



MONTGOMERY COUNTY DEPARTMENT OF PARKS

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

Agenda Item #

5B

Agenda Date: October 20, 2016

October 12, 2016

MEMORANDUM

TO: Montgomery County Planning Board

VIA: Michael Riley, Director of Parks *M*
Mitra Pedoeem, Deputy Director of Parks
Michael Ma, Acting Chief, Park Development Division *MM*

FROM: Josh W. Kaye, Park Development Division
William E. Gries, Park Development Division *weg*

SUBJECT: Kings Local Park/Clarksburg Town Center
Conveyance of two (2) parcels of parkland to Third Try, LC
1) 3,192 square feet (0.0733 acres) more or less, unimproved for a Memorial Cemetery
2) 65,413 square feet (1.5017 acres) more or less, unimproved for a SWM facility

Staff Recommendation

The staff recommendation to the Montgomery County Planning Board with respect to parkland at Kings Local Park is that the Board approve the "no cost" conveyance of two parcels of land described as 1) 3,192 square feet (0.0733 acres) more or less, unimproved, for the John Clark Family Memorial Cemetery, as requested by and coordinated through the Clarksburg Historical Society, and 2) 65,413 square feet (1.5017 acres) more or less, unimproved, for required stormwater management facilities. These conveyances will be made by the Commission to Third Try, LC, the current developer of Clarksburg Town Center, which will in turn convey the properties to the Clarksburg Homeowners Association.

Background

In June 2004, Terrabrook Clarksburg, L.L.C., the then developer of Clarksburg Town Center, conveyed to the Commission 6.60 acres, more or less unimproved, adjacent to and south of the Commission's Kings Local Park. The 6.60 acres is shown outlined in red on Attachment "A". This conveyance was required as a condition of preliminary and site plan approvals for one of the early phases of Clarksburg Town Center. Since 2004 the land conveyed to the Commission by Terrabrook has essentially remained undeveloped except for stormwater management facilities constructed on the parkland pursuant to a reserved stormwater management facilities easement.

In July 2015, the Planning Board approved applications by Third Try, LC, the current developer of Clarksburg Town Center, to amend the Clarksburg Town Center Project Plan (Project Plan No. 91994004D), the Clarksburg Town Center Preliminary Plan (Preliminary Plan No. 11995042B), and the Clarksburg Town Center Site Plan (Site Plan No. 82007022D). The Planning Board's approvals of these amendments contained conditions that resulted in various modifications to these plans including: 1) the location of the John Clark Family Memorial Cemetery, which was supported by and coordinated through

the Clarksburg Historical Society, and 2) the location of a required stormwater management (SWM) facility for the Town Center.

As it turns out, both the location of the Memorial Cemetery and the SWM facility are on parkland that was conveyed to the Commission by Terrabrook Clarksburg, L.L.C. in 2004. In keeping with the conditions approved by the Planning Board in the 2015 amendments to the Clarksburg Town Center Project, Preliminary and Site Plans it would be consistent for the Board to approve the transfer of these two sites to Third Try, LC. The Cemetery site is an important historical resource for the Town Center and the greater Clarksburg community. The SWM facility is appropriate for removal from park holdings as lands conveyed to the Commission for park purposes should not include SWM facilities. SWM facilities and the land that supports them are generally conveyed to the HOA for management and maintenance responsibilities. On Attachment "B", the location of the Memorial Cemetery site is shown outlined in blue, while the SWM facility is shown outlined in yellow.

Compensation/Replacement

Staff does not believe that compensation or replacement parkland should be required for the conveyance of this land to Third Try, LC. The property was initially acquired by the Commission at "no cost" and following conveyance to Third Try, the properties will be conveyed to the HOA and will essentially remain undeveloped community open space. This is seen as an administrative housekeeping matter that is in the public interest with essentially no gain or loss to either the Commission or Third Try. Third Try will be responsible for preparing plats and legal descriptions for the parcels being conveyed and for preparing the deed documents. It should be noted that, though it is not considered to be compensation for the land being conveyed, Third Try will be making significant improvements to Kings Local Park as required through the Town Center development plan approval process. Cooperating with Third Try in this regard will result in a win-win-win situation for all parties involved.

Summary and Conclusion

Staff is recommending that the Montgomery County Planning Board approve the resolution included as Attachment "C" authorizing the conveyance of the following described properties in Kings Local Park to Third Try, LC, the current developer of Clarksburg Town Center, for the reasons indicated above:

- 1) 3,192 square feet (0.0733 acres) more or less, unimproved for the Clark Memorial Cemetery
- 2) 65,413 square feet (1.5017 acres) more or less, unimproved for a stormwater management facility.

Assuming the Board approves this recommendation we will be bringing this matter back to the Board for open session action next week. Following approval in open session, this matter will be presented to the full Commission for its affirmation of these conveyances during one of its next regularly scheduled meetings.

cc: John Nissel
Shuchi Vera
David Vismara

Jim Poore
Kristi Williams
Doug Ludwig

John Hench
Megan Chung
Antonio DeVaul

Wendy Hanley
Sandra Pereira

Kings Local Park

Attachment - A



Parkland Outlines
Status & Owner
M-NCPPC Parks

1 inch = 250 feet



Map Compiled: 10/5/2016
Map Compiled by Land Acquisition Special:
Based on M-NCPPC GIS Layers
For Planning Purposes Only



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

MCPB 16-114

M-NCPPC 16-

Approval of Disposition of Commission Real Estate at
Kings Local Park to Third Try, L.C.

Date of Hearing:

RESOLUTION

WHEREAS, the Maryland-National Capital Park and Planning Commission ("Commission") is authorized by Md. Code Ann., Land Use §17-101 (formerly Article 28, Section 5-101), to acquire, develop, maintain and operate a public park system within the Maryland-Washington Metropolitan District; and

WHEREAS, the Commission holds certain real property interests in parkland known as Kings Local Park which includes a parcel of land containing 6.60 acres, more or less, unimproved, recorded among the Land Records of Montgomery County, Maryland in Liber 27841 at folio 508 (the "Park Parcel"); and

WHEREAS, the Park Parcel is adjacent to a development known as Clarksburg Town Center which is currently being developed by Third Try, L.C., a Maryland limited liability company ("Third Try"), and

WHEREAS, on September 21, 2015, the Montgomery County Planning Board ("Planning Board") approved Third Try's application to amend the Clarksburg Town Center Project Plan (Project Plan No. 91994004D), the Clarksburg Town Center Preliminary Plan (Preliminary Plan No. 11995042B), and the Clarksburg Town Center Site Plan (Site Plan No. 82007022D), and;

WHEREAS, the Planning Board's approvals of the above described amendments contained conditions that resulted in various modifications to these plans including, but not limited to, locating on the Park Parcel: 1) the site of the John Clark Family Memorial Cemetery; and 2) the site of a required stormwater management facility; and

WHEREAS, Third Try has requested that the Commission transfer to it the two sites described above in order for Third Try to meet the conditions of the amendments to the Clarksburg Town Center Project, Preliminary and Site Plans as approved by the Planning Board, and;

WHEREAS, the staff report presented to the Planning Board at its public meeting on October 20, 2016 contained a recommendation that the Planning Board find that (1) it is in the public interest to convey, at "no cost", 3,192 square feet (0.0733 acres), more or less, for the John Clark Family Memorial Cemetery and 65,413 square feet (1.5017 acres), more or less, for

the stormwater management facility from the Park Parcel; and (2) these lands are no longer needed for park purposes or other purposes under the Land Use Article; and

WHEREAS, the Planning Board, at its public meeting held on October 20, 2016, reviewed and approved the analysis concerning the disposition of the above-described Commission property from the Park Parcel to Third Try and recommended that the Commission approves the said disposition.

NOW, THEREFORE, BE IT RESOLVED that, the Commission hereby adopts the findings of the Montgomery County Planning Board; accepts the Montgomery County Planning Board's recommendations; and hereby approves the conveyance of the Commission property interests in the Park Parcel, as described above, to Third Try.

BE IT FURTHER RESOLVED that, in connection with the transaction contemplated herein, the Executive Director is authorized to execute and deliver, on behalf of the Commission, any and all such agreements, certificates, documents, and/or instruments, and to do or cause to be done, any and all such acts, as the Executive Director deems necessary or appropriate to make effective or to implement the intended purposes of the foregoing resolution, without limitation, and the taking of all such actions deemed conclusively to be authorized hereby.

* * * * *

CERTIFICATION

This is to certify that the foregoing is a true and correct copy of Resolution No. 16-____, adopted by the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission on motion of Commissioner _____, seconded by Commissioner _____, with Commissioners _____, _____, _____, and _____ voting in favor of the motion at its regular meeting held on Thursday, October 20, 2016 in Silver Spring, Maryland.

Casey Anderson, Chair
Montgomery County Planning Board

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