



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, July 18, 2013, at 9:20 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.

Items 1 through 4 are reported on the attached agenda.

The Board recessed for lunch at 1:45 p.m. and to take up Items 10 and 11 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 1:55 p.m. in the 3rd floor conference room, 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 Annotated Code of Maryland, State Government Article, §10-508(a)(7) to consult with counsel to obtain legal advice, and State Government Article, §10-508(a)(3) to consider the acquisition of real property for a Commission purpose and matters relating thereto.

Also present for the Closed Session were Associate General Counsels Megan Chung and Sean Dixon of the Legal Department; Director Gwen Wright, and David Anspacher of the Planning Department; Director Mary Bradford, Deputy Director Mike Riley, Deputy Director John Nissel, Kate Stookey, Bill Gries, and Mitra Pedoeem of the Parks Department; and M. Clara Moise of the Commissioners' Office.

In Closed Session the Board received briefing and advice from legal counsel on the final Memorandum of Understanding between the Commission and Montgomery County Parks Foundation and also received briefing from Parks Department staff regarding the proposed acquisition of parkland.

The Closed Session meeting was adjourned at 2:55 p.m.

The Planning Board reconvened in the auditorium at 3:12 p.m.

Item 12 and Items 5 through 8, taken up in that order, are reported on the attached agenda.

The Board recessed for a break at 5:50 p.m. and reconvened in the auditorium at 6:06 p.m.

Item 9 is reported on the attached agenda.

Commissioner Dreyfuss left the meeting at 6:30 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 Monday, July 22, 2013, in the Montgomery Regional Office in Silver Spring, Maryland.

M. Clara Moise
Sr. Technical Writer

Montgomery County Planning Board Meeting
Thursday, July 18, 2013
8787 Georgia Avenue
Silver Spring, MD 20910-3760
301-495-4600

1. Consent Agenda

***A. Adoption of Resolutions**

1. Silver Spring Library residential Project Plan 920130040 MCPB No. 13-53
2. Silver Spring Library residential Site Plan 820130100 MCPB No. 13-54

BOARD ACTION

Motion: **WELLS-HARLEY/PRESLEY**

Vote:

Yea: **5-0**

Nay:

Other:

Action: **Adopted the Resolutions cited above, as submitted.**

***B. Record Plats**

Subdivision Plat No. 220131140, Montgomery Village – Partridge Place

TS zone; 1 parcel; located in the southwest quadrant of the intersection of Goshen Road and Rothbury Drive. Gaithersburg and Vicinity Master Plan

Staff Recommendation: Approval

Subdivision Plat No. 220131270, Rosedale Park

R-60 zone; 1 lot; located in the northeast quadrant of the intersection of Maple Avenue and Maryland Avenue; Bethesda- Chevy Chase Master Plan

Staff Recommendation: Approval

BOARD ACTION

Motion: **PRESLEY/DREYFUSS**

Vote:

Yea: 5-0

Nay:

Other:

Action: Approved staff recommendation for approval of the Record Plats cited above, as submitted.

***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 June 13 and June 18, 2013

BOARD ACTION

Motion: PRESLEY/WELLS-HARLEY

Vote:

Yea: 5-0

Nay:

Other:

Action: Approved Planning Board Meeting Minutes of June 13 and June 18, 2013, as submitted.

2. Roundtable Discussion

- Planning Director's Report

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action:

Planning Director's Report – The newly hired Planning Department Director, Gwen Wright, briefly reported on her first three weeks at work, and her plans for the future of the Department. Ms. Wright noted that Planning staff is presently working very hard on six Master Plans, numerous development applications, and other reports, and also mentioned that the Chevy Chase Master Plan was approved by the County Council. Ms. Wright added that she will be actively hiring for fourteen vacant positions in the Planning Department.

3. Development Plan Amendment 13-02: Cabin Branch Community

Amendment to an approved Development Plan to increase the retail from 120,000 to 484,000 square feet within the approved total of 2,420,000 square feet of non-residential area and 1,139 dwelling units, located west of I-270, east of Clarksburg Road (MD-121) and north of West Old Baltimore Road, 83.5 acres, MXPB Zone, Clarksburg Master Plan & Hyattstown Special Study Area
Staff recommendation: Approval with conditions

BOARD ACTION

Motion: PRESLEY/DREYFUSS

Vote:

Yea: 5-0

Action: Approved staff recommendation for approval of the proposed Development Plan Amendment (DPA), subject to revised conditions, as stated in the attached transmittal letter to the Hearing Examiner.

In keeping with the July 8 detailed technical staff report, Planning Department staff offered a multi-media presentation and discussed the request to amend an approved development plan to increase the retail portion from 120,000 to 484,000 square feet within the approved total of 2,420,000 square feet of non-residential area, and 1,139 dwelling units, on a 283.5-acre property located west of I-270, east of Clarksburg Road (MD121), and north of West Old Baltimore Road in the Clarksburg Master Plan and Hyattstown Special Study Area. Staff noted that the development plan will foster the creation of a mixed-use community along the west side of I-270 to implement the recommendations in the Master Plan. The amended plan will revise the mix of retail and office uses in the Mixed Plan Development (MXPD) area without increasing the total density. The proposed DPA will also modify the original development plan for the area along I-270, where a hospital and medical offices were previously contemplated but not approved, as State approval of a hospital in Germantown made any plan for the construction of another hospital unattainable. The DPA proposes a large area of forest buffer for the tributaries of Little Seneca Creek. With the adjacent recreation areas and public spaces, this stream buffer will become a central organizing feature and amenity. The community will also have an extensive tree canopy, enhanced forest conservation, habitat protection, reduced imperviousness, and environmentally sensitive design practices.

Mr. Robert Harris, attorney representing the applicant, introduced Messrs. Ron Kaplan and Rob Jepson, members of the applicant's team, briefly discussed the proposed request, and concurred with the staff recommendation.

Mr. Ron Kaplan offered a brief presentation and answered questions from the Board.

The following speakers offered testimony: Ms. Marilyn Balcombe representing the Gaithersburg/Germantown Chamber of Commerce; Mr. Barry Fantle of Clarksburg Crossing Drive; Mr. Aaron Auyeung of Gardenside Place; Mr. Whit Cobb of Frederick Road; Mr. William Chen, Jr. attorney representing Mr. Whit Cobb; Mr. David Stein of Turtle Rock Terrace and representing the Clarksburg Village Homeowners Association; and Ms. Ginny Barnes representing Conservation Montgomery.

Planning Department Director Gwen Wright offered brief comments.

***4. 4990 Fairmont - Bethesda Project and Preliminary Plan**

***A. Project Plan Review No. 920130070, 4990 Fairmont Avenue, CBD-2, 0.52 acres, 138,052 square feet of development including 72 multi-family dwelling units and up to 7,000 square feet of retail; located on Fairmont Avenue east of the intersection with Old Georgetown Road, Bethesda CBD**
Staff Recommendation: Approval with conditions

***B. Preliminary Plan Review No. 120130230, 4990 Fairmont Avenue, CBD-2, 0.52 acres, 1 lot for 138,052 square feet of development including 72 multi-family dwelling units and up to 7,000 square feet of retail; located on Fairmont Avenue east of the intersection with Old Georgetown Road, Bethesda CBD**
Staff Recommendation: Approval with conditions

BOARD ACTION

**Motion: A. ANDERSON/WELLS-HARLEY
 B. ANDERSON/PRESLEY**

Vote:

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

Action: A. Approved staff recommendation for approval of the Project Plan cited above, subject to conditions, as stated in the attached Board Resolution.

B. Approved staff recommendation for approval of the Preliminary Plan cited above, subject to revised conditions, as stated in the attached Board Resolution.

In keeping with the July 5 technical staff report, Planning Department staff offered a multi-media presentation and discussed the request to create 138,052 square feet of development, including 72 multi-family dwelling units, and up to 7,000 square feet of retail, on a 0.52-acre property located on Fairmont Avenue east of the intersection with Old Georgetown Road in the Bethesda Central Business District. Staff noted that the applicant will consolidate all vehicular access to the entrance on Fairmont Avenue. The applicant applied and obtained an exemption under Section 22A-5 (s)(1) of the Montgomery County Conservation Law from submitting a forest conservation plan because the property is less than 1.5 acres in size. The proposed artist incubator space will be managed by the Bethesda Urban Partnership and will count towards the percentage of public use space provided on the site. The applicant proposes to widen to ten feet an existing five-foot alley that runs from Old Georgetown Road to the site and which currently provides pedestrian access to the public garage.

Mr. Robert Dalrymple, attorney representing the applicant, introduced Ms. Heather Dlhopsky, Mr. Tom Albert, Mr. Sami Kirkdil, Mr. Fede Otioera-Sala, and Mr. Bill Landfair, members of the applicant’s team, requested a correction to one of the conditions of approval, and concurred with the staff recommendation.

Mr. Luigi Traettino, owner of Positano Ristorante, an abutting property owner, offered testimony, and requested the Board’s assistance in asking the applicant to put the incubator space on the southern border of the site.

10. Closed Session – ADDED

Pursuant to State Government Article Annotated Code of Maryland 10-508 (a) (3) to consider the acquisition of real property for a Commission purpose & matters relating thereto (Parkland).

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

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

11. Closed Session – ADDED

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

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

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

12. Long Branch Local Park – MOVED FROM JULY 25 AGENDA

Authorization to acquire 27,002 square feet (0.62 acres), more or less, improved, with Advance Land Acquisition Revolving Funds (ALARF), from Jeffrey Bedard, Trustee, located at 8714 Piney Branch Road, Silver Spring, Maryland 20901

Staff Recommendation: Approval

BOARD ACTION

Motion: DREYFUSS/ANDERSON

Vote:

Yea: 5-0

Nay:

Other:

Action: Approved staff recommendation to authorize the acquisition of 27,002 square feet (0.62 acres) of land, more or less improved, to be added to the Long Branch Local Park, and to be funded from the Advance Land Acquisition Revolving Funds (ALARF), from Jeffrey Bedard Trustee, located at 8714 Piney Branch Road in Silver Spring, Maryland.

5. Briefing on Alternatives for the Mid-County Highway

To review the results of the Alternatives study and the Environmental Effects Report

Staff Recommendation: Discussion

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: Received briefing followed by Board discussion and questions to staff.

Planning Department staff offered a multi-media presentation and briefed the Board on the five potential Montgomery County Department of Transportation (MCDOT) build alternatives evaluated for the Mid-County Corridor Study. The study area is bounded by I-270 to the west, I-370 and the Inter County Connector (MD 200) to the south, Shouffer School Road and Wightman Road to the east, and Snowden Farm Parkway to the north. Staff recommended scheduling a tour of the study area, and a discussion and consideration of the Board's preferred alternative in early Fall 2013. The study area transects the Gaithersburg vicinity, and the Clarksburg and Germantown master plan areas. The proposed alignments included in the study are intended to relieve traffic congestion, improve safety and efficiency, and improve accessibility. MCDOT believes the "no-build" alternative is not a viable option because it does not meet the objectives set forth in the project's needs statement.

Mr. Bruce Johnston of MCDOT offered a multi-media presentation and discussed the various alternatives studied for the Mid-County Highway.

***6. Parklawn North**

***A. Limited Site Plan Amendment 82011009C, Parklawn North:** An amendment to change the condition on the timing of the trail's construction, the parking, and the public use space. Located at 5601 Fishers Lane; 12.96 acres, TMX-2 Zone; Twinbrook Sector Plan.

Staff Recommendation: Approval with Conditions

***B. Limited Preliminary Plan Amendment 12011030A, Parklawn North:** An amendment to change the condition on the trail's length and the timing of its construction. Located at 5601 Fishers Lane; 12.96 acres, TMX-2 Zone; Twinbrook Sector Plan.

Staff Recommendation: Approval with Conditions

BOARD ACTION

Motion: **A. ANDERSON/PRESLEY**
 B. ANDERSON/WELLS-HARLEY

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

Nay:

Other:

Action: **A. Approved staff recommendation for approval, subject to revised conditions, and adopted the attached Board Resolution.**

B. Approved staff recommendation for approval, subject to revised conditions, and adopted the attached Board Resolution.

Planning Department staff offered a multi-media presentation and discussed the request to amend a preliminary plan and a site plan for the Parklawn North project. Staff noted that the site plan has been amended three times, and this proposed amendment is to modify the conditions of approval for the preliminary and site plans regarding the timing of the off-site trail construction due to significant delays in establishing the trail assignment, and to also modify the parking and public use space. Staff noted that proposed total parking spaces will be 1,208. Staff discussed the hiker/biker trail alignment and the timing for its construction, and noted that the applicant requested three more years to deliver the plan.

Ms. Anne Mead, attorney representing the applicant, offered brief comments, and concurred with the staff recommendation.

***7. Limited Amendment, Preliminary Plan 11994084A - In Response to a Violation, Manor Oaks, Lot 21, Block A**

RE2 zone; 0.19 acres; one existing lot containing a single-family residential dwelling; request to remove the existing category I forest conservation easement; located at 2822 Abbey Manor Circle, 800 feet east from the intersection of Abbey Manor Drive and Georgia Avenue; Olney Master Plan.

Staff Recommendation: Approval with Conditions

BOARD ACTION

Motion: **PRESLEY/WELLS-HARLEY**

Vote:
 Yea: **5-0**

Nay:

Other:

Action: **Approved staff recommendation for approval of the preliminary plan amendment, subject to conditions, and adopted the attached Board Resolution.**

Planning Department staff discussed the request to amend an existing preliminary plan for the Manor Oaks project, in response to a forest conservation easement violation. The respondent is requesting the Board's approval to remove the existing Category I conservation easement offsite. Staff noted that 2,490 square feet of Category I conservation easement will be removed and will be mitigated offsite at a minimum two to one ratio. The respondent met with staff to discuss the easement violation and the process to remove all, or a portion of the conservation easement from the property and submitted a limited preliminary plan amendment and associated forest conservation plan application.

Mr. Patrick Perry, engineer representing the applicant, concurred with the staff recommendation.

8. White Oak Science Gateway Master Plan - Worksession #4: Implementation/ Staging and Outstanding Issues

Staff Recommendation: Discuss and provide guidance to staff

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: **Discussed and provided guidance to staff.**

At the onset of the meeting Planning Department staff noted that the County Council has requested that Planning staff delay the delivery of the White Oak Science Gateway Master Plan to the County Council by two weeks, and staff has therefore revised the schedule accordingly. The next worksession is scheduled for September 4, and the Planning Board Draft is scheduled to be approved by the Board for transmittal to the County Council and County Executive on September 19 rather than September 4. Planning Department staff discussed staging issues and Parks Department staff reviewed the recommendations for an urban park at White Oak Center and was instructed by the Board to identify a two-acre property for park use.

At the Board's request, Mr. Brian Downie, from Saul Centers and owner of the White Oak Shopping Center offered comments.

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

9. Brooke Road Address Plan - **ADDED**

Request for Board's approval to assign addresses along Brooke Road
(NOTE: Testimony will be limited to owners of property along Sandy Spring Farm Road)

BOARD ACTION

Motion: WELLS-HARLEY/ANDERSON

Vote:

Yea: 4-0

Other: DREYFUSS ABSENT

Action: Approved staff recommendation to assign addresses along Brooke Road in the Sandy Spring/Ashton Master Plan area.

Legal Counsel to the Board noted that this is a request to get the Planning Board approval to issue addresses to several properties located on the north side of Brooke Road, west of its intersection with Chandlee Mill Road in the Sandy Spring/Ashton Master Plan area. The properties consist of eleven unrecorded parcels that do not have frontage on Brooke Road, and several of the parcels have been the same shape and size since before June 1, 1958, and therefore are exempt from the requirement to plat prior to issuance of building permits. Legal staff noted that to begin the process of septic testing prior to application for a building permit on unrecorded properties, the property must have a valid address. A finding is needed prior to granting addresses for the properties without road frontage that access is available to them from either Brooke Road or Chandlee Mill Road. Staff recommends granting addresses to each of the properties based on information and materials submitted to the Planning Department since April 2013 that support a finding that the properties can obtain access from either Brooke Road or Chandlee Mill Road. Staff does not recommend the Board make a finding with regard to the claimed existence of Farm Road as a separate piece of property, or that the required access be approved by way of Farm Road. This recommendation is supported by a comprehensive review of four components that together provide each of the Sandy Spring Farm Road community properties with a means of permissive access from each property, over and through other Sandy Spring Farm Road community properties to Brooke Road. Staff further recommends that the Board's finding be limited for the purpose of issuing addresses and that such finding does not create any property interest that does not otherwise exist, nor does it waive any other regulatory requirements otherwise necessary to develop these properties.

The following speakers offered testimony: Ms. Aisha Braveboy, member of the Maryland House of Delegates and Chair of the Legislative Black Caucus of Maryland; Mr. Raj Singh, attorney representing certain members of the Farm Road Community; and Messrs. Mr. Michael Sklaire, attorney representing certain members of the Farm Road Community, and Steve Kanstoroom of Ashton Road, also representing the Farm Road Community.

Commissioner Wells-Harley noted that she is in support of the staff recommendation and she is happy that this can move forward with the promise of the County Executive to extend water and sewer service to the community. All the other Board members concurred with Ms. Wells-Harley's comments.