



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, March 20, 2008, at 9:00 a.m. in the Montgomery Regional Office in Silver Spring, Maryland, and adjourned at 8:52 p.m.

Present were Chairman Royce Hanson, Vice Chair John Robinson, and Commissioner Allison Bryant. Commissioner Jean Cryor was necessarily absent.

Items 1 through 8 are reported on the attached agenda.

The Board recessed at 11:30 a.m. and reconvened in the auditorium at 1:10 p.m. with the three Commissioners present.

Items 9 through 15 are reported on the attached agenda.

The Board recessed for dinner at 6:00 p.m. and reconvened in the auditorium at 7:40 p.m. with the three Commissioners present, to hear a presentation from guest speaker David Rusk entitled, "Carrying Coals to Newcastle: How USA's Best Housing Policies Might Get Better."

There being no further business, the meeting was adjourned at 8:52 p.m. The next regular meeting of the Planning Board will be held Thursday, March 27, 2008, in the Montgomery Regional Office in Silver Spring, Maryland.

E. Ann Daly
Technical Writer

Ellyn Dye
Technical Writer

**Agenda for the Montgomery County Planning Board Meeting
Thursday, March 20, 2008**

9:00am

8787 Georgia Avenue
Silver Spring, Maryland 20910-3760

1. **Adoption of Opinions/Resolutions**

Group A: Three Commissioners Eligible to Vote [Commissioners Bryant, Hanson and Robinson.]

- i) Site Plan No. 82003004B, CSAAC Headquarters, ADOPTION OF RESOLUTION No. 08-34
- ii) Preliminary Plan No. 120060300, Rolling Acres, ADOPTION OF RESOLUTION No. 08-46
- iii) Preliminary Plan No.120070360, Avery Lodge, ADOPTION OF RESOLUTION No.
- iv) 08-47

BOARD ACTION

Motion: ROBINSON/BRYANT

Vote:

Yea: 3-0

Nay:

Other: CRYOR ABSENT

Action: Adopted, as presented, the Resolutions identified above.

2. **Record Plats**

Subdivision Plat No. 220071090, Silver Crest

RC zone; 2 lots, 1 outlet; located at the northern terminus of Silver Crest Drive; Damascus. *Staff recommendation: Approval*

Subdivision Plat No. 220080430, Potomac Farm Estates

RE-2 zone; 2 lots; located in the northeast quadrant of the intersection of River Road (MD 190) and Norton Road. *Staff recommendation: Approval*

Subdivision Plat No. 220080770, Gateway Commons

R-200/TDR zone; 1 parcel; located on the south side of Latrobe Lane at the terminus of Woodport Road; Clarksburg. *Staff recommendation: Approval*

MCPB, 10-4-07, NOT APPROVED

Subdivision Plat No. 220081040, Garrett Park, Section 2

R-90 zone; 2 lots; located in the northwest quadrant of the intersection of Oxford Street and Clermont Avenue; North Bethesda/Garrett Park. *Staff recommendation: Approval*

Subdivision Plat No. 220081240, Brookmont

R-60 zone; 1 lot; located in the southwest quadrant of the intersection of Broad Street and 61st Street; Bethesda-Chevy Chase. *Staff recommendation: Approval*

BOARD ACTION

Motion: ROBINSON/BRYANT

Vote:

Yea: 3-0

Nay:

Other: CRYOR ABSENT

Action: Approved staff recommendation for approval as stated above.

3. **Consent Items**

Site Plan Amendment No. 82005001B Silver Spring Gateway, CBD-2 zone; 2.68 acres; minor amendment to modify the landscaping, architectural features, lighting and artwork; located at the northwest quadrant of the intersection with East-West Highway and Blair Mill Road; Silver Spring. *Staff recommendation: Approval of the Minor Amendment*

BOARD ACTION

Motion: ROBINSON/BRYANT

Vote:

Yea: 3-0

Nay:

Other: CRYOR ABSENT

Action: Approved staff recommendation for approval of the Minor Amendment as stated in the attached Board Resolution.

4. Extension Request for the Review Period for Project Plan Amendment No. 91994004B, Clarksburg Town Center

RMX-2/RDT zones; 270.00 acres; 265,660 gross square feet of development, including 210,480 square feet of retail (includes up to 70,780 sf of specialty retail within live/work units); 55,180 square feet of office (potential second floor office space within live/work units) and 1, 240 residential dwelling units, including 155 MPDUs; Clarksburg. *Staff recommendation: approval of the extension request*

BOARD ACTION

Motion: BRYANT/ROBINSON

Vote:

Yea: 3-0

Nay:

Other: CRYOR ABSENT

Action: Approved staff recommendation for approval of a six-month extension of the Project Plan review period to September 18, 2008.

Note: Items 4 and 5 were taken together. See the narrative summary under Item 5.

Staff of the Development Review Division presented highlights of the March 7 technical staff reports, in support of an extension of the review period.

5. Preliminary Plan No. 119950420, Clarksburg Town Center – Extension Request

RMX-2 zone; 267.5 acres; 1,300 dwelling units, 150,000 square feet of retail, and 100,000 square feet of commercial uses previously approved; request to extend the validity periods of the preliminary plan and the adequate public facilities approval; located on the north side of Stringtown Road, approximately 2,000 feet east of Frederick Road (MD 355); Clarksburg. *Staff recommendation: Approval of the extension request*

BOARD ACTION

**Motion: (1) BRYANT/ROBINSON
(2) BRYANT/ROBINSON**

Vote:

**Yea: (1) 3-0
(1) 3-0**

Nay:

Other: CRYOR ABSENT

Action: (1) Approved staff recommendation for approval of a three-year extension of the validity period for the Preliminary Plan until March 26, 2011.

(2) Approved staff recommendation for approval of a six-year extension of the Adequate Public Facilities (APF) approval until March 26, 2014.

Note: Items 4 and 5 were taken together. See also Item 4.

Staff of the Development Review Division presented highlights of the March 7 technical staff report, in support of the requested extensions. Staff noted it is awaiting a comprehensive plan for the whole site, which will include residential and retail.

Mr. Stephen Z. Kaufman, attorney representing the applicant, thanked the staff for their assistance and testified in favor of the requested extensions.

Mr. David W. Brown, attorney representing the Clarksburg Town Center Advisory Committee (CTCAC), testified and noted this lengthy process is close to the end.

Ms. Amy Presley, representing CTCAC, said that mediation will be undertaken to clarify the last few details. She noted that if negotiations are not successful, there is an approved Compliance Plan that can go forward.

Ms. Catherine Matthews, Director, Upcounty Regional Services Center, introduced Mr. Parker Hamilton, Chief of Capital Development, and testified about the importance of respecting the library's public outreach process to assure the quality of the product and that it serves the community. Mr. Bruce Johnson, Department of Public Works and Transportation, also participated in the discussion. These representatives said they would welcome a collaborative relationship on the library with the applicant.

5. Preliminary Plan No. 119950420, Clarksburg Town Center

Discussion ensued about the size, location, function, and form of the library in the Clarksburg Town Center, the Executive Branch's need to get input in a timely manner from the community about the library before specifications are determined.

Mr. Kaufman stated that from the beginning, the library has been shown within the Town Center plaza with a 10,000 square foot footprint and a total of 20,000 square feet in two floors.

Mr. Todd Brown, attorney, and Mr. Doug Delano, Newland Communities, offered comments.

The Board noted the Site Plan is due by April 19th and urged the parties to collaborate to a successful completion.

6. Extension Request: Preliminary Plan No. 120040310, North Westland

C-2 zone; 0.48 acres; 1 lot previously approved for 14,000 square feet of office use; request for one-year extension of the preliminary plan validity period; located on North Westland Drive, approximately 300 feet east of Frederick Road (MD 355); Gaithersburg and Vicinity. *Staff recommendation: Grant extension*

BOARD ACTION

Motion: BRYANT/ROBINSON

Vote:

Yea: 3-0

Nay:

Other: CRYOR ABSENT

Action: Approved the staff recommendation to grant an extension of the Preliminary Plan validity period to January 19, 2009.

Staff of the Development Review Division presented highlights of the March 7 technical staff report for this request to extend the Preliminary Plan validity period, and recommended approval.

Mr. Al Blumberg, introduced Mr. Travers Daniel, owner of the properties, and sought approval of the extension.

7. Preliminary Plan No. 120080120, Sellar Property

R-60 zone; 0.5 acres; 2 lots requested; 2 one-family detached dwelling units, one existing to be removed; located on the south side of Newport Avenue, 600 feet west of River Road; Bethesda/ Chevy Chase. *Staff recommendation: Approval with conditions*

BOARD ACTION

Motion: BRYANT/ROBINSON

Vote:

Yea: 3-0

Nay:

Other: CRYOR ABSENT

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

Staff of the Development Review Division presented highlights of the March 7 technical staff report for this proposed two-lot subdivision, reviewed recommended conditions, and noted neighbors' concerns about removal of spreading bamboo.

Mr. Norman Knopf, attorney for the applicant, introduced Mr. Peter Sellar, the applicant, and consultant Mr. Al Blumberg, Site Solutions. Mr. Knopf testified there is a contract purchaser, raised an objection to the mandate to remove bamboo off-site, and questioned the timing for demolition of the house as it relates to the timing of recordation of a plat.

Ms. Susan S. Magazine, attorney representing Eileen and Walter Mazella, adjacent property owners, testified that the bamboo, an invasive plant, has created problems for adjacent property owners, especially the Mazellas. Ms. Magazine endorsed the requirement for total removal of the bamboo from the area.

Ms. Eileen Mazzella endorsed Ms. Magazine's testimony.

Mr. Calvin Konner of Keokuk Street in Bethesda, testified in support of total bamboo removal.

In discussion, the Board considered the assignment and extent of bamboo removal and asked the Board's Legal Counsel to work with the applicant to construct a proper condition that requires eradication of the bamboo with adjacent property owners' acceptance and opportunity to participate.

8. Preliminary Plan No. 120070700, Dechter Property

R-90 zone; 0.87 acres; 1 lot requested; one residential dwelling with an approximately 2,500 square foot dental office; located in the southeast quadrant of the intersection of Georgia Avenue (MD 97) and Weller Road; Aspen Hill. *Staff recommendation: Approval with conditions*

BOARD ACTION

Motion: BRYANT/ROBINSON

Vote:

Yea: 3-0

Nay:

Other: CRYOR ABSENT

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

Development Review Division staff presented highlights of the March 3 technical staff report for this proposal to combine two unrecorded parcels into a 33,639 square foot property for a two-story residential dwelling that will contain a 2,426 square foot medical practitioner's office with an adjacent 14-space parking lot. An abandoned house on the property has been demolished.

Mr. Stanley Abrams, attorney for the applicant, provided additional details and noted there had not been any opposition through the earlier special exception process. Mr. Abrams accepted the staff recommendation.

Mr. Bill Landfair, with VIKA Inc, the applicant’s consultant land planner, provided additional details.

9. Local Map Amendment G-875 , Keystone Real Estate

A. Preliminary Forest Conservation Plan; Parcel P146, Shady Grove Metro *Staff recommendation: Approval*

B. Local Map Amendment; Keystone Real Estate Investments, LLC, applicant, requests to rezone 4.26 acres of land from the R-90 zone to the PD-35 zone for the development of 117 multi-family units, 36 townhouses, and 3 single-family units; located at Parcel 146, Shady Grove Metro at Redland Rd. at Yellowstone Way, Rockville. *Staff recommendation: Approval*

BOARD ACTION

Motion: **A. BRYANT/ROBINSON**
 B. BRYANT/ROBINSON

Vote:
 Yea: **A. 3-0**
 B. 3-0

Nay:

Other: **CRYOR ABSENT**

Action: **A. Approved the Preliminary Forest Conservation Plan.**
 B. Approved the staff recommendation to approve the Local Map Amendment and associated Development Plan, as stated in the attached Letter of Transmittal.

Development Review staff presented the preliminary forest conservation plan and the request to rezone property from R-90 to the PD-35 Zone, with the associated Development Plan, as detailed in the staff report. The Development Plan proposes 156 units consisting of 117 multifamily units, 36 townhouse units, and 3 single-family detached units, including 13 percent MPDUs, and 227 parking spaces. Staff distributed a list of revisions to the staff report.

Responding to questions from the Board about the orientation of the units along Chieftain Avenue, Community-Based Planning staff provided information about the recommendations in the master plan related to providing a transition between the existing single-family detached units and the Metro. Staff noted that orientation and compatibility can be addressed at site plan review.

Mr. Jody Kline, attorney representing the applicant, concurred in the staff recommendation. Mr. Richard Koch, the applicant, discussed the orientation of the units and said he is willing to address compatibility through architectural features or reorientation.

Mr. Martin Klauber, the Montgomery County People’s Counsel, and Mr. Joseph Parello, representing the Shady Grove Alliance, offered comments.

There followed considerable discussion about the binding elements of the Development Plan and the desire to address orientation and compatibility at site plan review. Mr. Kline suggested a notation on the Development Plan that the orientation of those units is illustrative only, with final orientation to be determined at site plan.

Discussion also focused on pedestrian safety and traffic-calming measures, in response to testimony, which will be further addressed at subdivision.

10. Mandatory Referral No. 08801-DPW&T-1

Randolph Road from Rock Creek to Charles Road, CIP No. 509337-25 *Staff recommendation: Approval with comments*

BOARD ACTION

Motion: BRYANT/ROBINSON

Vote:

Yea: 3-0

Nay:

Other: CRYOR ABSENT

Action: **Approved the mandatory referral and transmittal of comments, as stated in the attached Letter of Transmittal.**

Transportation Planning staff presented the mandatory referral review of the project to realign Randolph Road between Rock Creek and Charles Road to improve traffic safety on a section of road with numerous accidents, as detailed in the staff report. Staff emphasized the desirability of changing the project design to include the master planned bike lanes and landscaped buffers between the curb and the sidewalk for safety and accessibility reasons and to eliminate the future cost of removing and replacing the curb and sidewalks to add the bike lanes. Staff also discussed safety issues related to pedestrian crossings for bus access.

Department of Public Works and Transportation (DPWT) staff noted that the County Council supported moving forward with the limited improvements project as shown and agreed to review the possibility of providing a landscaped offset between the curb and sidewalk.

11. Proposed Zoning Text Amendment

To permit a one-time addition to any structure in the R-60 zone located on a site designated historic on the Master Plan for Historic Preservation, under certain circumstances; to exempt any retail commercial use in the R-60 zone located on a site designated historic on the Master Plan for Historic Preservation from the abandonment of use provision of 59-G-4.14; and to generally amend provisions regulating historic structures, and non-conforming uses, buildings, and structures. *Staff recommendation: Transmit to County Council*

BOARD ACTION

Motion: **BRYANT/ROBINSON**

Vote:

Yea: **3-0**

Nay:

Other: **CRYOR ABSENT**

Action: **Contrary to the staff recommendation, deferred action on the proposed zoning text amendment.**

Development Review staff presented the proposed Zoning Text Amendment for submittal to the County Council for introduction and public comment, to authorize expansion of a building and commercial use on a designated historic site in the R-60 Zone, subject to site plan review, including an exemption from the non-conforming use and abandonment of use provisions. Staff said the proposed text amendment will not affect many properties and is intended to ensure the continued viability of the Bethesda Community Store, a designated historic resource on Old Georgetown Road. Staff reported that Historic Preservation staff and the Historic Preservation Commission support the proposed text amendment.

Mr. Norman Knopf, attorney representing the Huntington Terrace Citizens Association; Ms. Amy Shiman, adjacent property owner; Mr. Gerard Hildebrand, adjacent property owner; and Mr. William Idler, representing the Sonoma Citizens Association, spoke in opposition to the text amendment, raising concerns about doubling the size of the commercial operation, questioning the viability issue in view of the recent subdivision and sale of a lot, and citing ongoing illegal activities on the site.

Mr. Stephen Orens, attorney representing the Bethesda Community Store, discussed the need for the expansion and the other provisions in the proposed text amendment in order to continue the historic use.

There followed considerable discussion of the limitations of the existing building and of the way the business operation is perceived by the neighbors, and their opposition to the proposal, and the lack of evidence to support the viability claim. The Board agreed to defer action on the proposed text amendment and recommended that the property owner resolve the operational concerns with the community and demonstrate why the proposed expansion is necessary to ensure viability and how the historic resource will be protected and become an asset to the community.

12. Zoning Text Amendment No. 08-02

Introduced by Council President Knapp amending the Zoning Ordinance to allow a landscape contractor as a permitted use in the C-T zone if the site adjoins a railroad right-of-way and any property recommended for commercial, industrial, or public use. *(Action required for County Council public hearing of 4/1/08)*

BOARD ACTION

Motion: **BRYANT/ROBINSON**

Vote:

Yea: **3-0**

Nay:

Other: **CRYOR ABSENT**

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

Development Review staff presented the Zoning Text Amendment to permit the landscape contractor use in the C-T Zone under certain circumstances, as detailed in the staff report.

Ms. Anne Martin, attorney, offered comments, suggesting that the provision be extended to the C-2 Zone.

Staff noted that the implications of the use in the C-2 Zone have not been analyzed and recommended that the issue of appropriate zones and sites for landscape contractor uses be addressed comprehensively.

13. Housing Policy Element of the General Plan - POSTPONED

Staff- led discussion of housing policies, primarily the current General Plan and the County's adopted housing policy. (No public testimony will be taken at this time)

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: **This item was postponed.**

14. Roundtable Discussion including Briefings and Worksessions
(No public testimony will be taken at this time)

- A. Commissioners' Report
- B. Director's Report
- C. Approval of Minutes
- D. Semi-Annual Report – Review of Draft
- E. Infill Housing Report

BOARD ACTION

Motion: C. BRYANT/ROBINSON

Vote:

Yea: C. 3-0

Nay:

Other: CRYOR ABSENT

Action: C. Approved minutes of February 21, 2008, as presented.

A. Commissioners' Reports—Chairman Hanson reported that the County Council on Tuesday approved unanimously a special appropriation for initial planning for SilverPlace. Council also approved the Parks Capital Improvements Program.

Chairman Hanson also briefed the Board on two sessions with County Council committees; one on Development Districts and the second on Forest Conservation.

B. Director's Report—Director of Parks Mary Bradford made a brief report, noting particularly that this week the Parks Department has been co-hosting a group of National Parks Service employees and others interested in fund-raising and advocacy issues on behalf of parks.

Planning Director Rollin Stanley gave a brief report on hiring since the beginning of the fiscal year. At the Director's request, Transportation Planning staff updated the Board on the status of discussions and decisions about design elements to be incorporated into the recent update of the Road Code. The interagency group working on this project has identified the need for additional time to complete this process, and staff asked for and received the Board's support of an extension of review time, particularly because the design elements related to pedestrians and bicycles have not yet been addressed.

C. Approval of Minutes—Approved minutes as noted above.

D. Semi-Annual Report – Review of Draft—Planning Director Rollin Stanley presented the Planning Department segment of the draft Semi-Annual Report and the Board provided guidance for the final report in preparation for the presentation to the County Council April 8.

E. Infill Housing Report—The Chief of Countywide Planning, Gwen Wright, presented the Infill Housing Report, which is the culmination of the work of a task force created by Councilmember Berliner to which staff served as a resource. Ms. Wright noted that Councilmember Berliner is expected to introduce legislation based on the work of the task force.

15. Montgomery County Planning Board Worksession and Action on Amendment to the Master Plan for Historic Preservation

Perpetual Building Association Building, 8700 Georgia Avenue, Addition to Locational Atlas, Resource #36-56 (No public testimony will be taken at this time)

BOARD ACTION

Motion: BRYANT/ROBINSON

Vote:

Yea: 3-0

Nay:

Other: CRYOR ABSENT

Action: Contrary to the staff recommendation, agreed to refrain from designating the Perpetual Building Association Building on the Master Plan for Historic Preservation.

Historic Preservation staff presented additional information requested by the Board at the January 10 Public Hearing related to examples of preserving only the historic façade of a building, the process of evaluating historic resources in Silver Spring, the nomenclature of modernism, and interior photos of the Perpetual Building Association Building. Staff recommends designation of the entire building, rather than only the façade, based on a finding that it has both historic and architectural significance and meets five of the criteria for designation.

Representing the Historic Preservation Commission (HPC), Commissioners Caroline Alderson and David Rotenstein, provided information about the HPC deliberations that resulted in a recommendation to designate the building on the Master Plan.

In discussion, the Board did not support designating the building as a historic resource. The Board noted that this is a branch bank, rather than the main bank building, and the building is not the signature project of an architect. Further, the Board maintained that a 50-year-old building would have to be truly exceptional to be designated on the Master Plan, and the Board did not find this to be the case.

16. Excellence in Planning Speaker Series

Guest Speaker: David Rusk

Carrying Coals to Newcastle: How USA's Best Housing Policies Might Get Better

BOARD ACTION

Motion:

MCPB, 10-4-07, NOT APPROVED

Vote:

Yea:

Nay:

Other:

Action: Received a presentation by guest speaker David Rusk as noted above.