



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

301-495-4616

**APPROVED
MINUTES**

The Montgomery County Planning Board met in regular session on Thursday, June 4, 2009, at 9:05 a.m. in the Montgomery Regional Office in Silver Spring, Maryland, and adjourned at 8:25 p.m.

Present were Chairman Royce Hanson, Vice Chair John Robinson, and Commissioners Joe Alfandre, Jean Cryor, and Amy Presley.

Items 1 through 5 are reported on the attached agenda.

The Board recessed for lunch at 1:30 p.m. and to take up Item 15, a Closed Session Item.

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 1:45 p.m. in the third floor conference room, on motion of Commissioner Presley, seconded by Commissioner Cryor, with Chairman Hanson, Vice Chair Robinson, and Commissioners Alfandre, Cryor, and Presley present and voting in favor of the motion. 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, Associate General Counsels Carol Rubin, Derrick Rogers, Tracey Harvin, and Christina Sorrento of the Legal Department; Director Rollin Stanley of the Planning Department, Director Mary Bradford of the Parks Department; and Clara Moise of the Commissioners' Office.

In Closed Session, Legal staff updated the Board on a revision made to one of the conditions in the proposed Zoning Text Amendment to be discussed during the Planning Board afternoon session.

The Closed Session was adjourned at 2:00 p.m. and the Board reconvened in open session in the third floor conference room.

The Board reconvened in the auditorium at 2:35 p.m. with all five Commissioners present.

Items 13, 6, 7, 14, 8, and 12, taken up in that order, are reported on the attached agenda.

The Board recessed for an unscheduled dinner break at 6:40 p.m. and reconvened in the auditorium at 7:35 p.m.

Items 9 through 11 are reported on the attached agenda.

There being no further business, the meeting was adjourned at 8:25 p.m. The next regular meeting of the Planning Board will be held Monday, June 8, 2009, in the Montgomery Regional Office in Silver Spring, Maryland.

M. Clara Moise
Technical Writer

Ellyn Dye
Technical Writer

Montgomery County Planning Board Meeting
Thursday, June 4, 2009
8787 Georgia Avenue
Silver Spring, MD 20910-3760
301-495-4600

1. Adoption of Resolutions

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: No Resolutions were submitted for adoption.

2. Record Plats

Subdivision Plat No. 220090960, Hull Property

RDT zone; 1 lot; located on the south side of Comus Road, 800 feet east of Slidell Road; Clarksburg.

Staff Recommendation: Approval

BOARD ACTION

Motion: ROBINSON/PRESLEY

Vote:

Yea: 5-0

Nay:

Other:

Action: Approved staff recommendation for approval of the above-cited record plat.

3. Consent Items

Site Plan Amendment Review No. 82006014A, 1200 East West Highway, CBD-2 zone; 0.73 acres; amendment: revise paving, change palm tree, delete (1) trash receptacle, minor landscaping changes, re-design lobby area civil revisions, minor architectural revisions, decrease public use space, add balconies to floor 12-14; located at the northwest quadrant of the intersection of East West Highway and Blair Mill Road; Silver Spring

Staff recommendation: Approval of the consent item and Draft Resolution

BOARD ACTION

Motion: PRESLEY/ALFANDRE

Vote:

Yea: 5-0

Nay:

Other:

Action: Approved staff recommendation for approval of the Site Plan Amendment and Draft Resolution, as submitted.

4. Approval of Minutes

Minutes of 4-23-09
Minutes of 4-30-09

BOARD ACTION

Motion: ROBINSON/PRESLEY

Vote:

Yea: 5-0

Nay:

Other:

Action: Approved Minutes of 4-23-09 and 4-30-09, as presented.

5. Worksession #11 White Flint Sector Plan - Zoning, Staging, Administration and Financing, Rockville Pike (MD355), Cross Section and Right of Way

(No Public Testimony will be taken)

BOARD ACTION

Motion: ROBINSON/CRYOR

Vote:

Yea: 4-1

Nay:

Other: ALFANDRE (abstained)

Action: Approved staff recommendation for approval of the proposed four phases for implementation of the Sector Plan as described in the May 28 technical staff report and as discussed during the meeting.

Community-Based Planning and Development Review Divisions staff offered a multi-media presentation discussing zoning, staging, administration and financing.

At the Board's request, Mr. Eric Beckett representing Maryland State Highway Administration (SHA); Ms. Robin McKenny representing Washington Metropolitan Area Transit Authority (WMATA); and Ms. Anne Root representing Montgomery County Department of Transportation (MCDOT), offered comments.

There followed extensive Board discussion and questions to staff and the speakers.

Commissioner Alfandre abstained from voting stating that he will feel more comfortable after the Board discussion of the zoning issues.

15. Closed Session -ADDED

In accordance with State Government Article, Section 10-508(a)(7), State Government Article, Annotated Code of Maryland, to 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.

13. Takoma/Langley Sector Plan

Work Session, Takoma/Langley Crossroads Sector Plan (Approve Draft as Public Hearing Draft and Set July 23rd Public Hearing Date)

(No Public Testimony will be taken)

BOARD ACTION

Motion: PRESLEY/ROBINSON

Vote:

Yea: 5-0

Nay:

Other:

Action: Provided comments and set the Public Hearing date as July 23, 2009.

Planning Department and Parks Department staff presented an overview of the vision and recommendations set forth in the draft Takoma/Langley Sector Plan related to connectivity, diversity, design, and the environment. Recommendations include installing the Purple Line's medium-investment light rail transit option along University Boulevard and constructing a transit center, as well as promoting the area as a regional international shopping and dining destination. Staff recommends setting the Public Hearing date as July 23, 2009.

14. Roundtable Discussion (no public testimony)

Leave Fund Balance Report

BOARD ACTION

Motion: CRYOR/HANSON

Vote:

Yea: 5-0

Nay:

Other:

Action: Approved the leave fund balance transfers presented in the Human Resources and Management Department memorandum, including Option II for Planning Department transfers, in keeping with the Planning Director's recommendation.

Executive Director Oscar Rodriguez and Human Resources and Management Department staff presented proposed transfers of leave fund balances for various Commission Departments, as detailed in the staff memorandum dated May 28, 2009. Staff noted that there is an unsettled issue with regard to transfers from the Planning Department to the Risk Management Fund, re-

lated to chargebacks for Legal Department staff work for the Planning Department, as shown in Options I and II in the staff memorandum.

Planning Director Rollin Stanley and General Counsel Adrian Gardner each presented a proposal for Planning Department transfers to the Risk Management Fund, as detailed in their respective memorandums, dated June 4, 2009.

There followed considerable discussion of the proposed leave transfers, the Risk Management Fund, and the two proposed options.

6. Reinstatement of Preliminary Plan No. 120040310 and Limited Plan Amendment No. 12004031A: North Westland Building

A. Reinstatement of Preliminary Plan No. 120040310 C-2 zone; 0.48 acres; 1 lot previously approved for 14,000 square feet of office use; request to modify the approved access to the building; located on North Westland Drive, 300 feet east of Frederick Avenue (MD 355); Gaithersburg.

Staff recommendation: Approval with conditions

B. Limited Plan Amendment No. 12004031A C-2 zone; 0.48 acres; 1 lot previously approved for 14,000 square feet of office use; request to modify the approved access to the building; located on North Westland Drive, 300 feet east of Frederick Avenue (MD 355); Gaithersburg.

Staff recommendation: Approval with conditions

BOARD ACTION

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

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

Nay:

Other:

Action: **A. Approved the staff recommendation to reinstate the preliminary plan and extend the validity period to January 19, 2010.**

B. Approved the staff recommendation to approve the limited preliminary plan amendment, subject to conditions, as stated in the attached Board Resolution.

Development Review staff presented the request to reinstate an expired preliminary plan, grant an extension of the validity period, and amend the preliminary plan to relocate the access and reduce the size of the building, as detailed in the staff report.

Mr. Al Blumberg, representing the applicant, concurred in the staff recommendation.

7. Preliminary Plan No. 120070540, Cabin John Park (Resubdivision)*(Revised Plan)

R-90 zone; 1.90 acres; 4 lots requested; 4 one-family detached residential dwellings, 3 existing to be removed; located in the northwest quadrant of the intersection of MacArthur Boulevard and 79th Street; Bethesda-Chevy Chase.

***Revised following publication of the agenda.**

Staff recommendation: Approval with conditions

BOARD ACTION

Motion: ROBINSON/CRYOR

Vote:

Yea: 5-0

Nay:

Other:

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

Development Review staff presented the proposal to resubdivide three existing lots to create four residential lots, as detailed in the staff report. Staff noted that an earlier plan to create five lots was reviewed by the Board a year ago. The Board deferred action at the applicant's request when it became evident that the Board did not believe five lots would be appropriate for the property. Staff reviewed the proposal in terms of compliance with the resubdivision criteria and discussed forest conservation and the tree save plan.

Mr. Steve Orens, attorney, introduced Mr. Noah Cantor of the applicant company and Mr. Dean Packard, the engineer. They spoke in support of the staff recommendation.

Mr. Burton Gray, Cabin John Citizens Association; and Messrs. Gary Barnhard, David Murphy, and Reed Martin of Cabin John offered comments.

In rebuttal, Messrs. Orens, Cantor, and Packard responded to questions from the Board about tree preservation, compatibility, stormwater management in relation to a downstream property, and construction access.

There followed considerable discussion of the issues raised in testimony, particularly tree preservation and the downstream drainage issues.

8. Board of Appeals No. S-2746

Ivymount School, Inc., applicant, requests a special exception to use a residence as a private educational institution; R-90 Zone; located at 11614 Seven Locks Road, Rockville

Staff recommendation: Approval with conditions

(Action required for hearing by the Hearing Examiner on 06/15/09)

BOARD ACTION

Motion: ROBINSON/CRYOR

Vote:

Yea: 5-0

Nay:

Other:

Action: Approved the staff recommendation to approve the petition, subject to conditions, as stated in the attached Letter of Transmittal.

Development Review staff presented the petition for a special exception to convert a residence to be used in conjunction with the adjacent main campus of the Ivymount School to house existing programs, as detailed in the staff report. Staff noted that no increase in student enrollment or staff is proposed.

Mr. David Freishtat, attorney, and Ms. Lee-Nadine Oppenheim, representing Ivymount School, concurred in the staff recommendation.

Ms. Sari Hornstein of Bethesda, parent of an Ivymount student; Mr. Andrew Kavovvis and Mr. Jerry Garson, representing the Regency Estates Citizens Association; Ms. Liz Jansky and Mr. Stephen Riley, representing the Beverly Farms Children's Center Parent Council; and Ms. Kristin Stocksclaeder, an adjacent property owner, offered comments on the special exception petition.

Considerable discussion ensued of issues raised in testimony about the sublease with the existing daycare center on the site; alleged obligations in the Ivymount lease with the County to provide a daycare center; and whether the Board or the Board of Appeals can require continuation of the daycare center.

9. Montgomery General Hospital, Inc: Preliminary Forest Conservation Plan No. CBA-2521-J, Special Exception No. CBA-2521, and request for Waiver

A. Preliminary Forest Conservation Plan for CBA-2521-J: Montgomery General Hospital, Inc.

Staff recommendation: Approval with Conditions

B. Special Exception CBA-2521: Montgomery General Hospital - Request for modification to the Hospital's approved special exception.

Staff recommendation: Approval with Conditions

C. A request for a Waiver of the number of parking spaces required for Special Exception
CBA -2521-J

Staff recommendation: Approval

(Action required for hearing by the Hearing Examiner on 06/16/09)

BOARD ACTION

Motion: **A. PRESLEY/ALFANDRE**
 B. PRESLEY/ALFANDRE
 C. PRESLEY/ALFANDRE

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

Nay:

Other:

Action: **A. Approved the staff recommendation to approve the preliminary forest conservation plan, subject to conditions, as stated in the attached Board Resolution.**

B. Approved the staff recommendation to approve the special exception modification, subject to conditions modified in discussion, as stated in the attached Letter of Transmittal.

C. Approved the staff recommendation to approve the requested parking waiver, as stated in the attached Letter of Transmittal.

Environmental Planning staff and Development Review staff presented, respectively, the preliminary forest conservation plan and the request for a modification to the Montgomery General Hospital special exception, as detailed in the staff report. The forest conservation plan requires onsite reforestation in a Category II conservation easement and additional offsite planting. The special exception modification proposes to develop, in two phases, the west site of the hospital property with two four-story, 55-foot medical office buildings, 60,000 square feet

9. Montgomery General Hospital

CONTINUED

each, with a surface parking lot with 499 parking spaces and 20 motorcycle spaces. The proposal includes a request for a waiver of 101 parking spaces. Staff distributed a revision to special exception condition 7. While staff recommends approval of the forest conservation plan and re-

requested special exception modification, staff emphasized the need for a long-term campus master plan, rather than continuing with piecemeal expansion.

Mr. Jody Kline, attorney representing the applicant, concurred in the staff recommendation and offered a proposed revision to special exception condition 4d, to expand the options for addressing stormwater runoff from the parking lot.

Mr. Martin Klauber, the People's Counsel, offered comments.

There followed some discussion of various aspects of the proposal, including the number of parking spaces and the requested waiver. The Board also discussed the need for a long-term campus master plan.

Ms. Francine Scaffidi, representing MedStar Health, stated that it is MedStar's policy to have a campus plan, but the company has only been associated with Montgomery General for a year.

10. Zoning Text Amendment No. 09-02

Introduced by Councilmember Berliner: to amend the Zoning Ordinance to allow the consolidation of certain lots, parts of lots, or parcels with dwellings that predated 1958.

Staff recommendation: Transmit Comments to County Council

(Action required for County Council public hearing of 6/9/09)

BOARD ACTION

Motion: ROBINSON/CRYOR

Vote:

Yea: 5-0

Nay:

Other:

Action: Approved the staff recommendation to approve with modifications, as stated in the attached Letter of Transmittal.

Development Review staff presented the Zoning Text Amendment, which would allow consolidation of certain lots and parcels into a recorded lot that does not meet certain requirements of the underlying zone so that a one-family dwelling that is, or was, located across the property lines can undergo major renovation or be replaced, as detailed in the staff report. Staff recommends approval with modifications.

11. Zoning Text Amendment No. 09-03

Introduced by The District Council at the Request of the County Executive: to amend the Zoning Ordinance to amend the provisions and definitions concerning home occupations including the provisions for violations; amend and add definitions pertaining to commercial vehicles; add definitions associated with off-street parking and home occupations; require a use-and-occupancy permit for a one-family detached dwelling; limit the amount of surfaced area and parking in front yards for certain one-family zones; limit off-street parking in clustered agricultural zones; and amend the provisions for renewing a special exception for a home occupation

Staff recommendation: Transmit Comments to County Council

(Action required for County Council public hearing of 6/09/09)

BOARD ACTION

Motion: CRYOR/PRESLEY

Vote:

Yea: 5-0

Nay:

Other:

Action: Approved the staff recommendation to approve, with modifications, as stated in the attached Letter of Transmittal.

Development Review staff presented the Zoning Text Amendment to modify the provisions related to home occupations and off-street parking, as detailed in the staff report. Staff generally supports the proposed modifications but recommends that the home occupation modifications be separated from the off-street parking modifications because the latter will affect other uses in addition to home occupations.

In discussion, the Board concurred in the recommendation to separate the two subjects into two text amendments. In addition, Chairman Hanson noted that language should be included to protect the Planning Board's enforcement process and appeal to the circuit, rather than district court.

12. Discussion: Proposed Dedicated Playground at Kensington Heights Neighborhood Park

Proposed Dedicated Playground at Kensington Heights Neighborhood Park in the Name of Wayne Goldstein

Staff recommendation: Approval with conditions

BOARD ACTION

Motion: **PRESLEY/ROBINSON**

Vote:

Yea: **5-0**

Nay:

Other:

Action: **Approved the staff recommendation to dedicate and name the playground at Kensington Heights Neighborhood Park in honor of Wayne M. Goldstein.**

Following opening remarks by Parks Department staff about the policies and procedures for naming and dedicating parks facilities, Ms. Donna Savage, representing the Kensington Heights Citizens Association presented the proposal to name the playground at Kensington Heights Neighborhood Park in honor of Wayne M. Goldstein, civic activist, who passed away on April 27, 2009.

Mr. Jerry Garson of Potomac spoke in support of the proposal.