



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

**APPROVED
MINUTES**

Tuesday, March 6, and Thursday, March 8, 2012

The Montgomery County Planning Board met in Closed Session on Tuesday, March 6, 2012, at 2:00 p.m. in the Montgomery Regional Office in Silver Spring, Maryland, and adjourned at 2:30 p.m.

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

Item 1 is reported on the attached agenda.

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 2:00 p.m. in the Chairman's office on motion of Commissioner Anderson, seconded by Commissioner Presley, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Anderson, Dreyfuss, and Presley voting in favor of the motion. The meeting was closed under authority of §10-508(a)(1), State Government Article, Annotated Code of Maryland, 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.

In Closed Session, the Board discussed Planning Department personnel issues.

The Closed Session was adjourned at 2:30 p.m.

On Thursday, March 8, 2012, The Montgomery County Planning Board met in regular session at 9:24 a.m. in the Montgomery Regional Office in Silver Spring, Maryland, and adjourned at 7:30 p.m.

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

Prior to the meeting, the Board participated with the members of the Prince George's County Planning Board in a conference call meeting of The Maryland-National Capital Park and Planning Commission (M-NCPPC), which was convened at 9:15 a.m. and adjourned at 9:23 a.m. Actions taken are reported in the M-NCPPC minutes of this date.

Prior to taking up the Consent Agenda, Chair Carrier read into the record a response to comments by Planning Director Rollin Stanley that were quoted in the article, "The Future is Looking Up," by Eugene L. Meyer, in the March-April 2012 edition of *Bethesda Magazine*, published last week.

Items 1, 2, and 4 through 8 are reported on the attached agenda.

The Board recessed for lunch at 1:04 p.m. and reconvened in the auditorium at 2:56 p.m.

Items 3, 9, and 10 are reported on the attached agenda. Item 3A and Item 11 were postponed.

Commissioner Presley left the meeting at 4:50 p.m. before discussion of Item 9.

The Board recessed at 6:55 p.m. and reconvened in the Chair's office at 7:00 p.m. to take up Items 12 and 13 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 7:00 p.m. in the Chairman's office on motion of Commissioner Anderson, seconded by Vice Chair Wells-Harley, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Anderson, Dreyfuss present and voting in favor of the motion, and Commissioner Presley absent. The meeting was closed under authority of §10-508(a)(1), State Government Article, Annotated Code of Maryland, 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; and §10-508(a)(3), State Government Article, Annotated Code of Maryland, to consider the acquisition of real property for a Commission purpose and matters directly related thereto.

In Closed Session, the Board discussed Planning Department personnel issues and possible land acquisition.

The Closed Session was adjourned at 7:30 p.m.

There being no further business, the meeting was adjourned at 7:30 p.m. The next regular meeting of the Planning Board will be held Thursday, March 15, 2012, in the Montgomery Regional Office in Silver Spring, Maryland.

Ellyn Dye
Technical Writer

M. Clara Moise
Technical Writer

Montgomery County Planning Board Meeting
Tuesday, March 6, 2012
8787 Georgia Avenue
Silver Spring, MD 20910-3760
301-495-4600

1. Closed Session

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

Montgomery County Planning Board Meeting
Thursday, March 8, 2012
8787 Georgia Avenue
Silver Spring, MD 20910-3760
301-495-4600

MEETING OF THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION - BY CONFERENCE CALL - MRO AUDITORIUM

Resolution Authorizing Refunding of Certain Commission Bonds

M-NCPPC ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: See report of action in the Minutes of The Maryland-National Capital Park and Planning Commission.

PLANNING BOARD MEETING - MRO AUDITORIUM

1. Consent Agenda

***A. Adoption of Resolutions**

1. Greenway Property Preliminary Plan 120120050 – MCPB No. 11-133
2. Mid-Pike Plaza Preliminary Plan 120120020 – MCPB No. 12-26
3. Mid-Pike Plaza Site Plan 820120020 – MCPB No. 12-27
4. Shrivstav Property Preliminary Plan 11991089A – MCPB No. 12-03
5. Westbrook Elementary School Forest Conservation Plan No. MR2012006-MCPB No. 11-121

BOARD ACTION

Motion: PRESLEY/WELLS-HARLEY

Vote:

Yea: 5-0

Nay:

Other:

Action: **Adopted the Resolutions as stated above.**

***B. Record Plats**

Subdivision Plat No. 220120850, Edgemoor; R-60 zone, 1 lot; located in the southwest quadrant of the intersection of Moorland Lane and Fairfax Road; Bethesda-Chevy Chase Master Plan.

BOARD ACTION

Motion: **WELLS-HARLEY/ANDERSON**

Vote:

Yea: **5-0**

Nay:

Other:

Action: **Approved the Record Plat 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 February 2, 2012

BOARD ACTION

Motion: **ANDERSON/WELLS-HARLEY**

Vote:

Yea: **5-0**

Nay:

Other:

Action: **Approved the minutes of February 2, 2012, as presented.**

2. ICC Environmental Stewardship/Compensatory Mitigation Project - POSTPONED

Approve the construction of Stormwater Management Pond retrofit and Storm Drain outfall project PB-33 and SPA BMP project PB-145 in the Upper Paint Branch SPA as part of the ICC Environmental Stewardship and Compensatory Mitigation Program.

Staff Recommendation: Approval

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: **This item was postponed.**

6. Zoning Text Amendment 12-01

Establish additional requirements in the C-4 zone for retail uses of a certain size located within one-half mile of a metro station.

Staff Recommendation: Transmit Comments to County Council

(Action Required for County Council Public Hearing of 3/13/12)

BOARD ACTION

Motion: PRESLEY/WELLS-HARLEY

Vote:

Yea: 4-1

Nay: DREYFUSS

Other:

Action: Approved the staff recommendation for ZTA 12-01 and 12-02, with additional modifications identified in discussion, as stated in the attached Letter of Transmittal.

Items 6 and 7 were discussed and acted upon together, as summarized below.

Planning Department staff presented the two Zoning Text Amendments (ZTAs) related to establishing additional requirements in the C-4 Zone for retail uses of a certain size within one-half mile of a Metro station and amending the term “combination retail store” and the required findings for a combination retail use special exception in the C-2, C-3, and C-4 Zones, as detailed in the two staff reports. Under ZTA 12-01, retail uses in the C-4 Zone within one-half mile of a Metro station, with ground floor area of at least 50,000 square feet or in a development containing more than 100,000 square feet of retail for a single user, the footprint would be limited to 80,000 square feet; and requirements would be established to ensure mixed-use buildings, space for small retailers, and conformance to design standards. ZTA 12-02 applies to property more than one-half mile from a Metro station and amends the term “combination retail store” and the required findings for a special exception for the use to restrict light spillover onto residential property, ensure consistency with master plan recommendations, and provide small retail space under certain circumstances. Staff reviewed recommended plain language clarifications for both Zoning Text Amendments and additional recommendations to clarify in ZTA 12-02 whether combination retail uses in the C-2 and C-3 Zones would be allowed within one-half mile of a Metro station and, if so, to apply the new conditions for the C-4 Zone; to remove the requirement for consistency with a master or sector plan as redundant; and to clarify when small retail tenant space would be required.

Staff responded to questions from the Board, and there followed some discussion about how the new standards would apply; the effect on development; and the relative merits of applying the proposed new standards for large retail development in the C-4 Zone to combination retail stores in the C-2 and C-3 Zones within one-half mile of a Metro station, as recommended by staff.

6. Zoning Text Amendment 12-01

CONTINUED

Mr. Bill Kominers, attorney representing Lee Development Group; Ms. Pat Harris, attorney representing JBGR; and Mr. Todd Brown, attorney representing White Flint Express Realty Group, offered comments on one or both of the Zoning Text Amendments.

There followed additional discussion of the ramifications of the two Zoning Text Amendments, including the amount of flexibility provided by the standards and whether the special exception process is needed. There was also some discussion of the Zoning Ordinance rewrite project that is underway.

In opposing the two Zoning Text Amendments, Commissioner Dreyfuss expressed the view that they propose to pre-design development via statute, rather than through established review processes. He also opposed the requirement for the special exception process under ZTA 12-02.

7. [Zoning Text Amendment 12-02](#)

Amend the term “combination retail store”; and amend the required findings for a combination retail use special exception.

Staff Recommendation: Transmit Comments to County Council
(Action Required for County Council Public Hearing of 3/13/12)

BOARD ACTION

Motion: PRESLEY/WELLS-HARLEY

Vote:

Yea: 4-1

Nay:

Other: DREYFUSS

Action: Approved the staff recommendation for ZTA 12-01 and 12-02, with additional modifications identified in discussion, as stated in the attached Letter of Transmittal.

Items 6 and 7 were discussed and acted upon together, as summarized under Item 6.

8. [Zoning Text Amendment 12-04](#)

Allow developers to provide additional forms of surety to insure the completion of site plan elements; and clarify the language to state that the surety being required by the Planning Board covers only certain certified site plan elements.

Staff Recommendation: Transmit Comments to County Council
(Action Required for County Council Public Hearing of 3/27/12)

BOARD ACTION

Motion: DREYFUSS/ANDERSON

Vote:

Yea: 5-0

Nay:

Other:

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

Planning Department staff presented the Zoning Text Amendment to allow developers to provide additional forms of surety, in addition to the specified “performance bonds,” to insure the completion of site plan elements and to clarify associated language, as detailed in the staff report. Staff noted that this Zoning Text Amendment was proposed by the Board to address issues related to types of surety required and allowed for site plans.

Mr. Jody Kline, land use attorney, spoke in support of the Zoning Text Amendment, stating that this change reflects what is already done for Forest Conservation Plans, allows the use of local bankers, and streamlines the process.

***4. [Site Plan No. 820110040 including a Forest Conservation Plan: Greenbriar at Norbeck Crossing](#)**

262 dwelling units (including 15 percent MPDUs) consisting of 24 one-family detached homes, 95 townhomes and 143 garden apartments, located in the northeast quadrant of the intersection of Norbeck Road (MD 28) and Georgia Avenue (MD 97), 30.76 acres, R-200/TDR-7 Zone

Olney Master Plan

Staff Recommendation: Approval with Conditions

BOARD ACTION

Motion: DREYFUSS/ANDERSON

Vote:

Yea: 5-0

Nay:

Other:

Action: Approved the staff recommendation to approve, subject to revised conditions, as stated in the attached Board Resolution. Further, directed staff to draft a letter to State Highway Administration (SHA), for the Chair’s signature, requesting that SHA monitor traffic safety conditions at the intersection of Coolidge Avenue and Norbeck Road.

Planning Department staff presented the site plan for an optional method project, including transferrable development rights (TDR) and moderately priced dwelling units (MPDUs), for

development of 262 dwelling units, consisting of 24 one-family detached units, 95 townhouses, and 143 garden apartments, as detailed in the staff report. Staff discussed various elements of the site plan, including the unit arrangement, which creates three distinct neighborhoods, and the amenities, open space, and recreation areas. Staff reported that there is disagreement between staff and the applicant about the number of TDRs that are required. Staff discussed the calculation of the TDRs, based on the requirement to provide at least two-thirds of the permitted TDRs for the site, and the alternate analysis used by the applicant, based on an adjustment for multifamily units. Staff noted that the project is proposing the maximum density for the site and has the advantage of a waiver of the unit mix requirements, approved at preliminary plan, which allows an increase in the number of multifamily units and a decrease in the number of single-family detached units. Staff also distributed and discussed revised conditions of approval.

Staff responded to questions from the Board related to access to Norbeck Road, which is limited at Coolidge Avenue to right-in/right-out. Full movements to and from Norbeck Road in both directions will be provided at the main entrance along what is now the access road to the Park and Ride lot. Staff also responded to questions and discussed the forest conservation plan.

4. Site Plan No. 820110040 including a Forest Conservation Plan: Greenbriar at Norbeck Crossing

Mr. Bob Harris, attorney, and Mr. Brian Knauf, of the applicant company, provided additional information about the proposed development and its relationship to the Olney Master Plan. Mr. Harris also discussed the calculation of the TDRs, noting that two references in the Zoning Ordinance, the two-thirds requirement and the multifamily adjustment, appear to be contradictory. Mr. Harris requested the use of the adjustment for multifamily units.

There followed some discussion of how the TDRs should be calculated, and the Board accepted the staff calculation, based on the staff analysis and the interpretation that the multifamily adjustment is used for projects with 100 percent multifamily units because it is not economically feasible to provide two-thirds of the permitted TDRs for such projects.

Mr. Philip Marks, representing the Leisure World Community Corporation, and Mr. Jim Chelini, owner of adjoining property on Bradford Road, offered comments.

In response to testimony about dangerous traffic conditions on Norbeck Road and the difficulty experienced in turning left onto eastbound Norbeck Road, there was considerable discussion about access from the proposed development, the anticipated impact of the planned Georgia Avenue/Norbeck Road interchange, and the likelihood that State Highway Administration (SHA) would provide a traffic signal on Norbeck Road at Coolidge Avenue. Mr. Harris and staff asserted that the access to the site was fully discussed and approved at preliminary plan.

5. [Schematic Development Plan Amendment No: 11-3: YBM Construction, Inc.](#)

Request to amend an approved Schematic Development Plan to reconfigure the location of building and parking facility, add to the height of the previously approved building, correct the size of the property and accommodate current environmental regulations and requirements for a property consisting of approximately 2.06 acres of land in the O-M Zone, located at 19815 Blunt Road in Germantown,

Maryland. Germantown Employment Area Sector Plan
Staff Recommendation: Approval

BOARD ACTION

Motion: **ANDERSON/DREYFUSS**

Vote:

Yea: **5-0**

Nay:

Other:

Action: **Approved the staff recommendation to approve, subject to revised binding elements, without undergoing an additional public hearing by the Hearing Examiner, as stated in the attached Letter of Transmittal.**

A VERBATIM TRANSCRIPT OF THIS ITEM IS ON FILE WITH THE MINUTES IN THE MONTGOMERY REGIONAL OFFICE IN SILVER SPRING, MARYLAND.

3. Roundtable Discussion

- A. Planning Director's Report - **POSTPONED**
- C. Planning Department Streamlining Proposals
- B. [Transportation Policy Area Review Update](#)

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: **Received briefings and discussed.**

A. Planning Director's Report: This item was postponed.

B. Transportation Policy Area Review Update: Planning Department staff discussed the draft status report on the Transportation Policy Area Review (TPAR) refinement process.

Mr. Robert Winick, consultant from Motion Maps, LLC, discussed the key parts of the TPAR refinement process.

Mr. Paul Silberman, consultant from Sabra, Wang & Associates, Inc., discussed the status report on the refinement process for the Local Area Transportation Review (LATR).

Staff also discussed the proposed schedule, noting that presentation to the Board is scheduled for early April, Public Hearing in mid-April, Planning Board worksessions in early May, and County Council action expected before the August Planning Board recess.

There followed considerable discussion with questions to staff and the consultants.

C. Planning Department Streamlining Proposals: Planning Department staff briefed the Board on the proposed streamlining for plan reviews pre Planning Board approval. Staff also discussed the legal changes which will ensue.

At the Board request, legal staff offered comments.

Commissioner Dreyfuss questioned staff regarding the Building Industry January 2012 letter suggesting a list of proposed solutions to issues raised by various applicants regarding streamlining the Planning Department review process.

Historic Preservation staff also discussed proposed streamlining processes and interaction with the Department of Permitting Services.

There followed extensive Board discussion with questions to staff.

***9. [Preliminary Plan Amendment No. 12011002A, Goddard School - Clarksburg](#)**

R-200 Zone; Request to increase the size of the gymnasium, to amend the preliminary forest conservation plan and the conditions related to traffic improvements located on the south side of Frederick Road (Rt. 355) approximately 1300 ft. northwest of the intersection with Old Baltimore Road, Clarksburg Master Plan

Staff Recommendation: Approval with Conditions

BOARD ACTION

Motion: DREYFUSS/ANDERSON

Vote:

Yea: 4-0

Nay:

Other: PRESLEY ABSENT

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

In keeping with the February 24 technical staff report, Planning Department staff discussed the proposed request to increase the size of the gymnasium, amend the preliminary forest conservation plan and the conditions related to traffic improvements for the Goddard School project located on Frederick Road in Clarksburg. Staff discussed the transportation issues associated with the project and noted that conditions have been revised to permit the applicant to have a maximum enrollment number.

Ms. Debra Borden, attorney representing the applicant, introduced Mr. Ross Flax of the Goddard School, briefly discussed the proposed request, and concurred with the staff recommendation. Mr. William Evans of Chestertown Street, and Ms. Drew Rabin of Elmcroft Boulevard offered testimony.

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

***10. Preliminary Plan No. 120110430 Rolling Stone**

A request to convert a recorded outlot into a recorded lot; R-200 Zone; 0.68 acres; located on the north side of Bonifant Road opposite Marine Drive; Cloverly Planning Area

Staff Recommendation: Approval with Conditions

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: At the applicant's request, unanimously approved deferral of this item.

In keeping with the February 24 technical staff report, Planning Department staff discussed the request to convert a recorded outlot into a recorded lot for the purpose of building a one-family detached residence. Staff noted that the outlot is 29,600 square feet in size and is located on a 0.68-acre property on the north side of Bonifant Road, west of New Hampshire Avenue in Cloverly. Staff noted that the property is mostly forested and access to the property is through an existing shared drive, with three existing residences, from Bonifant Road. Staff discussed the proposed forest conservation plan and noted that the applicant proposes to remove all of the 0.51 acres of existing forest to allow construction of the house, to be replaced by 0.39 acres of reforestation in an offsite forest mitigation bank to satisfy the reforestation requirement. Staff also noted that a previous application to convert the existing outlot into a lot was denied by the Planning Board due to concerns about erosion, flooding, and the need for a stormwater management waiver. Staff further added that concerns about stormwater runoff and the use of the shared driveway have been raised by local residents during the application process.

Mr. Jody Kline, attorney for the applicant, introduced Messrs. Jim Glascock, David Crowe, and Scott Reser, members of the applicant's team, offered a multimedia presentation, and concurred with the staff recommendation.

The following speakers offered testimony: Messrs. Lloyd Mitchell of Marine Drive, Michael Makfinsky of Bonifant Road, and Christopher Tolson of Bonifant Road.

Legal counsel advised the Board that it would be preferable to defer approval of this item until a representative from the Department of Permitting Services (DPS) can testify to the adequacy of the proposed stormwater management system.

Commissioner Dreyfuss stated that he would feel more comfortable with assurance from DPS regarding the stormwater management.

Following considerable Board discussion, the applicant's representative requested a deferral.

11. Proposed Amendment to LATR Guidelines for Determining PAMR Credits for Developments in CBD and Metro Station Policy Areas - POSTPONED

Staff will present a simplified method for calculating Policy Area Mobility Review credits to be applied in CBD and Metro Station Policy Areas.

Staff Recommendation: Approval

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: This item was postponed.

12. Closed Session

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

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

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

13. Closed Session

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