Spring, Maryland, and adjourned at 7:37 p.m.

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

Items 1, 3, and 9 are reported on the attached agenda.

Item 4 was moved to the September 26 Planning Board Agenda.

Commissioner Presley left the meeting at 11:40 p.m. before discussion of Item 9.

The Board recessed for lunch at 12:43 p.m., and to take up Items 13 and 14 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 12:55 p.m. in the 3rd floor conference room, on motion of Commissioner Anderson seconded by Vice Chair Wells-Harley, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Anderson and Dreyfuss voting in favor of the motion. The meeting was closed under authority of Annotated Code of Maryland, State Government Article, §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 one or more specific employees; and under authority of Annotated Code of Maryland, State Government Article, §10-508(a)(3) 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 Executive Director Patricia Barney; Budget Manager John Kroll; Secretary-Treasurer Joseph Zimmerman; Associate General Counsels Carol Rubin and Megan Chung of the Legal Department; Director Gwen Wright, Acting Deputy Director Rose Krasnow, and Anjali Sood of the Planning Department; Director Mary Bradford, Deputy Director Mike Riley, Deputy Director John Nissel, Daniel Hertz, Kennedi Anderson, and Karen Warnick, of the Parks Department; Merle Steiner, consultant; Joyce Garcia and M. Clara Moise of the Commissioners' Office.

In Closed Session the Board received briefing from Parks Department staff and legal counsel to the Board regarding the proposed new Montgomery County Park and Planning headquarters building in Wheaton, and also received briefing from the Maryland-National Capital Park and Planning Commission Executive Director and Budget Manager on the FY15 budget forecasts and the six-year outlook for Montgomery County Park and Planning.

The Closed Session meeting was adjourned at 3:15 p.m.

The Board reconvened in the auditorium at 3:30 p.m.

Items 10, 5, 7, 2, 8, 11 and 12, discussed in that order, are reported on the attached agenda.

There being no further business, the meeting was adjourned at 7:37 p.m. The next regular meeting of the Planning Board will be held Thursday, September 26, 2013, in the Montgomery Regional Office in Silver Spring, Maryland.

M. Clara Moise
Sr. Technical Writer/Editor

Tomasina Ellison
Technical Write

Montgomery County Planning Board Meeting
Thursday, September 19, 2013
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. 220140060, Edgemoor

R-60 zone; 1 lot; located at the northeast corner of Edgemoor Lane and Clarendon Road; Bethesda - Chevy Chase Master Plan.

Staff Recommendation: Approval

Subdivision Plat No. 220140070, Glen Echo Heights, Section 2

R-90 zone; 1 lot; located on the south side of Walhonding Road, 100 feet east of Wehawken Road; Bethesda - Chevy Chase Master Plan.

Staff Recommendation: Approval

BOARD ACTION

Motion: ANDERSON/PRESLEY

Vote:

Yea: 5-0

Nay:

Other:

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

***C. Other Consent Items**

Kaviani Enforcement Action -- Resolution Corrections

BOARD ACTION

Motion: WELLS-HARLEY/DREYFUSS

Vote:

Yea: 5-0

Nay:

Other:

Action: Adopted the revised Resolution for the Kaviani Forest Conservation Plan Enforcement, as submitted by Legal Counsel to the Planning Board.

***D. Approval of Minutes**

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: There were no Planning Board Meeting Minutes submitted for approval.

3. White Oak Science Gateway Master Plan - Review of Proposed Planning Board Draft - TIME CHANGED

Staff Recommendation: Approve Planning Board Draft and transmit to County Council and County Executive

BOARD ACTION

Motion: ANDERSON/WELLS-HARLEY

Vote:

Yea: 5-0

Nay:

Other:

Action: Approved staff recommendation to approve, with revisions, the Planning Board Draft of the White Oak Science Gateway Master Plan and to transmit it to the County Council and the County Executive.

Mr. Paul Silberman, traffic analysis consultant from Sabra, Wang & Associates, hired by the Transportation Planning Division offered a detailed multi-media presentation of proposed traffic analysis options for the White Oak area, and answered questions from the Board.

Planning Department staff reviewed a list of substantive changes discussed at the last worksession and added to the Plan at the Board's request.

At the Board's request, Mr. Greg Ossont, Deputy Director of the Montgomery County Department of General Services, offered comments.

Messrs. Perry Berman, attorney representing the Housing Opportunities Commission (HOC), and Steve Elmendorf, attorney representing PerContee, offered comments.

There followed considerable Board discussion with questions to staff.

***9. Bethesda Commerce - TIME CHANGED**

A. Limited Preliminary Plan Review No. 120130240, CBD-2 zone, 0.32 acres, Limited review to remove the existing building restriction line from the record plat, located in the northeast quadrant of the intersection with Old Georgetown Road and Commerce Lane, Bethesda CBD

Staff Recommendation: Approval with conditions

B. Site Plan Review No. 820130240, Bethesda Commerce, CBD-2 zone, 0.32 acres, 120 multi-family dwelling units, including 12.5% MPDUs and 5,000 square feet of commercial space, located in the northeast quadrant of the intersection with Old Georgetown Road and Commerce Lane, Bethesda CBD

Staff Recommendation: Approval with conditions

BOARD ACTION

Motion: DREYFUSS/WELLS-HARLEY

Vote:

Yea: 4-0

Nay:

Other: PRESLEY 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.

Planning Department staff offered a multi-media presentation and discussed a request by the applicant for a proposed amendment to the Bethesda Commerce preliminary plan to remove the existing Building Restriction Line (BRL) from the record plat. Staff noted that this project, located on a 0.32-acre property in the northeast quadrant of the intersection with Old Georgetown Road and Commerce Lane in Bethesda, is comprised of 120 multi-family dwelling units, including 12.5 percent Moderately Priced Dwelling Units (MPDUs), and 5,000 square feet of commercial space. Staff noted that at the project plan hearing, the Planning Board supported a condition requiring the limited plan review to remove the BRL from an existing plat. Staff has reviewed the Adequate Public Facilities (APF) in the context of the site plan review, and the Master Plan compliance was evaluated at the time of project plan discussion and was also reviewed in a limited fashion in regards to the BRL. Staff reported that the elimination of a five-foot BRL does not alter the overall findings of the previous approval nor is it in conflict with the objectives and recommendations of the Bethesda Central Business District Sector Plan. All the government agencies required to review this project are in agreement with the proposed change. Staff added that the project will be built in one phase and will provide the required public use space and

***9. Bethesda Commerce - TIME CHANGED**

CONTINUED

public benefits, including below grade parking for residents, tree canopy, public art, and an integrated interactive stormwater management facility. Staff also briefly discussed the proposed project description and requirements related to transportation, public use space, and master plan recommendations. Staff also reviewed the applicant's request for additional parking spaces and the installation of parking lifts to maximize available parking space, and corrections to the conditions of approval.

Ms. Erica Leatham, attorney representing the applicant, introduced Messrs. Craig McClure, Graham Tyrrell, and J. Alberto Donoso, members of the applicant's team, briefly discussed the proposed request, and concurred with the staff recommendation.

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

**4. ~~Clarksburg Limited Master Plan for the Ten Mile Creek Watershed – Worksession No. 1 -~~
~~MOVED TO THE SEPTEMBER 26 AGENDA~~**

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: This Item was moved to the September 26, 2013 Planning Board Agenda.

13. 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 (Wheaton)

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

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

14. Closed Session – ~~ADDED~~

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 (Budget FY15 Overview)

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

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

***10. Rossmoor Leisure World Commercial Center -TIME CHANGED**

A. Limited Amendment, Preliminary Plan 11985065A

B. Limited Amendment, Site Plan 81985045A

Request to amend the preliminary and site plans to allow for an increase in the total approved square feet of commercial development; a conversion of uses; and amendment of the original Adequate Public Facilities Agreement for a portion of an approximately 13.41-acre area located in the northeast quadrant of Georgia Avenue (MD 97) and Rossmoor Boulevard in the Aspen Hill Master Plan area.

Staff Recommendation: Approval with conditions and adoption of Resolution

BOARD ACTION

Motion: A. WELLS-HARLEY/ANDERSON
B. WELLS-HARLEY/ANDERSON

Vote:

Yea: A. 3-0

B. 3-0

Nay:

Other: PRESLEY ABSENT, DREYFUSS TEMPORARILY ABSENT

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

B. Approved staff recommendation for approval subject to conditions, and adopted the submitted Resolution.

Planning Department staff discussed proposed preliminary and site plan amendments for the existing Rossmoor Leisure World Commercial Center, noting the need for the applicant to receive Planning Board approval to use the property as a mixed-use site. Staff recommended that the proposed

site be zoned as Planned Residential Development. The Adequate Public Facilities (APF) agreement permits a floor area above the 146,530 square foot limitation. The creation of more office space, as opposed to more retail space, will result in an increase of trips to the site. Staff converted the surplus vehicle trips for the site to establish the conditions of approval of the Site Plan in an effort to alleviate future requests for amendments from the applicant to account for changing markets after occupancy of the site. As discussed in the staff report, square foot usage limitations are concise and any future modification requests regarding mixed-use would require the review and approval of the Planning Board.

The Planning Board discussed the proposed modification and agreed with the staff recommendation.

Ms. Barbara Sears, attorney representing the applicant, discussed the proposed amendments request and concurred with the staff recommendation.

6. Budget FY15 Overview – TIME CHANGED – MOVED TO CLOSED SESSION AT LUNCH TIME
BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

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

***5. Darcars at Montgomery Industrial Park, Lot 33: Limited Site Plan Amendment 81994026B – (Continued from September 4) - TIME CHANGED**

Replacement of an existing outdoor automobile storage/display area with a 2,505-square foot, one-story addition for automotive service uses in the I-1 Zone within the US 29/Cherry Hill Road Employment Area Overlay Zone; located on the south side of Prosperity Drive in the Fairland Master Plan area.

Staff Recommendation: Approval with conditions

BOARD ACTION

Motion: DREYFUSS/ANDERSON

Vote: 4-0

Yea:

Nay:

Other: PRESLEY ABSENT

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

At the onset of the discussion for this item, Planning Department staff notified the Planning Board that, although a letter from the applicant was omitted from the Board's packet, the letter would be discussed during the hearing. Staff discussed the proposed replacement of an existing outdoor automobile storage/display facility area with a 2,505 square foot one-story addition for automotive service uses on a 4.10-acre property located on the south side of Prosperity Drive in the Fairland Master Plan area within the US 29 / Cherry Hill Road Employment Overlay Zone. The proposed zoning amendment will increase the area of the building footprint by 2,505 square feet. The project will be completed in three phases and will include office space as well as open lot space for vehicle storage. The applicant has purchased an additional lot to address the lack of adequate parking on the subject property and is requesting that the Planning Board consider granting a relief of the requirement to add additional parking spaces on Lot 33. Staff recommends modification to condition 4 of the site plan which requires increasing the number of employee parking spaces on Lot 33.

Staff recommends retention of the 1984 and 1991 site plan approvals which included the Forest Conservation Plan (FCP) requirement. The subject property had been previously graded per the FCP requirement when the site plan was submitted for this project and a retroactive exemption from the FCP is not permissible. Existing landscaping on the subject property does not meet the FCP requirement, i.e., tree species changes, non-native trees, and missing trees. Credit for the FCP requirement is assigned for various types of trees except non-native species. The applicant can receive credit for missing trees if they are replaced with the same tree types and caliber, but must also meet the current FCP standards. Staff recommended that the applicant revise the site plan to comply with the FCP.

***5. Darcars at Montgomery Industrial Park, Lot 33: Limited Site Plan Amendment
81994026B – (Continued from September 4) - TIME CHANGED**

CONTINUED

The Planning Board discussed the possibility of granting a waiver for the FCP requirement on the subject property considering the historical series of events regarding the removal and installation of trees that are not FCP compliant.

Legal counsel to the Board noted that this property was deemed to be exempt in 1994 and advised the Board to rule, taking into consideration existing facts, that the property is considered exempt from the FCP. Counsel also noted that application for a separate exemption is not required for this property because the applicant is not clearing more than 5,000 square feet of forested area.

Mr. Larry Gordon, attorney representing the applicant, briefly discussed the proposed request, and concurred with the staff recommendation.

Mr. Hamid Fallah, the applicant, offered comments and answered questions from the Board.

7. Park Facility Plan: Chevy Chase Open Space Urban Park - TIME CHANGED

Facility plan for a new two-acre urban park developed in partnership with Chevy Chase Village. The park is located on Western Avenue, west of the intersection with Kirkside Drive within Chevy Chase Village

Staff Recommendation: Approve facility plan and cost estimate

BOARD ACTION

Motion: WELLS-HARLEY/ANDERSON

Vote:

Yea: 4-0

Nay:

Other: PRESLEY ABSENT

Action: Approved staff recommendation for approval of the Facility Plan for Chevy Chase Open Space Urban Park.

Parks Department staff discussed the proposed acquisition of a new two-acre urban park in Chevy Chase Village currently known as Chevy Chase Open Space Urban Park. Staff also discussed the proposed facility plan for the new park, and the proposed name change of the park to Western Grove Urban Park. The two-acre subject property is located on Western Avenue near the Friendship Heights Central Business District (CBD). Currently, walkways in the park are not consistent throughout the space and are unsustainable in that some are gravel while others are wood chips. Staff presented a multi-media concept-plan which depicted modified walkways and park entrances. The subject property contains large open spaces that are very flexible for a number of uses; however, re-grading the site will be required to ensure adequate drainage. Structured playgrounds were not included in the proposed park modifications because there are several structured playgrounds located in the immediate surrounding areas. A proposed picnic plaza will contain features such as movable furniture and public-accessible Wi-Fi. Suggested furnishings for the proposed space will be unified with the current design of the park and the surrounding settings. The projected cost estimate for the proposed acquisition and remodeling of the park is estimated at approximately one million dollars, while annual operating costs are projected to be approximately \$55,600.

Parks Department Director Mary Bradford discussed the exemplary cooperation between the Parks Department staff and Chevy Chase Village representatives.

The Planning Board discussed the proposed modifications to the park and agreed with the staff recommendation.

Mr. Gregory Osband, engineer, offered testimony and answered questions from the Board.

Ms. Pat Baptiste, representing the Board of Chevy Chase Village, and Ms. Meredith Wellington, Chair of the Advisory Committee for Chevy Chase Village, offered testimony.

2. Roundtable Discussion - TIME CHANGED

- Parks Director's Report

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: Received briefing followed by Board discussion.

Parks Department Director Mary Bradford discussed recent activities of the Parks Department. The Stubbs House and Stubbs Barn in Wheaton have been designated as historical sites and will possibly be restored to original condition. In the wake of the Navy Yard shootings, the Parks Department has requested that the Park Police and park architects conduct a security assessment of buildings within the Commission, followed by a proposed Closed Session briefing with the Planning Board to discuss findings and to address possible deficiencies. The Memorandum of Understanding (MOU) with the Park Police will be reviewed and updated by staff. Staff discussed upcoming Commission events, which included the annual NPRA conference in Texas, the conclusion of the Butterfly and Caterpillar show at Brookside Gardens, the initiation of the Montgomery County Bike Share program, the Komen Walk at Norwood Local Park, and the Harvest Festival in Derwood.

***8. Spring Arbor Olney (Danshes Property) - TIME CHANGED**

A. Preliminary Forest Conservation Plan S-2841---107-unit Domiciliary Care Home, located on 37.68 acre property identified as Parcel P771 on Tax Map HT5, on the east side of Georgia Avenue (MD 97) approximately 1,000 feet south of its intersection with Old Baltimore Road, RNC Zone, Olney Master Plan Area.

Staff recommendation: Approval with Conditions

B. Special Exception S-2841 Spring Arbor Olney (Danshes Property) --- Request for a Special Exception for a 107-unit Domiciliary Care Home, located on 37.68 acre property identified as Parcel P771 on Tax Map HT5, on the east side of Georgia Avenue (MD 97) approximately 1,000 feet south of its intersection with Old Baltimore Road, RNC Zone, Olney Master Plan Area.

Staff Recommendation: Approval with conditions

BOARD ACTION

**Motion: A. WELLS-HARLEY/ANDERSON
B. DREYFUSS/WELLS-HARLEY**

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

Yea:

Nay:

Other: PRESLEY ABSENT

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

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

Planning Department staff discussed the Preliminary Forest Conservation Plan and the Special Exception request for the proposed development of a domiciliary care home. The 37.68-acre subject property, zoned rural neighborhood cluster, is located on the east side of Georgia Avenue (MD 97), approximately 100 feet south of its intersection with Old Baltimore Road in Olney. The proposed development will encompass two two-story buildings for a total of 136,750 square feet and will contain 107 units with a 175-bed care facility. The domiciliary will operate 24 hours daily with a staff of approximately 100 employees, of which, a maximum of 15 employees will be on-site per rotating shift. Sufficient parking will be provided at five different locations around the buildings to accommodate staff and visitors. The larger of the two buildings will provide residential housing for program participants while the smaller building will contain services for individuals requiring special or critical care. Staff noted that the developer worked with Planning Department staff and the community to address concerns raised, i.e., preservation of natural resources, compliancy with Zoning Ordinances, and building aesthetics.

***8. Spring Arbor Olney (Danshes Property) - TIME CHANGED**

CONITNUED

Staff noted that sewer and water have been approved by the Department of Environmental Protection (DEP) and the Planning Board, with the condition that the development will utilize an existing sewer main that runs under Georgia Avenue in an effort to limit disturbance of natural resources located on the subject property. Staff also noted that the subject property would not require reforestation since most of the property is currently forested. The applicant is proposing to remove 7.92 acres of forest to accommodate the proposed development. The applicant will not replace trees on the site as there is not forest planting requirement for this property.

The Planning Board discussed the proposed project and noted that the applicant was cooperative in responding to proposed modification requirements.

Ms. Rebecca Walker, attorney for the applicant, discussed the proposed request and concurred with the staff recommendation.

Mr. Bo Cook of the applicant's team offered comments.

***11. Preliminary Plan 120070480: Ancient Oak West - TIME CHANGED**

Request to create three lots from an existing undeveloped three acre recorded lot, located at the south-east corner of the intersection of Darnestown Road and Chestnut Oak Drive, three acres, R-200 Zone, Potomac Sub-region Master Plan

Staff Recommendation: Approval with Conditions and adoption of resolution

BOARD ACTION

Motion: **ANDERSON/DREYFUSS**

Vote: **4-0**

Yea:

Nay:

Other: **PRESLEY ABSENT**

Action: **This Item was deferred to a later date pending modification of the Preliminary Plan for Ancient Oak West.**

Planning Department staff discussed the preliminary plan for Ancient Oak West. The three-acre lot is located at the intersection of Darnestown Road and Chestnut Oak Drive. The parcel will be subdivided into three lots zoned as one-family residential. All public utilities have been approved for the subject property as well as stormwater management. The size and shapes of the proposed subdivided lots were created using criteria previously established for the community along with the existing sewer and water installations.

Staff discussed the orientation of houses on the proposed lots in regard to the septic sewer spacing requirements as related to the size of the existing lots.

Mr. Dean Packard, attorney for the applicant, discussed the proposed plan and concurred with the staff recommendation.

The following speakers offered testimony. Ms. Betty Foley, representing the Darnestown Civic Association; Mr. Kevin Keegan, representing the Darnestown Civic Association; and, Ms. Kathleen Alexander, resident of Chestnut Oak Drive.

The Planning Board discussed the bridle path noted by Mr. Keegan during his testimony, and the impact on the path resulting from the development of the subdivision. The Board requested clarification regarding the proposed shared driveway in relation to the driveways of existing residences in the neighborhood. The Board noted that it had no authority to determine the orientation of the houses on the proposed subdivided lots since the size of the subject property in this one-family residential zone will not require site plan submittal and approval.

Legal counsel advised that the Board must find a correlation with at least seven criteria in discerning the character of a neighborhood.

***12. Preliminary Plan Amendment 11992009A: Sandy Spring Property, Lot 13-~~TIME~~
CHANGED**

Modify the Category I Conservation Easement on the property located at 17724 Country Hills Road, 2.23 acres, RE-2 Zone, Sandy Spring/Ashton Master Plan

Staff recommendation: Approval with conditions and adoption of resolution

BOARD ACTION

Motion: DREYFUSS/ANDERSON

Vote: 4-0

Yea:

Nay:

Other: PRESLEY ABSENT

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

Planning Department staff discussed the preliminary plan amendment for the 2.23-acre subject property located on Country Hills Road. Staff noted that following the purchase of the property, the applicant discovered that a driveway was installed through an existing easement. The applicant is requesting the removal of 3,714 square feet of the existing easement, which is located at the front of the subject property, and replace it with 3,714 square feet in the back. The applicant will comply with the forest conservation plan by planting trees in the mitigated easement located in the front of the subject property and currently maintained as lawn area.

The Planning Board discussed the proposed land mitigation and agreed with the staff recommendation.

Mr. Steve Robins, attorney for the applicant, briefly discussed the proposed request and concurred with the staff recommendation.