



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, October 15, 2009, at 9:07 a.m. in the Montgomery Regional Office in Silver Spring, Maryland, and adjourned at 1:45 p.m.

Present were Chairman Royce Hanson and Commissioners Joe Alfandre and Marye Wells-Harley. Commissioner Amy Presley joined the meeting at 9:24 a.m., during discussion of Item 6. Commissioner Jean Cryor was necessarily absent.

Items 1 through 4 and 6 through 9 are reported on the attached agenda.

The Board recessed at 10:40 p.m. for lunch and to take up Items 7 and 16 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 11:10 a.m. in the third floor conference room, on motion of Commissioner Wells-Harley, seconded by Commissioner Presley, with Chairman Hanson and Commissioners Alfandre, Presley, and Wells-Harley present and voting in favor of the motion, and with Commissioner Cryor absent. 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.

Also present for all or part of the Closed Session were General Counsel Adrian Gardner and Associate General Counsels Tracey Harvin, Carol Rubin, and Christina Sorrento of the Legal Department; Khalid Afzal, Greg Russ, and Director Rollin Stanley of the Planning Department; and Ellyn Dye of the Commissioners' Office.

In Closed Session, the Board received a briefing on the status of pending litigation.

The Closed Session was adjourned at 11:25 a.m. and the Board reconvened in open session in the third floor conference room.

The Board reconvened in the auditorium at 12:20 p.m.

Item 5, Planning Department FY11 Budget Worksession, is reported on the attached agenda.

There being no further business, the meeting was adjourned at 1:45 p.m. The next regular meeting of the Planning Board will be held Thursday, October 22, 2009, in the Montgomery Regional Office in Silver Spring, Maryland.

Ellyn Dye
Technical Writer

M. Clara Moise
Technical Writer

Montgomery County Planning Board Meeting
Thursday, October 8, 2009
8787 Georgia Avenue
Silver Spring, MD 20910-3760
301-495-4600

1. Adoption of Opinions/Resolutions

1. Montgomery Village Marketplace - Site Plan No. 820090060 - ADOPTION OF MCPB RESOLUTION No. 09-124

2. North Westland Building - Preliminary Plan No. 12004031A - ADOPTION OF MCPB RESOLUTION No. 09-65

BOARD ACTION

Motion: WELLS-HARLEY/PRESLEY

Vote:

Yea: 4-0

Nay:

Other: CRYOR ABSENT

Action: Adopted the Resolutions as stated above.

2. Record Plats

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: There were no Record Plats submitted for approval.

3. Consent Items

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: There were no Consent Items submitted for approval.

4. Approval of Minutes

Minutes of September 17, 2009

BOARD ACTION

Motion: PRESLEY/WELLS-HARLEY

Vote:

Yea: 4-0

Nay:

Other: CRYOR ABSENT

Action: **Approved the minutes of September 17, 2009, as presented.**

5. Preliminary Plan 120070520 Chevy Chase View (Resubdivision)

R-60 zone; 0.96 acres; 3 lots requested for 3 one-family detached residential dwellings, one existing to remain; located on Clearbrook Lane, 125 feet west of Cedar Lane; Kensington-Wheaton.

Staff Recommendation: Denial

BOARD ACTION

Motion: **WELLS-HARLEY/PRESLEY**

Vote:

Yea: **4-1**

Nay: **ALFANDRE**

Other:

Action: **Approved the staff recommendation to deny, as stated in the attached Board Resolution.**

Development Review staff presented the proposal to resubdivide one lot to create three lots for residential dwellings, as detailed in the staff report. In reviewing compliance with the seven Resubdivision Criteria, staff noted that the proposal does not meet the criteria for frontage or shape and, therefore, staff recommends denial.

Mr. Fred Gore, the applicant, and Mr. Dick Witmer, the engineer, elaborated on the proposed resubdivision and the history of the original subdivision, and spoke in support of the proposal.

Mr. Gilbert Austin, abutting property owner, offered comments.

In discussion, staff and the applicant provided information and responded to questions from the Board as necessary.

6. Local Map Amendment No: G-882

Foundation for Advanced Education in Sciences, applicant, requests a local map amendment for rezoning from the R-60 Zone to RT-8.0 Zone; located at 9204, 9208, 9214 Cypress Avenue & 5201, 5205 Cedar Lane, Bethesda

Staff Recommendation: Denial

BOARD ACTION

Motion: **ALFANDRE/PRESLEY**

Vote:

Yea: **5-0**

Nay:

Other:

Action: **Approved the staff recommendation to deny, as stated in the attached Letter of Transmittal.**

Development Review staff presented the proposal to rezone approximately four acres from the R-60 Zone to the R-T 8 Zone for purposes of razing the existing four single-family detached units and constructing 31 townhouses for up to 155 students, as detailed in the staff report. Staff described the purposes and requirements of the R-T 8 Zone, noting that the zone can only be applied if the master plan designates the property for similar density, if there is a need for a transition between certain types of uses and single-family detached development, or if the proposal is appropriate in terms of location and density. In staff's view, the proposal does not satisfy those requirements, nor does it provide the required 50 percent green area. Therefore, staff recommends denial of the proposed rezoning.

Mr. Steve Kaufman, attorney, introduced other members of the applicant team. Dr. Edwin Becker, president of the applicant Association, offered a presentation on the proposed development and the need for affordable housing with easy access to NIH. Concluding, Mr. Kaufman took issue with several statements in the staff report, and elaborated on why he believes the proposal complies with the purposes and requirements of the proposed zone.

Dr. Michael Lenardo of Montgomery County; Ms. Susan Cheney of Chandler Street; Mr. James Winkler, owner of abutting property on Acacia Avenue; Mr. Allen Myers, representing Maplewood Citizens Association; Mr. Tyler Mace, of Cypress Avenue; Mr. Chris Connors of Elsmere Avenue; Mr. Emmanuel Nwankwo, confronting property owner on Cypress Avenue; Mr. Bill Hagen of Locust Avenue; Ms. Rena Hocore Reiss of Danbury Road; Ms. Kathryn Callahan of Washington, DC; Mr. Thomas Johnson of Cypress Avenue; Ms. Dara Strauss-Albee of Danbury Road; Ms. Vania Cao of Rockville; Mr. Saurav Shrestna of Battery Lane; Ms. Judy Koenick; Ms. Kathryn Wiley of Cedar Lane; Ms. Annette Rothermel of Chandler Street; and Mr. Martin Johnson of Chandler Street, offered comments on the proposal.

Chairman Hanson recognized the necessity of balancing the need for this type of housing with the need to preserve the character of the existing residential neighborhoods adjacent to large medical/scientific facilities, such as NIH.

7. Limited Site Plan Review No. 82006034A, Children's Manor Montessori School (formerly Traville Day Care)

TS-R zone; 4.26 acres; amendment to change the use to include both a day care facility and private educational institute; located at the southwest quadrant of the intersection Darnestown Road and Traville Gateway Drive; Potomac

Staff Recommendation: Denial

BOARD ACTION

Motion: PRESLEY/CRYOR

Vote:

Yea: 5-0

Nay:

Other:

Action: Approved the staff recommendation to deny, as stated in the attached Board Resolution.

Development Review staff presented the proposal to amend the site plan to add a private educational institution to the allowed uses on the site, in addition to the existing day care facility, as detailed in the staff report. Staff noted that the proposed use is consistent with the zoning, but it is prohibited by specific limitations under the original rezoning approval and the associated diagrammatic plan. In staff's view, the only way to gain approval of the proposed use is to secure an amendment to the diagrammatic plan through the development plan amendment process.

Mr. Pradip Ghosh, the applicant, offered comments.

8. Tilden Woods Bioretention Facility - POSTPONED

The Montgomery County Department of Transportation proposes to construct a bioretention facility in Tilden Woods Local Park as part of the required mitigation for the construction of the Montrose Parkway. A public meeting was held at Tilden Woods Local Park on July 9, 2009

***A. Forest Conservation Plan**

Staff Recommendation: Approval

B. Mandatory Referral No. MR2007902

Construction of a local Park

Staff Recommendation: Approval to Transmit with Comments to MCDOT

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: This item was postponed.

9. Closed Session

Pursuant to Annotated Code of Maryland, State Government Article, 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 (Approval of Closed Session Minutes)

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

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

10. Closed Session - POSTPONED

Pursuant to Maryland State Government Code Annotated Section (10-508) (a) (7) (consult with counsel to obtain legal advice) (Subject: Potomac Estates)

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: This item was postponed.

17. Closed Session - ADDITION

Pursuant to Maryland State Government Code Annotated Section (10-508) (a) (7) (consult with counsel to obtain legal advice)

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

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

11. FY11 Department of Parks Operating Budget Worksession - POSTPONED

This is the first worksession with the Department of Parks to discuss the development and priorities for the FY11 Proposed Budget.

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: This item was postponed.

**15. FY10 Mid-Year Savings Plan - All Departments
(No Public Testimony Taken)**

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: Received briefing followed by Board discussion on the FY10 Mid-Year Savings Plan for all Departments.

Parks and Planning Departments offered a detailed presentation regarding the FY10 Mid-Year Savings Plan for their respective department, followed by Board discussion and questions to staff.

**16. FY10 Program Budget - CAS Departments
(No Public Testimony Taken)**

BOARD ACTION

Motion: PRESLEY/WELLS-HARLEY

Vote:

Yea: 4-0

Nay:

Other: CRYOR ABSENT

Action: Received briefing following by Board discussion regarding Central Administrative Services (CAS) FY10 Program Budget and approved the proposed staff recommendation as discussed during the meeting.

The Commission's Executive Director and CAS staff offered a detailed presentation of the FY10 Program Budget for all CAS Departments, as discussed in detail in the October 6th staff memorandum, followed by extensive Board discussion and questions to staff.

12. Preliminary Forest Conservation Plan No. S-2710 and Special Exception S-2710:

Day Hill LLC (Kiddie Academy) for a Child Day Care Facility for up to 158 children; R-200 Zone; located at the of Corner of Bonifant and Catoctin Drive, Silver Spring

A. Preliminary Forest Conservation Plan No. S-2710: Day Hill LLC (Kiddie Academy)

B. Special Exception S-2710: Day Hill LLC (Kiddie Academy) Request for a special exception for a Child Day Care Center for 158 children

(Action required for hearing by the Hearing Examiner on 10/23/09)

BOARD ACTION

**Motion: A. ALFANDRE/WELLS-HARLEY
B. ALFANDRE/WELLS-HARLEY**

Vote:

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

Nay:

Other: **A. & B. CRYOR ABSENT**

Action: **A. Approved staff recommendation for approval of the Forest Conservation Plan, as stated in the attached Board Resolution.**

B. Approved Special Exception request, including possibility of adding traffic signals at Bonifant and Layhill Roads, discussed during the meeting, and as stated in the attached transmittal letter to the Hearing Examiner.

In accordance with the September 25 technical staff report, Development Review Division staff presented the request for a Special Exception to construct a 9,728 square foot day care facility for 158 children on a 1.85-acre property located at the Corner of Bonifant and Catoctin Drives in Silver Spring. Staff discussed the proposed request and noted that there will be 22 full-time, 3 part-time employees, and 52 onsite parking spaces. Staff discussed the forest conservation for that property and noted that it meets all the requirements for the forest conservation.

Mr. Marty Hutt, attorney representing the applicant, introduced members of the applicant's team, and discussed the proposed request, and concurred with the staff recommendation.

Mr. Christopher Gamarota from Kiddie Care Academy offered comments.

At the Board's request, Transportation Planning Divisions staff offered comments regarding the traffic impact of this plan, if any.

Ms. Janice Walden of Catoctin Drive offered testimony.

Mr. Martin Klauber, the People's Counsel, offered comments regarding the proposed transportation management plan.

Environmental Planning Division staff added that if the applicant is not able to get a sediment control permit they will be obligated to revisit the stormwater management issue that could cause major redesign because it is a very tight buildable area.

Chairman Hanson noted that he would recommend that the applicant and staff work with State Highway Administration (SHA) on adding signaling as recommended by the Board.

13. Roundtable Discussion - REVISION

- Growth Policy Update
 (No Public Testimony Taken)

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: Received briefing from Planning Department Director and Planning Department staff on the Growth Policy discussions held with the Planning, Housing, and Economic Development Committee (PHED) last week, followed by discussion and questions to staff.

14. Limited Site Plan Review No. 82004015F, Fortune Park (aka Park Potomac)

I-3 zone; 20.28 acres; amendment to relocate bike racks inside the garage, adjust brick pavers at Condo building #1, add wrought iron fence around pool, add pool pump room, add the road connection of Park Potomac Avenue to Fortune Terrace and minor landscaping modifications; located in the northwest quadrant of the intersection of Montrose Road and I-270; Potomac Sub-region

Staff Recommendation: Approval with conditions

BOARD ACTION

Motion: PRESLEY/WELLS-HARLEY

Vote:

Yea: 3-0

Nay:

Other: ALFANDRE RECUSED
CRYOR ABSENT

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

In accordance with the September 28 detailed technical staff report, Development Review Division staff offered a brief presentation regarding the amendment request to the Limited Site Plan for the Fortune Park project which proposes to relocate bike racks inside the garage and adjust brick pavers at Condo Building 1, add a wrought iron fence around the pool, add a pool pump room, add the road connection of Park Potomac Avenue to Fortune Terrace, and do minor landscaping modifications.

Mr. Scott Wallace, attorney representing the applicant, offered brief comments and concurred with the staff recommendation.

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