



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, June 6, 2013, at 9:20 a.m. in the Montgomery Regional Office in Silver Spring, Maryland, and adjourned at 7:25 p.m.

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

Items 1 through 5 are reported on the attached agenda.

The Board recessed for lunch at 12:45 p.m. and to take up Items 6, 16, and 14 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 1:00 p.m. in the third floor conference room, on motion of Commissioner Anderson, 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)(3) to consider the acquisition of real property for a Commission purpose and matters directly related thereto, and Annotated Code of Maryland, State Government Article, §10-508(a)(7) to consult with counsel to obtain legal advice.

Also present for all or part of the Closed Session were Acting Director Rose Krasnow, Melissa Williams, and Robert Kronenberg of the Planning Department; General Counsel Adrian Gardner, Associate General Counsels David Lieb, Carol Rubin, and Megan Chung of the Legal Department; Director Mary Bradford, Deputy Director Mike Riley, Bill Gries, Dominic Quattrochi, and Brenda Sandberg of the Parks Department; and M. Clara Moise of the Commissioners' Office.

In Closed Session the Board discussed proposed parkland acquisition, and received advice from counsel regarding a reconsideration request for 8701 Burning Tree Preliminary Plan to be discussed during the afternoon session.

The Closed Session meeting was adjourned at 1:35 p.m.

The Planning Board reconvened in Closed Session at 1:40 p.m. to receive advice from Legal counsel regarding Farm Road pending issues.

Also present for the Closed Session were Acting Planning Department Director Rose Krasnow, General Counsel Adrian Gardner, and Associate General Counsel Carol Rubin of the Legal Department.

There was no Technical Writer present at the meeting.

The Closed Session meeting was adjourned at 2:30 p.m. The Board reconvened in the auditorium at 2:52 p.m.

Items 15, 8, 9, 17, 7 and 13, discussed in that order, are reported on the attached agenda.

The Board recessed for dinner at 4:45 p.m.

The Board reconvened in the auditorium at 6:02 p.m.

Items 6 through 12 are reported on the attached agenda.

Items 12 and 11 are reported on the attached agenda.

Item 13 was removed from the Planning Board agenda and rescheduled for Thursday, June 13.

There being no further business, the meeting was adjourned at 7:25 p.m. The next regular meeting of the Planning Board will be held Thursday, June 13, 2013, in the Montgomery Regional Office in Silver Spring, Maryland.

M. Clara Moise
Sr. Technical Writer

Montgomery County Planning Board Meeting
Thursday, June 6, 2013
8787 Georgia Avenue
Silver Spring, MD 20910-3760
301-495-4600

1. Consent Agenda

***A. Adoption of Resolutions**

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: There were no Resolutions submitted for adoption.

***B. Record Plats**

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: There were no Record Plats submitted for approval.

***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 May 9 and May 10, 2013

BOARD ACTION

Motion: PRESLEY/WELLS-HARLEY

Vote:

Yea: 5-0

Nay:

Other:

Action: Approved Planning Board Meeting Minutes of May 9, and May 10, 2013, as submitted.

2. Roundtable Discussion - REMOVED

~~Roundtable Discussion—Planning Director’s Report~~

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: **This Item was removed from the Planning Board Agenda.**

3. FY 2014 Annual School Test - TIME CHANGED

Staff Recommendation: Approve the FY 2014 Annual School Test

BOARD ACTION

Motion: **DREYFUSS/WELLS-HARLEY**

Vote:

Yea: **5-0**

Nay:

Other:

Action: **Approved staff recommendation for approval of the FY2014 Annual School Test.**

Planning Department staff discussed the annual school test analysis prepared by Montgomery County Public Schools (MCPS) staff using the methodology presented to the Planning Board as part of the Subdivision Staging Policy Review, which monitors school capacity by means of an annual test of school capacity. The school test determines if residential subdivisions in any school cluster should be subject to either a school facilities payment or a moratorium. Staff has reviewed the results of MCPS analysis and has found that for FY14 the total number of clusters exceeding 105 percent program capacity is eighteen, seven of which exceed at more than one school level. Residential development in these eighteen clusters will be subject to a school facility payment. No school cluster exceeds the 120 percent program capacity and therefore residential subdivisions will not be under moratorium in any school cluster.

At the Board's request, Mr. Bruce Crispell representing MCPS offered comments. There followed a brief Board discussion, with questions to staff and Mr. Crispell.

***4. Limited Site Plan Amendment No. 81998022F: Qiagen Campus at Germantown Business Park - TIME CHANGED**

Proposal to construct 244,000 square feet of office, and research and development uses, a two-level parking garage, a 3rd level to an existing parking garage, a new main entry area, and revisions to the Lighting and Landscape plans, located on the west side Germantown Road (MD 118) and north of Dawson Farm Rd. 18.40 acres, I-1 and O-M Zones, Germantown Master Plan

Staff Recommendation: Approval with Conditions

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 May 25 technical staff report, Planning Department staff discussed the request to i) construct a 244,000-square feet building for office/research and development uses; ii) construct a two-level parking garage; 3) add a third level to an existing parking garage; 4) reconfigure the main entry area; and 5) revise the lighting and landscape plans for the proposed project located on an 18.40-acre property on the west side of Germantown Road (MD 118) in the Germantown Master Plan area. Staff noted that in prior approval, the subject property consisted of two lots, however these lots have been consolidated into one by a minor subdivision record plat submitted by the applicant on September 20, 2013. This application conforms to the binding elements of the Schematic Development requirements, as the development phasing plan was specifically approved by the subsequent preliminary and site plans. The original office use was expanded to include research and development, warehouse, manufacturing, and office uses when the ownership of the property was changed in 1999. The expanded uses were approved by the Planning Board in February 2000, and the maximum number of peak hour trips, 672 in the morning, and 596 in the afternoon, allowed for office use is the limitation placed on this development.

Mr. Bill Kominers, attorney representing the applicant, introduced Mr. John Sckerak, member of the applicant's team, and Mr. Paul Nevins, the applicant, offered a multi-media presentation, and concurred with the staff recommendation.

Ms. Bernadette Goovaerts representing the Montgomery County Department of Economic Development offered comments.

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

5. Worksession # 1: Countywide Transit Corridors Functional Master Plan - **TIME CHANGED**

Attachment 1, Attachment 2, Attachment 3, and Attachment 4

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: **Received briefing followed by discussion and provided guidance to staff.**

Planning Department staff noted that the public hearing was held on May 16 but the comment period is open until June 7. Staff will discuss responses to testimony received through May 24 today, and on June 13 will discuss additional responses to testimony received through May 31. Staff discussed the following concerns raised during the public hearing: i) Lane repurposing impact on congestion; ii) task force comments on right-of-ways and treatment; iii) duplication of metro rail; iv) pedestrian safety; v) lack of location-specific detail; v) White Oak Science Gateway Master Plan.

At the Board's request, Mr. Jonathan Genn, Executive Vice President and General Counsel of PerContee Incorporated, and Mr. Mark Winston, member of the County Executive Transit Task Force offered comments.

6. Closed Session

Pursuant to State Government Article Annotated Code of Maryland 10-508 (a) (3) to consider the acquisition of two real properties for a Commission purpose and matters relating thereto

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

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

16. Closed Session - ADDED

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 State citation and open session report in narrative minutes.

14. Closed Session - ADDED

Pursuant to State Government Article Annotated Code of Maryland 10-508(a)(7) to consult with counsel to obtain legal advice (Reconsideration of 8701 Burning Tree Preliminary)

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

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

18. Closed Session - ADDED

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

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

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

15. Reconsideration of Preliminary Plan No. 120110200 - ADDED/TIME CHANGED

8701 Burning Tree approved by the Planning Board on September 13, 2012 (MCPB 12-80), with regard to the Re-subdivision Analysis

Staff Recommendation: Approve and Set Hearing for June 20, 2013

BOARD ACTION

Motion: PRESLEY/DREYFUSS

Vote:

Yea: 5-0

Nay:

Other:

Action: Approved staff recommendation to reconsider the Preliminary Plan for 8701 Burning Tree, and to set the hearing date for June 20, 2013.

Legal counsel to the Board briefly discussed a request for reconsideration of the Preliminary Plan for development at 8701 Burning Tree Road, which was approved on September 13, 2012. The staff report presented to the Board during the September hearing contained a technical error about the size of the lot, which is the basis for the reconsideration request. Legal counsel recommended reconsideration of the plan with the correct lot size and suggested that the reconsideration be limited to issues related to lot size.

8. Broad Run Stream Valley Park - TIME CHANGED

Authorization to acquire 45.39 acres, more or less, unimproved, from the David N. F. Fairbanks Living Trust, located at 23300 River Road, Dickerson, Maryland 20842

Staff Recommendation: Approval

BOARD ACTION

Motion: DREYFUSS/WELLS-HARLEY

Vote:

Yea: 5-0

Nay:

Other:

Action: Approved staff recommendation to authorize acquisition of parkland, as stated above, and adopted the submitted Resolution.

Parks Department staff described a proposal to acquire 45.39 acres of property from the David N.F. Fairbanks Living Trust and designate that property as a part of the Broad Run Stream Valley Park, a designated Natural Resource within the 2001 Legacy Open Space Functional Master Plan. The subject property is located at 23300 River Road immediately adjacent to the C&O Canal National Historic Park. Staff finds that the property meets six of the eight criteria of the Legacy Open Space Master Plan, and drafted a resolution recommending that the Planning Board approves acquisition of the property for a negotiated price of \$505,000 to be funded through the Legacy Open Space Capital Improvement Project.

9. Glenfield Local Park - TIME CHANGED

Authorization to acquire 3.4 acres, more or less, unimproved, from Pilgrim Church, United Church of Christ, located at 2206 Briggs Road, Silver Spring, Maryland 20906

Staff Recommendation: Approval

BOARD ACTION

Motion: ANDERSON/WELLS-HARLEY

Vote:

Yea: 5-0

Nay:

Other:

Action: **Approved staff recommendation to authorize the acquisition of parkland, as stated above, and adopted the submitted Resolution.**

Parks Department staff discussed a proposal to acquire 3.4 acres of unimproved land located at 2206 Briggs Road in Silver Spring to be added to Glenfield Local Park. The subject property is one of six parcels adjacent to Glenfield Local Park recommended for designation as a Legacy Natural Resource in the Glenmont Sector Plan, which is currently under Planning Board review. The proposed resolution designates the property as a natural resource under the 2001 Legacy Open Space Master Plan and authorizes the Executive Director to approve the purchase for a negotiated price of \$625,000 to be funded through the Legacy Open Space Capital Improvement Project.

17. Amendment to approve FY 13 Departmental Budget Transfer - ~~ADDED~~

Staff Recommendation: Approval

BOARD ACTION

Motion: **WELLS-HARLEY/ANDERSON**

Vote:

Yea: **5-0**

Nay:

Other:

Action: **Approved staff recommendation to approve a proposed FY13 Departmental Budget Transfer, as discussed below.**

Planning Department staff discussed a request to amend a previously approved budget transfer. The original budget transfer, approved on April 25, 2013, transferred unused funds from Personnel Services to Other Services and Charges in order to pay for professional services to update LIDAR data used for GIS for the price of \$145,000. Due to a change in the tasking of these professional services, it is now possible to obtain both a LIDAR data update and a planimetric data update for the same price.

~~**10. Worksession – Clarksburg Limited Master Plan for the Ten Mile Creek Watershed -**~~
REMOVED

~~Presentation and Discussion of Plan Findings and Recommendations~~

~~*Staff Recommendation: Discuss and Provide Guidance to Staff*~~

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: **This Item was removed from the Planning Board Agenda.**

7. Presentation of Annual Land Use Report to MDP--~~MOVED FROM MAY 30 AGENDA~~/TIME CHANGED/MOVED TO JUNE 13 AGENDA

Staff Recommendation: Approve ~~Planning Board Draft Report and Transmit to County Executive and County Council President and the Director of the State Department of Planning~~

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: **This Item was moved to the June 13 Planning Board Agenda.**

13. Zoning Text Amendment No. 13-03 & Bill No. 13-13 - ~~TIME CHANGED/MOVED FROM MAY 30 AGENDA~~

Define impervious area and permeable pavement; regulate the calculation used to implement impervious surface area restrictions; and allow the substitution of permeable pavement for standard pavement to minimize impervious surface.

Staff Recommendation: Transmit Comments to the County Council.
(Action required for County Council public hearing of 6/18/13)

BOARD ACTION

Motion: **ANDERSON/PRESLEY**

Vote:

Yea: **4-0-1**

Nay: **DREYFUSS**

Other:

Action: **Approved staff recommendation to transmit comments to the County Council as stated in the attached transmittal letter recommending denial of the proposed legislation, and listing functions of impervious surface caps that are not replicated by permeable pavement.**

Planning Department staff offered a multi-media presentation of proposed legislation before the County Council, Zoning Text Amendment (ZTA) 13-03 and Bill 13-13, which would change the way the County calculates the impervious surface area proposed in a development application to give credit for the use of permeable pavement technology. Under the proposed legislation, only 25 percent of permeable pavement surface area would be counted as impervious surface for the purpose of impervious surface area restrictions. Staff explained that permeable pavement technology reduces the hydrological impact of development compared to old-fashioned pavement, but there are numerous benefits of undisturbed forest area unrelated to hydraulics and hydrology that permeable pavement cannot provide.

Staff discussed the correlation between impervious surface area and stream quality. Staff recommended opposition of the proposed legislation on the grounds that impervious surface limits were intended to limit the footprint of development on sensitive watersheds and permeable pavement does not accomplish this goal. Staff also believed the proposed legislation would create a loophole in Special Protection Areas, which require developers to submit water quality plans if impervious surface exceeds 8 percent of total surface area, by allowing cover of up to 32 percent using permeable pavement.

The Board asked if the County Department of Environmental Protection (DEP) had issued an opinion about the proposed legislation. Staff answered that DEP had not yet issued any

13. Zoning Text Amendment No. 13-03 & Bill No. 13-13 - **TIME CHANGED/MOVED FROM MAY 30 AGENDA**

CONTINUED

specific recommendations but will do so before the public hearing on June 18, 2013. The Board agreed that the proposed 75 percent credit for permeable pavement was too high and debated whether the legislation would be acceptable with a smaller number. Staff discussed a case in which an applicant had declined to use permeable pavement because of insufficient incentives. The Board also discussed the purpose of impervious surface limits.

The following speakers offered testimony: Ms. Beth Daly, representing the Sugarloaf Citizens Association, Ms. Caroline Taylor, representing the Montgomery Countryside Alliance, Ms. Diane Cameron, representing the Audubon Naturalist Society, Ms. Anne Cinque of Slidell Road; and Ms. Ginny Barnes, representing Conservation Montgomery.

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

12. Josiah Henson Park Facility Plan - TIME CHANGED

Rehabilitation of the Josiah Henson Park located at 11420 Old Georgetown Road in North Bethesda that includes the National Register listed Riley/Bolten House and log kitchen where the internationally famous Josiah Henson was once enslaved before escaping to freedom in Canada.

Staff Recommendation: Approval

BOARD ACTION

Motion: ANDERSON/WELLS-HARLEY

Vote:

Yea: 5-0

Nay:

Other:

Action: Approved staff recommendation for approval of the proposed Facility Plan and cost estimate for the Josiah Henson Park.

Parks Department staff offered a multi-media presentation describing the proposed Josiah Henson Park. Reverend Josiah Henson escaped from slavery at the Riley Plantation to Canada and was the real-life inspiration for Harriet Beecher Stowe's famous 1852 novel, *Uncle Tom's Cabin*. The proposed project would convert the historic Riley/Bolton House into a public museum and construct a visitor orientation building, a bus drop-off area, small parking lot, and landscape improvements. Museum exhibits would tell the story of slavery from the perspective of enslaved individuals and include discussion of the life of enslaved youths, the history of slavery in Maryland, and the difference between portrayals of slavery in literature and reality. The proposed Facility Plan's scope of work completes 30 percent of the design developments and provides cost estimates for future phases of work. The Riley/Bolton House would be rehabilitated with exhibits located on the first floor and staff offices and a research library on the second floor. The Parks Department would use the available budget for construction of necessary facilities and rely on donor support to expand and improve individual museum exhibits. The museum is intended to be a destination for school groups and is designed to accommodate drop-offs and pick-ups from multiple groups simultaneously.

Mr. Rob Kinsley, consulting architect, explained the design work of the proposed museum. The Riley/Bolton House has been renovated several times since its construction, and the proposed restoration would be based on the colonial-style renovation from the 1930s, which is the most well documented incarnation of the house, and therefore the easiest to reproduce accurately.

11. Montgomery County Department of Parks FY14/15 Fee Schedule - TIME CHANGED
Review and approve fees for Department of Parks Facilities and Programs

Staff Recommendation: Approval

BOARD ACTION

Motion: PRESLEY/WELLS-HARLEY

Vote:

Yea: 5-0

Nay:

Other:

Action: Approved staff recommendation for approval of the FY14/15 Parks Department Fee Schedule as amended.

Parks Department staff offered an overview of proposed changes to the fees for groups using Parks facilities and described how the Department used the revenues generated. Many fees have been unchanged for three years or longer, and some fees have not been changed in over five years. Because the cost of labor and maintenance increases every year, the fees need to be periodically adjusted. Special event fees are set to increase because renters do not currently pay for wear and tear on Park fields caused by their events, but this fee increase will not be applied to parking lot events and may be reduced for events with limited wear and tear on fields. The new fees are intended to be competitive with those charged by comparable public and private facilities in the area, and will not take effect until the spring of 2013 in order to give park users time to adjust their plans accordingly. Notice of the new fee schedule was sent to all field users and special event organizers in April as well as posted on Parks Department websites. The Parks Department received two letters, one in support of the new fees and one in opposition.

In reply to a question from the Board, staff explained that special event fees were negotiated on an event-by-event basis and that the proposed fees were the maximum allowable. Many events would be charged less than the proposed amounts. The Board suggested making this clear by adding “up to” to the published fee schedule.

Mr. Luke Weichbrod, representing Rory Jane Weichbrod Unfinished Business Inc., offered testimony that his non-profit group operates a 5-kilometer race on park property every year, and that the proposed new fees for his event were unreasonably high. Mr. Weichbrod supported the Board’s recommendation to make it clear that the proposed fees were the maximum allowable amount and that low-impact events, such as his group’s race, would be able to negotiate lower fees.

13. ~~Purple Line at Terminus Minor Master Plan – Present Scope of Work~~ - MOVED TO JUNE 13 AGENDA

Staff Recommendation: Approve Scope of Work

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: This Item was removed from the Agenda.