



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

APPROVED
MINUTES

The Montgomery County Planning Board met on Thursday, March 1, 2012, at 9:20 a.m. in the Montgomery Regional Office in Silver Spring, Maryland, and adjourned at 5:00 p.m.

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

Items 1 and 2 and Items 6 through 9 are reported on the attached agenda. Item 2 was discussed before Item 1, and Items 4 and 5 were postponed.

The Board recessed for lunch at 12:25 p.m. and to take up Items 11, 12, and 15 through 17 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 12:47 p.m. in the third floor conference room, on motion of Commissioner Presley, seconded by Vice Chair Wells-Harley, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Anderson, Dreyfuss, and Presley present and 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; §10-508(a)(3), to consider the acquisition of real property for a Commission purpose and matters directly related thereto; and §10-508(a)(7), to consult with counsel to obtain legal advice.

Also present for all or part of the Closed Session were Associate General Counsels David Lieb, Derrick Rogers, Carol Rubin, and Christina Sorrento, and Eric Daniel of the Legal Department; Director Rollin Stanley and Traci Anderson, John Carter, and Sandra Pereira of the Planning Department; Bill Gries of the Parks Department; and Ellyn Dye of the Commissioners' Office.

In Closed Session, the Board consulted with Legal Counsel with regard to two requests for reconsideration of the Board's actions, to be taken up on the afternoon agenda; discussed the format, procedures, and timing of production of Board Resolutions, including options to streamline the process; discussed a Planning Department personnel issue; and discussed a potential land acquisition.

The Closed Session was adjourned at 3:50 p.m.

The Board reconvened in the auditorium at 4:00 p.m.

Items 13, 14, and 3 are reported on the attached agenda. Item 10 was postponed.

There being no further business, the meeting was adjourned at 5:00 p.m. The next regular meeting of the Planning Board will be held Thursday, March 8, 2012, in the Montgomery Regional Office in Silver Spring, Maryland.

M. Clara Moise
Technical Writer

Ellyn Dye
Technical Writer

Montgomery County Planning Board Meeting
Thursday, March 1, 2012
8787 Georgia Avenue
Silver Spring, MD 20910-3760
301-495-4600

1. Consent Agenda

***A. Adoption of Resolutions**

1. Bethesda Center Project Plan 920120010 – MCPB No. 11-137
2. Bethesda Center Preliminary Plan 120120070 – MCPB No. 11-138

BOARD ACTION

Motion: ANDERSON/WELLS-HARLEY

Vote:

Yea: 4-0-1

Nay:

Other: PRESLEY ABSTAINED

Action: Adopted Resolutions cited above.

***B. Record Plats**

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: There were no record plats submitted for approval.

***C. Other Consent Items**

Extension Request for Project Plan Amendment Review No. 92007007B, Woodmont/7200, CBD-2 zone, 5.81 acres, Amendment to add 243,063 square feet of new development including 54,905 square feet of office space, 53,029 square feet of retail space and 230-room hotel for a total of 1,212,890 square feet; located at the northwest intersection of Bethesda Avenue and Wisconsin Avenue; Bethesda CBD

Staff Recommendation: Approval of Extension Request

BOARD ACTION

Motion: PRESLEY/WELLS-HARLEY

Vote:

Yea: 5-0

Nay:

Other:

Action: Approved staff recommendation for approval of the extension request cited above.

***D. Approval of Minutes**

Minutes of January 26, 2012

BOARD ACTION

Motion: WELLS-HARLEY/DREYFUSS

Vote:

Yea: 5-0

Nay:

Other:

Action: Approved Planning Board Meeting Minutes of January 26, 2012, as submitted.

2. Roundtable Discussion

- A. Parks Director's Report
- B. Spring 2012 Semi-Annual Report

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: **A. Parks Director's Report:** Director of Parks Mary Bradford highlighted various parks-related activities and future events, as stated in the Director's Report distributed at the meeting. Among other items, Ms. Bradford discussed highlights of the Parks Department Senior Management Retreat, and updated the Board on Montgomery County Public Schools (MCPS) site selection process, the Program Open Space (POS), and the deer management program.

B. Spring 2012 Semi-Annual Report: Received briefing from the Planning Department and the Parks Department Directors and staff on the spring 2012 Semi-Annual Report to be transmitted to the County Council in the coming weeks, followed by a brief Board discussion and questions.

8. Great Seneca Creek Stream Valley Park, Unit 6 -

Authorization to acquire 21.91 acres, more or less, unimproved, from Warren W. Lenhart at 24130 Laytonsville Road, Gaithersburg, Maryland 20882

Staff Recommendation: Approve acquisition of land

BOARD ACTION

Motion: **DREYFUSS/PRESLEY**

Vote:

Yea: **5-0**

Nay:

Other:

Action: **Approved staff recommendation to authorize acquisition of 21.91 acres of land to be added to the Great Seneca Creek Stream Valley Park, as stated above.**

4. Zoning Text Amendment 12-01- POSTPONED

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:

Vote:

Yea:

Nay:

Other:

Action: This item was postponed.

5. Zoning Text Amendment 12-02 - POSTPONED

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:

Vote:

Yea:

Nay:

Other:

Action: This item was postponed.

6. Pre-Preliminary Plan No. 720110010: Phyllis Jones Property

One child lot requested for one (1) one-family detached residence, located at 17800 Whites Ferry Road, Poolesville, 500 feet west of Morrow Road; RDT zone; 25.24 acres, Preservation of Agriculture and Rural Open Space Master Plan.

Staff Recommendation: Approval

BOARD ACTION

Motion: DREYFUSS/ANDERSON

Vote:

Yea: 5-0

Nay:

Other:

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

In keeping with the February 23 technical staff report Planning Department staff discussed the request to create a 2.0-acre child lot on a 25.24-acre parcel zoned Rural Density Transfer zone, located on the south side of Whites Ferry Road and west of Morrow Road in Poolesville. Staff noted that access to the property is from Whites Ferry Road and the existing house on the parent parcel will remain and both dwellings will be served by wells and sand mounds. Staff added that this application was previously denied by the Planning Board in 2008 because it was for a 4.0-acre child lot. The applicant has reduced the size of the lot by fifty percent and has modified the plan to address the issues raised by the Board in 2008, such as the sand mound septic system and the well proposed to serve the new dwelling unit, which were approved by the Department of Permitting Services Wells and Septic Section on January 20, 2012. Staff further added that the proposed lot meets the requirements established in the Subdivision Regulations, complies with Section 59-C.4-11 of the Zoning Ordinance, and complies with the recommendations of the Master Plan for the Preservation of Agriculture and Rural Open Space.

Mr. Josh Maisel, engineer representing the applicant, introduced the applicants, Ms. Octavia Jamison and Messrs. Frank Jamison and Frank Jamison, Jr. Mr. Maisel briefly discussed the proposed request and concurred with the staff recommendation.

Ms. Octavia Jamison, Mr. Frank Jamison, and Mr. Frank Jamison Jr. offered comments.

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

7. Pre-Preliminary Plan No. 720080060: Byrd Farm

Two (2) lots requested, plus farm remainder; Two (2) one-family detached dwelling units, one existing to remain; located at 16310 Sugarland Road, at the southwest quadrant of the intersection of Whites

Ferry Road and Sugarland Road; RDT zone; 128.25 acres, Preservation of Agriculture and Rural Open Space Master Plan.

Staff Recommendation: Approval

BOARD ACTION

Motion: PRESLEY/ANDERSON

Vote:

Yea: 5-0

Nay:

Other:

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

In accordance with the February 16 technical staff report, Planning Department staff discussed the request to create two lots of 12.92 and 10.57 acres respectively to accommodate two one-family detached dwelling units, with one existing dwelling, from a 128.25-acre parcel, and a deeded parcel of 10.57 acres, both zoned Rural Density Transfer. The property is located on the west side of Sugarland Road, south of Whites Ferry Road in Poolesville. Staff noted that access to the property is from Sugarland Road, a rustic road, and the existing farmhouse on the parent parcel will remain with both properties being served by wells and sand mounds septic facilities. The property is encumbered by an Agriculture Easement Program (AEP) easement, which allows for the two lots. As the lots average over five acres, the Planning Board’s approval is required before the applicant can proceed under the minor subdivision process. The wells and sand mounds were approved by the Department of Permitting Services Wells and Septic Section on February 11, 2011. Staff further added that the proposed lot meets the requirements established in the Subdivision Regulations, complies with Section 59-C.4-11 of the Zoning Ordinance, and complies with the recommendations of the Master Plan for the Preservation of Agriculture and Rural Open Space.

Mr. David McKee, engineer representing the applicant, briefly discussed the proposed request and concurred with the staff recommendation.

9. North Bethesda Market II

A. Preliminary Plan 120120060, North Bethesda Market II; Request to record part of a lot into one new lot for ~~construction of~~ total density up to 740,528 square feet with up to ~~290,282~~ 368,000 square feet of commercial uses and up to ~~382,986~~ 392,000 square feet of residential uses for up to 339 units, including 12.5% MPDUs; split-zoned CR3, C1.5, R2.5, H150 and CR4, C3.5 R3.5 H300, 4.41 gross acres located in the southeast quadrant of the intersection of Nicholson Lane and Woodglen Drive within the 2010 White Flint Sector Plan area.

Staff Recommendation: Approval

B. Site Plan 820120040, North Bethesda Market II; Request to retain one office building and construct three new buildings for total density up to 740,528 square feet with up to ~~290,282~~ 368,000 square feet of commercial uses and up to ~~382,986~~ 392,000 square feet of residential uses for up to 339 units, including 12.5% MPDUs, with public use space, residential amenity space, structured parking, and public benefits as required by the Zoning Ordinance; split-zoned CR3, C1.5, R2.5, H150 and CR4, C3.5 R3.5 H300, 4.41 gross acres located in the southeast quadrant of the intersection of Nicholson Lane and Woodglen Drive within the 2010 White Flint Sector Plan area. Modifications from the approved Sketch Plan for this site include changes in building massing and public benefits.

Staff Recommendation: Approval

BOARD ACTION

Motion: **A. PRESLEY/DREYFUSS**
 B. PRESLEY/DREYFUSS

Vote:

Yea: **A. 5-0**
 B. 5-0

Nay:

Other:

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

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

In accordance with the February 17 technical staff report, Planning Department staff offered a multi-media presentation and discussed the preliminary, site, and forest conservation plans for the North Bethesda Market II project. Staff noted that the request is to record part of a lot into one new lot, remove two buildings, retain one existing office building, and build three new buildings for up to 368,000 square feet of new commercial uses, and up to 392,000 square feet of new residential uses for up to 339 residential units, including 12.5 percent Moderately

9. North Bethesda Market II - NEW TIME/REVISED LANGUAGE

Priced Dwelling Units (MPDUs), on a 4.41-acre property located in the southeast quadrant of the intersection of Nicholson Lane and Woodglen Drive in White Flint. Staff noted that the proposed project will be built in one phase and will provide public use space and public benefits, including structured parking facilities, a through-block pedestrian connection, tree canopy, public parking, tower step-backs, and public art, which have been reviewed according to the objectives of the master plan and the previously approved sketch plan. Staff also added that the final forest conservation plan requires afforestation of 0.66-acres, which will be satisfied with a combination of 0.21-acre of credit for on-site landscaping, and 0.45-acre of off-site reforestation credit to be fulfilled at an approved forest conservation bank. Staff also noted that the applicant will dedicate 3.5 feet of right-of-way for Executive Boulevard along the northern property line and an additional 3.5 feet of right-of-way for Executive Boulevard Extended with the preliminary plan application, and the required dedications for Nicholson Lane.

Mr. Steve Robins, attorney representing the applicant, introduced Messrs. Greg Trimmer, Brian Pilot, Alston Allan, and Kevin Johnson, members of the applicant team, briefly discussed the proposed request, and concurred with the staff recommendation.

Mr. Greg Trimmer offered a multi-media presentation and answered questions from the Board.

Mr. Daniel Hoffman representing the Randolph Civic Association offered testimony.

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

11. Closed Session

Pursuant to State Government Article Annotated Code of Maryland 10-508(a)(7) to consult with counsel to obtain legal advice (TOPIC: Reconsideration Request)

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

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

12. Closed Session

Pursuant to State Government Article Annotated Code of Maryland 10-508(a)(7) to consult with counsel to obtain legal advice (TOPIC: Reconsideration Request)

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

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

16. Closed Session

Pursuant to State Government Article Annotated Code of Maryland 10-508(a)(7) to consult with counsel to obtain legal advice (TOPIC: Resolution Format)

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

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

17. 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.

15. 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; Pursuant to State Government Article Annotated Code of Maryland 10-508(a)(7) to consult with counsel to obtain legal advice

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

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

13. Reconsideration Request for First Baptist Church of Wheaton, Preliminary Plan 120100250 and Site Plan No. 820100080, MCPB Resolutions Nos. 11-76 and 11-77

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: No motion was made to reconsider.

Legal Counsel to the Board presented the request to reconsider the Board's actions, taken on September 8, 2011, to approve the preliminary plan, forest conservation plan, and site plan for the First Baptist Church of Wheaton, as detailed in the February 17, 2012, correspondence submitted by attorney

Michele Rosenfeld on behalf of adjoining property owners, and in the February 22, 2012, correspondence submitted by attorney David Brown on behalf of the Greater Olney Civic Association.

14. Reconsideration Request for Batchellor's Forest Subdivision Plats 220120260, 220120270, 220120280, 220120290, and 220120300

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: No motion was made to reconsider.

Legal Counsel to the Board presented the request to reconsider the Board's action, taken on February 9, 2012, to approve five of six record plats for the Batchellor's Forest Subdivision, as detailed in the February 21, 2012, correspondence submitted by attorney William Chen on behalf of adjoining property owners.

3. Site Plan No. 82008019A, Batchellor's Forest

Review Deed of Dedication to meet Condition No. 3 of Site Plan approval.

Staff Recommendation: Approval

BOARD ACTION

Motion: ANDERSON/DREYFUSS

Vote:

Yea: 5-0

Nay:

Other:

Action: Approved the staff recommendation to approve the Deed of Dedication as revised by staff.

Legal Department staff presented the proposed Deed of Dedication to implement the requirements of the RNC Zone and conditions of the site plan for the Batchellor's Forest project by dedicating a 17.11-acre parcel, shown as Parcel A on plat 6 of 6, as public rural open space, as stated in the staff report. Staff called the Board's attention to a proposed revision to the wording of the Deed of Dedication to indicate that it establishes a covenant on the property to preserve it as rural open space in perpetuity. Staff noted that the property is identified in the master plan for use as a local park, and it is being dedicated for that purpose.

Mr. William Chen, attorney representing adjoining property owners, raised concerns about the form being used for the Deed of Dedication document, the wording of the document, and the possibility that the easement will be extinguished if title of the property is conveyed to the Commission, as detailed in his submitted correspondence. He proposed the use of a previously approved form for rural open space easements and measures to preclude the possibility of other uses of the property in the future.

Mr. Scott Wallace, attorney representing the applicant company, Pulte Home Corporation, stated that his client's interest is in fulfilling the requirements of the Zone and the conditions of the preliminary plan and site plan. He spoke in support of the staff's revised Deed of Dedication.

Mr. Troy Kimmer, representing the Brooke Gove Elementary School Parent-Teachers Association, also spoke in support of the staff recommendation.

There followed considerable discussion of the issues raised, including the previously approved generic form for rural open space easements; the uses of that form and deviations made on a case-by-case basis; changes in the requirements for the parcel, from the conveyance required in the approved preliminary plan to dedication as parkland in the approved site plan; and the possibility of future conveyance of the parcel and the implications of such conveyance on future use.

10. 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.