



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

**APPROVED
MINUTES**

Following a few words from Chair Anderson and Commissioner Dreyfuss in remembrance of former Montgomery County Planning Board Member Esther Gelman, the Montgomery County Planning Board met in regular session on Thursday, June 9, 2016, at 9:11 a.m. in the Montgomery Regional Office (MRO) in Silver Spring, Maryland, and adjourned at 5:20 p.m.

Present were Chair Casey Anderson, Vice Chair Marye Wells-Harley, and Commissioners Norman Dreyfuss, Amy Presley, and Natali Fani-González.

Items 1, 3, 5 through 8, and Item 4, discussed in that order, are reported on the attached agenda.

Item 2 was removed from the Planning Board agenda.

The Board recessed for lunch at 12:07 p.m. and convened in Closed Session at 12:27 p.m. to take up Item 10, a Closed Session Item.

In compliance with State Government Article §3-305(b), Annotated Code of Maryland, the following is a report of the Board's Closed Session:

The Board convened in Closed Session at Mica restaurant at 12:27 p.m. to discuss Closed Session Item 10 on motion of Commissioner Fani-González, seconded by Vice Chair Wells-Harley, with Chair Anderson, Vice Chair Wells-Harley, and Commissioners Dreyfuss, Presley, and Fani-González voting in favor of the motion. The meeting was closed under authority of Annotated Code of Maryland §3-305(b)(3), to consider the acquisition of real property for a public purpose and matters directly related to the acquisition.

Also present for the meeting were Director Mike Riley, Acting Deputy Director Mitra Pedoem, Bill Gries, and Josh Kaye of the Parks Department; Senior Counsel Megan Chung of the Legal Department; Larry Cole of the Planning Department; and James Parsons of the Commissioners' Office.

In Closed Session the Board discussed a proposed land exchange and a proposed land transfer.

The Closed Session meeting was adjourned at 12:38 p.m.

The Board reconvened in the auditorium at 1:40 p.m.

MCPB, 6-9-16, APPROVED

Items 8 and 9 are reported on the attached agenda.

There being no further business, the meeting was adjourned at 5:20 p.m. The next regular meeting of the Planning Board will be held on Thursday, June 16, 2016, in the Montgomery Regional Office in Silver Spring, Maryland.

M. Clara Moise
Sr. Technical Writer/Editor

James J. Parsons
Technical Writer

Montgomery County Planning Board Meeting
Thursday, June 9, 2016
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**

Subdivision Plat No. 220160020, Ancient Oak West

R-200 zone; 2 lots; located in the southwest quadrant of the intersection of Darnestown Road (MD 28) and Chestnut Oak Drive; Potomac Sub-Region Master Plan.

Staff Recommendation: Approval

Subdivision Plat No. 220160060, White Oak - Third District Police Station

R-90/TDR zone; 1 lot, 1 parcel; located on the west side of Milestone Drive at the terminus of Sherbrooke Woods Lane; White Oak Master Plan.

Staff Recommendation: Approval

BOARD ACTION

Motion: PRESLEY/WELLS-HARLEY

Vote:

Yea: 5-0

Nay:

Other:

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

***C. Other Consent Items**

1. Rainbow Drive/Thompson Road, Briggs Chaney Middle School Bus Lot

A. Mandatory Referral MR2016023 --- Reconstruction of the bus lot for Briggs Chaney Middle School. Construction includes a 26 feet wide asphalt driveway and associated sidewalks from the current bus lot to the intersection of Rainbow Drive and Thompson Road. Southwest of the intersection of Rainbow Drive and Thompson Road, in Silver Spring. Cloverly Master Plan (1997).

Staff Recommendation: Approval to Transmit Comments to the Montgomery County Department of Transportation

***B. Preliminary/Final Water Quality Plan MR2016023: Upper Paint Branch Special Protection Area** --- Reconstruction of the bus lot for Briggs Chaney Middle School. Construction includes a 26 feet wide asphalt driveway and associated sidewalks from the current bus lot to the intersection of Rainbow Drive and Thompson Road. Southwest of the intersection of Rainbow Drive and Thompson Road, in Silver Spring. Cloverly Master Plan (1997).

Staff Recommendation: Approval with Conditions and Adoption of Resolution

2. 8711 Georgia Avenue (Wells Fargo Bank), Limited Site Plan Amendment 82008023C

CBD-2 Zone, 0.87 acres; Request to extend 120-day review period from June 9, 2016, to September 29, 2016; located at 8711 Georgia Avenue approximately 250 feet northeast of Cameron Street, Silver Spring CBD Sector Plan.

Staff Recommendation: Approval of the Extension Request

BOARD ACTION

**Motion: 1A & 1B. FANI-GONZÁLEZ/WELLS-HARLEY
2. PRESLEY/WELLS-HARLEY**

Vote:

Yea: 1A, 1B, & 2. 5-0

Nay:

Other:

Action: 1A. Approved staff recommendation to transmit comments to the Montgomery County Department of Transportation, as stated in the attached transmittal letter.

1B. Approved staff recommendation for approval of the Preliminary/Final Water Quality Plan cited above, subject to conditions, and adopted the attached Resolution.

2. Approved staff recommendation for approval of the Limited Site Plan Amendment Extension cited above.

***D. Approval of Minutes**

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: There were no Planning Board Meeting Minutes submitted for approval.

~~2. Roundtable Discussion~~ — **REMOVED**

- Parks Director's Report

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: This item was removed from the Planning Board agenda.

3. Flower Avenue Urban Park --- Authorization to acquire 7,502 square feet, more or less, improved, from Michael C. Freed, located at 8721 Geren Road, Silver Spring, MD 20901.

Staff Recommendation: Approval

BOARD ACTION

Motion: PRESLEY/WELLS-HARLEY

Vote:

Yea: 5-0

Nay:

Other:

Action: Approved staff recommendation for approval of the proposed land acquisition cited above and adopted the attached Resolution.

Parks Department staff offered a brief presentation regarding the proposed acquisition of land as an addition to Flower Avenue Urban Park for the negotiated price of \$380,000. The 7,502-square foot site, identified as the Freed property, is located on the east side of Geren Road, just west of the Flower Avenue Shopping Center in Silver Spring, Maryland. Staff noted that the acquisition is to be funded through a grant from the Maryland Program Open Space. Staff noted that the Planning Board was briefed in executive session on June 2 regarding the proposed acquisition.

There followed a brief Board discussion.

5. Briefing: Site Plan Enforcement Update

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: Received briefing.

Planning Department staff offered a multi-media presentation and discussed the existing Memorandum of Understanding (MOU) between the Maryland-National Capital Park and Planning Commission (M-NCPPC) and the Montgomery County Department of Permitting Services (DPS) regarding site plan enforcement. Staff stated that the 2006 MOU established DPS as the agency in charge of site plan inspections and enforcement. DPS Site Plan Zoning and Site Plan Enforcement staff participate at Development Review Committee (DRC) meetings and offer comments and recommendations to Committee members and applicants. As they work through development applications, DPS staff also look closely at conditions of approval that could potentially impact site plan enforcement.

Mr. Ehsan Motazedhi of DPS then discussed the site plan enforcement program. Mr. Motazedhi noted that DPS Site Plan Zoning and Site Plan Enforcement staff review every building permit with a certified site plan, conduct onsite inspections, and respond to any complaints regarding certified site plans. In FY16, DPS staff has conducted a total 3,340 inspections, attended 33 pre-construction meetings, conducted 73 final inspections, issued 14 notices of non-compliance, and reviewed 4,570 building permits associated with certified site plans.

Staff added that since 2010, Planning Department staff has collected and maintained surety bonds in order to assure that developers complete submitted site plans, and DPS is also responsible for notifying staff when these bonds can be released.

There followed a brief Board discussion with questions to staff and Mr. Motazedhi.

6. Memorandum of Understanding between M-NCPPC and Montgomery County Department of Permitting Services on Site Plan Enforcement

Staff Recommendation: Approval

BOARD ACTION

Motion: DREYFUSS/PRESLEY

Vote:

Yea: 5-0

Nay:

Other:

Action: Approved staff recommendation for approval of modifications to the Memorandum of Understanding regarding inspection responsibilities and coordination between agencies, to be transmitted to the Department of Permitting Services (DPS) for approval.

Planning Department staff briefed the Board and discussed proposed modifications to the May 2011 Memorandum of Understanding (MOU) between the Maryland-National Capital Park and Planning Commission (M-NCPPC) and the Montgomery County Department of Permitting Services (DPS). Staff stated that the requested update to the MOU is the second update to the original 2006 agreement, and the first update since 2011. Staff added that the proposed modifications address changes to processes and procedures that for the most part have already been implemented by DPS and M-NCPPC.

The proposed revisions provide additional clarifications on timing, processing, and enforcement of violations, including the use of ePlans for the review and approval of site plans and building permit applications, elimination of the requirement for a DPS site plan inspector to be present at the onsite pre-construction meeting, reduction in the number of days in which DPS must inspect each active site plan construction site from 30 business days to 10, reduction in the number of days in which DPS inspects alleged site plan violations from five business days to three, reduction from five business days to three for DPS to provide M-NCPPC with a written finding when no violation has been found, removal of a flow chart included in the DPS Building Permit Review Process, and removal of a flow chart included in the DPS Site Plan Inspection Process.

Mr. Ehsan Motazedhi of DPS offered comments.

There followed a brief Board discussion.

***7. Andrea S. Heid Property (a.k.a. Stoney Creek Estates) Lot 175 Limited Preliminary Plan Amendment 11996012A (In response to Forest Conservation Violations) ---** Located on Stoney Creek Road approximately 250 feet southeast of the intersection of Stoney Creek Road and Meadow Farm Road; Potomac Sub-Region Master Plan.

Staff Recommendation: Approval with Conditions and Adoption with Resolution

BOARD ACTION

Motion: PRESLEY/WELLS-HARLEY

Vote:

Yea: 5-0

Nay:

Other:

Action: Approved staff recommendation for approval of the Limited Preliminary Plan Amendment cited above, subject to conditions, and adopted the attached Resolution.

Planning Department staff offered a multi-media presentation and discussed a proposed Limited Preliminary Plan Amendment request to remove an existing Category I Conservation Easement from a property. The approximately 2-acre site, identified as the Andrea S. Heid property lot 175 is located within the Stoney Creek Estates subdivision on the west side of Stoney Creek Road, approximately 250 feet southwest of its intersection with Meadow Farm Road, and zoned Residential Estate within the Potomac Subregion Master Plan area. The property is currently developed with an existing house, detached garage, and stable. Staff stated that a Preliminary Plan approved by the Planning Board in 1995 established 0.8 acres of Category I Conservation Easement on the site, consisting of a 0.3-acre forest planting area extending along the western portion of the lot to the rear of the existing structures, and a 0.5-acre planting area extending along the southeastern portion of the lot and into adjacent lot 176 to the north. Staff noted that the current property owner purchased the property in 1997.

Following a February 2015 forest conservation easement inspection, the applicant was issued a Notice of Violation for construction of stone walls, concrete walkways, and stone steps, as well as dumping firewood within the conservation easement area on the western portion of the site. During a meeting with the applicant to discuss remedial actions regarding the violations, the inspector discovered portion of a paved driveway, which had previously been buried in snow, also located within the same conservation easement area. In March 2015, a second Notice of Violation was issued for the driveway.

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***7. Andrea S. Heid Property (a.k.a. Stoney Creek Estates) Lot 175 Limited Preliminary Plan Amendment 11996012A (In response to Forest Conservation Violations)**

CONTINUED

The applicant proposes to remove the entire 12,834 square feet of existing conservation easement from the western portion of the site, to be mitigated offsite at a ratio of 2:1 by acquiring 25,668 square feet of forest conservation credit at an approved forest conservation bank. The applicant also agrees to complete the required planting within the conservation easement area on the southeast portion of the lot.

Mr. Gary Balsamo, authorized representative of the applicant, concurred with the staff recommendation.

There followed a brief Board discussion.

4. Bethesda Downtown Sector Plan, Worksession #14

Staff Recommendation: Briefing and Discussion

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: Received briefing followed by discussion.

Planning Department and Parks Department staff offered a multi-media presentation and discussed the proposed Bethesda Downtown Sector Plan, specifically the requirements for the Bethesda Overlay Zone (BOZ), studies requested by the Board at the May 19 hearing, and other outstanding items. Planning Department staff noted plans to return to the Board on June 30 with text edits for the proposed plan, with a final vote scheduled for July.

Chair Anderson stated that the Board would not be taking additional testimony on individual properties during the worksession.

Staff discussed the proposed BOZ requirements, including a proposed Park Impact Payment (PIP), a Moderately Priced Dwelling Unit (MPDU) requirement of 15 percent, and the use of a Design Review Panel. Staff stated that if the Board agrees to any additional Priority Sending Sites, any assigned density will come from the 32,400,000 square feet of density in the BOZ density pool. Staff also recommended removing the Aldon sites in South Bethesda as Priority Sending Sites and not including the Parking Lot District lots as Priority Sending Sites, noting the potential to impact the ability of the Bethesda Farm Women's Market to sell density. Regarding affordable housing, staff proposed that no additional height be given for exceeding the minimum required MPDUs outside of the High Performance Area boundary. The Board may approve projects that exceed the mapped density through a variety of options, which include density averaging, fulfilling the BOZ requirements, and use of Priority Sending Sites. Staff added that for the Board to approve a project with additional density, the project must go through the permit process within 24 months of receiving site plan approval.

Parks Department staff discussed the parameters of the proposed PIP, noting that the payment is intended to fund acquisition and development of parkland and will therefore be based on a proportion of the estimated cost of acquisition and development of parks, trails and open space. Staff noted that the plan proposes the expansion of four of the six existing parks within the plan area, and 13 new parks. The plan also recommends 13 additional acres of parkland for a total of 23 acres for urban recreational parks, urban greenways, and civic greens. Staff discussed estimated acquisition costs for parkland, noting that the estimates were evaluated to determine the most likely park creation mechanism, and are based on tax assessments and comparable real estate sales. Estimated development costs cover site demolition, design, and construction, with design and construction expressed at a range of either low, moderate, or high option development. Using construction costs for comparable sites in other parts of

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4. Bethesda Downtown Sector Plan, Worksession #14

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the country, staff estimated the cost of high option development at approximately \$6,400,000 to \$41,000,000 per acre. Moderate option development costs are estimated at approximately \$2,700,000 per acre, with low option development estimated at \$700,000 to \$1,400,000 per acre. Staff developed low, moderate, and high estimated total park costs, and proposed the use of the \$117,000,000 moderate estimate for calculating PIP funding, which will fund 75 percent of the moderate cost estimate. This will result in a PIP base of \$88,000,000. That figure is then divided by 3,400,000, the available square footage of bonus density in the BOZ area, resulting in a proposed PIP fee of \$25.81 per square foot. Staff added that compared to the costs associated with the density averaging and Priority Sending Sites options for acquiring additional density through the density pool, fulfilling the BOZ requirements is the most economical option at approximately half the current market rate per square foot.

Planning Department staff then discussed zoning recommendations for the Fire Station 6 site, noting a previous Board recommendation for the site to continue to be zoned Residential with a recommendation for a floating zone with staff recommended density and height. Staff recommended adding language to the plan which states that when the site redevelops, consideration should be given to providing greenspace on the western portion of the site.

There followed extensive Board discussion with questions to staff, during which the Board agreed with the current recommendation regarding the zoning of the Fire Station 6 site, as well as the staff recommended additional language. The Board then instructed staff to seek ways to add flexibility to the proposed PIP, and to develop an appropriate proportion for PIP funding and a rationale for that proportion. The Board also requested that staff prepare a briefing on Design Review principles prior to discussion of the topic at the next worksession.

10. CLOSED SESSION

According to MD ANN Code, General Provisions Article, §3-305(b)(3), consider the acquisition of real property for a public purpose and matters directly related to the acquisition.

The topics to be discussed are a proposed land exchange and a proposed land transfer.

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

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

8. Greater Lyttonsville Sector Plan, Worksession #4

Staff Recommendation: Briefing and Discussion

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Other:

Action: Received briefing followed by Board discussion.

Planning Department staff offered a multi-media presentation and discussed the Greater Lyttonsville Sector Plan proposed zoning recommendations and continued discussion of the zoning and height recommendations for the Summit Hills Apartments site started on Thursday, May 26 during the scheduled worksession. Staff noted that the Summit Hills site is part of the Woodside/16th Street Station District identified in the Sector Plan. Staff also discussed an economic analysis conducted for the site, at the Planning Board's request, using comparable development sites within close proximity and provided housing unit yields under three possible Floor Area Ratios (FAR) for the site.

Parks Department staff also discussed parks and open spaces proposed and required in the Sector Plan area and compared the level of service with similar communities. Staff also briefly discussed a three-page report provided by Montgomery County Public Schools (MCPS) on impacts to existing school facilities as well as options for future school facilities in the Sector Plan area, and noted that Mr. Bruce Crispell of MCPS is available to answer any questions from the Board.

Ms. Heather Dlhopsky, attorney representing the Summit Hills Apartments owner, Mr. David Hillman, also present, offered comments.

Mr. David Hillman of Old Gallows Road and owner of the Summit Hills Apartments also offered comments.

The following speakers offered testimony: Ms. Valarie Barr of Richland Place; Mr. Joel Teitelbaum of Richland Place; and Mr. Jeremy Marcus of Ross Road, Coordinator of the Bethesda-Chevy Chase Parent-Teacher Association Cluster.

Mr. Evan Goldman of Hampden Lane and representing EYA Development, offered a multi-media presentation and discussed EYA's ongoing negotiations to acquire properties for development near the future Purple Line in the Sector Plan area, and the proposed projects that could be implemented.

Staff added that a fifth worksession will be scheduled before the end of July to finalize the Sector Plan and to request Planning Board approval for transmittal to the County Executive and County Council for review and to hold a public hearing in the Fall of 2016.

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

9. Worksession #1 on the Public Hearing Draft of the 2016 Subdivision Staging Policy

Staff Recommendation: Briefing and Discussion

BOARD ACTION

Motion:

Vote:

Yea:

Nay:

Action: Received briefing followed by Board discussion.

Planning Department staff offered a multi-media presentation and discussed the transportation recommendations following the 2016 Subdivision Staging Policy (SSP) public hearing. Staff noted that the SSP should support Master Plans goals by providing guidance for the implementation of those plans which strive to enhance quality of life through increased access to jobs, shopping, and entertainment; to strengthen the potential for economic development through job creation and increases in property values; to improve ecological sustainability by promoting reduction in CO2 emissions and stormwater runoff; and to support social equity by promoting affordable housing and access to jobs and services throughout our communities. The Policy Area categories should reflect current land use patterns, modes of travel other than the single-occupant vehicle, and the planning vision for different parts of the County. The proposed approach to creating Policy Area Groups is to define the objectives by grouping together like places, and using a quantifiable methodology to the extent possible, using easily accessible measures that are simple, concise, and consistent with the General Plan. Existing and future considerations should reflect future plans as well as existing conditions, acknowledging that a review will be conducted every two to four years, and areas will move between groups as land use density and/or travel behavior changes.

Staff noted that the current categories are: urban, suburban, and rural, and the proposed categories are: new, urban, suburban, and rural. The urban or corridor category reflects two different types of places, which together make up the classic Ds for density, diversity, design, distance to transit, and distance to core. The first three are characteristic of multimodal, mixed-use centers, and the last two may be characteristic of more residential communities with mixed-use areas. There has been an ongoing discussion regarding appropriate names for policy area categories that would indicate the similarities of the policy areas within each group. The difficulty is that often generalized similarities will not define all areas within a group. Staff further discussed transportation recommendations for the various categories.

Staff added that a second worksession is scheduled for next Thursday, June 16, to continue discussion of these categories, as well as the transportation recommendations and the transportation impact tax.

There followed extensive Board discussion, with Board members recommending changing some areas from new to urban or suburban and vice versa.