

March 19, 2014
9:30 a.m. – 11:30 a.m.

Montgomery Regional Office
8787 Georgia Avenue
Silver Spring, MD 20910

Item 1

**MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
MEETING**

**Wednesday, March 19, 2014
(MRO) 9:30 a.m. – 11:30 a.m.**

			<u>ACTION</u>	
			Motion	Second
1.	Approval of Commission Agenda	(+*) Page 1		
2.	Approval of Commission Minutes			
	a) February 19, 2014 – Open Session	(+) Page 3		
	b) February 19, 2014 – Closed Session	(+*)		
3.	General Announcements			
4.	Committee/Board Reports (For Information Only):			
	Regular Board of Trustees Meeting Minutes – February 4, 2014	(+) Page 11		
5.	Action and Presentation Items			
	a) Resolution #14-02 – Batchellors Forest Subdivision: Abandonment of Deed of Dedication in Exchange for Permanent Use Easement (Rubin and Gries)	(+*) Page 15		
	b) Resolution #14-01 – Resolution of Adoption of the Approved Bethesda Purple Line Station Minor Master Plan Amendment (Hizel-McCoy)	(+*) Page 57		
	c) Resolution #14-03 – Prince George’s County Bond Sale (Zimmerman)	(+*) Page 85		
	d) Status Report on WSSC Large Diameter Main Task Force (Gardner, Krasnow, Piret, and Rubin)	(+) Page 117		
6.	Officers’ Reports			
	a) Executive Director – (For Information Only)			
	Employee Evaluations Not Completed by Due Date – (February 2014).....	(+) Page 123		
	b) Secretary-Treasurer – (For Information Only)			
	Investment Report (January 2014).....	(+) Page 125		
	c) General Counsel			
	1. Litigation Report (February 2014).....	(+) Page 131		
	2. Legislative Update			
7.	Pursuant to Maryland State Government Article of the Annotated Code of Maryland, Section 10-508(a) (7) & (9), a closed session is proposed to consult with counsel for legal advice, conduct collective bargaining discussions, and consider matters that relate to negotiations.			

(+) Attachment (++) Commissioners Only (*) Vote (H) Handout (LD) Late Delivery



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

6611 Kenilworth Avenue • Riverdale, Maryland 20737

Commission Meeting
February 19, 2014
Minutes

The Maryland-National Capital Park and Planning Commission met on February 19, 2014, in the Parks and Recreation Auditorium, in Riverdale, Maryland.

PRESENT

Montgomery County Commissioners

Françoise M. Carrier, M-NCPPC Chair*
Casey Anderson
Norman Dreyfuss
Amy Presley

Prince George's County Commissioners

Elizabeth M. Hewlett, M-NCPPC Vice-Chair*
Dorothy Bailey
Manuel Geraldo
A. Shuanise Washington

ABSENT

Marye Wells-Harley

John Shoaff

* Please note that M-NCPPC Chair Hewlett began the meeting at 9:47; however, the Chairmanship changed to Chair Carrier following the vote in Item 2.

The Commission meeting proceeded in the following order:

ITEM 4 GENERAL ANNOUNCEMENTS (taken out of order)

Chair Hewlett:

- Requested a moment of silence in remembrance of Javon Davis, an employee who recently passed. Mr. Davis worked as a seasonal lifeguard at Rollingcrest Community Center.
- Recounted a number of accomplishments the agency attained in 2013. Chair Hewlett stated that the Commission continued to carry out its mission to provide and maintain award-winning services to the bi-county region. She highlighted some significant achievements including:
 - Demonstrating the value placed on the agency's wealth of multi-cultural diversity through "one Commission" celebrations, such as Black History Month and Hispanic Heritage Month. She thanked the Diversity Council for their contributions in celebrating cultural diversity.
 - Reinforcing its mission as stewards of open space, the environment and ongoing commitment to sustainability by internal policies and practices and by external awards. She recognized Montgomery Parks for being named a "Tree City USA" and Montgomery Planning for receiving the state's 2013 Sustainable Growth Award for Smart Growth Community given by the Maryland Sustainable Growth Commission for the White Flint Sector Plan.

- Continuing to be recognized as a workplace of excellence and earning its place as one of the very few employers honored as a quadruple Alliance for Workplace Excellence Award winner.
- Upholding its commitment to public outreach and engagement with critical efforts that chart the future of land use and service delivery through initiatives such as Formula 2040, which is the first Functional Master Plan for Parks and Recreation and Open Space in Prince George’s County; Plan Prince George’s 2035, which is the update of the general plan in the Prince George’s County; and for Zoning Montgomery, which is a website dedicated to the multi-year process of reorganizing, revising, and simplifying the county’s current zoning ordinance to accommodate the most ideal future development; numerous national and state awards from the American Planning Association, Maryland Recreation and Parks Association, National Recreation and Parks Association; and the agency was selected for the sixth year as a finalist for the National Gold Medal Award.
- Reinforcing an overarching commitment to health and wellness.
- Steering through wage adjustments for employees, including long overdue anniversary increases.
- Supporting our communities through United Way, Typhoon Haiyan, and the first Trot-for-a-Turkey. The agency produced truckloads of outerwear and food for local shelters.

In closing the announcements, Chair Hewlett asked everyone to keep kind thoughts of former Parks Director Hugh “Reds” Robey and every other employee who has been a part of the M-NCPPC family. She thanked everyone for all that is done to make the Commission shine.

The following announcements were made by newly rotated Chair Carrier. Although these announcements were made after the rotation in item 2, they are placed within Item 4 for organization of this item.

- Chair Carrier noted February is Black History Month. There are a number of Black History events taking place in Prince George’s County. In Montgomery County events are being held every Friday of this month. Montgomery County has an event scheduled for February 14th that will be rescheduled due to inclement weather. The “One Commission” Black History Month event was held on February 7th.
- The agency’s Women’s History Month celebration is scheduled for March 12th at the Newton White Mansion.
- Ms. Ching-Fang Chen, Project Manager, in Montgomery County Parks, was recognized for an award she received for designing a facility plan for Woodside Urban Park in Silver Spring, Maryland. Ms. Chen’s design has been selected as a 2014 Honor Award winner from the Potomac Chapter of the American Society of Landscape Architects.

ITEM 1 APPROVAL OF COMMISSION AGENDA
Item 6c – Diversity Council Annual Report will be heard before Item 6b – Medicare Part D Prescription Plan for Medicare Eligible Retirees.
ACTION: Motion of Commissioner Geraldo
 Second by Commissioner Bailey
 8 approved the motion (absent: Commissioners Shoaff and Wells-Harley)

ITEM 2 ROTATION OF THE CHAIRS
Pursuant to Commission’s Rules of Procedure, a vote was taken to rotate the Chair and Vice Chair of M-NCPPC.
ACTION: Motion of Hewlett to support appointment of Commissioner Françoise Carrier as Chair of M-NCPPC.
 Second by Bailey
 8 approved the motion (absent: Commissioners Shoaff and Wells-Harley)

General Counsel Gardner requested a vote from the Commissioners, electing former Chair Hewlett to the position of Vice-Chair.
ACTION: Motion of Geraldo to appoint Commissioner Hewlett as Vice-Chair of M-NCPPC.
 Second by Carrier
 8 approved the motion (absent: Commissioners Shoaff and Wells-Harley)

ITEM 3 APPROVAL OF COMMISSION MINUTES
Open Session – December 18, 2013
January 29, 2014 (Meeting Cancelled)
ACTION: Motion of Commissioner Geraldo
 Second by Commissioner Bailey
 8 approved the motion (absent: Commissioners Shoaff and Wells-Harley)

ITEM 4 GENERAL ANNOUNCEMENTS - CONTINUED
Following the rotation of Chairs, M-NCPPC Chair Carrier shared a few additional agency announcements. (See Item 4 at beginning of document)

ITEM 5 COMMITTEE/BOARD REPORTS (For Information Only)
a) Executive Committee Minutes – January 10th meeting cancelled
b) Executive Committee Minutes – Open Session – February 5, 2014
c) Executive Committee Minutes – Closed Session – February 5, 2014
d) Regular Board of Trustees’ Minutes – Open Session December 3, 2013
e) Regular Board of Trustees Meeting – Closed Session December 3, 2013

ITEM 6 ACTION AND PRESENTATION ITEMS
a) GOVERNMENT FINANCE OFFICERS ASSOCIATION (GFOA) OF THE UNITED STATES AND CANADA BUDGET AWARD WITH GROUP PHOTO – Chair Carrier recognized the contributions of the Corporate Budget Office and the departmental budget teams. She displayed the award and provided background on the GFOA program. GFOA awarded the agency the GFOA Distinguished Budget Presentation Award for its annual budget for fiscal year 2014. This is the 28th consecutive year in which M-NCPPC was recognized.

c) DIVERSITY COUNCIL ANNUAL REPORT (WITH GROUP PHOTO)

Executive Director Barney introduced the 2013 and 2014 Diversity Councils and explained the functions and contributions of the Councils. She thanked the incoming and outgoing members, all of which were recognized. She noted that the members of the Council and its sub-committees meet once a month while managing their existing work programs. Executive Director Barney thanked the Department Directors and managers for supporting the Council's work.

2013 Diversity Council Members:

- Robbin Brittingham, Montgomery Planning, Co-Chair 2013*
- Anika Jackson, Prince George's Planning Board's Office, Co-Chair 2013*
- Benjamin Berbert (Montgomery Planning)
- Paul Brown (Department of Human Resources and Management)
- Joe Dehuarte (Prince George's Planning)
- Darlene Douglas (Montgomery Parks)*
- Jimmy Mendoza (Montgomery Parks)
- Mechelle Myers (Finance)
- Alex Ramirez (Prince George's Parks and Recreation)
- Arnold Ramsammy (Montgomery Parks)
- Bill Sheehan (Prince George's Parks and Recreation)
- Melissa Thompkins (Montgomery Planning Board's Office)
- John Wooden (Prince George's Planning)

*Terms ended December 2013

2014 Diversity Council Members (including 2013 returning members as indicated above):

- Maritza Barbot (Montgomery Planning)
- Jessica Jones (Prince George's Planning Board)
- Shuchi Vera (Montgomery Parks)
- Mechelle Myers Co-Chair 2014 (Department of Finance)
- Allison Poirier, Co-Chair 2014 (Prince George's Parks and Recreation)

2013 Diversity Council Co-Chairs Robbin Brittingham and Anika Jackson presented the 2013 Diversity Council Year-End Review. This review was comprised of the Committee's Mission, Vision and Values, Strategic Plan Purpose, Policy and Implementation, Program Development and Training, Marketing and Communications Outreach, and Tools for Communication (as contained in the Commission meeting packet).

With regard to Program Development and Training, Co-Chair Brittingham expressed the need for diversity training for new members who join the Council because those individuals may not have experience or training in Diversity. She recognized a valuable Diversity 101 Training which was provided to the Diversity Council by Dr. Welch, the Founder of Leadership Prince George's and former Executive Director of the Human Relations Commission. She also recommended new Council members become involved three months prior to termination of current members to enhance knowledge transfer.

Co-Chair Jackson highlighted the Marketing and Communications component. She noted the upcoming 2014 Diversity Celebration is scheduled for May 30th from 10:00 a.m. to 12:00 p.m. at the Clarice Smith Center. Co-Chair Jackson briefed the audience on communication tools that will be used to support diversity such as a monthly news column in the UPDATE Newsletter and articles on InSite. She explained that Diversity Council webpages are being revamped in the summer of 2014 to provide more information on the Council, its members and purpose. The Commissioners commended the Diversity Council for their efforts.

ITEM 6 b) MEDICARE PART D PRESCRIPTION PLAN FOR MEDICARE ELIGIBLE RETIREES (For Information Only)

Executive Director Barney introduced M-NCPPC Health and Benefits Manager, Jennifer McDonald; AON Hewitt Consultant Cathy Furr; and Boomershine Consulting President, Dave Boomershine. Ms. McDonald explained the Federal Government's Retiree Drug Subsidy (RDS) program and how that offers savings to employers who offer retiree prescription coverage. She shared that the agency has been receiving subsidies from the Federal Government in the form of reimbursements for a portion of claims incurred. The amount of reimbursements received under the RDS program between 2006 through 2012 was detailed in the meeting packet. Ms. McDonald introduced an additional component under the Federal program, Employer Group Waiver Plan plus Wrap (EGWP+Wrap), which provides for expanded reimbursement to employers. She noted that this component stems from changes in Medicare Part D of the Affordable Care Act.

Consultant Furr reviewed a PowerPoint presentation titled "Employer Group Waiver Plan plus Wrap (EGWP+Wrap)". The presentation highlighted savings from participation in this program. She explained that the EGWP+Wrap will replace the current RDS program. Ms. Furr estimated that in addition to the \$450,000 reimbursed in 2012, the net cash savings will yield an additional \$300,000 in 2015. Ms. Furr stated that the proposed date for implementation of this program is January 1, 2015, and would take approximately six months for implementation.

Mr. Boomershine reviewed items presented in the Commission packet on savings to Other Post-Employment Benefits (OPEB) plan funding that result from the EGWP approach.

Executive Director Barney noted that discussions will take place with regard to revisions to the budget document. The OPEB FY 2015 proposed budget numbers will decrease, and with the Commissioners' approval, she will communicate what the new numbers will be to the Montgomery County and Prince George's County. She commented that Montgomery County Government and Montgomery County Schools are implementing this plan, and Prince George's County Government is considering it.

d) USE OF SALARY LAPSE

Executive Director Barney reviewed commitments needed for the ERP project. She shared that initially, the plan was to have employees from the operating departments join the core team at Central Administrative Services (CAS) to assist with implementation; however, due to their work programs, this did not occur. As such, additional resources are needed to conduct research and resolve critical issues as the program goes live and provide assistance to backfill the current work program. She requested use of \$100,000 in unbudgeted salary lapse from position vacancies in the Department of Human Resources and Management (DHRM). Executive Director Barney explained that an additional request may be forthcoming to help with other implementation concerns while moving forward.

ACTION: Motion of Washington

Second by Bailey

8 approved the motion (absent: Commissioners Shoaff and Wells-Harley)

ITEM 7

OFFICERS' REPORTS (For Information Only)

a) Executive Director

1. Employee Performance Evaluations Not completed By Due Date – (January 2014)

Executive Director Barney stated that a good number of evaluations have been done and Directors are working on completing the others.

b) Secretary-Treasurer's Report

1. Investment Report – (December 2013)

The report was presented in the meeting packet.

2. MFD Statistics (1st Quarter)

The report was presented in the meeting packet.

c) General Counsel

1. Litigation Report (For Information Only)

2. Legislative Update – A conference call was held among the legal staff on February 18th regarding legislative topics. There are two employment bills (HB 1265 and HB 1350) in Annapolis that M-NCPPC will submit to both planning boards for support.

In response to Chair Carrier's inquiry about the Smoking Bill and the Artificial Turf Bill, General Counsel Gardner stated that the Smoking Bill is going to the Prince George's County Delegation this week. It has been accepted by the Montgomery County Delegation with amendments that M-NCPPC requested. General Counsel Gardner does not anticipate any problems with the Smoking Bill.

With respect to the Artificial Turf Bill, General Counsel Gardner indicated there is a strong presence by the Maryland Association of Counties (MACO) opposing the Bill. The Speaker of the House supports using program open space money for synthetic turf fields. However, with the concerns related to the Tort Claims Act, the Bill may not have full support.

ITEM 8 Pursuant to Maryland State Government Article of the Annotated Code of Maryland, Section 10-508(a)(7) & (9), the meeting adjourned to closed session at 10:49 a.m., to consult with counsel for legal advice, conduct collective bargaining discussions, and consider matters that relate to negotiations.

ACTION: Motion of Presley to move to closed session
Second by Washington
8 approved the motion (Commissioners Shoaff and Wells-Harley were absent)


At 11:05 a.m., the Commissioners moved to open session for adjournment of the meeting.

ACTION: Motion of Hewlett
Second by Bailey
8 approved the motion (Commissioners Shoaff and Wells-Harley were absent)

Meeting adjourned.



Gayla I. Williams, Senior Technical Writer



Patricia C. Barney, Executive Director



EMPLOYEES' RETIREMENT SYSTEM
The Maryland-National Capital Park and Planning Commission

**REGULAR BOARD OF TRUSTEES MEETING
MINUTES**

Tuesday, February 4, 2014; 10:00 A.M.
ERS/Merit Board Conference Room

The regular meeting of the Board of Trustees convened in the ERS/Merit Board Conference Room on Tuesday, February 4, 2014 at 10:00 a.m. Voting members present were: Khalid Afzal, Casey Anderson, Josh Ardison, Patricia Colihan Barney, CPA, Richard H. Bucher, Ph.D., LaKisha Giles, Elizabeth M. Hewlett, Elton King, Tracy Lieberman, Barbara Walsh and Joseph C. Zimmerman, CPA.

ERS staff included: Andrea L. Rose, Administrator; Heather D. Brown, Senior Administrative Specialist; and, Sheila S. Joynes, Accounting Manager.

1. CONSENT AGENDA

The following items are to be approved or accepted by vote on one motion unless a Board member requests separate consideration:

- A. Approval of the February 4, 2014 Board of Trustees Meeting Agenda
- B. Minutes of Regular Meeting, December 3, 2013
- C. Closed Session Minutes of Meeting, December 3, 2013 (***Confidential-Trustees Only***)
- D. Disbursements Granted Report – November and December 2013

MS. BARNEY made a motion, seconded by MR. AFZAL to approve the Consent Agenda, as submitted. The motion PASSED unanimously (11-0). (Motion #13-74)

2. CHAIRMAN'S ITEMS

- A. Board of Trustees Conference Summary

3. MISCELLANEOUS

4. REPORT OF THE ADMINISTRATOR

Presentation by Administrator, Andrea L. Rose

- A. Administrator's Report dated January 27, 2014
 - i. Recommendation to Approve a 1.5% Cost-of-Living Adjustment Effective July 1, 2014 for Eligible Retirees and Beneficiaries in Accordance with the Provisions of the Employees' Retirement System
- B. Wilshire's Memo Dated January 23, 2014 re: Bank Loan Funding
 - i. Recommendation to Approve Rebalancing Transactions for Initial Funding of the Bank Loan Mandate

Andrea Rose presented the Administrator's Report dated January 27, 2014.

Ms. Rose shared the latest retirement eligibility statistics:

- There are 341 members eligible for normal retirement within in FY2014. This includes members who may have been eligible to retire prior to FY2014, but chose not to retire and continue to be eligible.
- There are 683 members eligible for normal retirement within the next 5 fiscal years. This is equivalent to 34% of the total active member population.

Ms. Rose reported the transition from the Russell 2000 Growth ETF ("ETF") to the Northern Trust Collective Russell 2000 Growth Index Fund ("Index Fund") is complete.

Ms. Rose requested the Board approve a cost-of-living adjustment (COLA) for retirees and beneficiaries of 1.5% effective July 1, 2014. Staff calculated the COLA using data from Table 24 - All Urban Consumers (CPI U) - All Items Annual Average (at December 2013). All retirees and beneficiaries receiving annuities for at least six months are eligible for the COLA.

MS. BARNEY made a motion, seconded by DR. BUCHER to approve a 1.5% cost-of-living adjustment (COLA) effective July 1, 2014 for all eligible retirees and beneficiaries in accordance with the COLA provisions of the ERS. The motion PASSED unanimously (11-0). (Motion #13-74)

Ms. Rose presented Wilshire Associates' memo dated January 23, 2014 re: Bank Loan Funding. Wilshire recommends reducing the two core fixed income managers, Eaton Vance and CS McKee, by 2% or \$15 million each in order to fund the newly approved bank loan mandate.

MS. BARNEY made a motion, seconded by DR. BUCHER to approve Wilshire Associates recommendation to reduce the two core fixed income managers, Eaton Vance and CS McKee, by 2% or \$15 million each in order to fund the newly approved bank loan mandate. The motion PASSED unanimously (11-0). (Motion #13-75)

Wilshire believes these transactions can be effectively implemented through advance communication and planning with the investment managers as opposed to employing outside transition management.

5. CLOSED SESSION

The Board will meet in closed session, pursuant to State Government Article of the Annotated Code of Maryland Section 10-508(a)(7) to consult with legal counsel

VICE CHAIRMAN ANDERSON made a motion, seconded by MS. WALSH to go in to Closed Session, pursuant to State Government Article of the Annotated Code of Maryland Section 10-508(a)(7) to consult with legal counsel. The motion PASSED unanimously (11-0). (Motion #13-76)

DR. BUCHER made a motion, seconded by MS. BARNEY to ratify the actions taken in Closed Session. The motion PASSED unanimously (11-0). (Motion #13-79)

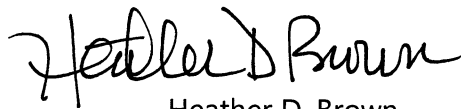
6. TRAINING

- A. J.P. Morgan's Guide to the Markets – Webcast Replay with David Kelly, Chief Global Strategist

The Board listened to a replay of J.P. Morgan's "*Guide to the Markets*" webcast with David Kelly, Chief Global Strategist which covered market expectations for 2014. Trustees received 1 hour of credit towards the minimum 8-hour training requirement for participation in this webcast.

The Board of Trustees meeting of February 4, 2014 adjourned at 11:30 a.m.

Respectfully,



Heather D. Brown
Senior Administrative Specialist

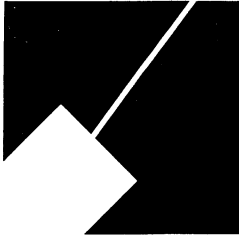


Andrea L. Rose
Administrator

ITEM 5a) RESOLUTION #14-02 – BATCHELLORS FOREST SUBDIVISION:
ABANDONMENT OF DEED OF DEDICATION IN EXCHANGE FOR
PERMANENT USE EASEMENT

DOCUMENTS:

- Memorandum from Carol Rubin, Associate General Counsel, with Attachments:
 - Deed of Dedication
 - Current Property Configuration
 - Proposed Property Configuration
 - Draft Deed of Permanent Use Easement
- M-NCPPC Resolution #14-02 – Batchellors Forest Subdivision: Abandonment of Deed of Dedication in Exchange for Permanent Use Easement
- Letter from William J. Chen, Jr., Chen & McCabe, L.L.P., to Commissioners dated March 11, 2014
- Enclosures to William J. Chen, Jr.'s, (Chen & McCabe, L.L.P.) letters dated February 24, 2014 and February 10, 2014 forwarded under separate cover to Montgomery County and Prince George's County Commissioners. The attachments can also be accessed through the following link: <http://mncppcapps.org/mncppc/ftpreceive/FARQUAR.pdf>



**Agenda Date: March 19, 2014
Item No.**

MEMORANDUM

TO: The Maryland-National Capital Park and Planning Commission

VIA: Adrian R. Gardner *ARG*
General Counsel

FROM: Carol Rubin, Associate General Counsel *CR*
301-495-4646

DATE: March 10, 2014

RE: Proposed Land Exchange: Batchellors Forest Local Park

Recommendation:

This memorandum is presented in conjunction with the Montgomery County Department of Parks to recommend approval by the Maryland-National Capital Park and Planning Commission (M-NCPPC) of a land exchange described further below.¹

Essentially, the transaction proposed involves a swap of one property currently owned by the Montgomery County Public Schools ("MCPS") – the Farquhar Middle School property – in exchange for another property that currently is dedicated to M-NCPPC and situated adjacent to the MCPS property – the park property.

On February 20, 2014, the Montgomery County Planning Board held a public hearing and voted to recommend that the M-NCPPC approve the exchange. Among other reasons, the Planning Board concluded that the middle school property is more suitable for recreational purposes than the existing park property because MCPS will convey the school site after developing (constructing) ballfields, with no development costs incurred by the M-NCPPC. Although not developed to its full potential, Montgomery County Department of Parks staff has indicated that such an arrangement will allow interim use of the school property, once it is conveyed, for

¹ The M-NCPPC is expressly authorized under the Annotated Code of Maryland, Land Use Article, at Section 17-206(b), to exchange land held by it for any other land held by other public bodies in the event the M-NCPPC determines the property to be received is more suitable for playground and recreational purposes. That subsection provides in relevant part:

Except for parkland acquired under an agreement with the National Capital Planning Commission, the Commission may exchange playground or recreational land held or acquired by the Commission in its own name or in the name of the State for any other land held or acquired by the United States, the State, or any other public body or agency, which the Commission determines to be more suitable for playground and recreational purposes.

recreation while facility and detailed site planning for a permanent park on the site is underway. In effect, the Planning Board concluded that the school property ultimately is more suitable because it would be conveyed after construction of the ballfield improvements and available to community residents many years – perhaps a decade – before the park property would otherwise have been available. The Board reasonably concluded that a swap of an improved ballfield property in exchange for un- or under-developed park property makes good sense to provide necessary park and recreation opportunities for the communities affected.

Background:

The Batchellors Forest Local Park is an approximate 17-acre property on the east side of the Batchellors Forest Road in Olney. As a condition of approval of the Batchellors Forest subdivision, Pulte Home Corporation dedicated the land to M-NCPPC in 2012 for use as a local park as contemplated in the 2005 Olney Master Plan (Exhibit 1: Deed of Dedication). The Department of Parks has not developed its Facility Plan for the long-term use of the park and does not contemplate development in its final form for at least 10 years, and that capital funding for development is not likely within that ten-year horizon in any event. Farquhar Middle School is located immediately adjacent to the park property on approximately 20 acres. The current configuration of the two properties is shown on Exhibit 2.

MCPS approached the Department of Parks about an arrangement that could allow the new school to be built on the park site in order to avoid closing the existing school, which would require bussing the students to a holding school in Bethesda during the two year construction period. In other words, one benefit of the proposed exchange is that it would allow MCPS to construct a new school facility on an adjacent site and, thereby, substantially minimize the disruption to area students and families during the construction process.

By contrast, MCPS staff estimates that other options for student relocation during construction on the existing school site could require students to spend as much as three hours a day in transit. Farquhar parents have expressed concerns that relocation will diminish the educational atmosphere for their children by requiring significant amounts of time in transit, time that, in their view, could be used for educational purposes. Relocation could also compromise extracurricular activities by complicating parents' ability to pick students up from school in the late afternoon. In addition, much of the travel time would occur during peak periods, further burdening the roadway networks between Olney and Bethesda.

MCPS proposes to deliver the existing school property to M-NCPPC, improved with interim park uses upon completion of the new school building, which is anticipated in July 2016 in time for the 2016-17 school year. This arrangement results in a land exchange and a "swap" of uses. The approximately 17 acre park site becomes the school; the approximately 20 acre school site becomes the park. The proposed configuration of the two properties is shown on Exhibit 3.

Enabling construction of a new middle school on the park site would hasten creation of the local park for the community's use. Department of Parks staff has indicated that such an arrangement would allow interim use of the new park site for recreation while facility and detailed site planning for a permanent park is underway. This would make the new park available to community residents some years before it would be available under other scenarios. Although delivery of the new park site will be delayed until July 2016, the park was not slated for

development for at least 10 years. M-NCPPC will receive a park site almost three acres larger and developed with useable recreational fields and parking at no cost to M-NCPPC.

The Legal Department has developed a viable approach to concluding the proposed transaction. Specifically, because the park property was dedicated to M-NCPPC, MCPS will acquire the underlying fee ownership to the park property, and upon abandonment of the dedication, MCPS will have full rights in the combined sites. MCPS will then grant a permanent, perpetual use easement to M-NCPPC on the school property in order to enable the M-NCPPC to develop and use it as the Batchellors Forest Local Park permanently and perpetually (Exhibit 4: draft Deed of Permanent Use Easement). Since dedications of land are treated under Maryland law as easements for the dedicated use, in this case for a local park, we opine that the proposed exchange of dedicated land for a permanent, perpetual use easement is an equal exchange of real estate interests.

Prior to the execution and delivery of any instrument necessary to release and abandon the Deed of Dedication as contemplated herein, the Planning Board will evaluate and determine MCPS's full compliance with its obligations to deliver the school property to the M-NCPPC improved with interim park uses as approved by the Planning Board, including MCPS' authority and ability to effectuate the exchange.²

A letter dated February 24, 2014 with attachments has been submitted by the property owners living adjacent to the existing park site objecting to the exchange. The same objections were raised before the Planning Board at the February 20th hearing. However, the Planning Board voted in favor of the MCPS proposal. For reasons that are similar to instances when adjacent home owners may (initially) object to construction of public trails, we do not believe that objections to the exchange involve an action by M-NCPPC in a regulatory capacity; nor do those objections constitute legal impediments to going forward with approval of a transaction to secure property in exchange that is – ultimately – determined to be more suitable for park and recreation purposes.

Attachments:

Deed of Dedication
Current property configuration
Proposed property configuration
Draft Deed of Permanent Use Easement

² The park property is encumbered by a Rural Open Space Easement dated December 10, 2012, granted from Pulte Home Corporation to the M-NCPPC, and recorded in Liber 45943 at folio 108 among the Land Records of Montgomery County, Maryland ("ROS Easement"). Although release of the ROS Easement is not at issue before the M-NCPPC, in order to accomplish the exchange of land the ROS Easement would impede MCPS' ability to build the school on the park property. Therefore, on February 25, 2014, by Resolution MCPB No. 14-10, subject to certain conditions, the Planning Board found that the school property would have been acceptable as the ROS property in the original development application for Batchellors Forest Subdivision and approved the release of the ROS Easement from the park property. The appeal period for the Planning Board's action has not yet expired.

MONTGOMERY COUNTY, MD

43553

453

APPROVED BY DBT

MAR 19 2012

Parcel I.D. # 08-01959272

\$ ~~Exempt~~ RECORDATION TAX PAID
\$ ~~Exempt~~ TRANSFER TAX PAID
DEED OF DEDICATION

EXHIBIT 1

THIS DEED OF DEDICATION ("Deed"), made as of the 14th day of March, 2012, by and between Pulte Home Corporation, a Michigan corporation, hereinafter referred to as the Grantor, and The Maryland-National Capital Park and Planning Commission, a body politic, hereinafter referred to as the Grantee.

WHEREAS, the property, as more particularly described below, which is the subject of this Deed ("Property") is located in the Rural Neighborhood Cluster (RNC) zone, in the Olney Master Plan area; and

WHEREAS, on June 16, 2011, the Planning Board approved Site Plan Amendment 82008019A (MCPB Resolution No. 11-50) for Grantor to develop approximately 93.64 acres of property for residential use, of which this Property is a part, subject to a condition that Grantor must dedicate this Property for use as rural open space ("ROS") consistent with the requirements of the RNC zone as set forth in Section 59-C-9.23.1 of the Montgomery County Zoning Ordinance (the "Zoning Ordinance") and the uses set forth in Section 59-C-9.572 of the Zoning Ordinance.

FILED
LORETA E. KNIGHT
CLERK'S OFFICE
MONTGOMERY CO. MD

2012 MAR 19 P 4: 23

WITNESSETH:

Grantor does hereby dedicate unto the Grantee, its successors and assigns, for use as rural open space consistent with the requirements of the RNC zone as set forth in Section 59-C-9.23.1 of the Zoning Ordinance and the uses set forth in Section 59-C-9.572 of the Zoning Ordinance, all of that piece or parcel of land, situate, lying and being in the Olney (8th) Election District of Montgomery County, Maryland, and more particularly described on Exhibit "A", attached to and made a part of this Deed.

FURTHER, Grantor, by this dedication, does hereby declare and establish a real covenant on the Property to preserve it as ROS in perpetuity as required by Section 59-C-9.574(h)(4) of the Zoning Ordinance.

TOGETHER WITH all and singular the buildings, improvements, ways, easements, rights, waters, privileges, covenants, and appurtenances to the same belonging, benefitting or in any way appertaining, and all the estate, title, right, interest and claim, either at law or otherwise of the Grantor, of, in or out of the Property for so long as the Property is used for the purposes intended by this conveyance.

IMP FD SURE 40.00
RECORDING FEE 20.00
TOTAL 60.00
Rec'd # 57493
Blk # 5422
Mar 19 2012 04:14 PM

TO HAVE AND TO HOLD said Property above described or mentioned, and hereby intended to be conveyed, together with the rights, privileges, appurtenances and advantages thereto belonging or appertaining unto and to the proper use and benefit forever of the Grantee, its successors and assigns.

Linowes and Blocher LLP
7200 Wisconsin Avenue, Suite 800
Bethesda, MD 20814-4842
ATT: SCOTT WALLACE

**L&B 1778747v1/05363.0101

08-01959272

SUBJECT, HOWEVER, to all easements, covenants, conditions, encumbrances, and restrictions of record affecting the Property intended to be conveyed by this Deed.

AND, the Grantor covenants that it will warrant specially the property hereby conveyed and that it will execute further assurances of said lands as may be requisite.

THE Grantor hereby certifies and makes affidavit under the penalties of perjury that there is no consideration paid or to be paid for the foregoing conveyance and that there are no mortgages or deeds of trust assumed by the Grantee.

[SIGNATURE PAGE FOLLOWS]

PROPERTY SUBJECT WITHOUT COUNTY RECORD (BRAIN RECORD) L&B 1778747v1/05363.0101. DATE AVAILABLE 05/01/2014. TIME 01:20:14.

IN WITNESS WHEREOF, the Grantor has executed this Deed the day and year first above written and states that it is authorized to execute this Deed on behalf of the Partnership.

WITNESS:

GRANTOR:

PULTE HOME CORPORATION,
a Michigan corporation

[Signature]

By: [Signature]
Name: Gary J. Leugraaf
Title: VP Land Development
Date: 3/6/2012

STATE/Commonwealth of Virginia *
COUNTY OF Fairfax * to wit: *

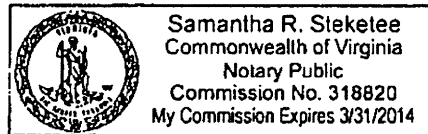
I HEREBY CERTIFY that on this 6 day of March, 2012, before me, a Notary Public in and for the State/Commonwealth and County aforesaid, personally appeared Gary J. Leugraaf, known to me (or satisfactorily proven) to be the VP Land Dev. of PULTE HOME CORPORATION, a Michigan corporation, and that such person, being authorized so to do, executed the foregoing and annexed instrument for the purposes therein contained by signing the name of the corporation.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

[Signature]
Notary Public

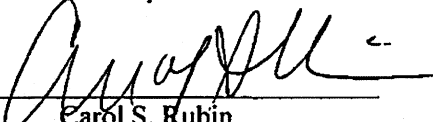
My term of office expires on the 31 day of March, 2014

[NOTARIAL SEAL]



ATTORNEY'S CERTIFICATION

I HEREBY CERTIFY that the foregoing instrument was prepared by or under the supervision of the undersigned, an attorney at law, duly licensed to practice before the Court of Appeals of Maryland.



Carol S. Rubin

Property Address: Batchellors Forest Road
 Olney, Maryland 20832

Grantor: Pulte Home Corporation
 10600 Arrowhead Drive
 Suite 225
 Fairfax, Virginia 22030
 Attn: Stephen Collins

Grantee: The Maryland-National Capital Park
 and Planning Commission
 9500 Brunett Avenue
 Silver Spring, Maryland 20901

ID#: Part of #08-501-01959272

Title Insurance: N/A

After Recordation, Return to:
Land Acquisition Specialist
M-NCPPC
9500 Brunett Avenue
Silver Spring, Maryland 20901

2025 RELEASE UNDER E.O. 14176

Tax ID #: 08-01959272

SCHEDULE "A"
PART OF THE PULTE HOME CORPORATION PROPERTY
LIBER 41852 FOLIO 93

Being a parcel of land, located in the Eighth (8th) Election District of Montgomery County, Maryland, hereinafter described in, through, over and across the property conveyed by SM BATCHELLORS FOREST, LLC to PULTE HOME CORPORATION by deed dated June 29, 2011 and recorded among the Land Records of Montgomery County, Maryland in Liber 41852 at Folio 93 and being more particularly described by Macris, Hendricks and Glascock, P.A. on February 9, 2012 in the Maryland State Plane NAD 83/91 datum as follows:

Beginning at a concrete monument found at the beginning of the Fourteenth (14th) or North 74°51'47" West, 1241.08 foot line of the aforementioned Liber 41852 at Folio 93, then binding with part of said line as now surveyed

1. North 74°52'04" West, 1,220.41 feet to the point, said point being on the easterly right-of-way limits of Batchellors Forest Road (Variable Width Right-of-Way), then binding with part of said easterly right-of-way limits
2. North 27°23'39" East, 750.47 feet to a point, said point being on the Twelfth (12th) or South 65°32'25" East, 2,105.48 foot line of the aforementioned Liber 41852 at Folio 93, then binding with part of said line
3. South 65°42'31" East, 1,073.49 feet to a point, said point being the beginning of the Thirteenth (13th) line of the aforementioned Liber 41852 at Folio 93, then binding with said Thirteenth Line the following two (2) courses and distances as now surveyed

- 4. South 14°57'11" West, 192.52 feet to a point, then
- 5. South 15°02'10" West, 369.95 feet to the point of beginning; containing an area of 745,500 square feet or 17.11433 acres of land.

Certified correct to the best of my professional knowledge, information and belief and this description was prepared by me and is in conformance with Title 9, Subtitle 13, Chapter 6, Section .12 of the Minimum Standards of Practice for Land Surveyors. If the seal and signature are not violet colored, the document is a copy that should be assumed to contain unauthorized alterations. The certification contained on this document shall not apply to any copies.



Barry E. Hoyle
 Macris, Hendricks & Glascock, P.A.
 Barry E. Hoyle, Professional Land Surveyor
 Maryland Registration No. 21135
 Expiration Date: 06-21-2012

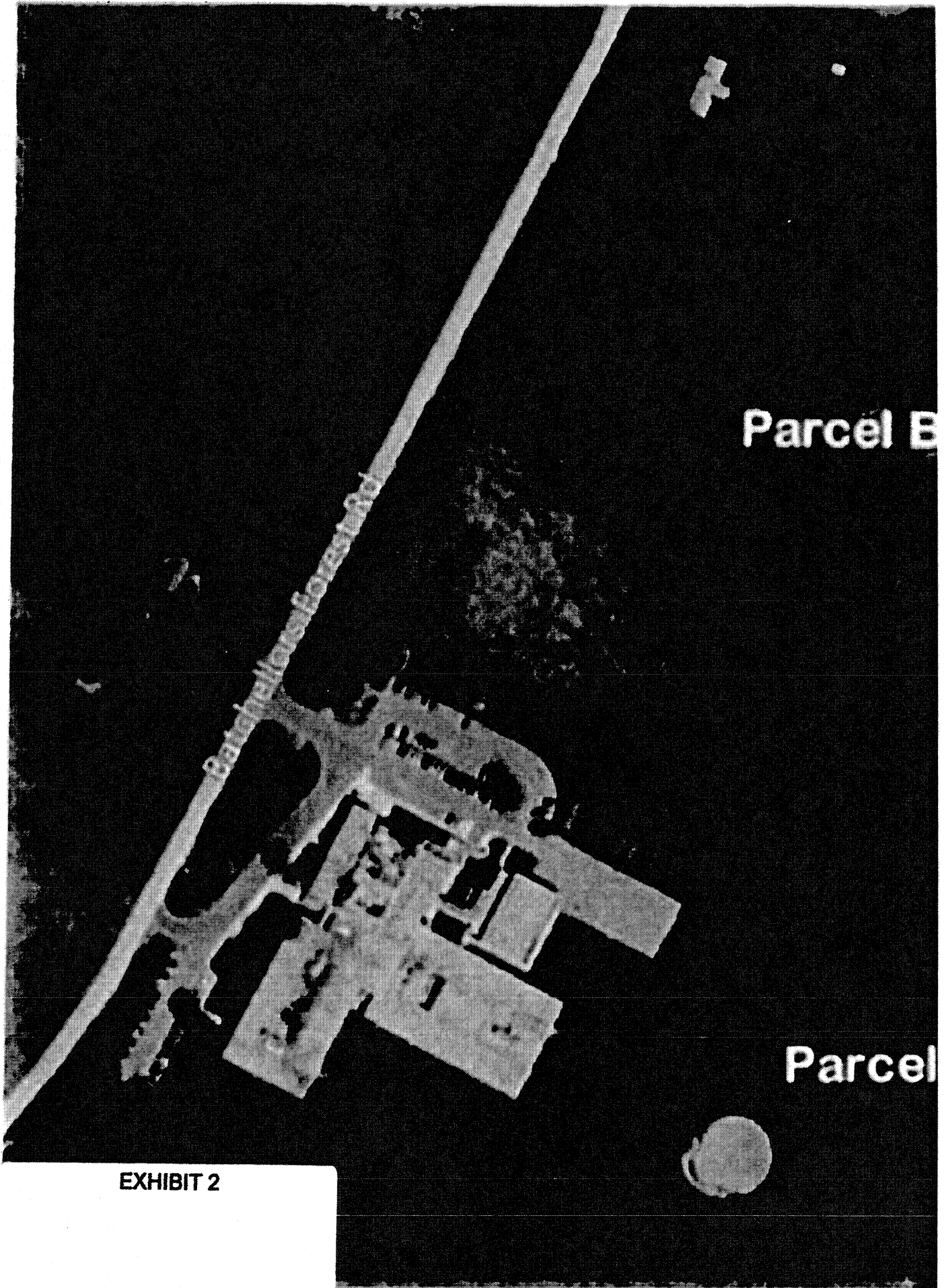
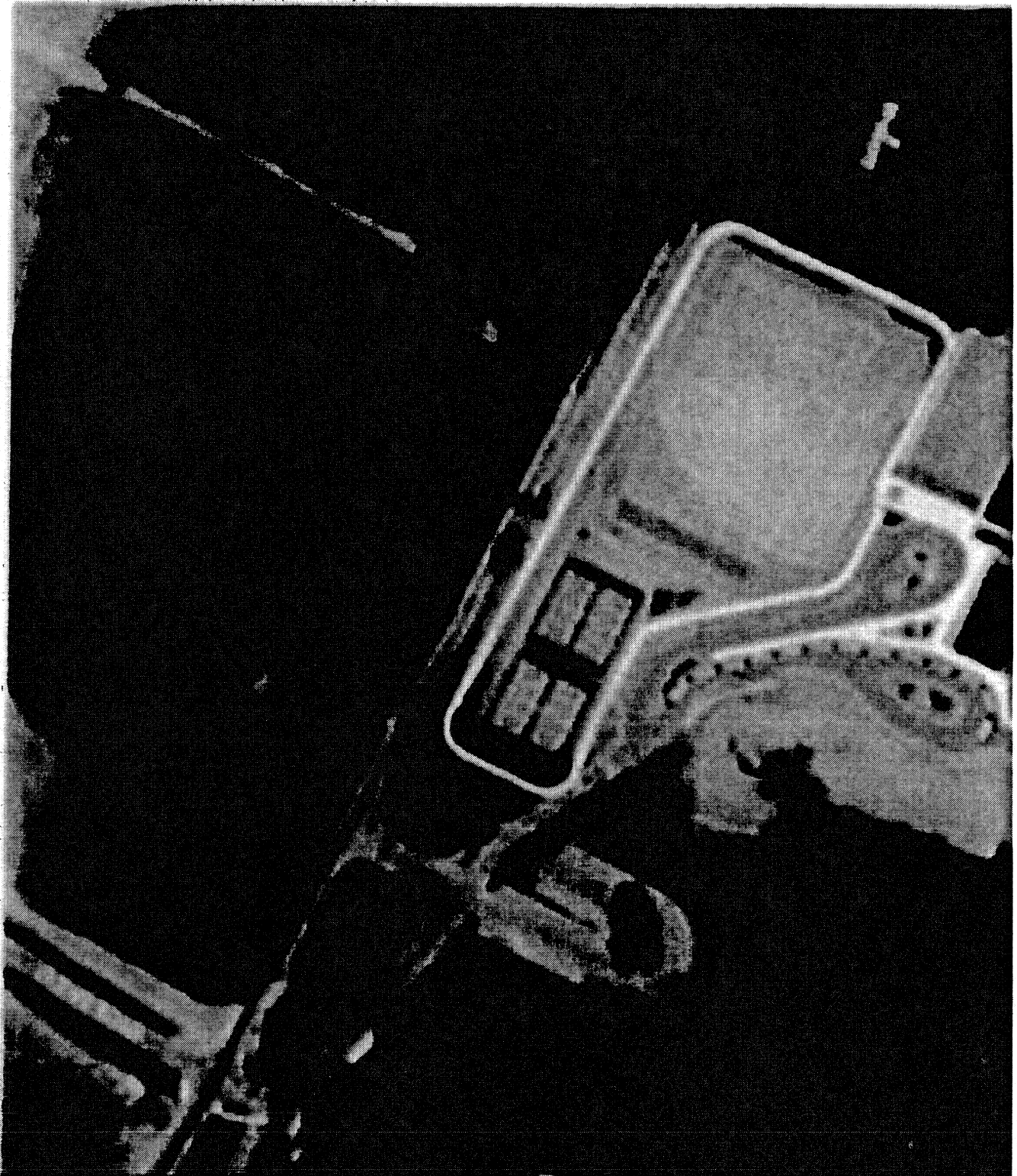


EXHIBIT 2



Parcel A

EXHIBIT 3

After recordation return original to:

Land Acquisition Specialist
M-NCPPC Department of Parks
9500 Brunett Avenue
Silver Spring, MD 20910

Tax Identification No. _____

DEED OF PERMANENT USE EASEMENT

THIS DEED OF PERMANENT USE EASEMENT (“Easement”), is made this _____ day of _____, 2014, by **BOARD OF EDUCATION OF MONTGOMERY COUNTY**, a body politic, with its principal offices located at 850 Hungerford Drive, Rockville, Maryland 20850 (“**MCPS**” or “**Grantor**”), and **THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING MNCPPC**, a public body corporate and agency of the State of Maryland (“**MNCPPC**” or “**Grantee**”).

R E C I T A L S:

A. MCPS owns, in fee simple, certain real property containing approximately 19.5 acres of land, which property is more particularly described in Exhibit A, attached, which is recorded among the Land Records of Montgomery County at Liber 3403 folio 244 (Parcel I.D. No. _____) (“**New Park Property**” or “**Parcel A**”).

B. MNCPPC is the interest holder of certain property adjacent to Parcel A, by way of a deed of dedication granted to MNCPPC from Pulte Home Corporation, for use as rural open space, which is recorded among the Land Records of Montgomery County at Liber 43553 folio 453 (Parcel I.D. No. 08-01959272) which is operated as a local park known as Batchellors Forest Local Park (“**New School Property**” or “**Parcel B**”).

C. MCPS has determined that the Farquhar Middle School currently located on Parcel A is inadequate to meet the needs of the student; and has further determined that Parcel B, which is adjacent to the New Park Site, is the most ideal location to construct a new middle school to replace the current Farquhar Middle School.

D. MCPS has requested that MNCPPC, as the property interest holder of Parcel B, cooperate with MCPS to allow MCPS to obtain fee simple ownership of Parcel B in exchange for granting to MNCPPC a substantially similar property interest over Parcel A as MNCPPC had over Parcel B, in order to allow MNCPPC to operate a local park on Parcel A under this Easement following the new middle school construction pursuant to the terms of that certain Joint Use Agreement dated _____ made by the parties (“**Joint Use Agreement**”).

E. MCPS desires to grant, convey, covenant and agree to the establishment of a permanent use easement for purposes set forth in this Easement and MNCPPC desires to accept the grant and conveyance of the Easement for the use of Parcel A for the purposes of a local park under the terms and conditions set forth in this Easement.

NOW, THEREFORE, in consideration of the foregoing and for the sum of \$10.00 and other good and valuable consideration paid by Grantee to Grantor, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **INCORPORATION OF RECITALS AND EXHIBITS.** The Recitals set forth above are and all Exhibits attached to this Easement are incorporated into this Easement and made a substantive part of this Easement.

2. **DEFINITIONS.** Capitalized terms in this Easement shall have the meaning ascribed to them in this Subsection below or as otherwise defined within this Easement.

“**Driveway**” means the driveway that connects through Parcels A and B, as designated in more detail on Exhibit B.

“**Effective Date**” means the date that this Easement is last signed by parties as evidenced by the dates set forth adjacent to the parties’ signatures.

“**Maintain**” or “**Maintenance**” means care, inspection, maintenance, clearing leaves, debris, snow and ice, operation, repair, repainting, remodeling, restoration, improvement, renovation, alteration, replacement, reconstruction, ensuring compliance with all applicable laws, codes and regulations, and prevention and remediation of any public safety hazard or dangerous condition.

“**Maintenance Access**” has the meaning set forth in Section 5.2.

“**Permanent Use Easement**” has the meaning set forth in Section 3.

3. **GRANT OF EASEMENT.** Subject to Section 3, Grantor grants, conveys, warrants, and dedicates to Grantee, its designees, successors, assigns, and transferees, a perpetual, irrevocable, and permanent easement on Parcel A for the purposes of any legally authorized use by Grantee, as determined solely by Grantee from time to time, and which easement shall touch, concern, and run with the land, in, through, across, and along the entirety of Parcel A, including light, air, view and access above, over, and under all parts comprising Parcel A (the “**Permanent Use Easement**”).

4. **RIGHTS OF GRANTOR.** The Permanent Use Easement is subject to the following:

4.1. **Temporary Operation of Interim School.** Grantor reserves to itself, its designees, successors, assigns, and transferees, the right to access, manage, and operate a middle school on Parcel A on temporary basis, until it commences its operation of a new middle school on Parcel B, as set forth in the Joint Use Agreement.

4.2. **Driveway Access.** Grantor reserves to itself, its designees, successors, assigns, and transferees, the right to access the Driveway for ingress and egress at all times.

4.3. Maintenance Access. Grantor reserves to itself, its designees, successors, assigns, and transferees, the right to access Parcel A to Maintain the Driveway in, through, across and along the portion of Parcel A (the “**Maintenance Access**”). Grantor shall obtain written approval from Grantee prior to engaging any Maintenance if Grantor (a) requires the use of any portion of Parcel A in addition to the Driveway reasonably necessary to carry out the Maintenance, or (b) desires to make any alternation to the Driveway.

[PLACEHOLDER – EXISTING UTILITY EASEMENT?]

5. INDEMNIFICATION. The below indemnification shall survive any termination of this Easement.

5.1. By Grantee. Grantee agrees to indemnify, defend, and hold harmless Grantor, its successors and assigns, from any claims, suits or other legal action for damages or awards to persons or property, as well as all reasonable expenses incurred in connection therewith (including attorneys’ and other professionals’ fees), to which Grantor may be subjected as a result of the negligence or willful of the Grantee in performing its obligations under this Easement. The indemnifications provided by Grantee under this paragraph are limited by the notice requirements, types of liabilities, and damage limits stated in the Local Government Tort Claims Act, Md. Code Ann., Cts. & Jud. Proc. § 5-301 *et seq.* This indemnification does not create any rights in third parties.

5.2. By Grantor. Grantor agrees to indemnify, defend, and hold harmless the Grantee, its commissioners, directors, employees, representatives, successors and assigns, from any claims, suits or other legal action for damages or awards to persons or property, as well as all reasonable expenses incurred in connection therewith (including attorneys’ and other professionals’ fees), to which Grantee may be subjected as a result of the negligence or willful acts of the Grantor in performing its obligations under this Easement.

6. FURTHER ASSURANCE. At the request of Grantee, Grantor shall execute, acknowledge, and deliver all such documents, including, without limitation, an amendment to the Permanent Use Easement, if necessary, to accomplish, confirm or further evidence the terms of the Permanent Use Easement. Grantee is hereby granted an irrevocable power of attorney coupled with an interest to execute, acknowledge, and deliver such amendments and instruments of further assurance or confirmation. Incapacity of Grantor shall not invalidate or terminate this power of attorney.

7. PERMANENCE. The Permanent Use Easement shall be permanent, irrevocable and perpetual and shall run with the land, building(s), improvements affected and any appurtenant rights and no violation of any term or provision hereof shall result in a forfeiture or reversion of the rights granted hereunder.

8. SUCCESSORS AND ASSIGNS. This Easement shall inure solely to the benefit of Grantee, and its successors and assigns and any successors in interest to Grantee from time to time holding any interest in Parcel A or any part thereof, and shall be binding on Grantee and Grantor, their respective heirs, legal representatives, assigns and successors in interest in

their respective properties. Except as herein specifically set forth, Grantee and Grantor shall retain their full interest ownership and control of their respective properties.

9. **BREACH OF EASEMENT.** Both parties agree, that in the event of any breach or threatened breach of the Permanent Use Easement by Grantor, Grantee shall have the right to any remedy available at law or equity including but not limited to injunctive relief. No restriction, condition, obligation or provisions of this Easement shall be deemed to have been abrogated or waived by reason of any failure or failures to enforce same.

10. **WARRANTIES.** Grantor covenants that it will warrant specially the easement area of Parcel A conveyed herein and that it will execute such further assurances thereof as may be requisite.

11. **PARTNERS OR JOINT VENTURERS.** Nothing contained in this Easement shall be deemed or construed by the parties hereto or by any third party as creating the relationship of principal and agent or of partners or joint venturers between the parties hereto.

12. **GENERAL PROVISIONS.**

12.1. The easements, restrictions, benefits, and obligations under this Easement shall create and constitute benefits and servitudes upon Parcel A and shall be construed as covenants running with the land affected thereby. The provisions of this Easement may be abrogated, modified, rescinded, or amended in whole or in part only with the prior written consent of Grantor and Grantee by an instrument in writing, executed, and acknowledged, and duly recorded among the Land Records, but this Easement may not otherwise be abrogated, modified, rescinded, or amended in whole or in part.

12.2. The parties hereto agree to execute and deliver to the other such further documents or instruments as may be reasonable and necessary to carry out the terms, covenants and conditions herein.

12.3. The terms and conditions of this Easement shall be covered by and interpreted in accordance with the laws of the State of Maryland and enforced in a court of competent jurisdiction in Montgomery County, Maryland.

12.4. No restriction, condition, obligation or provision of this Easement shall be deemed abrogated or waived by reason of any failure or failures to enforce same.

12.5. The provisions of this Easement are severable and the invalidity of one or more of the provisions shall not affect the validity or enforceability of any other provisions.

12.6. All provisions of this instrument, including the benefits and burdens, run with the land and are binding upon and inure to the heirs, assigns, successors, tenants, and personal representatives of the parties hereto.

13. **EASEMENT RECORDED.** This Easement shall be recorded in the Land Records of Montgomery County, Maryland.

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK;
SIGNATURES BEGIN ON FOLLOWING PAGE.]**

IN WITNESS WHEREOF, the parties hereto have signed, sealed and delivered these presents pursuant to due and proper authority as their own free act and deed as of the day and year first above written.

GRANTOR:

**BOARD OF EDUCATION OF
MONTGOMERY COUNTY**

ATTEST:

By: _____
_____, President

Date: _____

Approved by:

Joshua P. Starr, Superintendent of Schools

GRANTEE:

**THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION**

ATTEST:

By: _____
Joseph C. Zimmerman,
Secretary-Treasurer

By: _____
Patricia Colihan Barney,
Executive Director

Date: _____

STATE OF MARYLAND)
COUNTY OF MONTGOMERY) ss.:

I hereby certify that before me, the subscriber, a Notary Public in and for the State aforesaid, personally appeared _____, President of Board of Education of Montgomery County, who acknowledged that he/she is authorized to execute the above Easement for the reasons and purposes stated therein.

Witness, my hand and official seal this ____ day of _____, 2014.

Notary Public, Maryland

My Commission Expires:

ATTORNEY CERTIFICATION

The undersigned, a member in good standing of the Bar of the Court of Appeals of Maryland, hereby certifies that the within instrument was prepared by him/her or under his/her supervision.

Megan S. Chung, Esquire

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EXHIBIT A**Legal Description**

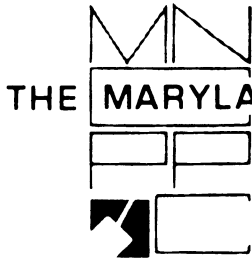
BEING the same parcel of land which by deed dated August 28, 1965 and recorded among the Land Records of Montgomery County, Maryland in Liber No. 3403, folio 244, was granted and conveyed by Henry L. Benson, Sr., Henry L. Benson, Jr. and Frances M. Benson to Board of Education of Montgomery County, the Grantor herein.

BEGINNING for the same at a point at the end of the 8th line of said conveyance, said point also being a large poplar tree found, thence running with the said 8th line, reversed North 76° 16' 47" West 1,421.54 feet to a point on the easterly side of Batchelor's Forest Road, thence running with the easterly side of said Road the following three courses and distances North 41° 20' 58" East 35.77 feet, thence running along the arc of a curve to the left, having an Arc length of 177.48 feet, a radius of 729.00 feet and a chord bearing and length of North 34° 22' 30" East 177.08 feet, thence North 27° 24' 02" East 490.14 feet, thence leaving the easterly side of said Road and running over, across and to include a part of the aforesaid conveyance South 74° 58' 57" East 1,241.53 feet to a point on the 9th line of aforesaid conveyance, said point being 550.33 feet from the end thereof, thence running with part of the said 9th line, reversed South 15° 01' 03" West 645.67 feet to the place of beginning, containing 20.000 acres of land in accordance with a survey prepared by Wallace R. Amos and Associates, April 23, 1964.

Note: And to be subject to a real covenant on the Property to preserve it as Rural Open Space in perpetuity as required by Section 59-C-9.574(h)(4) of the Montgomery County Zoning Ordinance to be separately recorded.

EXHIBIT B

Driveway Description



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

6611 Kenilworth Avenue • Riverdale, Maryland 20737

M-NCPPC No. 14-02

MCPB No. 14-13

Batchellors Forest Subdivision:

Abandonment of Deed of Dedication in Exchange for Permanent Use Easement

RESOLUTION

WHEREAS, The Maryland-National Capital Park and Planning Commission ("Commission") is authorized under the Annotated Code of Maryland, Land Use Article §17-206(b), to exchange land held by it for any other land held by any other public body or agency, which the Commission determines to be more suitable for playground and recreational purposes; and

WHEREAS, the Commission holds certain property interest, via a Deed of Dedication from Pulte Home Corporation, in a parcel of property known as the Batchellors Forest Local Park, containing 17.11433 acres of parkland along Batchellors Forest Road in Olney, which is recorded among the Land Records of Montgomery County at Liber 43553 folio 453 (Parcel I.D. No. 08-01959272, shown as Parcel B, Block C on Record Plat No. 24593) (the "Dedicated Property"); and

WHEREAS, the dedication provides for the Commission's use of the Dedicated Property for so long as the Commission uses it as a local park as contemplated in the 2005 Olney Master Plan¹; and

WHEREAS, the Board of Education of Montgomery County ("MCPS") owns, in fee simple, certain real property immediately adjacent to the Dedicated Property, containing approximately 19.5 acres of land, which is recorded among the Land Records of Montgomery County at Liber 3403 folio 244, and is currently improved with the William H. Farquhar Middle School ("MCPS Property"); and

WHEREAS, on December 12, 2013, MCPS submitted an application to the Montgomery County Planning Board for mandatory referral review under MD Code,

¹ The Dedicated Property is encumbered by a Rural Open Space Easement dated December 10, 2012, granted from Pulte Home Corporation to the Commission, and recorded in Liber 45943 at folio 108 among the Land Records of Montgomery County, Maryland ("ROS Easement"). Although release of the ROS Easement is not at issue with regard to the Abandonment of the Deed of Dedication to accomplish the exchange of land, the ROS Easement would impede MCPS' ability to build the school on the Dedicated Property. Therefore, on February 25, 2014, by Resolution MCPB No. 14-10, subject to certain conditions, the Planning Board approved the release of the ROS Easement from the Dedicated Property.

APPROVED AS TO LEGAL SUFFICIENCY

M-NCPPC Legal Department

Date

2/27/14

37

Land Use, §20-301 to combine the MCPS Property with the adjacent Dedicated Property on which MCPS proposed to build a new and upgraded Farquhar Middle School, known as Mandatory Referral No. 2014028 (“Change of Use Mandatory Referral”),² and once the new school building is ready for occupancy, deliver the use of the MCPS Property to the Commission improved with interim park uses, pending the Montgomery County Department of Parks’ ultimate improvement of that property as the local park contemplated in the 2005 Olney Master Plan; and

WHEREAS, in addition to the mandatory referral, MCPS included a request for the Commission to approve abandonment of the Deed of Dedication from the Dedicated Property; and

WHEREAS, more specifically, to enable the new school construction, MCPS will i) acquire the fee ownership to the Dedicated Property, ii) combine the MCPS Property with the adjacent Dedicated Property, and iii) in consideration of the Commission abandoning the Deed of Dedication, upon occupancy of the new school building, place a permanent, perpetual use easement (“Permanent Use Easement”) on the MCPS Property in order to enable the Commission to develop and use the MCPS Property as the Batchellors Forest Local Park permanently and perpetually, as contemplated in the 2005 Olney Master Plan (“Parkland Exchange”); and

WHEREAS, pending the M-NCPPC’s Montgomery County Department of Parks’ (“Department of Parks”) ultimate improvement of the MCPS Property as the Batchellors Forest Local Park, MCPS deliver the use of the MCPS Property to the Commission improved with interim park uses; and

WHEREAS, following review and analysis of the Parkland Exchange by the Montgomery County Planning Department staff (“Staff”), Staff issued a memorandum to the Planning Board, dated February 13, 2014, setting forth its analysis and recommendation for approval of the Parkland Exchange, subject to certain conditions (“Staff Report”); and

WHEREAS, on February 20, 2014, the Planning Board held a public hearing on the Parkland Exchange, and at the hearing the Planning Board heard testimony and received evidence submitted for the record on the Parkland Exchange; and

WHEREAS, on February 20, 2014, the Planning Board voted to recommend that the Commission approve the Parkland Exchange on motion of Commissioner Anderson, seconded by Commissioner Presley, with a vote of 5-0; Commissioners Anderson, Carrier, Dreyfuss, Presley, and Wells-Harley all voting in favor.

² The Planning Board’s recommendations on Mandatory Referral No. 2014028 will be addressed in a separate letter to MCPS as the submitting agency. This Resolution is intended to set forth the conditions of the Planning Board’s and the Commission’s approval to abandon the Deed of Dedication in exchange for a Permanent Use Easement on the MCPS Property.

NOW, THEREFORE, BE IT RESOLVED that, subject to i) release of the ROS Easement as described in footnote 1 herein, and ii) MCPS's granting the Permanent Use Easement to the Commission, the Planning Board has determined that the Deed of Dedication to the Dedicated Property may be released and abandoned and the loss of such use exchanged for the permanent and perpetual use of the MCPS Property, subject to approval by the Commission; and

BE IT FURTHER RESOLVED that the Planning Board finds that the MCPS Property is more suitable for recreational purposes than the Dedicated Property. Abandoning the Deed of Dedication on the Dedicated Property in exchange for a Permanent Use Easement on the MCPS Property enables recreational activities on an interim basis on land to be controlled by the Montgomery County Department of Parks years earlier than previously anticipated. MCPS will deliver the MCPS Property to the Commission improved with interim park uses, with no development costs to be borne by the Commission. Department of Parks staff has indicated that such an arrangement will allow interim use of the MCPS Property for recreation while facility and detailed site planning for a permanent park is underway. This would make the new park available to community residents many years before it would have been available on the Dedicated Property; and

BE IT FURTHER RESOLVED that, prior to the execution and delivery of any instrument necessary or appropriate to release and abandon the Deed of Dedication to the Dedicated Property as contemplated herein, the Planning Board will evaluate and determine MCPS's full compliance with MCPS' obligations to deliver the MCPS Property to the Commission improved with interim park uses as approved by the Planning Board; and

BE IT FURTHER RESOLVED that the Planning Board hereby recommends that the Commission approve the release and abandonment of the Deed of Dedication in accordance with the conditions set forth herein; and

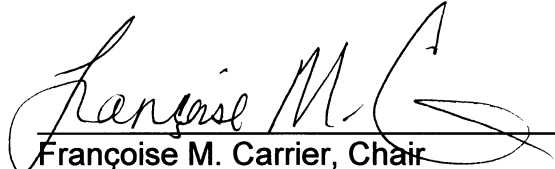
BE IT FURTHER RESOLVED that, the Commission hereby adopts the Planning Board's finding, accepts the Planning Board's recommendation and approves the release and abandonment of the Deed of Dedication in accordance with the terms and

conditions recommended and imposed by the Planning Board.

* * * * *

CERTIFICATION

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission on motion of Commissioner Anderson, seconded by Vice Chair Wells-Harley, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Anderson, Dreyfuss, and Presley voting in favor at its regular meeting held on Thursday, March 6, 2014, in Silver Spring, Maryland.



Françoise M. Carrier, Chair
Montgomery County Planning Board

* * * * *

CERTIFICATION

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Maryland-National Capital Park and Planning Commission on motion of Commissioner _____, seconded by Commissioner _____, with a vote of ___-___; Commissioners _____ voting in favor of the motion, at its regular meeting held on Wednesday, March 19, 2014, in _____, Maryland.

Patricia Colihan Barney
Executive Director

CHEN & McCABE, L.L.P.

ATTORNEYS AT LAW

200A MONROE STREET

SUITE 300

ROCKVILLE, MARYLAND 20850

(301) 279-9500

FAX: (301) 294-5195

WWW.CWTM.NET

March 11, 2014

WILLIAM JAMES CHEN, JR.*
wjc@cwtm.net
EXTENSION 222

JOHN F. McCABE, JR.*
jfm@cwtm.net
EXTENSION 225

*ALSO ADMITTED IN THE
DISTRICT OF COLUMBIA

Maryland-National Capital Park & Planning Commission
Office of the Executive Director, Attention Gayla Williams
6611 Kenilworth Avenue
Riverdale, Maryland 20737

Re: Abandonment of Deed of Dedication, Parcel B, Block C,
Batchellors Forest Subdivision, a/k/a Farquhar Middle School

Commission:

This letter is transmitted on behalf of my clients, Mr. and Mrs. Thomas Hyde and the Stanmore Family Limited Partnership to follow up on my recent submissions to the Commission transmitted pursuant to my letter of February 24, 2014.

It is my understanding that the Commission will consider the abandonment of the dedication that the Pulte Homes Corporation granted to the Commission as to Parcel B, Block C, Batchellors Forest Subdivision, in the Olney area of Montgomery County, Maryland. As demonstrated by my transmittal of February 24, 2014, my clients object to the abandonment of that dedication for the reasons contained in the aforesaid transmittal, particularly for the reasons stated in my letter of February 10, 2014, and attachments, which was submitted to the Commission under cover of my letter of February 24.

As the record demonstrates, the dedication of the aforesaid parcel of land was made pursuant to the Olney Master Plan, the preliminary plan of subdivision for the Batchellors Forest Subdivision, and the site plan for that subdivision. Based upon the aforesaid approvals, which include the dedication, the Batchellors Forest Subdivision has been approved and is in the course of being developed. The dedication was an integral part of the subdivision and land use approval process for that subdivision, including subsidiary or related land use/development approvals. The dedication was for a specific purpose for the benefit and enjoyment of the public and the proposal to abandon that dedication is contrary to the purposes for which the dedication was required and approved, and violates its status as an integral part of the approved subdivision and its benefit to the public. The purposes for which the dedication was required and approved cannot now be overridden as is proposed by the abandonment of the dedication.

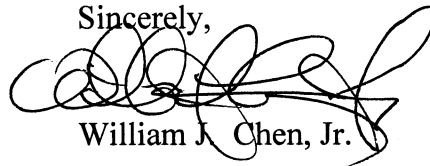
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Indeed, the abandonment is intended to effectuate a land swap by which the approved and dedicated use of Parcel B, Block C, will change to be a public school site. That new use is contrary to the purposes for which dedication was required and approved, and is not a proper basis upon which the dedication can now be abandoned.

My clients also believe that the proposed abandonment is contrary to the laws by which the Commission might be able to divest itself of property in which it has interest. The Commission cannot abandon the dedication under those laws, including, but not limited to, Sections 17-201, 17-206, 17-104 *Land Use Article*, Annotated Code of Maryland, as amended (1957, 2012 Vol.), and Sections 5-310, 10-301, 10-305, *State Finance and Procurement Article*, Annotated Code of Maryland, as amended (1957, 2009 Rep. Vol.).

Your consideration of these matters is sincerely appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read 'William J. Chen, Jr.', written over a horizontal line.

William J. Chen, Jr.

WJC:wch

cc: Thomas and Ruth Hyde
Carol Rubin, Esq.

N:\Bill Chen\STANMORE\MNCPPC -GAYLA WILLIAMS-LTR-03-10-2014.wpd

CHEN & McCABE, L.L.P.

ATTORNEYS AT LAW

200A MONROE STREET

SUITE 300

ROCKVILLE, MARYLAND 20850

(301) 279-9500

FAX: (301) 294-5195

WWW.CWTM.NET

February 24, 2014

WILLIAM JAMES CHEN, JR. *
wjc@cwtm.net
EXTENSION 222

*ALSO ADMITTED IN THE
DISTRICT OF COLUMBIA

JOHN F. McCABE, JR. *
jfm@cwtm.net
EXTENSION 225

Via Hand Delivery

Maryland-National Capital Park & Planning Commission
6611 Kenilworth Avenue
Riverdale, Maryland 20737

Re: Abandonment of Deed of Dedication, Parcel B, Block C,
Batchellors Forest Subdivision, a/k/a Farquhar Middle School

Commission:

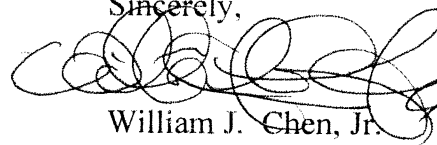
This letter is transmitted on behalf of my clients, Mr. and Mrs. Thomas Hyde and the Stanmore Family Limited Partnership. My clients are adjacent property owners to the above referenced parcel of land which is part of the Batchellors Forest Subdivision in the Olney area of Montgomery County. I understand that the Commission will consider an abandonment of a Deed of Dedication which was granted by Pulte Home Corporation to the Commission as to Parcel B, Block C, Batchellors Forest Subdivision.

My clients object to the abandonment of that Deed of Dedication, and wish to be a party to the Commission's proceedings on this matter. In that regard, submitted herewith is my letter of February 10, 2014, with attachments, which was submitted to the Montgomery County Planning Board pertaining to this matter. That submission is, pursuant to this letter, now being submitted to the Commission in opposition to the aforesaid abandonment.

Please provide notice of all proceedings relative to the abandonment to me at the above-referenced address.

Your consideration of this matter is sincerely appreciated.

Sincerely,



William J. Chen, Jr.

WJC:wch

Enclosures

cc: Carol Rubin, Esq. (w/o enclosures)

N:\Bil Chen\STANMORE\MNCPPC LTR-FEB 21-2014.wpd

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FEB 10 2014

OFFICE OF THE CHAIRMAN
THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION
JOHN F. McCABE, JR. *
jfm@cwtm.net
EXTENSION 225

WILLIAM JAMES CHEN, JR. *
wjc@cwtm.net
EXTENSION 222

*ALSO ADMITTED IN THE
DISTRICT OF COLUMBIA

February 10, 2014

Hand Delivery

Montgomery County Planning Board
8787 Georgia Avenue
Silver Spring, Maryland 20910

Re: Farquhar Middle School

Dear Ms. Carrier and Board Members:

This letter is transmitted on behalf of Thomas and Ruth Hyde and the Stanmore Family Limited Partnership to voice their objection to the following items on the Board's February 13, 2014, agenda.

Item 3: Farquhar Middle School

A. Mandatory Referral review of land acquisition and change in use. MCPS is acquiring approximately 17 acres of parkland on Batchellors Forest Road in Olney located adjacent to the current school site to redevelop Farquhar Middle School, which will be combined with the 18 acre site currently housing the school. The combined 35 acres will be developed for use as a school and a park.

B. Release of Rural Open Space Easement granted to M-NCPPC by Pulte Home Corporation on approximately 17 acres of land dedicated to M-NCPPC as parkland as a condition of Batchellors Forest Site Plan No. 820080190/A located on Batchellors Forest Road in Olney adjacent to the Farquhar Middle School.

C. Abandonment of Deed of Dedication granted by Pulte Home Corporation to M-NCPPC on approximately 17 acres of land as parkland as a condition of Batchellors Forest Site Plan No. 820080190/A located on Batchellors Forest Road in Olney adjacent to the Farquhar Middle School in exchange for Perpetual Use Easement to be granted by MCPS to M-NCPPC over 18 acre site currently housing the adjoining Farquhar Middle School.

Thomas and Ruth Hyde own and reside on a parcel of land which is adjacent to the Batchellors Forest Subdivision, specifically the parcel of land approximately 17.4 acres in

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size, dedicated to M-NCPPC which is proposed to be released from the Rural Open Space ("ROS") easement. The Stanmore Family Limited Partnership is a Hyde family organization that owns land that also is adjacent to the Batchellors Forest Subdivision and family members also live on that land. My clients' properties are immediately adjacent to the 17.4 acre parcel of land ("Parcel A") which is the subject of Record Plat 6 of 6 for the Batchellors Forest Subdivision plats. **(Exhibit A).**

The Batchellors Forest Subdivision has been developed under the provisions of the Rural Neighborhood Cluster ("RNC") Zone, and Parcel A is part of the contiguous Rural Open Space Area for this Rural Neighborhood Cluster ("RNC") subdivision. **(Exhibit B).** As you will recall, my clients have objected to the use of Parcel A for any purpose inconsistent with the 2005 Olney Master Plan. **(Exhibit C).** The developer of the subdivision, Pulte Homes Corporation, dedicated the parcel. **(Exhibit D).** When, however, the Planning Board approved the plats for the subdivision which did not safeguard Parcel A as part of the ROS my clients successfully sought judicial review which reversed the Planning Board approval of the Batchellors Forest subdivision plats. **(Exhibit E).** Thereafter, the Planning Board staff engaged in proceedings to comply with the opinion and order of the court and on December 20, 2012, the Planning Board held a hearing and adopted a resolution of January 29, 2013 **(Exhibit F)** which approved a Rural Open Space easement for Parcel A, a corrected plat for Parcel A (which became known as "Parcel B, Block C" of the subdivision), and reaffirmed the validity of the other plats in the subdivision. **(Exhibit G).**

The Rural Open Space easement was recorded in the County Land Records on January 28, 2013 **(Exhibit H)**, and on May 30, 2013, the corrected plat for Parcel A (Parcel B, Block C of the subdivision) was recorded in the Land Records. **(Exhibit I).**

This letter is submitted because the Planning Board, Montgomery County Board of Education ("MCBOE"), the staff of the Montgomery County Public Schools ("MCPS"), and staff of the Maryland-National Capital Park and Planning Commission ("M-NCPPC") have put forth a proposal which would initiate the divestiture of M-NCPPC rights and interests in Parcel A through the abandonment of the existing, mandated dedication and the release of a legally required ROS easement which would allow a new Farquhar Middle School to be built on Parcel A and supposed use of the old/existing school property, that was not part of the subdivision, as part of the subdivision's required ROS. Construction of a new school on Parcel A will allow for a 135,000 square foot, 3-story school and all of the associated improvements. As part of the foregoing proposal the MCBOE could condemn and take the fee to Parcel A currently owned by Pulte Home Corporation. **(Exhibit J).** If successful, these proposals will result in a "land swap" with the loss of the ROS easement, and transformation of a part of the approved ROS area, Parcel A, into a public school site with a public school building, associated parking, and related uses. **(Exhibit K)** The foregoing summarizes the machinations to effectuate the land swap and your staff's report provides additional information. **(Exhibit L).**

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The proposal is contrary to law, particularly in part because it calls for releasing the ROS easement on Parcel A. The Planning Board and full Commission, M-NCPPC, do not have the legal authority to release the ROS easement, and, in this case, abandon the dedication of Parcel A.

The proposal also is contrary to State law which regulate and control the circumstances by which both M-NCPPC and MCBOE may, and may not, divest themselves of property, land, recreational facilities, schools, school sites, buildings, closed schools, and playgrounds each owns, and, also, acquire land. For instance, *i.e.*, §§17-201, 17-204, 17-205, 17-206, *Land Use Article*, Annotated Code of Maryland; §§4-114, 4-115, 4-116, *Education Article*, Annotated Code of Maryland.

In addition to my client's concerns as they relate to the release of the ROS on Parcel A, it is their belief that the MCBOE lacks the authority to commit to the demolition of the existing William H. Farquhar Middle School without first utilizing the procedures outlined in §4-115 of the Education Article of the Maryland Code, COMCOR 11B.45.02, and other pertinent regulations. Furthermore, the State Department of Planning has very recently conditionally approved the acquisition of Parcel A, but the conditions require MCBOE to comply with the Public School Site Selection process and receive a Priority Funding Area ("PFA") waiver from the Interagency Agency Committee on School Construction. Among other requirements, the PFA waiver requires evidence of sites evaluated within the PFA and additional justifications for the acquisition prior to making a recommendation on the request. **(Exhibit M)**. Compliance with these requirements will be problematic.

This lack of enforceability is particularly concerning given the proposed modernizations for other MCPS facilities in the Greater Olney Area and the need for an additional up-county holding facility. The land swap will set a precedent and we can only assume that there will be a public outcry and MCBOE pressure to utilize the existing school as a holding facility for the local clusters. As part of a meeting with my client, other neighbors, and M-NCPPC staff that took place on January 15, 2014, M-NCPPC staff stated that the MCBOE has, or will, provide representations, warranties or similar assurances within the Perpetual Use Easement proposed for the existing school site as to their authority. Given that Mandatory Review provides for review authority and no enforcement power, the only recourse stated by staff if the MCBOE does not demolish the existing facility upon completion of the new school would be the reinstatement of the Deed of Dedication and ROS easement on Parcel A and the demolition of newly constructed \$38,000,000 school. Simply stated, this farfetched scenario does not have a basis in reality and does not provide my clients, nor should it provide M-NCPPC, with a sufficient level of confidence that the existing school will be demolished. Even more concerning is that your Staff Report **(Exhibit L)** provides no reference to the demolition of the existing school or any discussion as to how the same would be ensured.

The approval of the land swap will also result in compromising the approved

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contiguous Rural Open Space Area for the Batchellors Forest and Stanmore Subdivisions, as called for in the Green Infrastructure Plan of the Olney Master Plan, and permit impermissible development of Parcel A. It also will adversely impact my clients' use and enjoyment of their properties.

For all the aforesaid reasons, the Board should not approve the land acquisition and change of use, the release of the ROS easement, or the abandonment of the dedication. Rather, the M-NCPPC should leave in place the recorded easement on Parcel A mandated by Section 59-C-9.574(h)(4), Zoning Ordinance, and the dedication provided by the approved Preliminary Plan and Site Plan.

It is assumed that if the land swap is approved that the Planning Board would take those actions necessary to ensure that the public commitments made to the neighbors of Parcel A would be mandated through the Forest Conservation Plan or other enforceable approvals. These commitments include a layout in accordance with that shown in the Mandatory Referral request, the prohibition of lights on all athletic fields and courts, a 25' buffer area containing landscaped berms along the entire length of my clients property, a first floor elevation of the gymnasium of 502' +/-6", an elevation at the center of the athletic field of 510' +/-6", noise, odor, and light mitigation, and hours of operation limited to ensure that the neighbors use and enjoyment of their properties are not negatively influenced.

(Background)

In early 2011 the staff of the MCPS initiated the procedures, under the policy of the County Board of Education, for a feasibility study to modernize the William H. Farquhar Middle School. That school is located at 16915 Batchellor's Forest Road, Olney, Montgomery County, Maryland. During the course of that process parents of children attending the middle school learned that during the period of time that the school would be undergoing modernization that their children would attend a holding facility (an existing public school facility which is used by students whose school is being modernized) located in Bethesda. This is the normal process when a school being modernized, but that situation was not acceptable to the parents, and they voiced their position to the MCPS staff. In response, the MCPS staff proposed that a new middle school be built to replace the Farquhar Middle School on Parcel A; that the children continue to attend the existing Farquhar Middle School while the new school was being built on Parcel A; upon completion of the new school on Parcel A it would be conveyed to MCBOE to replace the current school; and the current school property would be conveyed to the M-NCPPC.

It is also understood that the MCPS staff contacted the M-NCPPC staff with the proposal for the land swap in April or May of 2011. The M-NCPPC staff is in favor of the swap. It is understood that the Planning Board was briefed about the proposed land swap, and M-NCPPC staff has gone so far as to participate in a community meeting, along with MCPS staff to discuss the proposed swap.

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The MCPS staff proposed the land swap to the Superintendent of Montgomery County Schools, Joshua Starr, and the Superintendent recommended that MCBOE approve or accept that staff recommendation. Thereafter, at its meeting of September 13, 2011, the MCBOE orally voted to accept the recommendation of the Superintendent to proceed forward with the land swap rather than the modernization of the existing middle school facility. This action was superseded on July 29, 2013, when MCBOE orally voted to accept the recommendation of the Superintendent to condemn Pulte's fee simple interest in Parcel A. (Exhibit J).

(Zoning Ordinance)

As noted, the Batchellors Forest Subdivision is classified in the RNC Zone. The intent of the RNC Zone is to "preserve open land, environmentally sensitive natural resources and rural community character that would be lost under conventional, large-lot development. This would be accomplished by requiring clusters of residential development in the form of small neighborhoods that provide neighborhood identity in an open space setting. Master plans that recommend the Rural Neighborhood Cluster Zone *must provide development guidelines and recommendations regarding the density of development in the optional method of development, and the location and rationale for preserving the rural open space.*" Section 59-C-9.231, Zoning Ordinance (emphasis added).

There are special regulations for the RNC Zone, and its "Purpose" as articulated in the Zoning Ordinance is that:

The cluster method of development is intended to *preserve large areas of contiguous rural open space, consistent with the recommendations and guidelines of the applicable master or sector plan.* Cluster development is required under both the standard and optional methods of development. Cluster development requires the setting aside of rural open space. Under the optional method of development the maximum development unit density allowed may be increased to accommodate the construction of Moderately Priced Dwelling Units in accordance with Chapter 25A. Section 59-C-9.571., Zoning Ordinance (emphasis added).

"Rural Open Space" is addressed in Section 5-C-9.572, and, in pertinent part, it states:

Rural open space is land that is managed, as described in Section 59-C-9.574(g)(3), or is unmanaged, which means that it is returning to its natural state without human intervention. *Contiguous rural open space shares an extended boundary with a residential cluster neighborhood.* The open space may preserve sensitive natural resources, other sensitive areas and associated habitat. Section 59-C-9.572., Zoning Ordinance (emphasis added).

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The aforesaid language in the RNC Zone was enacted into law through Zoning Text Amendment 06-04 by the unanimous vote of the County Council, sitting as the District Council, on April 18, 2006. **(Exhibit N)**. This ZTA had broad based community support, as evidenced in the transcript of the March 7, 2006, public hearing **(Exhibit O)**, beginning on page 36, line 19), and the Council legislative package dated April 14, 2006. **(Exhibit P)**. This broad based community support included, but was not limited to, the civic associations most affected by this subdivision, the Olney Coalition, GOCA, SEROCA, and Greater Sandy Spring Green Spaces, but also included prominent regional civic groups such as the Audubon Society, the Sierra Club and the Montgomery County Civic Federation. In fact, the council report went so far as to state that: "ZTA 06-04 would ensure that land dedicated to rural open space under the requirements of the Rural Neighborhood Cluster (RNC) zone remain in perpetuity as rural open space, whether in public or private ownership" *(See, Exhibit P, p. 2.)*. Council report noted that the Planning Board had argued that requiring an easement or covenant for a public agency was "problematic", but the County Council rejected that argument stating: "Notwithstanding the policy argument presented by the Planning Board that it is not necessary to restrict public control by requiring a covenant or easement, ensuring that rural open space dedications are retained as such in perpetuity is a stated public policy objective of several rural master plans and the Rural Neighborhood Cluster zone". **(Exhibit P, p. 2.)**. The additional constraint (use of easement and covenants) was deemed necessary by the Council, despite the objection of the Planning Board, in order to ensure that the Rural Open Space remained in its anticipated and required state in perpetuity. The County Council report on ZTA No. 06-04 was clearly prophetic in light of the land swap that has been attempted, and continues to be pursued.

The Batchellors Forest Subdivision was developed under the optional method, and Section 59-C-9.574(h), Zoning Ordinance, provides "Rural open space design guidelines" which, in pertinent part, stipulate:

- (h) Rural open space design guidelines.
 - (1) *Rural open space should be a contiguous area* and be located and designed to:
 - (A) Protect rural features and other sensitive areas *identified in the applicable master or sector plan;*
 - (B) *Maximize common boundaries with rural open space on adjacent tracts where recommended in the applicable master or sector plan, or as otherwise required by the Planning Board.*
 - (2) Rural open space must comprise a *sizeable contiguous area* must be within a range of 65 percent to 85 percent

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of the tract area and *must be consistent with the recommendations and guidelines of the applicable master plan.*

Section 59-C-9.574(h), Zoning Ordinance (emphasis added).

In order to effectuate the use of Parcel A as part of the Rural Open Space Area of the Batchellors Forest Subdivision the Zoning Ordinance requires that:

All publicly held or privately held land in the rural open space area must be preserved in perpetuity as rural open space by application of an easement or covenant in a recordable form approved by the Planning Board. The easement or covenant must restrict uses in the rural open space area to those uses allowed under 59-C-6.572, provide for the management of any natural or agricultural features in accordance with the approved site plan, and prohibit any development or subdivision within the rural open space area not expressly authorized.

§59-C-9.574(h)(4), Zoning Ordinance (emphasis added).

The easement/covenant requirement of Section 59-C-9.574(h)(4), Zoning Ordinance, was addressed in the June 8, 2007, memorandum to the Planning Board from then Associate General Counsel Debra Yerg Daniel with draft easement and covenant forms required. **(Exhibit Q)**. The Planning Board approved the easement and covenant forms at its meeting of June 14 2007. (*See, Exhibit R*). The Planning Board is required to preserve the Rural Open Space Area in the Batchellors Forest Subdivision by executing and recording an easement or covenant as mandated by the Zoning Ordinance.

(Master Plan)

Parcel A is covered by the April 2005 Approved and Adopted Olney Master Plan **(Exhibit C, p.28)** which refers to Parcel A as the "17.4-acre portion" and states:

...The 17.4 acre portion of the property is appropriate for ballfields and possibly other active recreation since it is clear with no significant environmental features, and can share its ball fields and parking area with the adjoining middle school site. Access to the ballfields should be from the Old Vic Boulevard extended and through the middle school property.

This property should be rezoned to RNC with 0.33 units per acre. Permitted density from the 17.4-acre portion should be located on the larger portion of the property on the west side of Batchellors Forest Road and the 17.4-acre portion should be designated as rural open space under RNC Zone and dedicated as parkland for active recreation purposes.

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(Exhibit C, p. 28 (emphasis added)). The Olney Master Plan does *not* propose or recommend that Parcel A be used as a public school site or that a public school building be erected on that intended rural open space site. As explained, and not disputed, the master plan specifically recommends that Parcel A be part of the Rural Open Space Area for the Batchellors Forest Subdivision to be used as a local park. The Master Plan dovetails with the requirements of the RNC Zone, and in its own stead mandates that Parcel A remain a part of the contiguous Rural Open Space Area of the Batchellors Forest Subdivision.

Furthermore, the Master Plan provided that any future development should

Houses should be clustered away from Batchellors Forest Road to preserve the views of open fields along the existing road. Preservation of the rustic character of Batchellors Forest Road and the existing vistas from this road should be explored at the time of subdivision through careful placement of housing clusters in appropriate locations to minimize their visibility from Batchellors Forest Road and other techniques.

(Exhibit C, p. 28).

The above statement shows that these large open fields were critical components of the Master Plan and the preservation of Batchellors Forest as a Rustic Road and further shows that by no means was the development of a public school contemplated on the Casey Property or Parcel A as part of the Master Plan.

In addition, as part of the Stanmore Site Plan process continuity of Rural Open Space, specifically to Parcel A was stressed resulting in multiple redesigns of the layout and staff report went as far to state, as part of the Preliminary Plan Staff Report (Exhibit S, p. 11) that:

The most critical portion of the site in terms of protecting the visual quality and character of Batchellors Forest Road and the surrounding area is the southern half of the property because of its rolling topography, rural character and high visibility from Batchellors Forest Road. The proposed Preliminary Plan meets the Master Plan's recommendation for protecting the rustic character of Batchellors Forest Road by keeping the southern portion of the property in its current state and preserving it as Rural Open space under the requirements of the RNC. (Emphasis added)

Staff also included a photograph which showed the view, from the south, through Parcel A and onto my clients' property as part of their presentation to the Planning Board. (Exhibit T). In addition, Staff and the Rustic Roads Advisory approved the mandated hiker/biker trail to be constructed, by my clients, along the frontage of Parcel A – a natural

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surface trail consisting of mowed grass and simple post signage respecting the topography of the site and keeping with the rustic character of the road.

The Olney Master Plan also includes the following language under the header of Green Infrastructure and Greenways:

Forests, fields and wetlands all provide wildlife and habitat for nesting, feeding and migration. As future development occurs, it is important to protect not only the distinct areas, but also important connections between these areas...

The importance of the connection between the Rural Open Space within both the Stanmore and Batchellors is further evidenced by their inclusion on the Green Space Infrastructure Plan of the approved Master Plan. (Exhibit C, p. 70).

By keeping Parcel A in Rural Open Space, there is contiguous Rural Open Space that runs from Doctor Bird Road, through the Stanmore, Batchellors Forest and Olney Estates subdivisions all the way to Old Baltimore Road. (Exhibit B).

(Preliminary Plan)

The Batchellors Forest development received subdivision approval (Preliminary Plan No. 120060850) by the Planning Board and that approval is reflected in the Corrected Resolution of the Planning Board dated July 26, 2007. See, Exhibit U. The development authorized by the subdivision approval is for the "optional method of development" provided for in §59-C-9.574 of the Zoning Ordinance. See, Exhibit U, p. 7, ¶4. Parcel A is the subject of Condition 5 of the preliminary plan approval which states:

- 5) ***The Applicant must dedicate to M-NCPPC the approximately 17.4 acre portion of the Subject Property that lies east of Batchellors Forest Road and identified as "Parcel A" for use as a local park per the Olney Master Plan. The land must be conveyed by the time of record plat and must be free of any trash and unnatural debris***

Exhibit U, p.3 (emphasis added).

The Batchellors Forest preliminary plan of subdivision clearly requires that Parcel A be, and remain, a part of the contiguous Rural Open Space Area pursuant to dedication and the proposed abandonment violates the approved preliminary plan.

The Planning Board approved the site plan (Site Plan No. 82008019A) for the Batchellors Forest Subdivision on August 9, 2011, and a copy of the resolution reflecting that approval is attached as **Exhibit V**. Condition 3.b) of the Site Plan approval deals with Parcel A, and provides:

- b) Applicant *must dedicate the portion of the Rural Open Space Area on the east side of Batchellors Forest Road (Block C: Parcel A) to M-NCPPC for uses consistent with the intent of the rural open space in the RNC zone as set forth in Section 59-C-9.23.1* and uses as set forth in Section 59-C-9.572.

Exhibit V, p. 4 (emphasis added).

Like the Olney Master Plan and the preliminary plan of subdivision, and as required by the Zoning Ordinance, the site plan for the Batchellors Forest Subdivision requires that Parcel A be dedicated, and remain, a part of the contiguous Rural Open Space Area.

Parcel A had to be dedicated to the M-NCPPC for a specific purpose, and *not* abandoned as part of a swap for other land. The proposed abandonment violates the approved site plan.

(Parcel A)

Parcel A has played a specific role in the number of dwelling units that have been approved for the Batchellors Forest Subdivision. It was part of the land re-zoned to the RNC Zone in order to develop the Batchellors Forest Subdivision. (**Exhibit W**). The Rural Open Space Area, including Parcel A, has been used to compute the number of residential dwelling units which could be built in the subdivision. Parcel A represents approximately seven (7) units within the Batchellors Forest Subdivision that would not have been achievable had the parcel not been included in the Rural Open Space Area for the subdivision. Attached as **Exhibit X** is the certified site plan amendment cover sheet for the Batchellors Forest Subdivision which reflects the density computations for the subdivision and the specific site plan for Parcel A. See, **Exhibit X**, p.1 and p.2. Page 2 of **Exhibit X** is an enlargement of the approved development standards which is more readable.

As noted, the Batchellors Forest Subdivision was developed under the Optional Method of Development and Parcel A is an integral part of the contiguous Rural Open Space Area for that subdivision. Consequently, it "must be preserved in perpetuity as rural open space by *application of an easement or covenant [which] must restrict uses in the rural open space area* to those uses allowed under 59-C-6.572 . . . *and prohibit any development*

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or subdivision within the rural open space area not expressly authorized.” §59-C-7.574(h)(4), Zoning Ordinance (emphasis added). The foregoing local law mandates the imposition of an easement or covenant on Parcel A which, in perpetuity, will restrict the uses that can be established on Parcel A. The permissible uses that can be lawfully established on Parcel A under §59-C-6.572, Zoning Ordinance, the preliminary plan of subdivision and site plan approvals do not include a public school and public school building with associated parking.

(Replacement Rural Open Space)

Aside from the fact that the release of the ROS easement is unlawful, there are other additional factors which preclude the release.

The existing Farquhar Middle School site is classified in the RE-2 Zone (Residential, One Family) which does *not* provide for a Rural Open Space area. Therefore, it cannot be a “new site” for any ROS, much less ROS transferred from the Batchellors Forest Subdivision. Consequently, the ROS provided for by Parcel A will be lost. In fact, the existing school property would not have been acceptable at the time of subdivision on that ground alone. Furthermore, the staff report for the Stanmore Subdivision provides adequate documentation, and the Board’s subsequent action confirmed, that a combined cluster across classes of uses is not an accepted practice. (**Exhibit S**, p. 9).

The release of the ROS easement on Parcel A violates the requirements and conditions pursuant to which the Batchellors Forest Subdivision was compliant with applicable development laws and regulations, violates the subdivision approval, and renders the subdivision in violation of all of its approvals and required development components.

(Conclusion)

The proposed land swap is extremely distressing to my clients. As the aerial view of the properties reveals (**Exhibit A**) my clients own the properties immediately adjacent to Parcel A on its northern side. Mr. and Mrs. Hyde literally live next to Parcel A. Other family members also live adjacent to the parcel. For years, the Hyde family has followed the efforts of the community and the professional staff of the MNCPPC to identify and preserve Parcel A as parkland, particularly as Rural Open Space. A law firm represented both the Hydies and the original developer, Oxbridge Development, in the development of the Batchellors Forest subdivision. Through their legal counsel the Hyde family was involved in the public process which began with the Master Plan process and continued through the approval of the preliminary and site plans for the Batchellors Forest development. From master plan through to site plan approval, my clients knew, understood and relied on the fact that Parcel A was designated as Rural Open Space. The Hyde family subdivided their property which is adjacent to Parcel A, and as part of their subdivision (Preliminary Plan No. 1200061100), the Hydies were required to submit a “vista study” which incorporated Parcel A and the Hyde

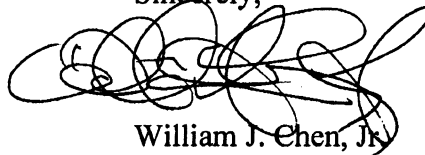
CHEN & McCABE, L.L.P.

family property to ensure that the view sheds were being preserved in conjunction with the guidelines of the Rural and Rustic Roads designation of Batchellors Forest Road. (Exhibit Y). That requirement is not being applied to the proposed land swap.

Substituting a middle school building and its associated parking for parkland is a dramatically different land use than that for which Parcel A was included in the Rural Open Space Area of the Batchellors Forest subdivision, and will have a serious negative impact on my clients' use and enjoyment of their properties. **If there had been a proposal to designate Parcel A as a "Future School Site" in the Master Plan, then my clients, and the residents of Batchellors Forest, would have certainly voiced their collective opposition.** Approving the release of the ROS easement, or the abandonment of the dedication, which does not preserve Parcel A as part of the contiguous Rural Open Space Area in perpetuity as required by the Zoning Ordinance, is a violation of law, and a betrayal of the support, cooperation, and trust that my clients placed in both the private sector developer of the subdivision, the professional staff of the M-NCPPC, and the Planning Board.

The Planning Board has executed and recorded the necessary ROS Easement to preserve Parcel A in perpetuity as a part of the contiguous Rural Open Space Area of the Batchellors Forest Subdivision and has approved and recorded a plat for Parcel A which expressly states that the parcel is limited to those uses and conditions as required by the Batchellors Forest Subdivision. My clients urge that the Planning Board reject the proposed land swap and stand by the Master Plan, Site Plan, ROS Easement, Dedication, and Batchellors Forest Subdivision Plats which you have previously approved.

Sincerely,



William J. Chen, Jr.

WJC:mmml

cc: Thomas and Ruth Hyde


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M-NCPPC
Item No.
Date: 3.19.14

Resolution of Adoption for the Approved Bethesda Purple Line Station Minor Master Plan Amendment

 Elza Hisel-McCoy, Assoc. AIA, LEED-AP, Planner Coordinator, Area 1, elza.hisel-mccoy@montgomeryplanning.org, 301.495.2115

 Valdis Lazdins, Chief, Research and Special Projects, valdis.lazdins@montgomeryplanning.org, 301.495.4506

Tom Autrey, Supervisor, Transportation, Functional Planning & Policy, 301.495.4533

David Anspacher, Planner Coordinator, Transportation, Functional Planning & Policy, 301.495.2191

Completed: 3.5.14

Description

Resolution of adoption of the Approved Bethesda Purple Line Station Minor Master Plan Amendment

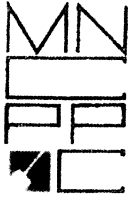
Staff recommendation: Approve the Resolution of Adoption.

Summary

Attached for your review and approval is M-NCPPC Resolution Number 14-01 to adopt the Bethesda Purple Line Station Minor Master Plan Amendment. The Montgomery County Council, sitting as the District Council for Montgomery County, approved the Plan Amendment by Resolution Number 17-1007 on February 11, 2014.

Attachments

- Montgomery County Planning Board Resolution No. 14-05 and M-NCPPC Resolution 14-01
- County Council Resolution No. 17-1007, Approval of Planning Board Draft Bethesda Purple Line Station Minor Master Plan Amendment
- Planning Board Draft Bethesda Purple Line Station Minor Master Plan Amendment



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

6611 Kenilworth Avenue • Riverdale, Maryland 20737

M-NCPPC No. 14-01
MCPB 14-05

RESOLUTION

WHEREAS, under the Land Use Article of the Annotated Code of Maryland, the Maryland-National Capital Park and Planning Commission is authorized and empowered, from time to time, to make and adopt, amend, extend and add to *The General Plan for the Physical Development of the Maryland-Washington Regional District*; and in Montgomery and Prince George's Counties; and

WHEREAS, the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission, pursuant to Montgomery County Code, Chapter 33A, held a duly advertised public hearing on November 7, 2013, on the Public Hearing Draft of the *Bethesda Purple Line Station Minor Master Plan Amendment*, being also an amendment to the 1994 *Bethesda CBD Sector Plan*, as amended; the 2010 *Purple Line Functional Plan*, as amended; the *General Plan (On Wedges and Corridors) for the Physical Development of the Maryland-Washington Regional District in Montgomery County*, as amended; and the *Countywide Bikeways Functional Master Plan*, as amended; and

WHEREAS, the Montgomery County Planning Board, after said public hearing and due deliberation and consideration, on December 5, 2013, approved the Planning Board Draft of the proposed Plan, and recommended that it be approved by the District Council and forwarded it to the County Executive and District Council for recommendation and analysis; and

WHEREAS, the Montgomery County Executive transmitted to the District Council his fiscal impact analysis for the Planning Board Draft Bethesda Purple Line Station Minor Master Plan Amendment on January 31, 2014; and

WHEREAS, the Montgomery County Council, sitting as the District Council for the portion of the Maryland-Washington Regional District lying within Montgomery County, held a public hearing on January 14, 2014, wherein testimony was received concerning the Planning Board Draft *Bethesda Purple Line Station Minor Master Plan Amendment*; and

APPROVED AS TO LEGAL SUFFICIENCY

M-NCPPC LEGAL DEPARTMENT

WHEREAS, the District Council, on February 11, 2014, approved the Planning Board Draft *Bethesda Purple Line Station Minor Master Plan Amendment* subject to the modifications and revisions set forth in Resolution No. 17-1007; and

NOW, THEREFORE, BE IT RESOLVED, that the Montgomery County Planning Board and the Maryland-National Capital Park and Planning Commission hereby adopt the *Bethesda Purple Line Station Minor Master Plan Amendment*, together with the 2010 *Purple Line Functional Plan*, as amended; the *General Plan (On Wedges and Corridors) for the Physical Development of the Maryland-Washington Regional District in Montgomery County*, as amended; and the *Countywide Bikeways Functional Master Plan*, as amended; and as approved by the District Council in the attached Resolution No. 17-1007 and

BE IT FURTHER RESOLVED, that copies of the *Bethesda Purple Line Station Minor Master Plan Amendment* must be certified by The Maryland-National Capital Park and Planning Commission and filed with the Clerk of the Circuit Court of each of Montgomery and Prince George's Counties, as required by law.

* * * * *

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission on motion of Commissioner _____, seconded by Commissioner _____, with Commissioners _____, and _____ voting in favor of the motion, and Commissioner _____, at its regular meeting held on Thursday, February 20, 2014.

Francoise M. Carrier, Chair

Resolution No.: 17-1007
Introduced: February 11, 2014
Adopted: February 11, 2014

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION
OF THE MARYLAND-WASHINGTON REGIONAL DISTRICT
WITHIN MONTGOMERY COUNTY, MARYLAND**

By: County Council

SUBJECT: Approval of Planning Board Draft Bethesda Purple Line Station Minor Master Plan Amendment

Background

1. On December 6, 2013, the Montgomery County Planning Board transmitted to the County Executive and the County Council the Planning Board Draft Bethesda Purple Line Station Minor Master Plan Amendment.
2. The Planning Board Draft Bethesda Purple Line Station Minor Master Plan Amendment amends the Approved and Adopted 1994 Bethesda CBD, as amended. It also amends the General Plan (on Wedges and Corridors) for the Physical Development of the Maryland-Washington Regional District in Montgomery and Prince George's Counties, as amended; the Master Plan of Highways and Transitways within Montgomery County, as amended; and the Countywide Bikeways Functional Master Plan, as amended.
3. On January 31, 2014, the County Executive transmitted to the County Council his fiscal impact analysis for the Bethesda Purple Line Station Minor Master Plan Amendment.
4. On January 14, 2014, the County Council held a public hearing regarding the Planning Board Draft Bethesda Purple Line Station Minor Master Plan Amendment. The Plan was referred to the Planning, Housing, and Economic Development Committee for review and recommendation.
5. On January 27 and February 3, 2014, the Planning, Housing, and Economic Development Committee held worksessions to review the issues raised in connection with the Planning Board Draft Bethesda Purple Line Station Minor Master Plan Amendment.
6. On February 11, 2014, the County Council reviewed the Planning Board Draft Bethesda Purple Line Station Minor Master Plan Amendment and the recommendations of the Planning, Housing, and Economic Development Committee.

Action

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following resolution:

The Planning Board Draft Bethesda Purple Line Station Minor Master Plan Amendment, dated December 2013, is approved with revisions. County Council revisions to the Planning Board Draft Bethesda Purple Line Station Minor Master Plan Amendment are identified below. Deletions to the text of the Plan are indicated by [brackets], additions by underscoring. All page references are to the December 2013 Planning Board Draft Plan.

Add the following text on the first page or inside cover of the Minor Master Plan:

This Plan amends the Approved and Adopted 1994 Bethesda CBD, as amended. It also amends the General Plan (on Wedges and Corridors) for the Physical Development of the Maryland-Washington Regional District in Montgomery and Prince George's Counties, as amended; the Master Plan of Highways and Transitways within Montgomery County, as amended; and the Countywide Bikeways Functional Master Plan, as amended.

Page 5: Revise the second full paragraph as follows:

A key component of redeveloping the station site will be the station entrances, at the corner of Wisconsin Avenue and Elm Street, and in Woodmont Plaza, at the intersection of Bethesda and Woodmont Avenues. These spaces serve not only as critical access points to the transit station, but also as gateways to Downtown Bethesda. While in general these [These] spaces should be functional, welcoming, and activated by retail and entertainment uses and building entrances, the design of Woodmont Plaza, in particular, will be an essential part of any future redevelopment of the site.

Woodmont Plaza will be the central open space for the area around the junction of Bethesda Avenue, Woodmont Avenue, and the Capital Crescent Trail. The design should successfully integrate pedestrians and cyclists moving along and through the plaza, and feature shaded lawn areas and a variety of seating options within the overall design.

Page 7: Revise the third paragraph under the section "Capital Crescent Trail" as follows:

The Plan recommendations segment the CCT into the Mainline, Tunnel Route, and Surface Route. The Plan recommends construction of the mainline and the surface and tunnel routes to function as complementary transportation choices to serve a variety of needs. Each segment is described below. Beyond the recommendations for each of the segments, the Plan recommends keeping the rest of Elm Street Park operational, with no further decrease in the amount of usable parkland.

General

All illustrations and tables included in the Plan are to be revised to reflect District Council changes to the December 2013 Planning Board Draft Plan. The text and graphics are to be revised as necessary to achieve clarity and consistency, to update factual information, and to convey the actions of the District Council. All identifying references pertain to the Planning Board Draft.

This is a correct copy of Council action.

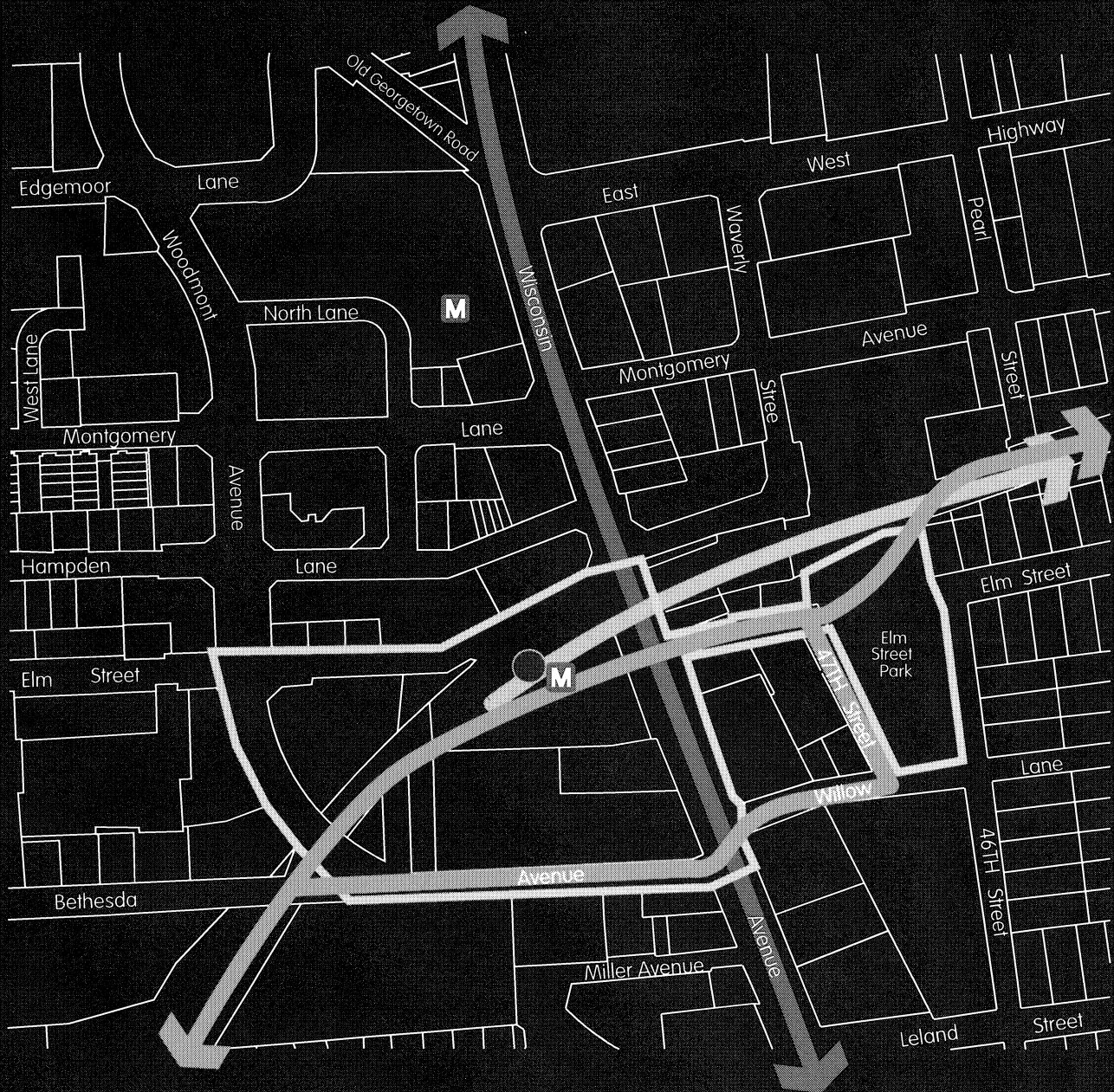
Linda M. Lauer, Clerk of the Council



Bethesda



Purple Line Station Plan Minor Master Plan Amendment



Planning Board Draft

December 2013



Bethesda



People Line Station Plan

Minor Master Plan Amendment

Introduction

A Vision of Transit Future

With an improved Purple Line Station, the south entrance to the Bethesda Red Line Metro Station, and the Capital Crescent Trail literally under one roof, the Minor Master Plan Amendment Area has the potential to become the new “best address” of the Bethesda Central Business District (CBD). This Area, chiefly the block bound by Wisconsin Avenue, Elm Street, Woodmont Avenue, and Bethesda Avenue, is the eastern gateway to the popular and successful Bethesda Row – the primary center of activity in the CBD – and a key component of the Wisconsin Avenue commercial corridor. The addition of this multi-modal transit hub will enhance the level of activation, access, and amenity for residents, businesses, and visitors.

This Minor Master Plan Amendment envisions an urban multi-modal transit station that is integrated into the life of Bethesda. Thousands of transit riders will use the station to come to Bethesda to live, work, and play and to go elsewhere from Bethesda to access the many rich benefits of the region. Hundreds of cyclists will use the Capital Crescent Trail (CCT) to get to the many centers and neighborhoods between Silver Spring and Georgetown.

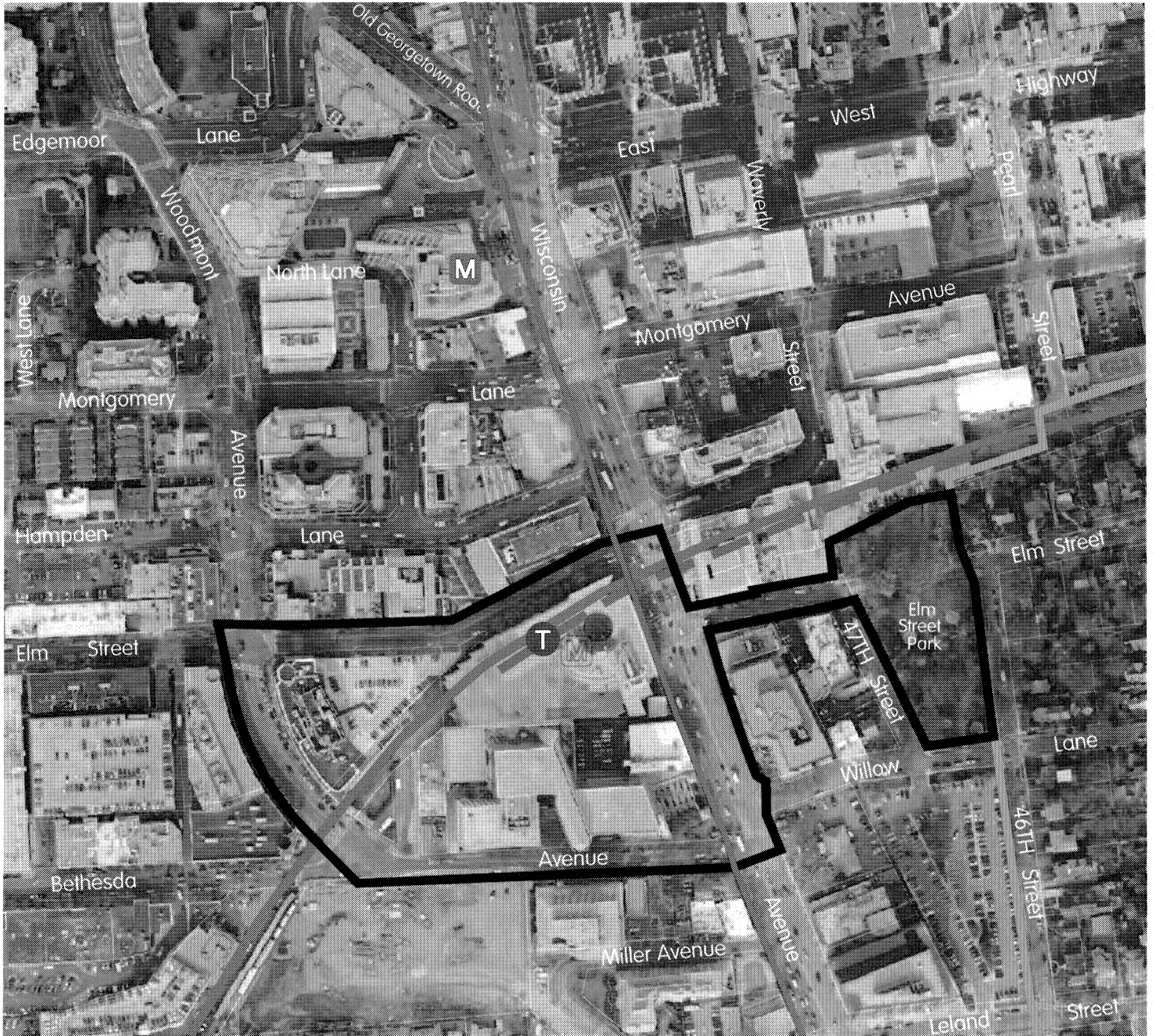
Every day this station will bring thousands of people to Wisconsin Avenue, Elm Street, Woodmont Avenue, and Bethesda Avenue. This foot and bicycle traffic will make the station location the pre-eminent address in the CBD. With the redevelopment envisioned by this Plan, it will be anchored by a signature building at this “100 percent corner,” a source of renewed growth and activity for the surrounding business, lifestyle, and entertainment district.









The Plan vision for the corner of Wisconsin Avenue and Elm Street showcases a generous and welcoming plaza at the ground floor of a signature building, where commuters have easy direct access to the Purple Line station and, via high-speed elevators, to the Red Line Metro station below. The spacious Purple Line station would be welcoming and easy to navigate, with a large open platform and plenty of room for the projected ten thousand plus daily riders. Getting to the Red Line station would be efficient and streamlined. One level below the street, cyclists will be able to rapidly move through the CBD to get to work, play, or home, in an environment free of automobiles.

From Woodmont Avenue, pedestrians would walk past the many shops, cafes, and restaurants, into the landscaped Woodmont Plaza and directly into the Purple Line station. Cyclists would have a direct route through the plaza into a short tunnel that comes out just the other side of Wisconsin Avenue, with an easy ride through Elm Street Park and on towards Rock Creek Park and Silver Spring.

Businesses around the station would benefit from greatly increased pedestrian traffic, with more eyes on shop windows. Offices, hotels, and apartments around the station block will command premiums for their proximity to the multi-modal station, the CCT, and the Bethesda Row entertainment district.

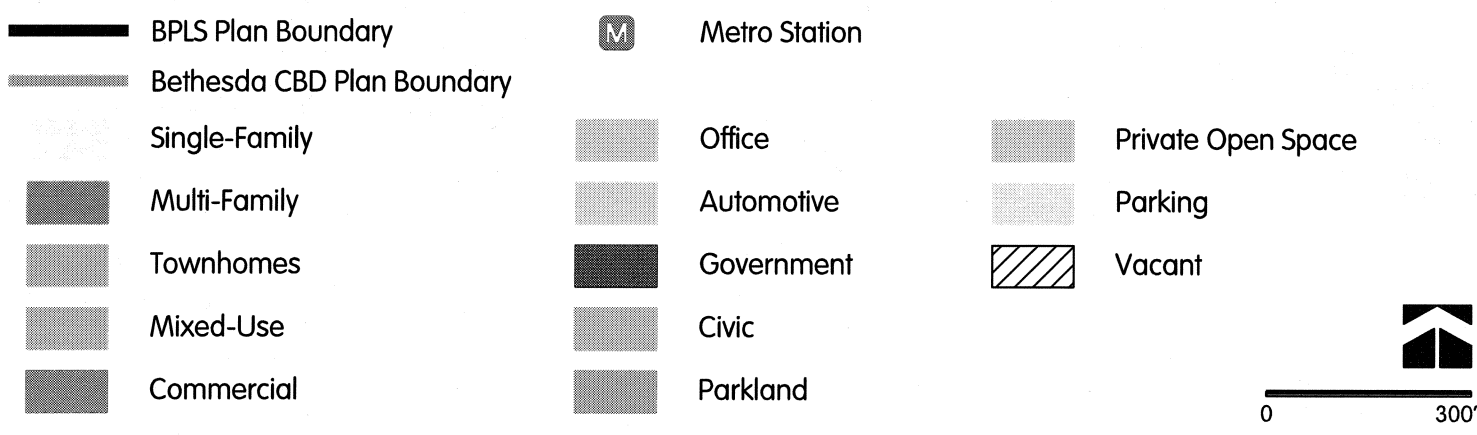
Existing Conditions

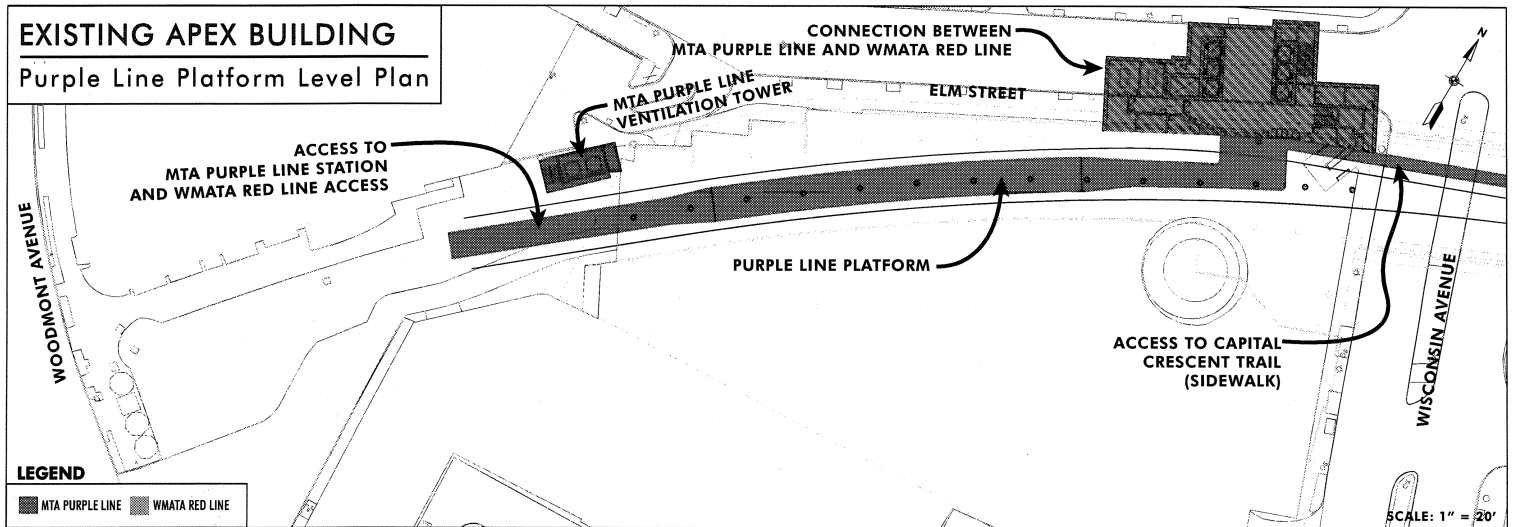
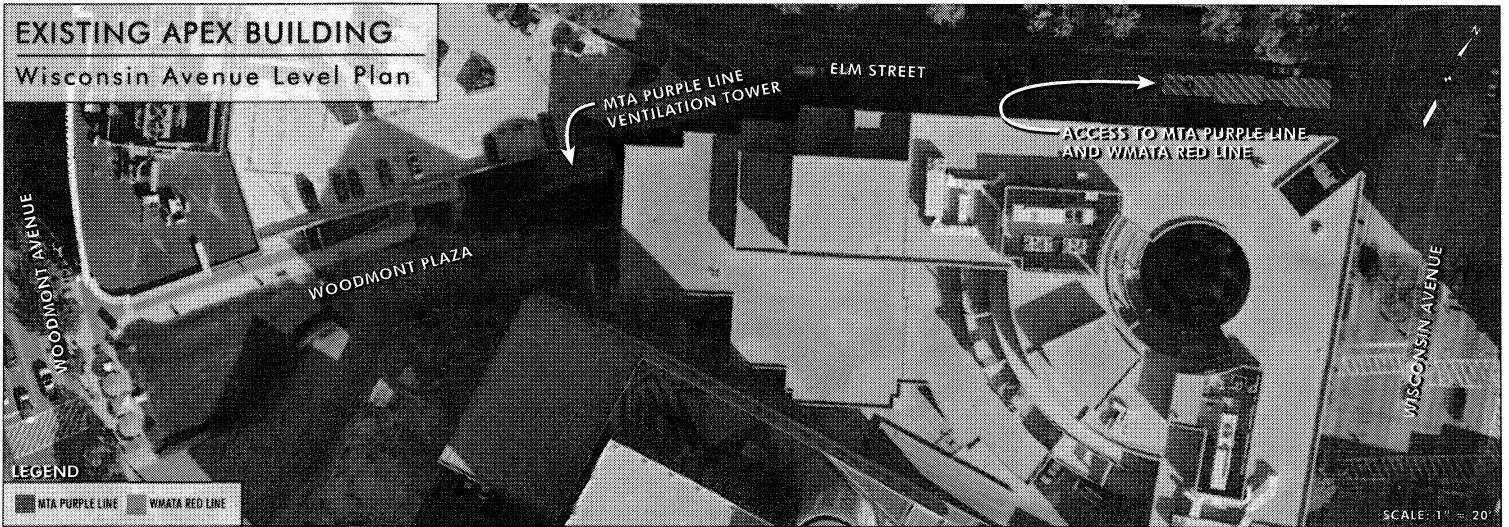


-  BPLS Plan Boundary
-  Bethesda CBD Plan Boundary
-  Capital Crescent Trail
-  Purple Line
-  Red Line
-  Metro Station
-  Proposed Metro Station South Entrance
-  Planned Purple Line Station



Existing Land Use





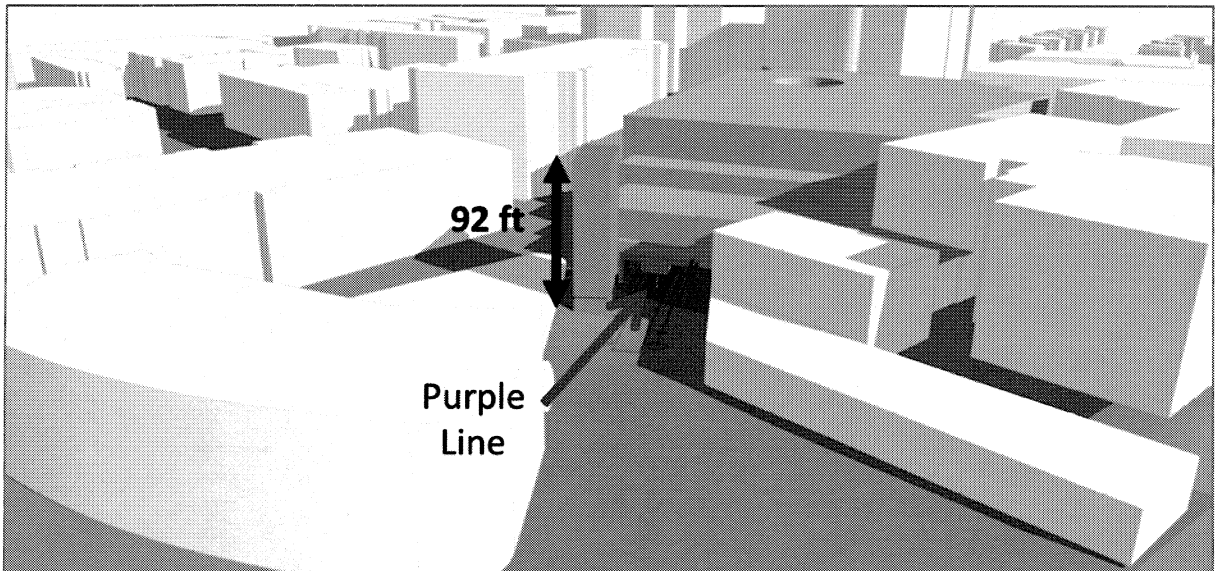
This is a vision of a new multi-modal transit station that provides room for Bethesda to grow, creating new opportunities for businesses, residents, and visitors.

Station Default

Almost 30 years ago, when the existing Apex Building was constructed over the Georgetown Branch right-of-way, it was designed to accommodate some form of transit station. But today, the Maryland Transit Administration's (MTA) default designs for what is now the Bethesda Purple Line station, while fitting with the space made available by the original Apex Building design, will not be able to fully implement the exciting vision this Plan proposes. The default designs are constrained by the limits of the existing conditions, particularly the configuration of the current tunnel and the Apex building support structures.

The Purple Line tracks will be located within the existing tunnel – now used as a bicycle path – that runs east from Woodmont Plaza, under the Apex building, Wisconsin Avenue, and the Air Rights building. The physical limitations of this tunnel will negatively impact the quality of service provided by the station:

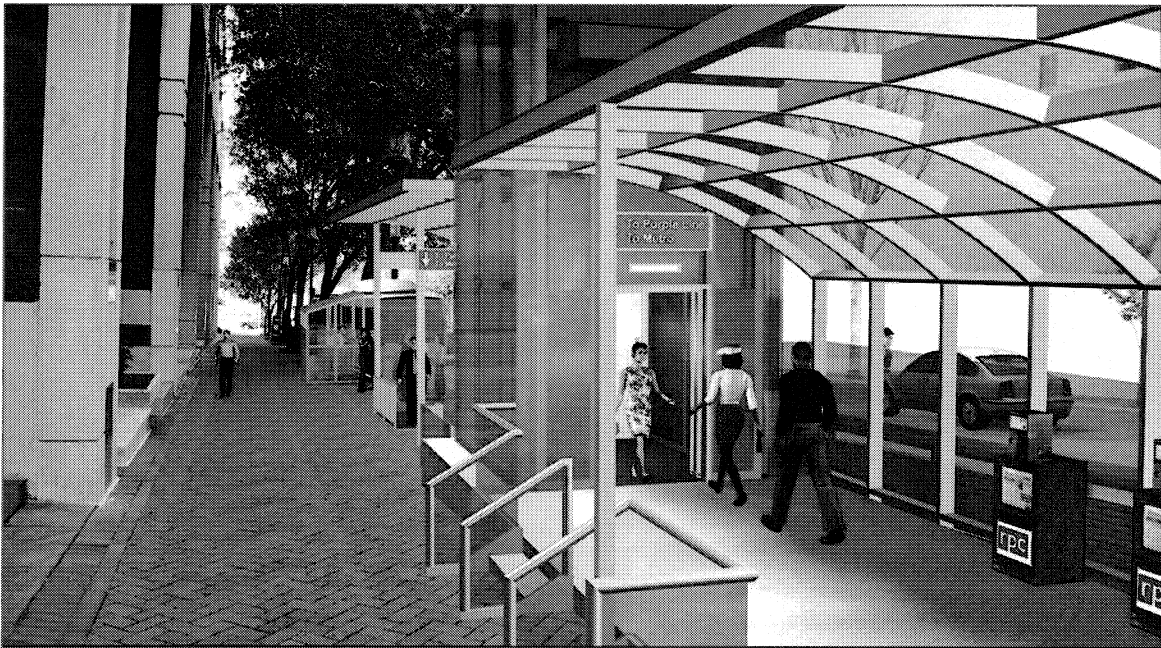
- the tunnel forces a narrower platform that constrains the number of people that can fit on it at one time;
- the platform is interrupted by numerous structural columns supporting the Apex building above, impeding circulation for riders;
- the tunnel is curved, necessitating a curved station platform that creates gaps between the train cars and the platform;
- the narrowness of the existing tunnel requires the station platform to be located closer to Woodmont Plaza, resulting in “over-run” tracks extending 100 feet into the plaza, near the existing movie theatre and eateries;
- a free-standing metal ventilation tower – about the size of a 90' high townhouse– must be located in Woodmont Plaza.



Aerial View of Vent Tower Impact

With only a minimum amount of space in the existing tunnel for the Purple Line station, the new south entrance to the Red Line Metro station must be located underneath Elm Street, within the public right-of-way. This location negatively impacts the quality of service of the station:

- commuters will have limited direct access from the street to the Metro station, and may have to travel one level down for additional elevators;
- stair and elevator access from street level to the Metro elevators below will be located in a sidewalk bump-out on Elm Street, creating potential bottle-necks that significantly disrupt the pedestrian use of Elm Street;
- riders transferring between the Red Line and Purple Line will have to cross the train tracks at track level, creating potential conflicts between trains and riders.



Rendering of Elm Street Elevators

Finally, with no room in the existing tunnel for the CCT, cyclists will be forced to use a surface route along busy Bethesda Avenue and across the heavily trafficked Wisconsin Avenue.

This default design provides adequate service while minimizing costs, but would be challenged to accommodate the future growth that would be expected of a successful and attractive transit center in downtown Bethesda.

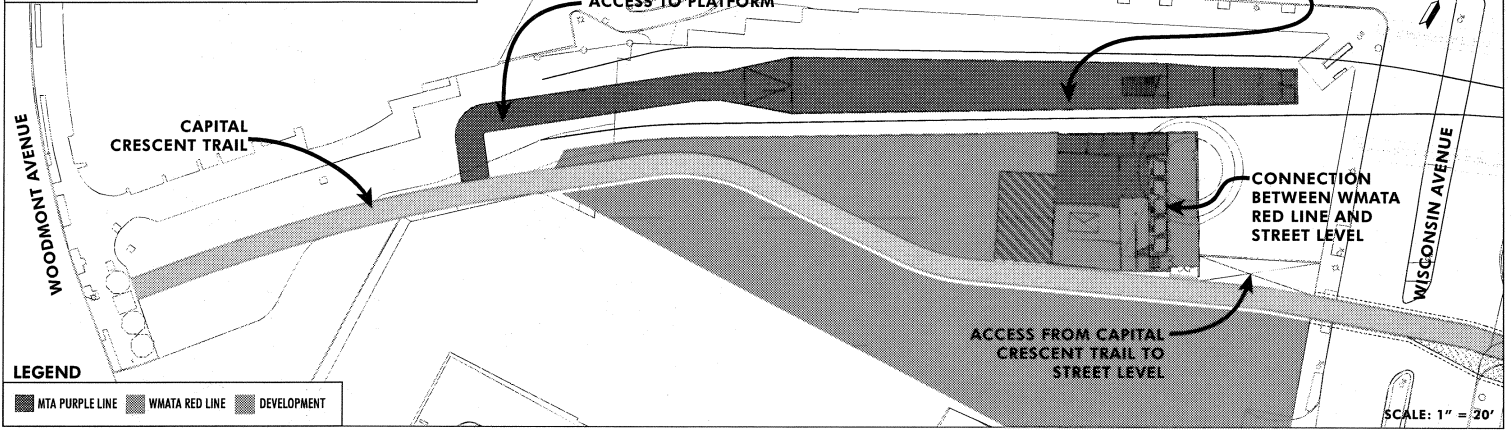
(Re)Developing a Better Alternative

In coordination with the Planning and Parks Departments and regional, state, and local transportation agencies, MTA has developed an alternative station design that better realizes the Plan vision. But the vision and its many public benefits will not be realized unless the station site, the location of the existing Apex building, is redeveloped in coordination with the construction of the Purple Line, expected to begin by the end of 2015.

REDEVELOPED APEX BUILDING
Wisconsin Avenue Level Plan



REDEVELOPED APEX BUILDING
Purple Line Platform Level Plan



The alternative design significantly improves the quality of the service provided by the station:

- the Purple Line platform would be larger and, without interrupting columns, would provide more room for riders and trains;
- the Purple Line station platform would be straight, eliminating gaps between the train and the platform;
- the Red Line Metro south entrance would be located within the new building with access to high-speed elevators directly from the street;
- CCT users would have a choice to cross Wisconsin Avenue either in a new tunnel or at street level;
- the 90' ventilation tower would be incorporated into a new building and the over-run tracks can be significantly shortened, leaving more of Woodmont Plaza available for public enjoyment;
- the station can accommodate space for full-service bike storage (i.e., a "bike station").

This alternative design moves well beyond an adequate solution to provide a high quality transit experience that will be attractive, highly functional, and able to serve Bethesda now and in the future.

Realizing the Vision

Land Use and Zoning

To encourage redevelopment of the Apex Building to allow for the realization of a superior multi-modal transit station and a new tunnel for the CCT, the Plan recommends significant additional density on the Apex building site. The Plan recommends rezoning the Apex site from CBD-2 (FAR 5.0, max. height 143') to CR 8.0, C 7.5, R 7.5, H 250.

This added density and building height are consistent with those recommended in the 1994 *Bethesda CBD Sector Plan* for the area around the north entrance of the Red Line Metro Station, under the CBD-3 zone (FAR 8.0, max. height 200'). The Plan recommends a maximum building height of 250' to allow greater flexibility in accommodating on the Apex site the numerous program elements of the improved station and trail described above. Alternatively, if the site redevelops after construction of the default station design, the Plan recommends a maximum height of only 200'.

The CR zone provides both a standard and an optional method of development. The standard method limits overall density to a 0.5 FAR, while the optional method creates incentives to provide public benefits, thereby qualifying for additional density. Public benefits provided under the optional method are drawn from seven categories outlined in the Zoning Ordinance. The top priority public benefits for this Plan area are the provision of space on the Apex Building site necessary for planning, construction, and operation of the "major public facilities" of the improved transit station and the CCT tunnel. This does not preclude consideration of other benefits, as listed in the CR Zone, to achieve the maximum permitted FAR. All public benefits requested by the developer will be analyzed to make sure they are the most suitable for the Plan area, that they are consistent with the Plan's vision, and that they satisfy the

changing needs of the area over time. For example, if the Apex Building site is redeveloped after construction of the default station design, to achieve the maximum FAR the requested public benefits would need to be significant and commensurate with the major public facilities recommended above.

The configuration of the Apex site and its relationship to the transit station and existing development on the block may limit the amount of density that can be accommodated on the site. The increase in density recommended in the Plan is thus further intended to encourage joint redevelopment with abutting properties on the block, and properties confronting the Apex Building site across Elm Street and Wisconsin Avenue. Under a joint redevelopment scenario, allowable density from multiple sites within one redevelopment project can be combined and redistributed among the sites, as long as the height limitations of the zones are not exceeded. Coordinated redevelopment that looks at the Plan Area as a whole will take maximum advantage of these unique circumstances, resulting in a better and more efficient design, with more inviting open space connections and a better mix of activating uses that is more economical to build. To facilitate this joint redevelopment, the Plan recommends rezoning the remaining properties on the block from CBD-2 to CR 5.0, C 5.0, R 5.0, H145, or to the equivalent zoning approved under the pending Zoning Code Rewrite, whichever is greater.

A key component of redeveloping the station site will be the station entrances, at the corner of Wisconsin Avenue and Elm Street, and in Woodmont Plaza, at the intersection of Bethesda and Woodmont Avenues. These spaces serve not only as critical access points to the transit station, but also as gateways to Downtown Bethesda. These spaces should be functional, welcoming, and activated by retail and entertainment uses and building entrances.

















Beyond Land Use and Zoning: Visionary Partners

The Planning Department hired Bolan Smart Associates to review the public and private costs of realizing the alternative station designs within the 2015 timeframe set by MTA. Their analysis, which is included in the appendix, shows that, from the perspective of the owner of the Apex building, the increased economic value of additional density on the Apex site is largely offset by the significant cost associated with relocating the existing tenants, including the building owner and an established, though aging, movie theatre, and the additional private costs related to construction of the Purple Line station. Although additional zoning may incentivize redevelopment, additional measures, beyond those available to the Planning Board, are necessary to help guarantee redevelopment on MTA's timetable.

Planning staff has worked closely with the Montgomery County Department of Economic Development (DED) and others to explore additional tools to incentivize redevelopment. Beyond or in concert with joint redevelopment of the block, these include financing based on significant anticipated increases in property taxes, as well as participation of the public-private partnership ("P3") that MTA is exploring for the construction and operation of the Purple Line. This Plan supports those efforts.

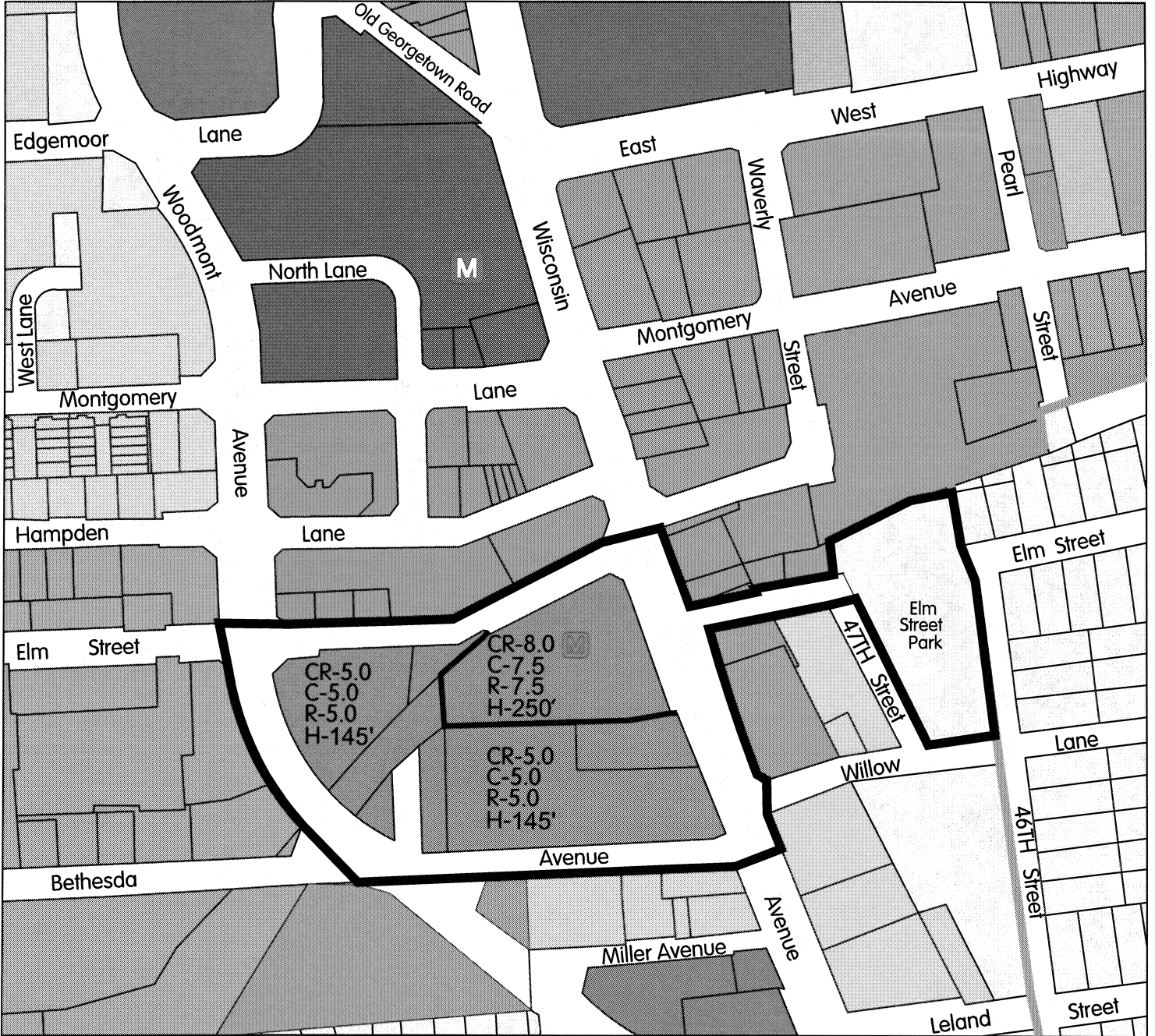
Existing Zoning





















- | | | | | | |
|--|----------------------------|---|---------------|---|------|
|  | BPLS Plan Boundary |  | Metro Station | | |
|  | Bethesda CBD Plan Boundary | | | | |
|  | CBD-1 |  | C-2 |  | TS-M |
|  | CBD-2 |  | C-O |  | TS-R |
|  | CBD-3 |  | C-T |  | O-M |
|  | CBD-R1 |  | R-10 | | |
|  | CBD-R2 |  | R-60 | | |



Proposed Zoning



	BPLS Plan Boundary		Metro Station		Proposed Metro Station South Entrance
	Bethesda CBD Plan Boundary		CBD-1		CBD-2
	CBD-3		CBD-R1		CBD-R2
	C-2		C-O		C-T
	R-10		R-60		TS-M
	TS-R		O-M		CR



Making the Connections: Transit and Bikeway Recommendations

Transit Station

The Plan makes station area recommendations under two scenarios, depending on whether the Apex Building is demolished before or after construction of the Purple Line.

The Apex building is demolished before Purple Line construction

If the Apex Building is demolished before the Purple Line is constructed, for MTA's concept design the Plan recommends the following:

- the property owner provide easements on the Purple Line platform level and Wisconsin Avenue level to accommodate the station;
- station platforms located under a future building on the Apex site;
- station and tracks on a straight alignment;
- stairs providing pedestrian and bicycle connections between Wisconsin Avenue and the Purple Line platform ;
- high-speed elevators for a new south entrance to the Bethesda Red Line Metro station that provide a pedestrian and bicycle connection to Wisconsin Avenue and the Purple Line platform;
- a travel time study and a pedestrian level of service study for Red Line passengers to determine whether the elevators stop at Wisconsin Avenue and / or the Purple Line level;
- a walkway providing a pedestrian and bicycle connection to Woodmont Avenue via Woodmont Plaza;
- over-run tracks extending west from the station platform into the Woodmont Plaza for not more than 30 feet from the tunnel's western end;
- incorporating ventilation equipment into the new building;
- a minimum 10,000 sf. space reserved for a full-service bicycle storage facility located adjacent to the CCT tunnel route, the Purple Line platform, and the Red Line entrance. At a minimum, this facility should offer a range of bicycle parking options (e.g., short v. long term; minimum security v. higher security), shower and changing facilities, and bicycle repair.

The Apex building is demolished after Purple Line construction

If the Apex Building is demolished after the Purple Line is constructed, for MTA's concept design the Plan recommends the following:

- the property owner provide easements on the Purple Line platform level and Wisconsin Avenue level to accommodate the station;
- station platforms under the Apex Building;
- station and tracks on a curved alignment;
- stairs for pedestrian connection between Elm Street and the Purple Line platform;
- high-speed elevators for a new south entrance to the Bethesda Red Line Metro station that provide a pedestrian and bicycle connection between Elm Street, the Purple Line platform, and the Red Line mezzanine;
- a walkway providing a pedestrian and bicycle connection to Woodmont Avenue via Woodmont Plaza ;

- a pedestrian connection in the existing tunnel east to the CCT via a 5-7'-wide sidewalk on the north side of the tracks;
- over-run tracks extending west from the station platform into Woodmont Plaza for not more than 100 feet from the tunnel's western end;
- ventilation equipment to be incorporated into a redeveloped Federal Realty site or in Woodmont Plaza;
- a minimum 10,000 sf. space reserved for a full-service bicycle storage facility located adjacent to the CCT tunnel route, the Purple Line platform, and the Red Line entrance. At a minimum, this facility should offer a range of bicycle parking options (e.g., short v. long term; minimum security v. higher security), shower and changing facilities, and bicycle repair.

Capital Crescent Trail

The CCT is a master-planned shared use path that runs through Bethesda and is proposed to connect to the Silver Spring Transit Center. Between Elm Street Park and Woodmont Avenue the trail branches into a tunnel route under Wisconsin Avenue and a surface route that crosses Wisconsin Avenue at grade. The two branches converge at the intersection of Woodmont Avenue and Bethesda Avenue, and the trail continues to Georgetown via an existing, hard-surface park trail. Early CCT plans showed the CCT sharing a tunnel with the Purple Line. In 2012, the County Council decided not to proceed with the tunnel as then envisioned, because of cost and liability issues associated with having the trail and the Purple Line in the same tunnel under the Apex Building. This meant that all trail users would have to use a surface route.

An alternative design of the Purple Line station that includes redevelopment of the Apex Building would result in a wider space under the building, with room for the CCT in its own tunnel as well as on local streets. However, the Plan recommends this route under any redevelopment of the Apex Building site, whether with the improved or the default station design. The Plan encourages flexibility in the alignment of the CCT route through the Apex Building property to facilitate coordination of building, station, and trail elements.

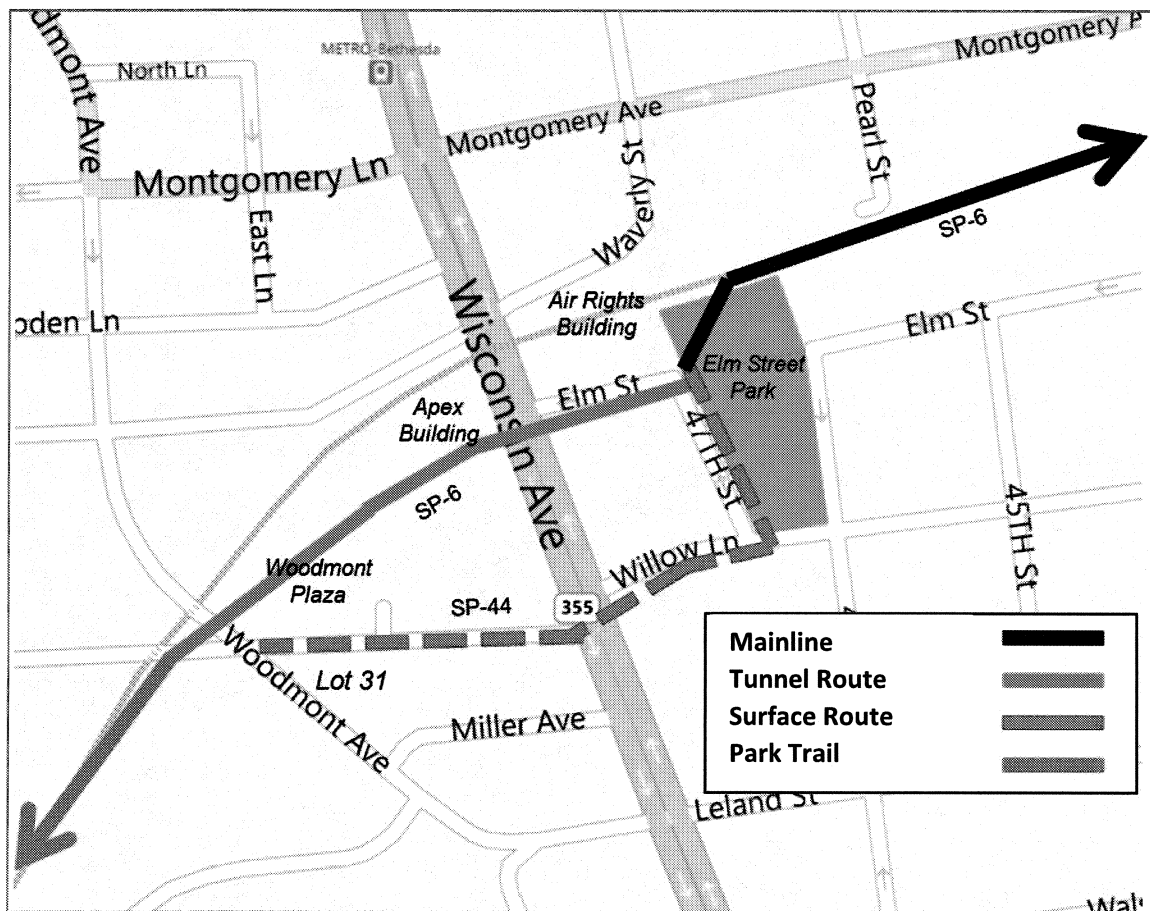
The Plan recommendations segment the CCT into the Mainline, Tunnel Route, and Surface Route. The Plan recommends construction of the mainline and the surface and tunnel routes to function as complementary transportation choices to serve a variety of needs. Each segment is described below.

Capital Crescent Trail Mainline

In the Plan area, the CCT mainline (SP-6) runs from the northern edge of Elm Street Park (just south of the Purple Line) southwest to the intersection of Elm Street and 47th Street, where it branches into the Tunnel Route and the Surface Route. The Plan recommends as key features of the CCT mainline within the Plan area:

- a smooth transition into Elm Street Park, avoiding sharp turns;
- a trail 11' wide with 2' shoulders through the northern portion of Elm Street Park, subject to grading analysis;

- an identifiable junction with the Tunnel Route and Surface Route in Elm Street Park at the corner of Elm Street and 47th Street;
- stormwater management and grading impacts associated with the CCT and/or Purple Line improvements within Elm Street Park to be included as part of the overall Purple Line stormwater management plan and designed so as not to reduce the useable area of the park available for existing and planned recreational facilities.



Capital Crescent Trail Route Segments

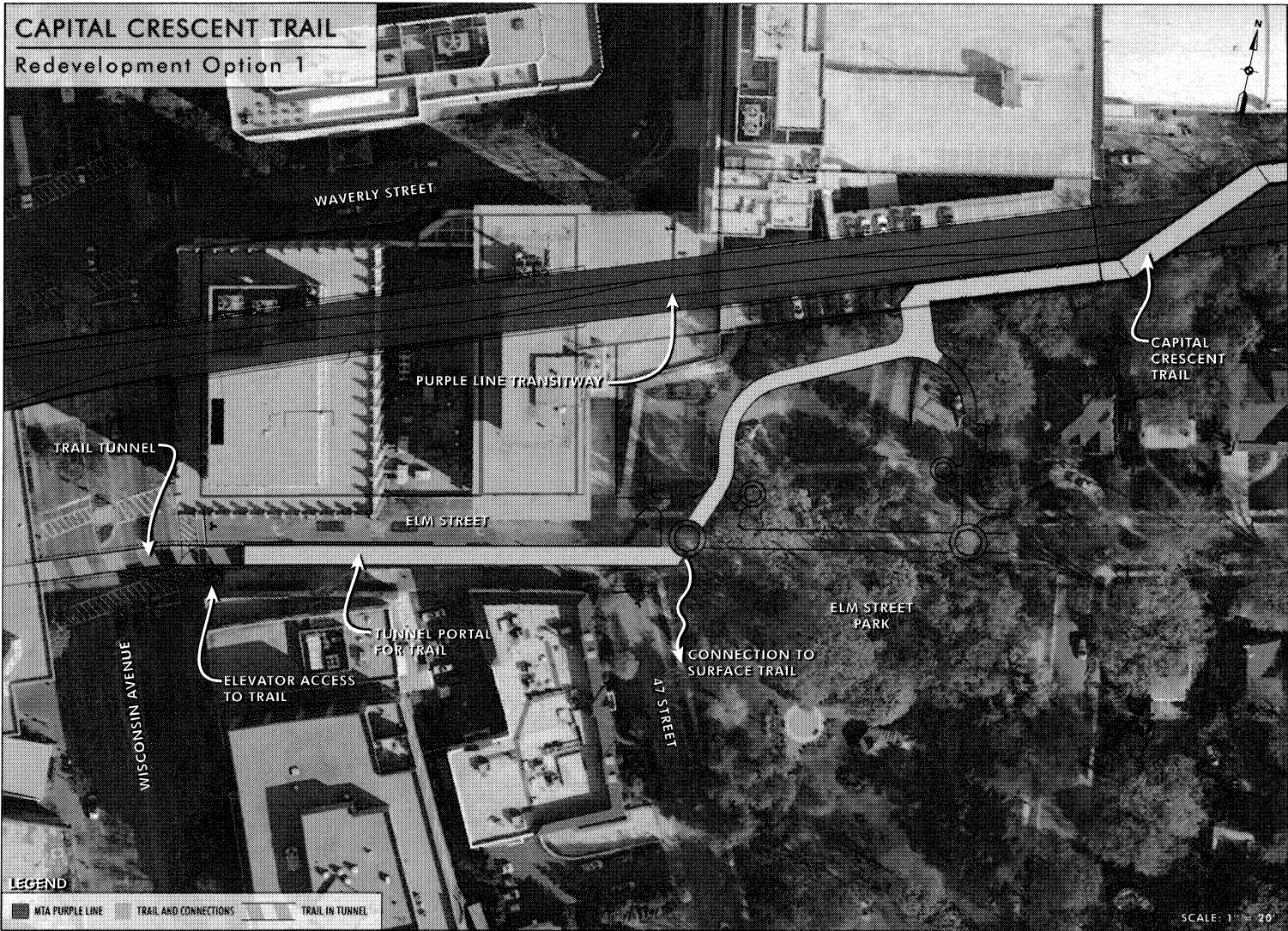
Capital Crescent Trail Tunnel Route

The CCT Tunnel Route (SP-6) would run from the intersection of Elm Street and 47th Street to Woodmont Avenue in a new tunnel beneath Wisconsin Avenue. The Plan recommends as key features of the Tunnel Route:

- a marked at-grade crossing of 47th Street that prioritizes trail users, with physical identifiers (such as a raised crosswalk) conveying a transition zone;
- a minimum 15'-wide trail on the south side of Elm Street between 47th Street and Wisconsin Avenue with ADA-compliant transitions from street level to tunnel level;
- a new tunnel (minimum 10' vertical clearance and 16' width) under Wisconsin Avenue south of the Purple Line station ;

CAPITAL CRESCENT TRAIL

Redevelopment Option 1



- a trail between Wisconsin Avenue and Woodmont Plaza (minimum 14' vertical clearance and 16' width) that limits conflicts with non-trail users and is visible from other areas of the station by non-trail users. As stated above, the Plan encourages flexibility in the alignment of the CCT route through the Apex Building property to facilitate coordination of building, station, and trail elements.

To encourage ease of use, the Plan recommends that the Tunnel not exceed a 5 percent slope, to the greatest extent practicable. The recommended tunnel concept is constrained at its eastern portal by a driveway serving 4610 Elm Street, potentially resulting in an 8 percent slope where the tunnel comes to grade. In order to be fully compliant with the Americans with Disabilities Act (ADA), this slope may require an elevator at the southeast corner of Wisconsin Avenue and Elm Street to service the tunnel. To avoid this, the Plan recommends either closing or relocating the 4610 Elm Street driveway, which the County should explore with the property owner.

Capital Crescent Trail Surface Route

The CCT Surface Route (SP-44) would run from the intersection of Elm Street and 47th Street to Woodmont Avenue, crossing Wisconsin Avenue at grade. The Plan recommends as key features of the Surface Route:

- a trail along the west side of Elm Street Park that consists of an 11' shared-use path separated from 47th Street by a 5' buffer, to be located within the 47th Street right-of-way and/or Elm Street Park;
- a trail along the south side of Willow Lane that includes an 11'-wide two-way cycle track¹ for bicyclists and a sidewalk for pedestrians;
- a safer and more convenient protected crossing at the intersection of Wisconsin Avenue, Willow Lane, and Bethesda Avenue;
- a trail along the north side of Bethesda Avenue that includes an 11'-wide two-way cycle track for bicyclists and a minimum 10'-wide sidewalk for pedestrians;
- consolidated driveways on the north side of Bethesda Avenue to minimize conflicts between trail users and vehicles using driveways;
- sufficient queuing space for trails users and non-trail users at all intersections.

Improving the User Experience

The branding of the tunnel and surface routes for the CCT should be consistent with the mainline trail between Bethesda and Silver Spring, including lighting, signage, surface treatments, furniture, and pavement markings. As a segment of the trail where usage is expected to be the highest, continuous lighting on the trail is a priority. Lighting spillover into

¹ Cycle tracks include the following characteristics:

- maintain horizontal separation with a buffer between the sidewalk and cycle track and a minimum 3 foot buffer between the cycle track and street;
- maintain vertical separation between cycle track, roadway, and pedestrian space; and
- maintain visual continuity and be differentiated from the pedestrian space by utilizing an asphalt surface along with a unique paver or concrete treatment, or by utilizing a green marking.

adjacent homes should be minimized by installing fixtures that prevent the light from rising above the level of the fixture and from extending beyond the desired area.

Issues to be addressed in Future Plans

Bethesda CBD Sector Plan Update

- CCT crossing of Woodmont Avenue and Bethesda Avenue intersection;
- transfers between the Purple Line and bus routes that currently stop only at the bus loop at the current Bethesda Metro station.

Outreach

Within the limited timeframe afforded by MTA's schedule, staff has sought to engage the public in the development of the staff draft recommendations. Staff maintains a dedicated Plan website (www.montgomeryplanning.org/bethesdapurpleline) updated with new information, including MTA's latest plans, and an opportunity to leave comments. Staff regularly updates interested parties via e-mail and more on twitter (@bethesdaPlanner, #bethesdapurpleline). The Plan has also received a fair amount of media coverage.

In early September, staff held a series of well-publicized Open House meetings at the Bethesda Chevy Chase Regional Services Center. Attended by 50-75 people, the meetings provided face-to-face opportunities for the public, media, and elected officials to see the new design alternatives, ask questions, and share thoughts.

The comments received from our outreach efforts indicate strong support for both the improved Purple Line station design, including the larger platform and the potential for long-term bike storage, and the new CCT tunnel. Safety and security were also of particular concern for the Purple Line Station, the CCT tunnel, and the CCT surface route, specifically:

- the length and curve of the tunnel;
- the slope of the tunnel as it comes back to street level;
- the tunnel will be safer than the surface route;
- the surface route should be designed for safety and marked clearly;
- lighting and security within the tunnel.

Other comments indicated the interest in an upgraded movie theatre, increased building height on this site and the CBD in general, pedestrian access to the Purple Line Station from the east, and consideration for future upgrade to heavy rail.

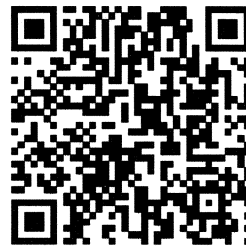
Analysis of the costs of redevelopment and of the CCT tunnel options was not complete by the time of the Open Houses and was therefore not presented. It is included in the appendices to this Plan.

Planning Board Draft

December 2013

Bethesda

Purple Line Station Plan
Minor Master Plan Amendment



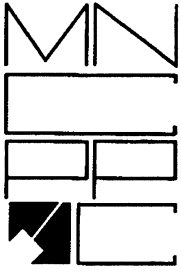
M-NCPPC

Montgomery County Planning Department

montgomeryplanning.org



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THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

6611 Kenilworth Avenue • Riverdale, Maryland 20737

TO: Maryland-National Capital Park and Planning Commission

FROM: Joseph C. Zimmerman, CPA

SUBJECT: Prince George's bond sale

DATE: March 10, 2014

The staff of the Finance Office is currently moving forward with the issuance of Park Acquisition and Development Project Bonds for projects shown on the attached list. The Capital Improvements Team from Parks and Recreation is providing welcome assistance and advice to this effort.

This issuance is in accordance with the Capital Improvement Budget as approved by the Prince George's Planning Board and the Prince George's County Council. The proceeds of the bonds will reimburse the Capital Projects fund for monies previously expended as well as provide cash for projects currently in progress.

The Bonds, which will be general obligations of the Commission and guaranteed by Prince George's County, are scheduled to be sold on May 1, 2014. Ms. Hewlett, Ms. Barney, and I are scheduled to meet with the rating agencies in New York on April 1st and 2nd to update their staff and provide information to support their rating. We fully expect to maintain our AAA rating with all agencies. We are assisted in this effort by Davenport and Company LLC, Financial Advisors, and McGuireWoods LLP, Bond Counsel.

In order to move forward with this effort, it is necessary for the Commission to adopt a resolution authorizing the issuance of the bonds. To that end, Resolution No. 14-03 has been drafted for your consideration.

The actual approval of bids and document execution will be undertaken by the Prince George's Planning Board, with final closing scheduled for May 15, 2014.

Thank you for your consideration of this matter.

Prince George's County Park Bonds, Series PGC 2014A
Projects to be funded

PDF	Description	Amount
400400	Local Park Acquisition	\$ 1,500,000
401033	Concord Historic Site	2,515,000
446370	Walker Mill Regional Park	3,000,000
450877	Public Playhouse Cultural Center	500,000
451205	Palmer Park Community Center	4,750,000
471186	Lillian Beans Community Center	3,650,000
481113	Southern Regional Tech/Rec Center	4,850,000
481118	Allentown Aquatic Center	4,300,000
500401	Regional Park Acquisition- Stream Valleys	<u>1,500,000</u>
		<u>\$ 26,565,000</u>

RESOLUTION NO. 14-03

**\$26,565,000
Prince George's County
General Obligation
Park Acquisition and Development Project Bonds,
Series PGC-2014A**

RECITALS

The Maryland-National Capital Park and Planning Commission (the "Commission") has determined to authorize the issuance of one or more series of its Prince George's County General Obligation Park Acquisition and Development Project Bonds, Series PGC-2014A in an aggregate amount not to exceed \$26,565,000 (collectively, the "Bonds"), pursuant to Sections 18-201 through 18-211, inclusive, of the Land Use Article of the Annotated Code of Maryland (2012 Replacement Volume and 2013 Supplement) (the "Land Use Article"). The Commission is authorizing the issuance of the Bonds (1) to finance and refinance the cost of certain park acquisition and development projects in Prince George's County, Maryland (the "Projects") and (2) to pay the cost of issuance related to the Bonds.

The Bonds may be issued in the form of serial bonds, term bonds, commercial paper, variable rate demand bonds or such other form as the Commission or its authorized designee may determine is advisable in consultation with the financial advisor to the Commission and its bond counsel.

BE IT RESOLVED BY THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION:

Section 1: Authorization of Bonds. Acting pursuant to the authority of Sections 18-201 through 18-211, inclusive, of the Land Use Article, the Commission hereby authorizes the borrowing of a sum not to exceed \$26,565,000 and the evidencing of such borrowing by the issuance of one or more series of its Bonds in like aggregate principal amount, to be designated

“Prince George’s County General Obligation Park Acquisition and Development Project Bonds, Series PGC-2014A”, or as further designated by the Secretary-Treasurer. The Bonds are being issued in order to provide funds (i) to pay the costs of the Projects and (ii) to pay, at the discretion of the Secretary-Treasurer, all or a portion of the cost of issuance of the Bonds.

Section 2: Terms of the Bonds.

(a) General Provisions. The Bonds shall be issued as fully registered bonds. The Commission hereby authorizes the Chairman, or Vice Chairman and the Secretary-Treasurer of the Commission, in consultation with its bond counsel and financial advisor, to determine and approve on behalf of the Commission the denominations, the form, terms and conditions, the method of determining the interest rates (variable or fixed), the maturity schedule, the redemption provisions, if any, the amount of the good faith deposit, if any, the dates and the terms and conditions of the sale and delivery of the Bonds, and all other terms, conditions and provisions relating to the issuance, sale and delivery of the Bonds, in accordance with the provisions of this Resolution.

The Bonds shall be numbered from No. R-1 upward, shall be dated and mature (subject to the right of prior redemption, if any) as determined by the Secretary-Treasurer, in the principal amounts approved by the Chairman or Vice Chairman and the Secretary-Treasurer of the Commission, at or prior to the sale of the Bonds; provided however, that in no event shall the Bonds mature later than 50 years from the date of issue as required by Section 18-203(e) of the Land Use Article.

(b) Book-Entry. The Bonds shall initially be maintained under a book-entry system with The Depository Trust Company, New York, New York, or other securities depository, and shall be registered in the name of the nominee of such securities depository, all as more fully set forth in an official statement or offering memorandum with respect to the issuance and sale of the Bonds, *provided* the Secretary-Treasurer does not determine that it is in the best interest of the Commission to initially maintain the Bonds under a system other than the book-entry system. The Secretary-Treasurer is hereby authorized to take all action necessary or appropriate to

provide for the issuance of the Bonds in book-entry form, including (without limitation) execution of letters of representations with The Depository Trust Company, or such other securities depository. If in the judgment of the Secretary-Treasurer it is in the best interests of the Commission to maintain the Bonds or any series of the Bonds under a system other than the book-entry system or to discontinue the maintenance of the Bonds or any series of the Bonds under a book-entry system, the Secretary-Treasurer is hereby authorized to provide for the termination of the book-entry system, if necessary, and the delivery of printed certificates for such Bonds in lieu thereof. The Secretary-Treasurer may designate a different securities depository.

(c) County Guarantee. The Bonds shall be guaranteed as to payment of principal and interest by Prince George's County, Maryland ("Prince George's County"), as required by Section 18-204(d) of the Land Use Article, and such guaranty shall be endorsed on each bond certificate in the manner hereinafter provided as required by Section 18-204(d) of the Land Use Article.

(d) Interest Provisions. The Chairman or Vice Chairman and the Secretary-Treasurer shall determine and approve the method for setting the rates of interest for the Bonds. The rates of interest for the Bonds shall be as determined and approved by the Chairman or Vice Chairman and the Secretary-Treasurer to be in the best interest of the Commission. If the Bonds are competitively sold, the Bonds shall bear interest at the rate or rates for each maturity named by the successful bidder for the Bonds, in accordance with the terms of the Notice of Sale hereinafter adopted. Interest shall be payable on the dates (each an "Interest Payment Date") and in the manner determined by the Secretary-Treasurer. The Bonds shall bear interest from the most recent Interest Payment Date to which interest has been paid or duly provided for, or from their date if no interest has been paid on the Bonds.

(e) Redemption Provisions. The Bonds may be subject to redemption at the times, upon the terms and conditions and at the redemption prices approved by the Chairman or Vice

Chairman and the Secretary-Treasurer in consultation with the Commission's financial advisor and bond counsel, at or prior to the sale of the Bonds.

Section 3: Execution. The Bonds shall be signed by the manual or facsimile signature of the Chairman of the Commission and shall be attested by the manual or facsimile signature of the Secretary-Treasurer of the Commission. There shall be printed on each of the Bonds a facsimile of the seal of the Commission. In case any officer of the Commission whose manual or facsimile signature shall appear on any Bond shall cease to be such officer before the delivery of such Bond, or in the case that any such officer shall take office subsequent to the date of issue of any such Bond, such signature or facsimile shall nevertheless be valid and sufficient for the purposes herein intended.

Section 4: Authentication. No Bond shall be valid or obligatory for any purpose or entitled to any security or benefit under this Resolution unless and until a certificate of authentication of such Bond substantially in the form hereinafter adopted shall have been duly executed by the Registrar (hereinafter defined) and such executed certificate of the Registrar on such Bond shall be conclusive evidence that such Bond has been authenticated and delivered under this Resolution. The Registrar's certificate of authentication on any Bond shall be deemed to have been executed by it if signed by an authorized officer or signatory of the Registrar. It shall not be necessary that the same officer or signatory of the Registrar sign the certificate of authentication for all the Bonds issued hereunder.

Section 5: Payment of Bonds. The principal of, premium, if any, and interest on the Bonds shall be payable in lawful money of the United States of America at the time of payment. So long as the Bonds or any series of the Bonds are maintained under a book-entry system with The Depository Trust Company, principal of and premium, if any, and interest on such Bonds shall be payable to Cede & Co., as nominee of The Depository Trust Company, all as described in an official statement or offering memorandum related to such Bonds. If the book-entry system for the Bonds or any series of the Bonds shall be discontinued in accordance with this Resolution, the principal of and premium, if any, on such Bonds shall be payable upon

presentation thereof at a designated corporate trust office of a bank or other entity hereafter to be determined by the Secretary-Treasurer, which bank or other entity, or any successor thereof, shall be designated as paying agent for such Bonds (the "Paying Agent"). Interest on such Bonds shall be payable by wire transfer, check or draft mailed by the Paying Agent to the registered owners thereof as of the record date immediately preceding each Interest Payment Date (the "Record Date") at their addresses as they appear on the Bond Register (hereinafter defined) or to such other address as is furnished to the Paying Agent by a registered owner. The Secretary-Treasurer may determine that the Office of the Secretary-Treasurer of the Commission will act as the Paying Agent or designate a Paying Agent as provided in this Resolution. Such designation by the Secretary-Treasurer may be done at any time and from time to time.

When there is no existing default in the payment of interest on the Bonds, the person in whose name any Bond is registered on the Record Date with respect to an Interest Payment Date shall be entitled to receive the interest payable on such Interest Payment Date (unless such Bond has been called for redemption on a redemption date which is prior to such Interest Payment Date) notwithstanding the cancellation of such Bond upon any registration of transfer or exchange thereof subsequent to such Record Date and prior to such Interest Payment Date.

Any interest on any Bond which is payable, but is not punctually paid or duly provided for, on any Interest Payment Date (herein called "Defaulted Interest") shall forthwith cease to be payable to the registered owner of the Bond on the relevant Record Date by virtue of having been such owner; and such Defaulted Interest shall be paid by the Paying Agent to the person in whose name the Bond is registered at the close of business on a date (the "Special Record Date") which shall be fixed by the Secretary-Treasurer in consultation with the Paying Agent and bond counsel. Defaulted Interest shall be paid to the persons in whose names the Bonds are registered on such Special Record Date.

Subject to the foregoing provisions of this Section, each Bond delivered under this Resolution upon transfer of or in exchange for or in lieu of any other Bond shall carry the rights to interest accrued and unpaid, and to accrue, which were carried by such other Bond.

Section 6: Registration, Transfer or Exchange of Bonds. The Commission shall cause to be kept at a designated corporate trust office of a bank or another designated entity hereafter to be determined by the Secretary-Treasurer, which shall be appointed the Registrar for the Bonds (the “Registrar”), a register (the “Bond Register”) for the registration of the transfer or exchange of any Bonds. The Secretary-Treasurer may determine that the Office of the Secretary-Treasurer of the Commission will serve as the Registrar or the Secretary-Treasurer may appoint a Registrar as provided in this Resolution. Such designation by the Secretary-Treasurer may be done at any time and from time to time. Each Bond shall be registered and transferred or exchanged in accordance with the terms and conditions with respect thereto set forth on the face of such Bond, the form of which is hereinafter adopted.

Section 7: Cancellation of Bonds. The Bonds paid at maturity or upon prior redemption shall be canceled and destroyed by the Bond Registrar in accordance with practices that are commonly used in the marketplace at that time and certificates of such action shall be transmitted to the Commission.

Section 8: Form of Bonds. The Bonds hereby authorized shall be in substantially the form attached hereto as Exhibit A, with appropriate insertions as therein set forth, which is hereby adopted by the Commission as the approved form of the obligations to be incurred by it, and all the covenants, conditions and representations contained in said form are hereby declared to be binding on the Commission and to constitute contracts between the Commission and the holders from time to time of the Bonds, said contracts to become binding when the Bonds are executed and delivered as herein authorized. Such form may be modified by the Secretary-Treasurer in accordance with the provisions of this Resolution, including but not limited to, modifications for the issuance of bonds in the form of serial bonds, term bonds, commercial paper, variable rate demand bonds or such other form as the Secretary-Treasurer may determine advisable in consultation with the financial advisor to the Commission and its bond counsel and modifications to reflect the maintenance of the Bonds under a book-entry system or the termination of a book-entry system as provided herein.

Section 9: Negotiated Sale. The Secretary-Treasurer is hereby authorized to sell the Bonds or any series of the Bonds by private negotiated sale on behalf of the Commission as authorized by Section 18-203(f) of the Land Use Article. The Chairman or Vice Chairman and the Secretary-Treasurer of the Commission, in consultation with bond counsel and the financial advisor to the Commission, are hereby authorized to determine on behalf of the Commission the method for conducting such private negotiated sale. The Secretary-Treasurer is hereby authorized to solicit and accept proposals for the sale of such Bonds on a private, negotiated basis. The Secretary-Treasurer of the Commission is hereby authorized to negotiate an agreement for the purchase of such Bonds (the “Bond Purchase Agreement”), to be approved by the Secretary-Treasurer in consultation with the Planning Board of Prince George’s County, in accordance with the limitations set forth in this Resolution.

Section 10: Public Sale; Notice of Sale. The Secretary-Treasurer is hereby authorized to sell the Bonds or any series of the Bonds by public competitive sale. In the event of a public sale, the Secretary-Treasurer is hereby authorized to advertise such sale by any electronic medium or financial journal or to publish a notice of sale or a summary thereof calling for bids for such Bonds in such other manner as the Secretary-Treasurer shall deem appropriate, such publication to be at least five days before the date for the receipt of bids. The Secretary-Treasurer is authorized to offer the Bonds or any series of the Bonds for sale by competitive bid and accept bids, including but not limited to electronic bids via such service provider as the Secretary-Treasurer deems appropriate and is approved by bond counsel to the Commission or the financial advisor to the Commission. Said notice of sale shall be substantially in the form of Exhibit B attached hereto, subject to such changes, insertions (including without limitation the insertion of the appropriate amounts and dates in the respective spaces provided therefor in such form and receipt of bids) and amendments as the Secretary-Treasurer deems necessary and approves upon the advice of bond counsel and the financial advisor to the Commission, the Secretary-Treasurer’s publication of such notice to constitute conclusive evidence of the approval of the Secretary-Treasurer of all changes from the form set forth in Exhibit B. In lieu

of publishing the entire notice of sale as set forth in Exhibit B in a financial journal or by electronic medium as above specified, the Secretary-Treasurer, upon the advice of the financial advisor to the Commission, may determine to publish a summary of said notice of sale.

Section 11: Official Statement; Guaranty.

(a) The Secretary-Treasurer may prepare a private placement memorandum, a preliminary official statement, a final official statement or another form of offering memorandum (collectively, the “Official Statement”) and a notice of sale with respect to the issuance and sale of any series of the Bonds, including any financial and other information about the Commission, Prince George’s County and Montgomery County, Maryland deemed appropriate by the Secretary-Treasurer.

(b) The Secretary-Treasurer is hereby authorized and directed to make all arrangements for the printing, execution and delivery of the Official Statement and certificates for any series of the Bonds.

(c) The Secretary-Treasurer is hereby authorized and directed to arrange with the County Executive of Prince George’s County for the endorsement on the Bonds of the guarantee of the payment of the principal thereof and interest thereon, as herein outlined and as required by law. The Bonds shall not be delivered until after the endorsement of such guaranty thereon.

Section 12: Use of Bond Proceeds. The proceeds of the sale of the Bonds (i) shall be used to pay the costs of the Projects, and (ii) may be used to pay all or a portion of the issuance costs of the Bonds.

Section 13: Tax Pledge. The Commission hereby pledges its full faith and credit and the proceeds of the taxes required to be levied and collected for the Commission by Prince George’s County under Section 18-304 of the Land Use Article, to the payment of the principal of and premium and interest on the Bonds as they become due.

The Commission covenants with each and every holder, from time to time, of the Bonds issued hereunder to allocate the proceeds of said taxes, as received, *pari passu*, to debt service on all outstanding bonds and notes issued by it, including this issue of Bonds, payable from said

taxes, subject only to the prior rights of the holders of bonds of the Commission which are secured by a pledge of a specific portion of said tax. The Commission further covenants not to issue any additional bonds or notes payable from said taxes in excess of the limits prescribed, from time to time, by Section 18-203(d) of the Land Use Article.

With respect to the Bonds hereby authorized, the Commission covenants with the holders thereof annually to submit to Prince George's County a budget requesting levy of said taxes to produce the revenues to pay the debt service to which the revenues from said taxes is pledged hereby, and to take all action it legally can take to compel Prince George's County to levy taxes at rates sufficient for the purpose and to fulfill and perform its guarantee of the payment, when due, of the principal of and interest on the Bonds.

Section 14: Tax and Arbitrage Covenants. The Chairman or the Vice Chairman and the Secretary-Treasurer shall be the officers of the Commission responsible for the issuance of the Bonds within the meaning of the Arbitrage Regulations (defined herein). The Chairman or the Vice Chairman and the Secretary-Treasurer shall also be the officers of the Commission responsible for the execution and delivery (on the date of issuance of the Bonds) of a certificate of the Commission (the "Section 148 Certificate") which complies with the requirements of Section 148 of the Internal Revenue Code of 1986, as amended ("Section 148"), and the applicable regulations thereunder (the "Arbitrage Regulations"), and such officials are hereby directed to execute the Section 148 Certificate and to deliver the same to bond counsel on the date of the issuance of the Bonds.

The Commission shall set forth in the Section 148 Certificate its reasonable expectations as to relevant facts, estimates and circumstances relating to the use of the proceeds of the Bonds, or of any moneys, securities or other obligations to the credit of any account of the Commission which may be deemed to be proceeds of the Bonds pursuant to Section 148 or the Arbitrage Regulations (collectively, "Bond Proceeds"). The Commission covenants that the facts, estimates and circumstances set forth in the Section 148 Certificate will be based on the

Commission's reasonable expectations on the date of issuance of the Bonds and will be, to the best of the certifying officials' knowledge, true and correct as of that date.

The Commission covenants and agrees with each of the holders of any of the Bonds that it will not make, or (to the extent that it exercises control or direction) permit to be made, any use of the Bond Proceeds which would cause the Bonds to be "arbitrage bonds" within the meaning of Section 148 and the Arbitrage Regulations. The Commission further covenants that it will comply with Section 148 and the regulations thereunder which are applicable to the Bonds on the date of issuance of the Bonds and which may subsequently lawfully be made applicable to the Bonds.

The Commission further covenants that it shall make such use of the proceeds of the Bonds, regulate the investment of the proceeds thereof, and take such other and further actions as may be required to maintain the excludability from gross income for federal income tax purposes of interest on the Bonds. All officers, employees and agents of the Commission are hereby authorized and directed to take such actions, and to provide such certifications of facts and estimates regarding the amount and use of the proceeds of the Bonds, as may be necessary or appropriate from time to time to comply with, or to evidence the Commission's compliance with, the covenants set forth in this Section.

The Chairman or Vice Chairman and the Secretary-Treasurer, on behalf of the Commission, may make such covenants or agreements in connection with the issuance of the Bonds issued hereunder as such official shall deem advisable in order to assure the registered owners of the Bonds that interest thereon shall be and remain excludable from gross income for federal income tax purposes, and such covenants or agreements shall be binding on the Commission so long as the observance by the Commission of any such covenants or agreements is necessary in connection with the maintenance of the exclusion of the interest on the Bonds from gross income for federal income tax purposes. The foregoing covenants and agreements may include such covenants or agreements on behalf of the Commission regarding compliance with the provisions of the Internal Revenue Code of 1986, as amended, as the Chairman or Vice

Chairman and the Secretary-Treasurer shall deem advisable in order to assure the registered owners of the Bonds that the interest thereon shall be and remain excludable from gross income for federal income tax purposes, including (without limitation) covenants or agreements relating to the investment of the proceeds of the Bonds, the payment of rebate (or payments in lieu of rebate) to the United States, limitations on the times within which, and the purpose for which, such proceeds may be expended, or the use of specified procedures for accounting for and segregating such proceeds.

Section 15: Appointment of Trustee and other Service Providers. The Secretary-Treasurer is hereby authorized to engage the services of a trustee, a registrar, a paying agent, a credit facility provider, a broker-dealer, a placement agent, a remarketing agent, an underwriter, a liquidity facility provider and such other service provider as the Secretary-Treasurer deems appropriate from time to time with respect to the Bonds.

Section 16: Approval, Execution and Delivery of Documents. The Secretary-Treasurer may prepare, as appropriate and shall submit for the approval of the Chairman or the Vice Chairman any agreement with a registrar, a paying agent, a trustee, credit facility provider, a placement agent, a broker-dealer, a remarketing agent, an underwriter, a liquidity facility provider and such other service provider as the Secretary-Treasurer deems appropriate from time to time with respect to the Bonds or any series of the Bonds (collectively, the “Transaction Documents”). The Chairman or Vice Chairman is hereby authorized to execute and deliver, as appropriate, such Transaction Documents. The Chairman, Vice Chairman, Secretary-Treasurer and all other authorized officers of the Commission are hereby authorized to execute and deliver such other and further documents, certifications and forms as may be necessary, appropriate or advisable in order to effectuate the transaction authorized by this Resolution.

Section 17: Continuing Disclosure Agreement. The Secretary-Treasurer is expressly authorized to approve the form of, and execute and deliver on behalf of the Commission, a continuing disclosure agreement or certificate to assist bidders and/or underwriters in complying

with the requirements of Rule 15c2-12 adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as the same may be amended from time to time.

Section 18: Award of Bonds. The Chairman or the Vice Chairman with prior consultation with the Planning Board of Prince George's County, and the Secretary-Treasurer are hereby authorized with respect to the Bonds or any series of the Bonds to accept the best bid for such Bonds, reject all other bids for such Bonds, set the interest rates of such Bonds and set the maturity schedules and terms of redemption of the Bonds, in accordance with the limitations set forth in this Resolution.

Section 19: Effective Date. This Resolution shall take effect from the date of its passage.

I, JOSEPH C. ZIMMERMAN, the duly appointed, qualified and acting Secretary-Treasurer of The Maryland-National Capital Park and Planning Commission, do hereby certify that the foregoing is a true copy of Resolution No. 14-03, adopted by said Commission at a regular meeting thereof duly called and held on March 19, 2014.

I do further certify that Commissioners Anderson, Bailey, Carrier, Dreyfuss, Geraldo, Hewlett, Presley, Shoaff, Washington, and Wells-Harley were present. A motion to adopt was made and seconded. The Resolution was adopted unanimously.

I do further certify that said Resolution has not been amended and is still in force and effect on the date hereof.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of The Maryland-National Capital Park and Planning Commission, this 19th day of March, 2014.

Secretary-Treasurer

This is to certify that the foregoing is a true and correct copy of Resolution No. 14-03 adopted by the Maryland-National Capital Park and Planning Commission on motion of Commissioner Washington, seconded by Commissioner Hewlett, with Commissioners Carrier, Wells-Harley, Anderson, Squire, Presley, and Dreyfuss voting in favor of the motion, and Commissioners Shoaff and Bailey absent during the vote, at its meeting held on Wednesday, March 19, 2014, in Riverdale, Maryland.

Patricia Colihan Barney
Executive Director

UNITED STATES OF AMERICA

STATE OF MARYLAND

No. R-_____ \$ _____

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

Prince George's County
 General Obligation
 Park Acquisition and Development Project Bond,
 Series PGC-2014A

<u>Dated Date</u>	<u>Interest Rate</u>	<u>Maturity Date</u>	<u>CUSIP</u>
[_____], 2014	___% per annum	_____, 20__	_____

Registered Owner: Cede & Co.

Principal Amount: _____ DOLLARS

The Maryland-National Capital Park and Planning Commission (the "Commission"), a public body corporate, organized and existing under the laws of the State of Maryland, hereby acknowledges itself indebted for value received and, upon presentation and surrender hereof, promises to pay to the Registered Owner shown above, or his registered assigns, on the Maturity Date shown above, unless this bond shall have been called for prior redemption and payment of the redemption price made or provided for, the Principal Amount shown above, and to pay interest on the outstanding principal amount hereof from the most recent Interest Payment Date (as hereinafter defined) to which interest has been paid or duly provided for, or, if no interest has been paid on this bond, from the date of this bond, at the annual rate of interest set forth above, payable semi-annually on [January 15] and [July 15] each year, beginning [January 15, 2015] (each an "Interest Payment Date") until payment of such Principal Amount shall be discharged as provided in the Resolution (hereinafter defined), by wire transfer or check mailed by the Commission or banking institution or other entity designated as paying agent by the Commission

(the "Paying Agent"), or any successor thereto, to the person in whose name this bond is registered on the registration books maintained by the Registrar (identified herein) at the close of business on the [first day of the month in which such Interest Payment Date occurs] (the "Record Date"). Notwithstanding the preceding sentence, interest on this bond which is payable, but is not punctually paid or duly provided for, on any Interest Payment Date shall forthwith cease to be payable to the owner of this Bond on the relevant Record Date by virtue of having been such owner and such interest shall be paid by the Paying Agent to the person in whose name this bond is registered at the close of business on a Special Record Date for the payment of such interest, which shall be fixed as provided in the Resolution.

Principal of, premium, if any, and interest on this bond are payable in lawful money of the United States of America, at the time of payment. Principal and premium, if any, hereon will be payable upon presentation and surrender of this bond by the registered owner hereof in person or by his duly authorized attorney, at the designated office of the Paying Agent.

This Bond is a general obligation of the Commission and of Prince George's County, Maryland (the "County"), to the payment, in accordance with its terms, of the principal of and interest on which the Commission and said County hereby each pledge their respective full faith and credit and taxing power.

The principal of and premium and interest on this bond are payable in the first instance from mandatory limited annual ad valorem property taxes which the County is required by Section 18-304 of the Land Use Article of the Annotated Code of Maryland (2012 Replacement Volume and 2013 Supplement) (the "Land Use Article") to levy at a fixed rate against all property assessed for the purposes of county taxation in the portion of the Maryland-Washington Metropolitan District (the "District") established by Title 19 of the Land Use Article located in said County. Section 18-209 of the Land Use Article provides that, if said mandatory tax is insufficient to pay the principal of and interest on this bond, said County shall levy an additional tax upon all assessable property within the portion of the District in the County, and, if the proceeds of such additional tax are still inadequate for such purposes, upon all assessable

property within the corporate limits of said County, to pay such deficiency. By the guaranty endorsed hereon, the full faith and credit of said County is pledged to the payment, when due, of the principal of and interest on this bond.

This bond is one of an issue of bonds (the “Bonds”) each of a par value of \$5,000 or an integral multiple thereof in the aggregate principal amount of \$_____, numbered from No. R-1 upwards, all dated as of the Dated Date and all known as: “The Maryland-National Capital Park and Planning Commission Prince George’s County General Obligation Park Acquisition and Development Project Bonds, Series PGC-2014A”. Unless previously redeemed as herein provided, the Bonds mature and are payable in consecutive annual installments on [January 15] in each of the years [2015] through [2034], and bear interest payable on [November] 1, 2014 and on each [January 15] and [July 15], commencing [January 15, 2015], until their respective maturities or prior redemption. The Bonds are issued pursuant to the authority of Sections 18-201 through 18-211, inclusive, of the Land Use Article and in accordance with the Resolution of the Commission duly adopted on [_____], 2014 (the “Resolution”).

The Bonds which mature on or after [January 15, 2025], are subject to redemption prior to their respective maturities, at the option of the Commission, in whole or in part at any time in any order of their maturities, on or after [January 15, 2024], at the redemption price of the principal amount of the Bonds to be redeemed, together with interest accrued thereon to the date fixed for redemption.

If less than all of the Bonds are called for redemption, the particular maturities to be redeemed shall be selected by the Commission. If less than all of the Bonds of any one maturity are called for redemption, the particular Bonds to be redeemed from such maturity shall be selected by lot or other random means by the Paying Agent in such manner as the Paying Agent in its discretion may determine, provided that each \$5,000 of the principal amount of any Bond shall be treated as a separate Bond for this purpose.

Notice of call for redemption shall be delivered to the Depository (as defined herein) prior to the date fixed for redemption in accordance with the Depository’s procedures. If the

book-entry system is discontinued for the Bonds, a notice calling for redemption of the Bonds to be redeemed shall be mailed by the Commission as Paying Agent, postage prepaid, at least thirty (30) days prior to the date fixed for redemption (the "Redemption Date"), to all registered owners of Bonds to be redeemed, at their last addresses appearing on the registration books kept by the Registrar. Failure to deliver or mail any such notice, or any defect in such notice, or in the delivery or mailing thereof, shall not affect the validity of any redemption proceedings. Such notice shall specify the issue, the numbers and the maturities of the Bonds to be redeemed, which statement of numbers may be from one number to another, inclusive, the Redemption Date and the redemption price, any conditions to such redemption, and shall further state that on such date the Bonds called for redemption will be due and become payable at the offices of the Paying Agent, and that, from and after such date, interest thereon shall cease to accrue.

From and after the date fixed for redemption, if notice has been given as herein provided, and the funds sufficient for payment of the redemption price and accrued interest shall be available therefore on such date, the Bonds so designated for redemption shall cease to bear interest. Upon presentation and surrender in compliance with such notice, the Bonds so called for redemption shall be paid by the Paying Agent at the redemption price. If not so paid on presentation thereof, such Bonds so called shall continue to bear interest at the rates expressed therein until paid.

This bond shall be registered as to principal and interest in the owner's name on the registration books kept for that purpose at the office of the Secretary-Treasurer or a designated office of the banking institution or other entity, or any successor thereto, designated by the Secretary-Treasurer (the "Registrar").

The transfer of this Bond is registerable by the registered owner hereof in person or by his attorney or legal representative at a principal office of the Registrar upon surrender and cancellation of this Bond together with a duly executed assignment in the form attached hereto and satisfactory to the Registrar. Upon any such registration of transfer the Registrar shall authenticate and deliver in exchange for this Bond a registered Bond or Bonds registered in the

name of the transferee of authorized denomination or denominations, in the aggregate principal amount equal to the principal amount of this Bond or the unredeemed portion hereof, of the same maturity and bearing interest at the same rate. Bonds may be exchanged for an equal aggregate principal amount of Bonds of the same maturity, bearing interest at the same rate, of other authorized denominations, at a principal office of the Registrar. The Commission and the Registrar may make a charge for every such exchange or transfer sufficient to reimburse it for any tax, fee, or other governmental charge, shipping charges and insurance required to be paid with respect to such exchange or transfer, and in addition, may charge a sum sufficient to reimburse them for expenses incurred in connection with such exchange or transfer. All Bonds surrendered in such exchange or registration of transfer shall forthwith be canceled by the Registrar. The Registrar shall not be required to register the transfer of this bond or make any such exchange of this bond after the mailing of notice calling this bond or any portion hereof for redemption.

So long as all of the Bonds shall be maintained in Book-Entry Form with The Depository Trust Company or another securities depository (the "Depository"): (1) in the event that fewer than all Bonds of any one maturity shall be called for redemption, the Depository, and not the Registrar, will select the particular accounts from which Bonds or portions thereof will be redeemed in accordance with the Depository's standard procedures for redemption of obligations such as the Bonds; (2) in the event that part, but not all, of this bond shall be called for redemption, the holder of this bond may elect not to surrender this bond in exchange for a new bond in accordance with the provisions hereof and in such event shall make a notation indicating the principal amount of such redemption and the date thereof on the Payment Grid attached hereto; and (3) payments of principal or redemption price of and interest on this bond shall be payable to the Depository or its assigns in accordance with the provisions of the Resolution. For all purposes, the principal amount of this bond outstanding at any time shall be equal to the lesser of (A) the principal sum shown on the face hereof and (B) such principal sum reduced by the principal amount of any partial redemption of this bond following which the holder of this bond

has elected not to surrender this bond in accordance with the provisions hereof. The failure of the holder hereof to note the principal amount of any partial redemption on the Payment Grid attached hereto, or any inaccuracy therein, shall not affect the payment obligation of the Commission hereunder. THEREFORE, IT CANNOT BE DETERMINED FROM THE FACE OF THIS BOND WHETHER A PART OF THE PRINCIPAL OF THIS BOND HAS BEEN PAID.

It is hereby certified and recited that each and every act, condition and thing required to exist, to be done, to have happened and to be performed precedent to and in the issuance of this bond, does exist, has been done, has happened and has been performed, in full and strict compliance with the Constitution and laws of the State of Maryland and the proceedings of the Commission and of the County, and that the issue of bonds of which this bond is one, together with all other indebtedness of said Commission, and of said County, is within every debt and other limit prescribed by the Constitution and laws of said State.

IN WITNESS WHEREOF, The Maryland-National Capital Park and Planning Commission, in the State of Maryland, has caused this bond to be signed in its name by the signature of its Chairman and attested by the signature of its Secretary-Treasurer and has caused the facsimile of its corporate seal to be imprinted hereon, all as of Dated Date set forth above.

ATTEST:

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

Secretary-Treasurer

By: _____
Chairman

(CORPORATE SEAL)

GUARANTY

The payment of interest when due, and of the principal on maturity, is guaranteed by Prince George's County, Maryland.

ATTEST:

PRINCE GEORGE'S COUNTY,
MARYLAND

Clerk

By: _____
County Executive

(CORPORATE SEAL)

CERTIFICATE OF AUTHENTICATION

This bond is one of the Bonds issued under the provisions of and described in the within mentioned Resolution of The Maryland-National Capital Park and Planning Commission.

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

Registrar

By: _____
Authorized Officer

Date of Authentication: _____

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto
(Please Insert Social Security or Other Identifying Number of Assignee) _____

(Print or Type Name and Address, Including Zip Code of Assignee)

the within bond and all rights thereunder, and does hereby constitute and appoint _____
_____ attorney to transfer the within bond on the books kept for the registration thereof,
with full power of substitution in the premises.

NOTICE: Signature must be guaranteed by a member firm of the New York Stock Exchange or a commercial bank or trust company.

(Signature of registered owner)
NOTICE: The signature to this assignment must correspond with the name as it appears upon the face of the within bond in every particular, without alteration or enlargement or any change whatever.

PAYMENT GRID

Date of Payment	Principal Amount Paid	Principal Amount Outstanding	Holder Signature

NOTICE OF SALE

§ _____
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
Prince George's County
General Obligation
Park Acquisition and Development Project Bonds,
Series PGC-2014A

**Electronic Bids only will be received until 11:00 a.m.,
Local Baltimore, Maryland Time, on _____, 2014**

by The Maryland-National Capital Park and Planning Commission (the "Commission"), for the purchase of the above-named issue of bonds (the "Bonds") of the Commission, to be dated as of the date of their delivery and to be issued pursuant to the authority of the laws of the State of Maryland governing said Commission as the same appear in Sections 18-201 through 18-211, inclusive, of the Land Use Article of the Annotated Code of Maryland (2012 Replacement Volume and 2013 Supplement) and a Resolution of the Commission adopted on [_____] , 2014. The Bonds will bear interest from the date of their delivery payable semi-annually on each [January 15] and [July 15], commencing [January 15, 2015] until maturity or prior redemption.

The payment of the principal of and interest on all of the Bonds will be unconditionally guaranteed by Prince George's County, Maryland (the "County").

Maturities: The Bonds shall be issued only in fully registered form without coupons. One bond certificate representing each maturity will be issued to and registered in the name of Cede & Co., as nominee of The Depository Trust Company, New York, New York ("DTC"), as registered owner of the Bonds and each such bond certificate shall be immobilized in the custody of DTC. DTC will act as securities depository for the Bonds. Individual purchases will be made in book-entry form only, in the principal amount of \$5,000 or any integral multiple thereof. Purchasers will not receive physical delivery of certificates representing their interest in the Bonds purchased. The winning bidder, as a condition to delivery of the Bonds, will be required to deposit the bond certificates representing each maturity with DTC. The Bonds will be separately numbered from No. R-1 upward, and will mature, subject to prior redemption as set forth below, in consecutive annual installments beginning on [January 15, 2015] in the amounts and years set forth in the following table:

MATURITY SCHEDULE

<u>Year of Maturity</u>	<u>Principal Amount</u>	<u>Year of Maturity</u>	<u>Principal Amount</u>
	\$		\$

**The Maryland-National Capital Park and Planning Commission will act as Registrar
and Paying Agent**

As promptly as reasonably possible after the bids are received, the Chairman, the Vice Chairman or Secretary-Treasurer of the Commission will notify the bidder to whom the Bonds will be awarded, if and when such award is made, and such bidder, upon such notice, shall advise the Chairman or the Vice Chairman or the Secretary-Treasurer of the Commission of the initial reoffering prices to the public of each maturity of the Bonds (the “Initial Reoffering Prices”). THE SUCCESSFUL BIDDER SHALL MAKE A BONA FIDE PUBLIC OFFERING OF THE BONDS AT THE INITIAL OFFERING PRICES AND SHALL PROVIDE THE RELATED CERTIFICATION DESCRIBED BELOW.

Electronic Bids: Notice is hereby given that electronic proposals will be received via *[PARITY]*, in the manner described below, until 11:00 a.m., local Baltimore, Maryland time, on _____, 2014.

Bids may be submitted electronically pursuant to this Notice until 11:00 a.m., local Baltimore, Maryland time, but no bid will be received after the time for receiving bids specified above. To the extent any instructions or directions set forth in *[PARITY]* conflict with this Notice, the terms of this Notice shall control. For further information about *[PARITY]*, potential bidders may contact *[PARITY]* at (212) 849-5021.

Disclaimer: Each prospective electronic bidder shall be solely responsible to submit its bid via *[PARITY]* as described above. Each prospective electronic bidder shall be solely responsible to make necessary arrangements to access *[PARITY]* for the purpose of submitting its bid in a timely manner and in compliance with the requirements of the Notice of Sale. Neither the Commission nor *[PARITY]* shall have any duty or obligation to provide or assure access to *[PARITY]* to any prospective bidder, and neither the Commission nor *[PARITY]* shall be responsible for proper operation of, or have any liability for any delays or interruptions of, or any damages caused by, *[PARITY]*. The Commission is using *[PARITY]* as a communication mechanism, and not as the Commission’s agent, to conduct the electronic bidding for the Bonds. The Commission is not bound by any advice and determination of *[PARITY]* to the effect that any particular bid complies with the terms of this Notice of Sale and in particular the “Bid

Specifications” hereinafter set forth. All costs and expenses incurred by prospective bidders in connection with their submission of bids via **[PARITY]** are the sole responsibility of the bidders; and the Commission is not responsible, directly or indirectly, for any of such costs or expenses. If a prospective bidder encounters any difficulty in submitting, modifying, or withdrawing a bid for the Bonds, the prospective bidder should telephone **[PARITY]** at (212) 849-5021 and notify the Commission’s Financial Advisor, Davenport & Company LLC, by facsimile at (866) 932-6660.

Electronic Bidding Procedures: Electronic bids must be submitted for the purchase of the Bonds (all or none) via **[PARITY]**. Bids will be communicated electronically to the Commission at 11:00 a.m. local Baltimore, Maryland time, on [_____], 2014. Prior to that time, a prospective bidder may (1) submit the proposed terms of its bid via **[PARITY]**, (2) modify the proposed terms of its bid, in which event the proposed terms as last modified will (unless the bid is withdrawn as described herein) constitute its bid for the Bonds or (3) withdraw its proposed bid. Once the bids are communicated electronically via **[PARITY]** to the Commission, each bid will constitute an irrevocable offer to purchase the Bonds on the terms therein provided. For purposes of the electronic bidding process, the time as maintained on **[PARITY]** shall constitute the official time.

Security: All of the bonds will be general obligations of the Commission and of the County for the payment, in accordance with their terms, of the principal of and interest on which the Commission and the County will each pledge their respective full faith and credit and taxing power.

The Bonds will be payable as to both principal and interest first from limited ad valorem property taxes which the County is required by law to levy in the portion of the Maryland-Washington Metropolitan District (the “District”) established by Title 19 of the Land Use Article located in said County and remit to the Commission. By its guarantee of the Bonds, the full faith and credit of the County is pledged, as required by law, for the payment of the principal thereof and interest thereon. To the extent that the aforesaid taxes levied for the benefit of the Commission are inadequate in any year for the payment of such principal and interest, Section 18-209 of the Land Use Article provides that said County shall levy an additional tax upon all assessable property within the portion of the District in the County, and, if the proceeds of such additional tax are still inadequate for such purposes, upon all assessable property within the corporate limits of said County, to pay such deficiency.

Redemption: The Bonds which mature on or after [January 15, 2025], are subject to redemption prior to their respective maturities on or after [January 15, 2024], at the option of the Commission, in whole or in part at any time, in any order of maturities, at a redemption price of the principal amount of the Bonds to be redeemed, together with interest accrued thereon to the date fixed for redemption.

Bid Specifications: Proposals for purchase of the Bonds must be for all of the Bonds herein described and must be submitted electronically pursuant to this Notice until 11:00 a.m., local Baltimore, Maryland time on [_____], 2014. Bidders must pay not less than par and not more than [105]% of par. In their proposals, bidders are requested to specify the annual rate or rates of interest to be borne by the Bonds. Bidders are requested to name the interest rate

or rates in multiples of 1/8 or 1/20 of 1%. Bidders may specify more than one rate of interest to be borne by the Bonds, but all Bonds maturing on the same date must bear interest at the same rate. Bonds on successive maturity dates may bear the same interest rate. No Bond shall bear more than one rate of interest, which rate shall be uniform for the life of the Bond and no interest rate may be named that exceeds [5.50]%. For all Bonds, the difference between the highest and lowest rates named may not be greater than [three] percent ([3]%).

Award of Bid: The successful bidder will be determined based on the lowest interest cost to the Commission. The lowest interest cost shall be determined in accordance with the true interest cost (TIC) method by doubling the semi-annual interest rate, compounded semi-annually, necessary to discount the debt service payments from the payment dates to the date of the Bonds, and to the price bid. Where the proposals of two or more bidders result in the same lowest interest cost, the Bonds may be apportioned between such bidders, but if this shall not be acceptable, the Commission shall have the right to award all of the Bonds to one bidder. The Commission reserves the right to reject any or all proposals and to waive any irregularities in any of the proposals. The Secretary-Treasurer's judgment shall be final and binding upon all bidders with respect to the form and adequacy of any proposal received and as to its conformity to the terms of this Notice of Sale.

No proposal to purchase the Bonds at a price less than par will be entertained.

Good Faith Deposit: A good faith deposit in the amount of \$[530,000] (the "Good Faith Deposit") is required of the winning bidder only for the Bonds. The winning bidder for the Bonds is required to submit such Good Faith Deposit payable to the order of the Commission in the form of a wire transfer in federal funds as instructed by the Commission. The winning bidder shall submit the Good Faith Deposit not more than two hours after the verbal award is made. The winning bidder should provide as quickly as it is available, evidence of wire transfer by providing the Commission the federal funds reference number. If the Good Faith Deposit is not received in the time allotted, the bid of the winning bidder may be rejected and the Commission may direct the next lowest bidder to submit a Good Faith Deposit and thereafter may award the sale of the Bonds to the same. If the winning bidder fails to comply with the Good Faith Deposit requirement as described herein, that bidder is nonetheless obligated to pay to the Commission the sum of \$[530,000] as liquidated damages due to the failure of the winning bidder to timely deposit the Good Faith Deposit.

Submission of a bid to purchase the Bonds serves as acknowledgement and acceptance of the terms of the Good Faith Deposit requirement.

The Good Faith Deposit so wired will be retained by the Commission until the delivery of the Bonds, at which time the Good Faith Deposit will be applied against the purchase price of the Bonds or the Good Faith Deposit will be retained by the Commission as partial liquidated damages in the event of the failure of the successful bidder to take up and pay for such Bonds in compliance with the terms of this Official Notice of Sale and of its bid. No interest on the Good Faith Deposit will be paid by the Commission. The balance of the purchase price must be wired in federal funds to the account detailed in the closing memorandum, simultaneously with delivery of the Bonds.

CUSIP Numbers; Expenses of the Bidder: It is anticipated that CUSIP numbers will be assigned to each of the Bonds, but neither the failure to type or print such numbers on any of the Bonds nor any error with respect thereto shall constitute cause for a failure or refusal by the purchaser thereof to accept delivery of and pay for the Bonds. The policies of the CUSIP Service Bureau will govern the assignment of specific numbers to the Bonds. The successful bidder will be responsible for applying for and obtaining, subject to the CUSIP Service Bureau policy and procedures, CUSIP numbers for the Bonds promptly upon award of the bid. All expenses of typing or printing CUSIP numbers for the Bonds will be paid for by the Commission; provided the CUSIP Service Bureau charges for the assignment of the numbers shall be the responsibility of and shall be paid for by the successful bidder.

All charges of DTC and all other expenses of the successful bidder will be the responsibility of the successful bidder for the Bonds.

Registration of Bonds: When delivered, one bond certificate representing each maturity of the Bonds shall be duly executed and authenticated and registered in the name of Cede & Co., as nominee of The Depository Trust Company, as registered owner of the Bonds.

Official Statement: Not later than seven (7) business days after the date of sale, the Commission will deliver to the successful bidder an Official Statement, which is expected to be substantially in the form of the Preliminary Official Statement referred to below. If so requested by the successful bidder for the Bonds at or before the close of business on the date of the sale, the Commission will include in the Official Statement such pricing and other information with respect to the terms of the reoffering of the Bonds of such issue by the successful bidder therefor, if any, as may be specified and furnished in writing by such bidder (the "Reoffering Information"). If no such information is specified and furnished by the successful bidder, the Official Statement will include the interest rate or rates on the Bonds resulting from the bid of such successful bidder. The successful bidder shall be responsible to the Commission and its officials for such Reoffering Information furnished by such bidder, and for all decisions made by such bidder with respect to the use or omission of the Reoffering Information in any reoffering of the Bonds. The successful bidder will also be furnished, without cost, with a reasonable number of copies of the Official Statement as determined by the Secretary-Treasurer (and any amendments or supplements thereto).

Legal Opinion: The Bonds described above will be issued and sold subject to approval as to legality by McGuireWoods LLP, Bond Counsel, whose approving opinion will be delivered, upon request, to the successful bidder for the Bonds without charge. Such opinion will be substantially in the form included in Appendix [] to the Preliminary Official Statement referred to below.

Continuing Disclosure: In order to assist bidders in complying with SEC Rule 15c2-12(b)(5), the Secretary-Treasurer will execute and deliver a continuing disclosure agreement on or before the date of issuance of the Bonds pursuant to which it will undertake to provide certain information annually and notices of certain events. A description of this agreement is set forth in the Preliminary Official Statement and will also be set forth in the Official Statement.

Delivery and Payment: It shall be a condition of the obligation of the successful bidder to accept delivery of and pay for the Bonds, that, simultaneously with or before delivery and payment for the Bonds, said bidder shall be furnished, without cost, with a certificate of the Secretary-Treasurer of the Commission to the effect that, to the best of his knowledge, the Official Statement and any amendment or supplement thereto (except for the Reoffering Information provided by the successful bidder, as to which no view will be expressed) does not contain, as of the date of sale and as of the date of delivery of the Bonds, any untrue statement of a material fact, required to be stated or necessary to be stated, to make such statements, in light of the circumstances under which they were made, not misleading.

SIMULTANEOUSLY WITH OR BEFORE DELIVERY OF THE BONDS, THE SUCCESSFUL BIDDER SHALL FURNISH TO THE COMMISSION A CERTIFICATE ACCEPTABLE TO BOND COUNSEL TO THE EFFECT THAT (I) THE SUCCESSFUL BIDDER HAS MADE A BONA FIDE PUBLIC OFFERING OF THE BONDS AT THE INITIAL REOFFERING PRICES, (II) AS OF THE DATE OF THE SALE OF THE BONDS, THE SUCCESSFUL BIDDER REASONABLY EXPECTED TO SELL A SUBSTANTIAL AMOUNT OF EACH MATURITY OF THE BONDS AT THE APPLICABLE INITIAL REOFFERING PRICES, AND (III) A SUBSTANTIAL PORTION OF EACH MATURITY OF THE BONDS WERE SOLD TO THE PUBLIC (EXCLUDING BOND HOUSES, BROKERS AND OTHER INTERMEDIARIES) AT SUCH INITIAL REOFFERING PRICES. Bond Counsel advises that (i) such certifications shall be made based on actual facts known to the successful bidder as of the sale date and (ii) a substantial portion of the Bonds is at least 10% in par amount of each maturity of the Bonds. If the successful bidder cannot deliver the certificate as described above, the County's bond counsel will be required to evaluate the facts and circumstances of the offering and sale of the Bonds to confirm compliance with statutory requirements of avoiding the establishment of an artificial price for the Bonds.

Delivery of the Bonds, without expense, will be made by the Commission to the purchaser within thirty (30) days from the date of sale, or as soon as practicable thereafter, through the facilities of DTC in New York, New York, and, thereupon, said purchaser will be required to accept delivery of the Bonds purchased and pay the balance of the purchase price thereon in federal or other immediately available funds. The Bonds will be accompanied by the customary closing documents including a no-litigation certificate effective as of the date of delivery.

Contacts: A preliminary official statement, which is in form "deemed final" as of its date by the Commission for purposes of SEC Rule 15c2-12 (the "Preliminary Official Statement") but is subject to revision, amendment and completion in the final official statement (the "Official Statement"), together with this Notice of Sale, may be obtained from Joseph C. Zimmerman, Secretary-Treasurer, The Maryland-National Capital Park and Planning Commission, 6611 Kenilworth Avenue, Riverdale, Maryland 20737, (301) 454-1540 or Davenport & Company LLC, 8600 LaSalle Road, Suite 324, Towson, Maryland 21286-2011, (410) 296-9426.

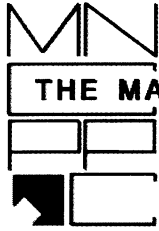
Right to Change Notice of Sale and Postpone Offering: The Commission reserves the right to postpone, from time to time, the date established for the receipt of bids. In the event of a

postponement, the new date and time of sale will be announced via Thomson Municipal Market Monitor (“TM3”) (www.tm3.com) News Service at least [48 hours] prior to the time proposals are to be submitted. On any such alternative sale date, bidders may submit electronic bids for the purchase of the Bonds in conformity with the provision of this Notice of Sale, as modified, including the change of the date of sale and the changes described in the next sentence. If the date fixed for receipt of bids is postponed, the expected date of delivery of the bonds also may be postponed. If the sale is postponed to a date later than _____, 2014, then the date of the Bonds (and hence the date from which interest shall accrue) may be changed. Such changes, if any, will be announced via TM3 News Service at the time any alternative sale date is announced.

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

By: _____
Chairman
_____, 2014

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THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

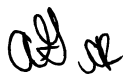
6611 Kenilworth Avenue • Riverdale, Maryland 20737

Agenda Date: March 19, 2014

Item No.


MEMORANDUM

TO: The Maryland-National Capital Park and Planning Commission

FROM: Adrian R. Gardner 
General Counsel

Carol Rubin, Associate General Counsel 
301-495-4646

Fern Piret, Director, Prince George's County Planning Department 
301-952-3595

Rose Krasnow, Deputy Director, Montgomery County Planning Department 
301-495-4591

DATE: March 10, 2014

RE: **WSSC Ad Hoc Committee on Large Diameter Water Mains
Status Report**

The Washington Suburban Sanitary Commission (WSSC) is responsible for a network of nearly 5,600 miles of fresh water pipeline and more than 5,400 miles of sewer pipeline in a 1,000 square mile service area covering both Montgomery and Prince George's Counties. Many of the larger-diameter transmission mains, which range between 36 and 96 inches in diameter, were constructed from pre-stressed concrete (PCCP).

Because the failure of PCCP pipes causes a far more explosive and sudden break than the leaking that occurs with other pipe failures, WSSC decided in 2009 to impose a standard 80-foot setback for new development. However, WSSC had failed to take into consideration the significant social and economic impacts that would be caused by this

setback. At the urging of the two County Executives, both County Councils, and the other public and private organizations impacted by WSSC's actions, WSSC formed an Ad Hoc Committee made up of representatives from the executive and legislative branches of Montgomery and Prince George's County government, private organizations and citizens to develop a set of fully informed recommendations to submit to the WSSC Commissioners for how to appropriately address the risks associated with the failure of these PCCP pipes in a more balanced manner. **WSSC no longer applies the 80-foot setback.**

The M-NCPPC was asked to designate four representatives, two from each county, to represent its interests on the Committee. The Montgomery County Planning Board assigned Rose Krasnow and Carol Rubin to the Committee, and the Prince George's Planning Board assigned Fern Piret and Adrian Gardner.

The Committee is currently preparing its report and expects to have it completed on April 10th for presentation to the WSSC at its regular meeting on April 16th. This memorandum provides you with a summary of the Committee's recommendations in draft, but should at least give you a sense of the direction in which we are headed. The draft recommendations are based on 1) the expected rate of PCCP pipe failures, 2) the physical dynamics of such failures, and 3) the likely public safety, social and economic impacts that are the result of such failures.

The Committee felt that the degree of risk associated with the large diameter pipes was not high enough to justify the setback standard. Most of the 5600 miles of fresh water pipeline consists of water distribution mains; the larger-diameter transmission mains account for only 200 miles, including 145 miles of PCCP pipes and 20 miles of cast iron pipes. Moreover, WSSC's monitoring program has found that less than 2% of the total pipe segments are at risk for failure. Overall, the Committee members have a high level of confidence in WSSC's current monitoring, inspection, repair, and replacement program.

Nevertheless, the Committee did agree that the impacts can be significant when these large diameter pipes fail. Three types of physical impacts were identified: 1) flooding, 2) debris throw and water jet stream, and 3) craters formed as a result. The Committee believes flooding is the primary concern, with the other consequences important to address, but of lesser long-term impact. The Committee worked hard to determine additional steps that should be taken by WSSC, working in conjunction with local government agencies, to appropriately manage the impacts from PCCP pipe failures for both existing and new development.

Recommendations, which have **not** been prioritized by the Committee, are divided into three broad categories, 1) prevention to reduce the number of failures, 2) mitigation to reduce the impact of failures, and 3) response to reduce disruption from failures; with some overarching recommendations that apply to all categories.

Overarching Recommendations:

1. Complete the development of a prototype for developing a set of maps that overlay multiple GIS layers with WSSC system data to help policy-makers differentiate among the various levels of public risk within the system (“Visualization Mapping”).
2. Revise the current WSSC risk assessment ranking system to add weighting and nuance to the “above-the-ground” factors such as land use and potential for flooding.
3. Provide the public with a balanced education regarding the risks of PCCP breaks and WSSC’s efforts to prevent them and mitigate their consequences.

Prevention Recommendations:

4. WSSC should develop a long-term strategy for large-diameter PCCP repair and replacement that puts emphasis on higher-priority areas.
5. Build additional redundancy into the transmission system to increase WSSC’s ability to make necessary repairs and upgrades while minimizing risk of loss of water service to WSSC customers.
6. Explore the operational and budgetary feasibility of a more aggressive inspection schedule for large-diameter PCCP.
7. Develop an inventory of the type of joint involved in the Connecticut Avenue break and fast-track the feasibility of developing a leakage monitoring program for these locations.
8. Put more research and development into pipe repair and refurbishment technologies and approaches.

Mitigation Recommendations:

9. Leverage the Visualization Mapping to develop an understanding of the potential flooding consequences for a given site.

10. Ensure the sufficiency, proper operation of, and access to valves to respond to potential breaks; this includes verifying the location of existing valves and determining whether additional valves are needed.
11. Remove the “Special Considerations” language from the WSSC Design Manual.

200’ “Special Considerations” Language:

Existing Pipeline Width Requirements

“The existing widths of right of ways shown/provided for existing large diameter pipelines (30-inch and larger) may be inadequate from both public safety and operation and maintenance perspectives. The most serious risks are posed in situations where occupied spaces are built within short distances of large diameter Pre-Stressed Concrete Cylinder Pipe (PCCP). PCCP fail catastrophically and result in serious public safety concerns. For any new development proposed within two hundred (200) feet of these pipelines, special considerations and modifications may be imposed.”

12. WSSC should advise owners/developers in the early stages of the development process of the presence and location of PCCP transmission mains related to the proposed development shown on development plans, and the risks associated with their failure.
13. In the event a proposed development could be impacted by large-diameter PCCP pipes, WSSC should be actively engaged in the Development Review Committee (Montgomery County) and Subdivision and Development Review Committee (Prince George’s County).
14. WSSC should take a more proactive role in the master plan process, beginning with early meetings with staff when initial land use recommendations are being considered at locations that may be directly impacted by the pipes at risk.
15. Establish a multi disciplinary committee of industry professionals from the public and private sectors to gather and report on the mitigation strategies being used to reinforce or safeguard structures by the building community.

Response Recommendations:

16. Prepare a comprehensive Emergency Response Plan to be followed in the event of any major disruption to the water supply.
17. Work with organizations that could be most impacted by a break to help ensure they are educated and prepared for a large-diameter PCCP break scenario.
18. Upon identifying that a PCCP segment is failing (prior to a break), provide timely notification to emergency management agencies and appropriate agencies, elected officials and Boards of Education in the two counties so that appropriate preparatory action can be initiated and coordinated in advance of an actual event.
19. When a large-diameter water main break occurs, assemble a standard set of information as rapidly as possible so that it can be conveyed to all relevant parties.
20. Develop a comprehensive traffic response plan that would aim to minimize disruption when a significant break occurs along a major artery or transit line.
21. Develop strategies and plans for providing residents with water in the event of a large-scale and/or long-term disruption to the water supply.
22. Establish criteria to identify whether a County's Emergency Operation Center needs to be activated.

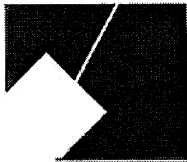
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
EMPLOYEE PERFORMANCE EVALUATIONS NOT COMPLETED BY DUE DATE
BY DEPARTMENT AS OF A FEBRUARY 2014

	31 - 60 DAYS		61 - 90 DAYS		91 + DAYS		DEPARTMENT TOTALS	
	01/14	02/14	01/14	02/14	01/14	02/14	01/14	02/14
CHAIRMAN, MONTGOMERY COUNTY	0	1	0	0	0	0	0	1
CHAIRMAN, PRINCE GEORGE'S COUNTY	0	0	0	0	0	0	0	0
OFFICE OF CIO	0	0	0	0	1	1	1	1
INTERNAL AUDIT	0	0	0	0	0	0	0	0
EXECUTIVE COMMITTEE/CHAIRS	0	0	0	0	0	0	0	0
DEPT. OF HUMAN RESOURCES & MGT.	1	1	0	0	0	0	1	1
LEGAL DEPARTMENT	0	0	0	0	0	0	0	0
FINANCE DEPARTMENT	2	1	0	1	0	0	2	2
PRINCE GEORGE'S PLANNING	0	3	0	0	0	0	0	3
PRINCE GEORGE'S PARKS & RECREATION	4	2	0	1	0	0	4	3
MONTGOMERY COUNTY PARKS	3	1	0	0	0	0	3	1
MONTGOMERY COUNTY PLANNING	3	1	0	0	0	0	3	1
DEPARTMENT TOTAL BY DAYS LATE	13	10	0	2	1	1	---	---
COMMISSION WIDE TOTAL:							14	13

ITEM 6a

*DEPARTMENTS WITH RATINGS MORE THAN 60 DAYS LATE HAVE BEEN CONTACTED.

SECR TREAS

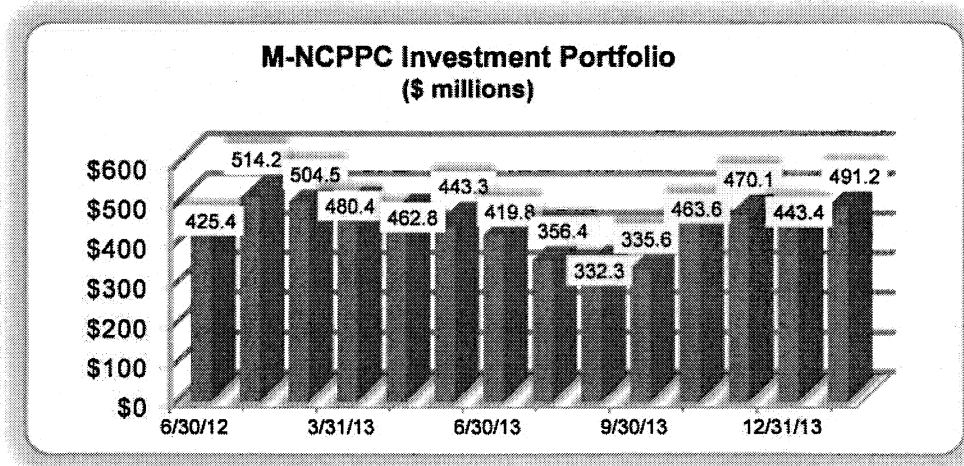


THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
TREASURY OPERATIONS, FINANCE DEPARTMENT
 6611 Kenilworth Avenue, Suite 302, Riverdale, MD 20737
 Telephone (301) 454-1541 / Fax (301) 209-0413

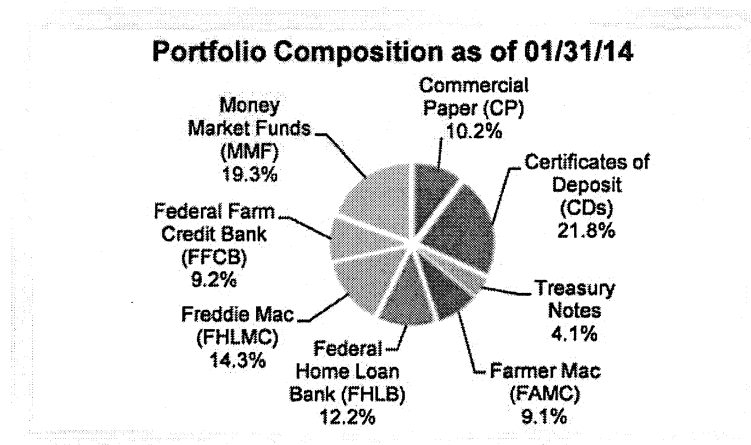
MEMO

TO: Commissioners
VIA: Joseph Zimmerman, Secretary-Treasurer
FROM: Abbey Rodman, Investment & Treasury Operations Manager *[Signature]*
DATE: 2/18/2014
SUBJECT: Investment Report – January 2014

The Commission’s pooled cash investment portfolio totaled \$491.2 million as of January 31, 2014, with a 10.78 % increase from December 31, 2013. Details are as follows:

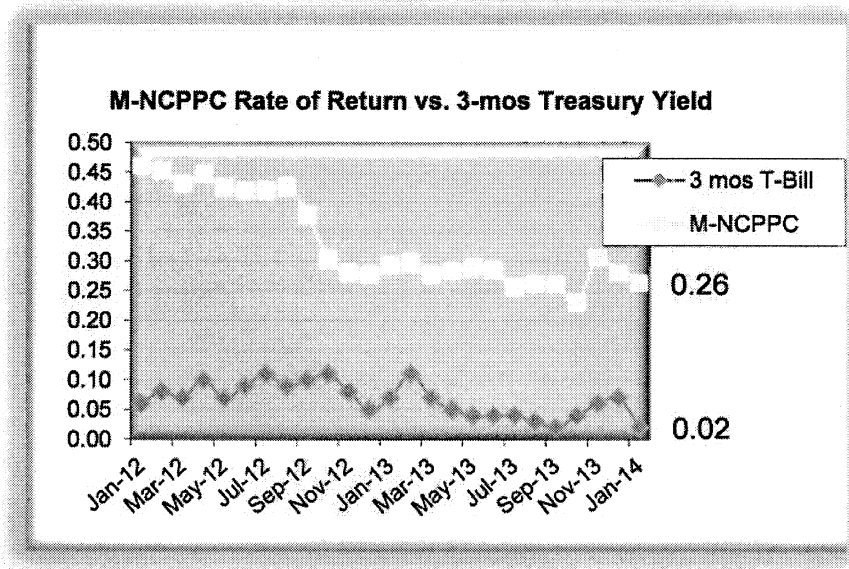


The composition of the pooled cash portfolio as of January 31, 2014 is summarized below:

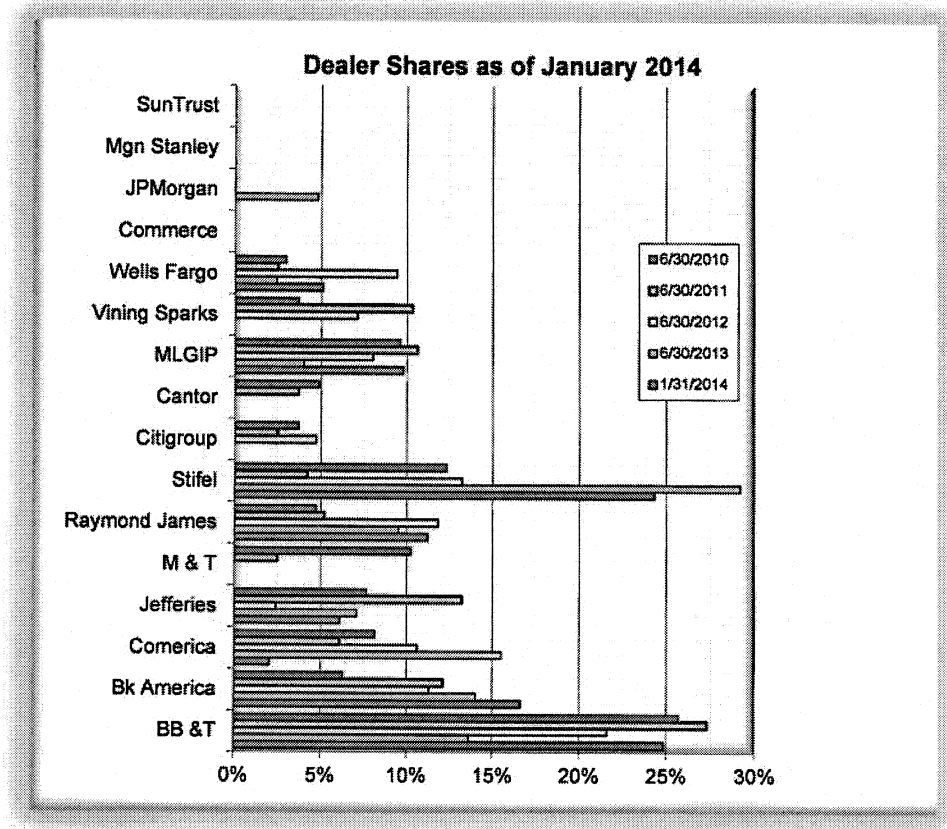


Current Investment Portfolio - January 2014				
Instrument	Policy		Par Value	Wtd. Avg.
	Limit	Actual		Return (B/E)
Certificates of Deposit	50%	22%	\$ 107,000,000	0.22%
Money Funds	25%	19%	94,724,928	n/a
Freddie Mac	20%	14%	70,000,000	0.37%
Federal Home Loan Banks	20%	12%	60,000,000	0.28%
Commercial Paper	10%	10%	50,000,000	0.50%
Federal Farm Credit Bureau	20%	9%	45,000,000	0.27%
Farmer Mac	20%	9%	44,500,000	0.24%
Treasury Notes	100%	4%	20,000,000	0.25%
Fannie Mae	20%	0%	-	
Bankers Acceptances	50%	0%	-	
Repurchase Agreements	60%	0%	-	
			\$ 491,224,928	0.26%

The pooled cash portfolio complied with all policy limits with regard to product types and proportions throughout the month.



In addition to the product limits, portfolio purchases also adhered to the 30% limit per dealer. Dealer participation is shown below:



The market values of unspent debt balances (invested by T. Rowe Price) were as follows:

Market Value- 01/31/14	
Montgomery County (MC-2012A)	\$ 2,113,954
Montgomery County (MC-2012B)	882,663
	\$ 2,996,617

The Commission had debt service payments during the month totaling \$5,091,666, of which \$4,465,000 was principal and \$446,666 was interest.

Details by issue of debt outstanding as of January 31, 2014 appear below:

Debt Balances - January 2014					
	Initial Par	Amount Outstanding	% Outstanding	Issue Date	Maturity Date
Bi-County					
Total Bi-County	\$ -	\$ -	0%		
Prince George's County					
KK-2 (Refunded AA-2)	17,300,000	8,993,123	52%	Apr-08	May-18
NN-2 (Refunded Z-2)	14,080,000	10,505,000	75%	Mar-10	May-21
EE-2	37,525,000	6,940,000	18%	Mar-04	Jan-24
PG-2012A	11,420,000	9,650,000	85%	Jun-12	Jun-24
JJ-2	8,900,000	6,770,000	76%	May-07	May-27
Total Prince George's County	\$ 89,225,000	\$ 42,858,123	48%		
Montgomery County					
HH-2	5,445,000	335,000	6%	Jul-05	Jul-14
DD-2(ALA)	1,550,000	150,000	10%	Dec-02	Dec-14
CC-2	12,155,000	275,000	2%	Dec-02	Dec-14
LL-2	8,405,000	5,340,000	64%	May-09	Nov-20
FF-2 (ALA)	2,000,000	1,280,000	64%	Nov-04	Dec-24
FF-2	4,000,000	880,000	22%	Nov-04	Dec-24
II-2	4,700,000	3,590,000	76%	Mar-07	Apr-27
MM-2	5,250,000	4,200,000	80%	May-09	Nov-28
MC-2012A	12,505,000	12,110,000	97%	Apr-12	Dec-32
MC-2012B	3,000,000	2,880,000	96%	Apr-12	Dec-32
Total Montgomery County	\$ 59,010,000	\$ 31,040,000	53%		

ATTACHMENT A

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
 REPORT ON COMPLIANCE TO INVESTMENT POLICY Approved March 21, 2012
 FISCAL YEAR 2014 - January 31, 2014

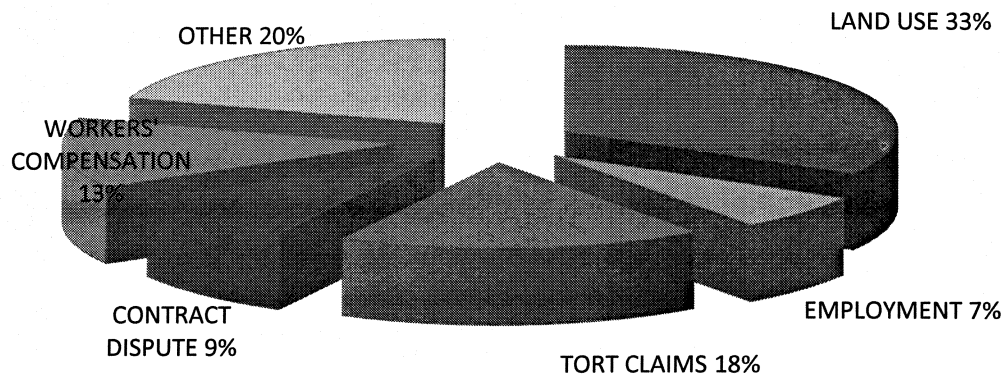
OBJECTIVES			Met Objective	Within Limits	Comments
Protection of principal			Yes		
Limiting types and amounts of securities	Limit			Yes	
US Government		100%			All securities purchases were within the limits established by the Investment Policy at the time of purchase of the investments. This monthly report is prepared for the Secretary-Treasurer to demonstrate compliance with investment policy objectives and limitations.
US Federal Agencies - combined		60%			
US Federal Agencies - each		20%			
Repurchase Agreements		60%			
CD's and Time Deposits		50%			
Commercial Paper		10%			
Money Market Mutual Funds		25%			
MD Local Gov't Investment Pool		25%			
Investing Bond Proceeds:					
State and local agency securities		100%			
Money Market Mutual Funds		10%			
Bond Proceeds:					T. Rowe Price managed all funds within limits
Highly-rated state / local agency securities				Yes	
Highly-rated money market mutual funds (Max. 10% in lower-rated funds)				Yes	
Pre-qualify financial institutions, broker/dealers, intermediaries and advisers				Yes	All firms must meet defined capital levels and be approved by the Secretary-Treasurer
Ensure competition among participants		30%		Yes	No dealer share exceeded 30%
Competitive Bidding				Yes	All purchases awarded competitively.
Diversification of Maturities					All maturities within limits
Majority of investments shall be a maximum maturity of one (1) year. A portion may be as long as two years.				Yes	
Require third-party collateral and safekeeping, and delivery-versus-payment settlement				Yes	M&T Investments serves as custodian, monitoring compliance daily
Maintain sufficient liquidity			Yes		Sufficient funds available for all cash requirements during period
Attain a market rate of return			Yes		Exceeded by 24 basis points.
The pro-rated rates of return for the portfolio and T-bills were 0.26% and 0.02%, respectively.					

February 2014 Composition of Pending Litigation

(Sorted By Subject Matter and Forum)

	State Trial Court	Federal Trial Court	Maryland COSA	Maryland Court of Appeals	Federal Appeals Court	U.S. Supreme Court	Subject Matter Totals
Admin Appeal: Land Use	7		8				15
Admin Appeal: Other							0
Land Use Dispute							0
Tort Claims	7		1				8
Employment Dispute	1	2					3
Contract Dispute	4						4
Property Dispute	3			2			5
Civil Enforcement	2						2
Workers' Compensation	6						6
Debt Collection							0
Bankruptcy							0
Miscellaneous		1	1				2
Per Forum Totals	30	3	10	2	0	0	45

OVERVIEW OF PENDING LITIGATION



By Major Case Categories

February 2014 Litigation Activity Summary

	COUNT FOR MONTH			COUNT FOR FISCAL YEAR 2014			
	Pending Last Month	New Cases	Resolved Cases	Pending Prior F/Y	New Cases F/YTD	Resolved Cases F/YTD	Pending Current Month
Admin Appeal: Land Use	14	1		16	15	12	15
Admin Appeal: Other	0			0	0	0	0
Land Use Disputes	0			1	0	1	0
Tort Claims	7	1		5	16	15	8
Employment Disputes	3			4	1	1	3
Contract Disputes	2			1	2	1	4
Property Disputes	3	1	1	2	3	1	5
Civil Enforcement	2			1	2	0	2
Workers' Compensation	7		1	14	9	17	6
Debt Collection	2			3	2	2	0
Bankruptcy	0			0	0	0	0
Miscellaneous	3	1		1	5	2	2
Totals	43	4	2	48	55	52	45

Index of New and Resolved Cases-February, 2014

A. New Trial Court Cases.

Unit

Subject Matter

American Humanists v. Commission
Dong Nam V. Galen Evans, et al

PG Parks
MCPD

Tort Claim
Tort

B. New Appellate Court Cases.

Arking v. Commission
Rock Creek Hills Cit. Assoc v. Commission

MCPB
MCPB

Land Use
Land Use

C. Trial Court Cases Resolved.

Commission v. Tessier
Rogers v. Commission

MC
PG

WCC Appeal
Tort Claim

Disposition of FY14 Closed Cases Sorted By Department

CLIENT	PRINCIPAL CAUSE OF ACTION IN DISPUTE	DISPOSITION
Employees Retirement System		
Finance Department		
Department of Human Resources and Management		
Montgomery County Department of Planning		
Montgomery County Department of Parks		
Commission v. Martinez	Commission appealing the Workers' Compensation Commission's decision	Case Remanded to WCC 03/04/13.
Commission v. Rivera	Commission appealing the Workers' Compensation Commission's decision.	Case Remanded to WCC 07/15/13.
Commission v. Tessier	Commission appealing the Workers' Compensation Commission decision	Case Remanded to WCC 01/14/14
Pollard v. Commission	The Workers' Compensation Commission awarded Claimant 15% permanent partial disability to his right lower extremity (knee), and 5% was found to be due to a pre-existing condition. Claimant appealed award.	Case Remanded to WCC 01/08/13.
Pollard v. Commission	The Workers' Compensation Commission awarded Claimant 37% permanent partial disability reasonably attributable to the accidental injury, and 24% was found to be due to pre-existing conditions. Claimant appealed award.	Case Remanded to WCC 01/08/13.
Rivera v. Commission	WCC found claimant did not sustain an occupational disease, claimant appealed	Case remanded to WCC 08/06/13
White v. Commission	Petitioner is appealing the Worker's Compensation Commission's order.	Case remanded to WCC 04/23/13

Montgomery County Park Police			
Commission v. Hoffmaster	Commission appealing the Workers' Compensation Commission's decision.	Claimant prevailed at jury trial. WCC Order affirmed. 02/05/13.	
Hume v. Maryland Park Police	Defense of claim for reimbursement for personal items allegedly taken during eviction from Commission property located in the Twinbrook section of Rock Creek Park.	Commission's Motion to Dismiss granted on 10/15/13.	
Montgomery County Planning Board			
Commission v. Johnson	Commission is seeking enforcement of the Montgomery County Planning Board's Order regarding the various environmental violations on Defendant's property.	Judgment granted in favor of the Commission 10/19/12.	
Commission v. Mereos	Commission is seeking enforcement of the Montgomery County Planning Board's Order regarding the various environmental violations on Defendant's property.	Case dismissed without prejudice per Rule 2-507 on 07/11/13 for inability to serve and prosecute the case	
Makfinsky, et al. v. Montgomery County Planning Board	Petition for Judicial Review filed of the decision of the Montgomery County Planning Board in the case of Rolling Stone Preliminary Plan 120110430.		
McClure v. Montgomery County Planning Board	Petition for Judicial Review filed regarding the decision of the Montgomery County Planning Board in enforcement action 21611 Ripplemead Drive, Laytonsville, MD 20882, Resolution No. MCPB No. 12-38.	Order of Court reversing penalties ordered by the Planning Board, filed: 07/03/13; Notice of Appeal filed 08/01/13.	
Pringle v. Montgomery County Planning Board	Gregory Pringle filed a petition of judicial review of the decision of the Montgomery County Planning Board in the case of Seneca Meadows Preliminary Plan 11998004A and Site Plan 820100140.	Order denying Writ of Certiorari filed: 10/21/13	
Sahady v. Montgomery County Planning Board	Petition for Judicial Review filed regarding the decision of the Montgomery County Planning Board in enforcement action 21533 Ripplemead Drive, Laytonsville, MD 20882, Resolution No. MCPB No. 12-50.	Affirmed. Order filed September 4, 2013 affirming the approval of Preliminary Plan 120110430 by the Montgomery County Planning Board.	

Sandler, et al. v. Montgomery County Planning Board	Petition for Judicial Review filed for Decision of the Montgomery County Planning Board regarding enforcement action: Violation of category I conservation easement in connection with forest conservation plan 120020730.	Final Order entered on 10/18/12 affirming the Planning Board's decision.
Shady Grove Technical Center Associates v. Montgomery County Planning Board	Petition for Judicial Review of Resolution by Montgomery County Planning Board in Case MCPB NO. 11-108.	Stipulation of Dismissal with Prejudice filed 03/12/13
Smith v. Montgomery County Planning Board	Petition for Judicial Review filed regarding the decision of the Montgomery County Planning Board in enforcement action 21627 Ripplemead Drive, Laytonsville, MD 20882, Resolution No. MCPB No. 10-180.	Court order reversing order and opinion of Planning Board, filed: 05/23/13; Notice of Appeal filed: 06/21/13.
South-East Rural Civic Assn v. Montgomery County Planning Board	Petition for Judicial Review filed of the decision of the Montgomery County Planning Board in the case of Preliminary Plan 120100250 and Site Plan 820100080 First Baptist Church of Wheaton.	Final Order reversing the Planning Board's decision issued and remand to the Board to deny preliminary and site plans.
South-East Rural Olney Civic Assn et al. v. Montgomery County Planning Board	Civil Complaint for Declaratory Judgment and Injunctive Relief filed in connection with Preliminary Plan 120100250 and Site Plan 820100080.	Complaint voluntarily dismissed by Plaintiffs on 10/17/12.
Town of Washington Grove v. M-NCPPC	Petition for Judicial Review of Forest Conservation Plan	Order of court affirming decision of the Planning Board, filed: 06/07/13
Prince George's County Department of Parks and Recreation		
Commission v. Batson	Commission is appealing the Workers' Compensation Commission decision.	Case Dismissed 09/21/12.
Commission v. Eludoyin	Commission filed suit to recover funds paid to employee under Workers' Compensation Act due to a vehicle accident caused by Defendant.	Case Dismissed 11/21/13 in order to pursue third party lien
Commission v. Hill	Commission is appealing the Workers' Compensation Commission's decision.	Case Remanded to WCC 10/29/12.
Commission v. Kohlheim	Commission won Summary Judgment in suit to collect money owed for unpaid rental fees for boarding horses at the Prince George's Equestrian Center.	Case closed. Judgment uncollectable 05/11/12.

Commission v. Nyagbona	Commission filed suit to recover funds paid to repair a Commission vehicle that was struck by Defendant's uninsured automobile.	Defendant is in active military service and can't be served.
Commission v. Pinkney	Commission appealing the Worker's Compensation Commission's decision.	Case closed by stipulation of dismissal 03/28/13.
Corsetti v. Commission	Petitioner appealing the Worker's Compensation Commission's award of compensation to her right shoulder.	Case remanded to WCC 04/09/13.
Donaldson v. Commission	Claimant is appealing the Workers' Compensation Commission's Order denying compensability of his claim.	Case remanded to WCC 06/13/13.
Felhauer, Jacob v. Commission	Defense of Commission against suit for personal injuries resulting from automobile accident	Case dismissed for purposes of settlement 10/16/13
Felhauer, James v. Commission	Defense of Commission against suit for personal injuries resulting from automobile accident	Case dismissed for purposes of settlement 10/16/13
Felhauer, Justin v. Commission	Defense of Commission against suit for personal injuries resulting from automobile accident	Case dismissed for purposes of settlement 10/16/13
Felhauer, Nicolas v. Commission	Defense of Commission against suit for personal injuries resulting from automobile accident	Case dismissed for purposes of settlement 10/16/13
Galloway v. Commission	The Workers' Compensation Commission awarded Claimant 22% permanent partial disability to his left leg (knee). Claimant is appealing this award.	Claimant Dismissed Appeal 02/22/13.
Glessner v. Surrat House Museum, et al.	Defense of a tort claim against a Commission employee and facility based on the alleged slander of authenticity regarding a photograph the plaintiff purports to be of Abraham Lincoln.	Case Dismissed Pursuant to Defense's Motion to Dismiss 12/19/13
Government Employees Ins. Co. v. Allison Claire Poirier et al. and Commission	Defense of subrogation claim asserted by an insurance company arising out of motor vehicle accident involving a Commission employee and the company's insured.	Case dismissed pursuant to arbitration agreement, 11/18/13
Harper v. Commission	Defense of a \$250 tort claim for property damage allegedly caused by golf ball that escaped from the Commission's Enterprise Golf Course	Verdict in favor of the Commission on 08/20/13
Freeman v. Commission	Defense of claim alleging discrimination and retaliatory termination.	Jury verdict in Commission's favor: 10/3/13

Japones v. Montgomery	Defense of Commission employee against suit for personal injury resulting from automobile accident.	Case Dismissed 01/14/13.
Jenkins, Jennifer v. Commission	Defense of Commission against suit for personal injuries resulting from automobile accident	Case dismissed for purposes of settlement 10/16/13
Lawson v. Commission	Defense of claim arising from injury to minor child playing game at playground camp held at Carrollton Elementary School.	Case Settled 09/14/12.
Quick v. Gathers	Defense of claim for alleged violations of the Americans with Disabilities Act.	Commission's Motion to Dismiss granted on 12/17/12.
Quick v. Legal Department	Defense of claim for injuries arising from alleged defective exercise bike.	Commission's Motion to Dismiss granted on 12/17/12.
Rogers v. Commission	Defense of claim for easement rights in Prince George's County	Appeal to COSA dismissed on motion by Commission, Motion to dismiss by Commission granted on 7/20/2011
Schwartz v. Dobbins	Defense of claim arising from motor vehicle accident.	Case settled and dismissed 02/03/14.
Smithey v. Commission	Former employee appealing administrative decision concerning unemployment benefits.	Case dismissed and administrative decision affirmed.
Wilson v. Commission	Appeal of dismissal of claim alleging discriminatory termination.	Dismissal upheld 04/10/13.
Prince George's County Planning Department		
Prince George's County Planning Board		
Accokeek, Mattawoman, Piscataway Creeks, et al. v. Commission	Defense against Administrative Appeal of decision by the Planning Board to approve Special Exception 4669 in Robin Dale Property.	Court granted Commission's Rule 7-204(b) Motion to Dismiss on 10/26/12.
Keller Brothers Inc. v. Commission	Defense of claim for Judicial Review of construction change order request for Glen Arden Community Center and Theresa Banks Pool.	Order of Court reversing the Commission's purchase order decisions – appeal recommended. Commission has appealed to the Court of Special Appeals.

Keller Brothers Inc. v. Commission	Defense of claim for Judicial Review of construction change order request for Glen Arden Community Center and Theresa Banks Pool.	Case closed by verdict for Plaintiff 01/07/13.
Kelly Canavan & Randy Pheobus, et al. v. Commission	Defense against Administrative Appeal of decision by the Planning Board to approve Preliminary Plan 4-07076 in Estate of Pleasant Valley.	Judgment in favor of Commission 02/19/13.
Lake Marlton Limited Partnership, et al. v. Commission	Defense against Administrative Appeal of decision by the Planning Board to approve Preliminary Plan 4-11003 in Heathermore.	Case Dismissed by Clerk of Circuit Court 09/08/12.
Rollins v. Commission	Defense of approval of Preliminary Plan 4-10026	Planning Board's Decision Affirmed 12/17/13
Tipton, et al. v. Commission	Defense against Administrative Appeal of decision by the Planning Board to approve Preliminary Plan 4-11028 in Salubria Center.	Opinion and Order for Circuit Court affirming Planning Board decision 11/30/12.
Prince George's Park Police		
Prince George's County v. Mazzie et al.	Order from Workers' Compensation Commission which found that he did not sustain an occupational disease arising out of and in the course of his employment from either Prince George's County or the Commission. Prince George's County is appealing decision from court in favor of Claimant, Mazzei.	Order affirming Circuit court decision: 09/23/13.

INDEX OF CASES

DISTRICT COURT OF MARYLAND FOR PRINCE GEORGE’S COUNTY	12
Commission v. Burke	12
CIRCUIT COURT FOR PRINCE GEORGE’S COUNTY, MARYLAND	12
Bell v. Commission	12
Boblits Enterprises v. Commission	12
Butler v. Commission	13
City of College Park v. Commission.....	13
Commission v. 6509 Rhode Island Realty Corp.....	13
Commission v. Brown	14
Commission v. Devore	14
Commission v. MARCOPOLO GF Co.	14
Commission v. Murray	15
Commission v. Rivera	15
Jackson v. Commission	15
Lewis, et al., v. The Peterson Companies, L.C., et al.....	16
Litrenta v. Commission	16
Phoenix v. Commission	17
Presensky v. Commission.....	17
Reijerson v. Commission	17
Rivera v. Commission	18
Short v. Commission	18
Town of University Park v. Commission	18
Willoner, <i>et al.</i> v. Commission.....	19
CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND	20
8045 Newell Street Condominium Association, <i>et al.</i> v Commission et al.,	20
Armstrong, <i>et al.</i> v. Montgomery County Planning Board.....	20
Beth Torah Congregation Inc. v. Prince George’s Metro Center, Inc., Commission, et al	21
Commission v. Fashina.....	21
Commission v. Johnson.....	21
Fort Myer Construction Corporation v. Commission.....	22
Kaviani v. Montgomery County Planning Board	22
Kambiz Kazemi v. Commission	23
Dong K. Nam v. Galen Evans, et al	23
MARYLAND COURT OF SPECIAL APPEALS	24
Albert Arking, et al. v. Montgomery County Planning Board.....	24

Beatty v. Montgomery County, et al.....	24
Hall, et al. v. Commission	24
Jones v. McNeal.....	25
Kelly Canavan & Randy Pheobus, et al. v. Commission	26
McClure v. Montgomery County Planning Board.....	26
Rock Creek Hills Citizens Association v. Commission.....	26
Sahady v. Montgomery County Planning Board.....	27
Slover et al. v. Montgomery County Planning Board	27
Smith v. Montgomery County Planning Board	28
MARYLAND COURT OF APPEALS	29
Albert Arking v. Montgomery County Planning Board	29
Rounds v. Commission.....	29
U.S. DISTRICT COURT OF MARYLAND.....	30
American Humanist Assoc. v. Commission	30
Streeter v. Commission.....	30
Neal v. Commission	30

DISTRICT COURT OF MARYLAND FOR PRINCE GEORGE'S COUNTY

Commission v. Burke

Case No. 0502-0008216-2009

Lead Counsel: Harvin

Other Counsel:

Abstract: Commission filed confessed judgment against Defendant for failure to pay rental fee for park property. Currently attempting to locate defendant in order to enforce judgment.

Status: Confessed Judgment Filed

Docket:

03/10/09	Confessed Judgment filed
05/14/12	Notice of Lien filed
05/18/12	Judgment Lien recorded in Circuit Court

CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY, MARYLAND

Bell v. Commission

Case No. CAL13-35417

Lead Counsel: Harvin

Other Counsel: Dickerson

Abstract: Defense of claims seeking damages for injuries sustained at the Sports & Learning Complex.

Status: In discovery.

Docket:

11/19/13	Complaint filed
12/09/13	Answer filed
04/23/14	Pretrial Hearing Scheduled

Boblits Enterprises v. Commission

Case No. CAL13-09692

Lead Counsel: Chagrin

Other Counsel: Dickerson

Abstract: Defense of construction dispute concerning the Fairwoods Park project in Bowie where the contractor seeks over \$300,000 and release of \$73,000 currently retained by the Commission as liquidated damages.

Status: Pretrial Hearing Scheduled.

Docket:

04/05/13	Complaint filed
07/30/13	Answer filed

08/08/13	Scheduling Order filed
01/14/14	Pretrial Conference Postponed
02/21/14	Mediation Scheduled
03/13/14	Pretrial Conference Scheduled

Butler v. Commission
Case No. CAL14-00382

Lead Counsel: Harvin
Other Counsel: Aleman

Abstract: Defense of claims seeking damages for injuries sustained in an accident with a vehicle driven by a Park Police officer.

Status: In discovery.

Docket:

01/22/14	Complaint filed
02/21/14	Answer filed

City of College Park v. Commission
Case No. CAL 13-21085

Lead Counsel: Borden
Other Counsel: Johnson, Mills

Abstract: Petition for judicial review of the Prince George's County Planning Board development approval for the Cafritz Property, Special Permit SP-130002. (Consolidated with Case No. CAL 13-21086).

Status: Pending Trial

Docket:

07/25/13	Petition filed
08/06/13	Response to Petition filed
09/13/13	Motion to Consolidate Cases filed
01/07/14	Order consolidating cases entered and trial postponed
01/29/14	Order scheduling dates for filing memoranda by all counsel

Commission v. 6509 Rhode Island Realty Corp.
Case No. CAL 13-20939

Lead Counsel: Mills
Other Counsel: Johnson, Borden

Abstract: Condemnation initiated by the Commission.

Status: Pending service on respondent

Docket:

07/19/13	Complaint for condemnation filed
01/27/14	Motion for Issuance of Summons filed
02/06/14	Motion for Issuance of Summons filed

Commission v. Brown

Case No. CAL03-24561

Lead Counsel: Harvin
Other Counsel:

Abstract: Commission won Summary Judgment in suit to collect money owed for unpaid rental fees for boarding horses at the Prince George's Equestrian Center.

Status: Post-judgment Collection Activity

Docket:

11/21/03	Complaint filed
07/02/04	Summary judgment granted
09/13/04	Hearing on damages – Award: \$11,680.00
05/14/12	Renewal of Judgment filed

Commission v. Devore

Case No. CAL13-21820

Lead Counsel: Chagrin
Other Counsel:

Abstract: Petition for Judicial Review of worker's compensation case initiated by Commission.

Status: Jury Trial Scheduled.

Docket:

08/05/13	Petition filed
08/05/13	Motion for Extension of Time filed
08/09/13	Order Permitting Omission of Record from WCC filed
09/09/13	Scheduling Order filed
09/30/13	Certificate Regarding Discovery filed
09/15/14	Jury Trial Scheduled

Commission v. MARCOPOLO GF Co.

Case No. CAL 13-20940

Lead Counsel: Mills
Other Counsel: Johnson, Borden

Abstract: Condemnation initiated by the Commission.

Status: Pending service on respondent

Docket:

Circuit Court for Prince George's County, Maryland

Page 14 of 30

07/19/13	Complaint for condemnation filed
01/27/14	Motion for Issuance of Summons filed
02/06/14	Motion for Issuance of Summons filed

Commission v. Murray
CAL13-14810

Lead Counsel: Chagrin
Other Counsel:

Abstract: Commission is appealing the decision held by the WCC that claimant suffered from an occupational disease.

Status: Pending Trial

Docket:

05/10/13	Petition Filed
11/12/13	Pretrial Hearing Held
11/06/13	Commission's Pre-Trial Statement filed
05/22/14	Trial Scheduled

Commission v. Rivera
CAL13-37223

(Cross-Claim of Case No. CAL 13-37715 below)

Lead Counsel: Chagrin
Other Counsel:

Abstract: Commission is appealing the WCC's decision regarding permanency award.

Status: Pending Trial

Docket:

12/12/13	Petition Filed
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Jackson v. Commission
Case No. CAL12-32723

Lead Counsel: Harvin

Abstract: Defense of claims arising from injury sustained by patron while playing tennis.

Status: Case Settled

Docket:

11/01/12	Complaint filed
12/18/12	Answer filed
05/30/13	Pre-trial conference scheduled
05/31/13	Pre-Trial Statement filed
08/02/13	Motion to for Summary Judgment / Memorandum of Law filed
09/20/13	Order of Court denying Motion for summary Judgment entered
02/18/14	Two-day trial scheduled
02/19/14	Order of Dismissal filed, case closed

Lewis, et al., v. The Peterson Companies, L.C., et al.

Case No. CAL13-12414

Lead Counsel: Dickerson
Other Counsel:

Abstract: Defense of tort claim alleging that Park Police failed to prevent certain third-parties from assaulting the plaintiffs during a visit to the National Harbor area.

Status: Motion to Dismiss Pending

Docket:

05/01/13	Complaint filed
09/26/13	Motion to Dismiss filed or in the Alternative for Summary Judgment filed
10/17/13	Amended Complaint filed
11/01/13	Commission's Motion to Dismiss or in the Alternative for Summary Judgment filed
04/11/14	Motions Hearing

Litrenta v. Commission

Case No. CAL13-15566

Lead Counsel: Aleman
Other Counsel: Dickerson

Abstract: Defense of tort claim for personal injuries allegedly sustained when the plaintiff was the passenger on a Commission golf cart and fell out while his acquaintance was driving. (The driver is also named as a defendant.)

Status: In discovery.

Docket:

06/04/13	Complaint filed
07/24/13	Motion to Dismiss filed
09/20/13	Answer to Plaintiff's Amended Complaint filed
10/03/13	Cross-claim against Co-Defendant filed
11/05/13	Cross-Defendant/Co-Defendant filed a Motion to Dismiss Plaintiff's original complaint for insufficient service of process.
11/22/13	Plaintiff's Affidavit of Service certifying that Co-Defendant's counsel accepted service of Complaint filed
12/03/13	Commission's Affidavit of Service certifying re-service of Cross Claim on Co-Defendant filed
12/26/13	Commission's Discovery Requests served on Plaintiff
01/02/14	Commission's Discovery Requests served on Co-Defendant
01/27/14	Co-Defendant's Answer to Commission's Cross Claim filed
01/29/14	Co-Defendant's Line Withdrawing Motion to Dismiss filed

Phoenix v. Commission
Case No. CAL13-29010

Lead Counsel: Harvin
Other Counsel:

Abstract: Defense of claim seeking damages for injuries sustained at Fletcher's Field

Status: In discovery

Docket:

10/03/13	Complaint filed
12/09/13	Answer filed
04/14/14	Pre-Trial Conference Scheduled

Presensky v. Commission
Case No. CAL12-37360

Lead Counsel: Harvin
Other Counsel:

Abstract: Defense of claim alleging employment discrimination

Status: Awaiting Trial.

Docket:

11/27/12	Complaint filed
02/12/13	Answer filed
04/16/13	Certificate of Service Regarding Discovery filed
08/08/13	Joint Motion to Amend Scheduling Order filed
09/23/13	Served responses to Pla's 3 rd Document Request
02/25/14	Alternative Dispute Resolution Conference Scheduled
02/27/14	Plntf's Motion for Leave to Amend Complaint
03/31/14	Trial Scheduled

Reijerson v. Commission
Case No. CAL13-11339

Lead Counsel: Chagrin
Other Counsel:

Abstract: WCC found claimant sustained 10% permanent partial disability under "other cases" and claimant appealed.

Status: Pending Trial

Docket:

04/13/13	Petition filed
04/29/13	Response to Petition filed
10/28/13	Commission's Pre-Trial Statement filed
05/06/14	Trial Scheduled

Rivera v. Commission

CAL13-37715

(Cross-Claim of Case No. CAL 13-37223 above)

Lead Counsel: Chagrin
Other Counsel:

Abstract: Claimant/employee is appealing the WCC's decision regarding permanency award.

Status: Pending Trial

Docket:

12/19/13	Petition Filed
01/14/14	Response to Petition filed
02/03/14	Scheduling Order Filed
05/15/14	Pre-Trial Conference

Short v. Commission

Case No. CAL12-37360

Lead Counsel: Chagrin
Other Counsel:

Abstract: WCC found claimant did not sustain an occupational disease. Claimant appealed.

Status: Pending Trial

Docket:

04/29/13	Petition filed
05/10/13	Response to Petition filed
11/07/13	Pretrial Hearing Held
05/14/14	Trial Scheduled

Town of University Park v. Commission

Case No. CAL 13-21086

Lead Counsel: Borden
Other Counsel: Johnson, Mills

Abstract: Petition for judicial review of the Prince George's County Planning Board development approval for the Cafritz Property, Special Permit SP-130002. (Consolidated with Case No. CAL 13-21085).

Status: Pending Oral Argument

Docket:

07/25/13	Petition filed
08/06/13	Response to Petition filed
08/27/13	Notice of Oral Arguments
09/13/13	Motion to Consolidate Cases filed
10/07/13	Order Consolidating Cases filed
01/02/14	Oral argument postponed to an unspecified date

Willoner, et al. v. Commission

Case No. CAL 13-18682 and CAL 13-18722 (consolidated)

Lead Counsel: Borden
Other Counsel: Mills, Johnson

Abstract: Petition for judicial review of the Prince George's County Planning Board development approval for the Cafritz Property, Preliminary Plan 4-13002.

Status: Oral Argument Pending

Docket:

07/02/13	Petition filed
07/12/13	Response filed
07/23/13	Motion to consolidate filed
08/12/13	Order of Court Consolidating Cases filed
03/25/14	Oral Argument Scheduled

CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND

8045 Newell Street Condominium Association, et al. v Commission et al.,

Case No. 378604-V

Lead Counsel: Lieb
Other Counsel:

Abstract: Petition for judicial review of the Montgomery County Planning Board approval of development at 8001 Newell Street, Project Plan No. 920130020.

Status: Awaiting Court's Decision.

Docket:

06/28/13	Petition filed
07/29/13	Response filed
09/10/13	Line and Administrative Record
10/10/13	Petitioner's Rule 7-207 Memorandum
10/11/13	Supplemental Record
11/08/13	Commissioner's Answering Memorandum
11/12/13	Comstock Response to Petitioner's Memorandum
11/28/13	Petitioner's Reply memorandum
01/14/14	Oral Argument
02/21/14	Order-Resolution of Commission vacated; remanded to Mont. County Planning Board

Armstrong, et al. v. Montgomery County Planning Board

Case No. 379139-V

Lead Counsel: Sorrento
Other Counsel:

Abstract: Petition for judicial review of the Montgomery County Planning Board approval of Chelsea Court, Preliminary Site Plan No. 120130000 and Site Plan No. 820130040.

Status: Commission filed a supplement to the Administrative Record on November 18, 2013. Parties filed Request for Extension of Time to submit Memoranda.

Docket:

7/17/13	Petition filed
07/30/13	Commission's Response, Certificate of Compliance and Notices
12/23/13	Petitioners may file Memoranda by 1/10/14
01/22/14	Order-Petitioners' Appeal dismissed w/Prejudice

Beth Torah Congregation Inc. v. Prince George's Metro Center, Inc., Commission, et al
Case No. 376756-V

Lead Counsel: Aleman
Other Counsel: Dickerson

Abstract: Declaratory judgment action seeking relief from deed covenants and restrictions.

Status: Pending Post-Trial Memoranda Requested by Court

Docket:

04/30/13	Complaint Filed
06/12/13	Motion for Additional Time to Respond filed
07/18/13	Answer filed
11/08/13	Status Conference held
01/27/14	Motion to Intervene or Join filed by Dewey LC
02/07/14	Commission's Opposition to Dewey's Motion to Intervene filed
02/27/14	Trial Concluded, Court takes matter under advisement
03/31/14	Post-trial memo filing deadline

Commission v. Oluseyi Fashina & Oyinlola Fashina
Case No. 384412-V

Lead Counsel: Aleman
Other Counsel: Dickerson

Abstract: Commission filed Petition for Judicial enforcement of Administrative Decision by the Planning Board Concerning Forest Conservation Easement violation.

Status: Judgment entered in favor of the Commission

Docket:

11/22/13	Petition Filed
12/31/13	Petition served on Mr. Fashina
02/18/14	Order of Court granting Petition entered and Judgment recorded

Commission v. Johnson
Case No. 366677-V

Lead Counsel: Aleman
Other Counsel: Dickerson

Abstract: Commission requesting finding of contempt in case in which the Court already granted the Commission's Petition for Judicial enforcement of Administrative Decision by the Planning Board Concerning Forest Conservation Easement violation.

Status: Awaiting Defendant's response to Interrogatories in Aid of Judgment

Docket:

11/22/13	Petition for Issuance of Show Cause Order Filed
01/16/14	Contempt Hearing held and Judicial Order issued
01/22/14	Order-Def. Respond to Plaintiff's Interrogatories by 2/17/14

Fort Myer Construction Corporation v. Commission

Case No. 369478-V

Commission v. URS Corporation (Third-party claim by Commission)

Lead Counsel: Saul Ewing (Garry Boehlert)
Other Counsel: Dickerson

Abstract: Plaintiff filed complaint for alleged delays and damages associated with the erection of a steel girder pedestrian bridge in Montgomery County.

Commission filed third party complaint for alleged breach of contract and is seeking contribution and indemnity.

Status: In Discovery.

Docket:

10/12/12	Complaint filed
01/10/13	Motion to Dismiss for Failure to Exhaust Administrative Remedies
01/10/13	Motion to Dismiss for Insufficient Service
01/11/13	Scheduling Hearing
01/11/13	Plaintiff's Designation of Experts
01/28/13	Commission's Notice of Service of Discovery
01/28/13	Plaintiff's Opposition to Motions to Dismiss
01/30/13	Plaintiff's First Amended Response to Motions to Dismiss
02/04/13	Commission's Reply in Further Support of Motion to Dismiss
02/04/13	Commission's Reply to Plaintiff's Response to Motion to Dismiss
02/11/13	Orders Denying Commission's Motion to Dismiss
02/26/13	Commission's Answer
03/12/13	Commission's Designation of Experts
03/27/13	Commission's Third Party Complaint
05/09/13	Third Party's Answer to Third Party Complaint
11/19/13	Commission's Motion for Discovery Sanctions Against Ft. Myer filed
12/20/13	Hearing on pending discovery motions held and court refers case to Special Discovery Master for recommendations on appropriate sanctions against Ft. Myer and other pending discovery issues.
02/27/14	URS Motion to Dismiss Ft. Myer's Complaint against Commission, or alternatively Motion for Summary Judgment
03/21/14	Pre-trial Conference scheduled
04/07/14	Trial Scheduled

Kaviani v. Montgomery County Planning Board

Case No. 386387-V

Lead Counsel: Dumais
Other Counsel: Lieb

Abstract: Petition for judicial review of Montgomery County Planning Board's enforcement order in MCPB No. 13-118, regarding Citation number EPD000007.

Circuit Court for Montgomery County, Maryland

Page 22 of 30

Status: Commission's Response, Certificate of Compliance and Notice to Parties of Record filed. Administrative record being compiled for filing.

Docket:

01/22/14	Petition filed
01/30/14	Commission's Response, Certificate of Compliance and Notice to Parties of Record filed
02/25/14	Commission's Response to Petition for Judicial Review

Kambiz Kazemi v. Commission

Case No. 351430-V

Lead Counsel: Lieb
Other Counsel: Sorrento

Abstract: Request for Judicial Review filed by Kambiz Kazemi in the case of Alvermar Woods, Lot 17, Preliminary Plan 11999034A.

Status: Stayed until December 31, 2012. Parties agreed on Motion to Extend to Stay to be filed with Court.

Docket:

08/25/11	Petition for Judicial Review filed
09/07/11	Petitioner's Motion for Stay of Proceedings filed
09/23/11	Order Staying Proceedings
03/05/12	Petitioner's Motion for Extension of Stay of Proceedings filed
04/04/12	Order – Proceedings shall be stayed until July 1, 2012
07/27/12	Petitioner's Motion to Extend Stay of Proceedings until December 31, 2012 filed
10/19/12	Order Staying Proceedings
12/20/13	Order-Plaintiff's Petition for Judicial Review dismissed without prejudice, case closed

Dong K. Nam v. Galen Evans, et al

Case No. 385190-V

Lead Counsel: Chagrin

Other Counsel:

Abstract: Tort-Plaintiff injured on golf course not owned by Commission

Status: Pending Court Decision

Docket:

12/17/13	Complaint filed
02/07/14	Commission's Motion to Dismiss/Summary Judgment filed

MARYLAND COURT OF SPECIAL APPEALS

Albert Arking, et al. v. Montgomery County Planning Board

September Term 2011, No. 02346

Lead Counsel: Rubin
Other Counsel:

Abstract: Petitioner filed an Appeal in the Circuit Court for Montgomery County of the Order dated December 12, 2011, denying the Petition for Judicial Review and affirming the Planning Board's decision.

Status: Final Decision Issued

Docket:

01/10/12	Notice of Appeal and Civil Information Report filed
01/23/12	Civil Information Report filed by Commission to clarify information filed by Petitioner
05/17/12	Scheduling Order
06/15/12	Appellants Request for Extension of Time for Filing of Appellant's Brief
06/20/12	Commission's Opposition to Appellant's Request for Extension to Time to File Brief
07/03/12	Scheduling Order from Hon. Peter B. Krauser
07/23/12	Appellant's Brief due
09/14/12	Commission's Brief filed
10/04/12	Appellant's Reply Brief
10/25/12	Notice to Parties from Court – Case to be decided without oral argument
11/20/13	Opinion affirming Planning Board
02/04/14	Order denying Petition for Reconsideration and Mandate
02/28/14	Notice from Court of Appeals noting the filing of a Petition for Writ of Certiorari

Beatty v. Montgomery County, et al.

September term 2012, Case No 02296,

Lead Counsel: Chagrin
Other Counsel: Mills

Abstract: Claimant is suing for torts arising from slip and fall.

Status: Awaiting Decision

Docket:

12/19/12	Summary Judgment in Favor of Commission Granted
12/27/12	Pretrial Conference scheduled.
01/17/13	Plaintiff filed a Notice of Appeal
12/05/13	Oral Argument

Hall, et al. v. Commission

September Term 2009, No. 01247

Lead Counsel: Johnson
Other Counsel:

Abstract: Defense against Administrative Appeal of Planning Board's decision to approve Bundy's Subdivision of Birdlawn Preliminary Plan 4-06158.

Status: Pending scheduling of oral argument

Docket:

01/10/08	Petition for Judicial Review filed
02/04/08	Commission filed Response to Petition; Certificate of Compliance and Notice of Appeal
03/12/08	Commission filed Record and Transcript
06/09/08	Petitioner filed Memorandum
07/14/08	Commission filed Memorandum
09/26/08	Oral Argument
07/15/09	Circuit Court Opinion affirming Planning Board decision issued
07/24/09	Petitioners Aimee Gray and the Estate of Affie Gray filed Notice of Appeal
11/04/09	Commission received Appellants' Brief
11/23/09	Commission filed a Stipulation For Extension of Time for Filing Memoranda (Commission's Brief)
12/18/09	Commission's Brief filed

Jones v. McNeal

September Term 2011, No. 01928

Lead Counsel: Calcote-Heatley
Other Counsel:

Abstract: Defense of suit under Maryland Public Information Act against Alvin McNeal. Plaintiff appeals decision of Circuit Court.

Status: Appeal filed

Docket:

10/31/11	Plaintiff Appeals to Court of Special Appeals
12/27/11	Mr. Jones' Brief due
01/03/12	Appellant's brief and request for waiver of 15 copies of brief filed
01/26/12	A. McNeal Brief due
03/12/12	Appellant's Motion to Waive Fees and Affidavit filed
04/04/12	Order – Appellant's obligation to deposit court fees waived
04/20/12	Five additional copies Appellant's 01/03/12 Brief filed
06/12-12/12	Oral Argument scheduled
09/12/12	A. McNeal Motion to Dismiss Appeal filed
10/15/12	Order – appeal may be dismissed on Court's motion unless Appellant files corrected brief
11/09/12	A. McNeal line withdrawing appearance of Jared M. McCarthy and entering appearance of Donna Y. Calcote-Heatley
11/10/12	Motion to Extend Time for filing Appellant's Briefs filed
12/31/12	Appellant's Corrected Brief due
01/04/13	Order – Appellant's Motion to Extend Time for filing brief granted

01/10/13	Order – Appellee’s Motion to Dismiss denied
02/07/13	Appellant’s Motion for Extension of Time Filed
02/12/13	Appellant’s brief and record due
02/20/13	A. McNeal’s Response to Appellant’s Motion for Extension of Time Filed
04/30/13	Mandate from COSA, Order dismissing appeal on initiative of Court on 3/27/13

Kelly Canavan & Randy Pheobus, et al. v. Commission

September Term 2013. No. 00048

Lead Counsel: Johnson
Other Counsel: Mills

Abstract: Plaintiff’s appeal of Prince George’s County Circuit Courts decision on 02/19/2013 to uphold the Planning Board’s approval of Saddle Creek’s Preliminary Plan of Subdivision.

Status: Pending Court Decision

Docket:

03/15/13	Received Notice of appeal and Civil Appeal Information Report on 3/28/2013
04/25/13	Order from Court of Special Appeals stating that the case will proceed without a Prehearing Conference.
10/28/13	Appellants’ filed Brief and Appendix; Joint Record Extract
12/30/13	Appellee Saddle Creek, LLC filed a Notice of Substitution of Party
02/02/14	Oral Argument Held

McClure v. Montgomery County Planning Board

September Term 2013, No. 01031

Lead Counsel: Lieb
Other Counsel:

Abstract: Appeal filed in the Circuit Court ruling in the case of 21611 Ripplemead Drive.

Status: Order that matter proceed without a pre-hearing conference.

Docket:

07/08/13	Civil Information Report
10/25/13	Order

Rock Creek Hills Citizens Association, et al v. Commission

September Term 2013, No. 365

Lead Counsel: Mills

Other Counsel:

Abstract: Declaratory Judgment attempting to stop transfer & development of Commission owned property

Status: Awaiting COSA decision

Docket:

4/23/13	Declaratory Judgment Order of Court granting Defts' Motion to Dismiss and Motion for Summary Judgment granted
05/20/13	Notice of Appeal-Ct of Special Appeals
07/19/13	Order-directing appeal to proceed w/o pre-hearing conference
01/24/14	Brief filed by Commission
03/05/14	Oral Argument at County of Special Appeals

Sahady v. Montgomery County Planning Board

September Term 2013, No. 01032

Lead Counsel: Lieb
Other Counsel:

Abstract: Appeal filed in the Circuit Court ruling in the case of 21611 Ripplemead Drive.

Status: Briefing underway

Docket:

07/08/13	Civil Information Report
10/25/13	Order
01/14/14	Notice of filing of administrative record issued and briefing/argument schedule set
03/07/14	Appellants' Brief filed

Slover et al. v. Montgomery County Planning Board

September Term 2011, No. 01460

Lead Counsel: Lieb
Other Counsel: Rubin

Abstract: Petition for Judicial review of the Planning Board decision to approve two-lot subdivision located at 9490 River Road in Potomac filed by project opponents. Circuit Court issued Order affirming Preliminary Plan. Plaintiff appeals Order.

Status: Decision Pending

Docket:

09/09/11	Plaintiff's Notice of Appeal filed
11/08/11	Order to proceed without pre-hearing conference
01/25/12	Appellants' Memorandum of Law in Support of Notice of Judicial Review and Record Extract
03/01/12	Scheduling Order from the Court
03/08/12	Brief of Appellee, Montgomery County Planning Board
03/08/12	Brief of Appellees, Louis Donatelli and Ann Donatelli

03/28/12	Reply Brief of Appellants
10/10/12	Oral argument held

Smith v. Montgomery County Planning Board
September Term 2013, No. 00774

Lead Counsel: Lieb
Other Counsel:

Abstract: Appeal filed in the Circuit Court ruling in the case of 21611 Ripplemead Drive.

Status: Order that matter proceed without a pre-hearing conference.

Docket:

07/08/13	Civil Information Report
11/07/13	Order
01/27/14	Notice of filing of administrative record issued and briefing/argument schedule set
03/07/14	Commission brief filed

MARYLAND COURT OF APPEALS

Arking, et al. v. MCPB

September Term 2013, Case No. 676

Lead Counsel: Rubin

Other Counsel: Dumais

Abstract: Petition for certiorari seeking review of Court of Special Appeals order affirming Planning Board resubdivision approval.

Status: Petition for certiorari pending.

Docket:

02/19/14	Petition for Writ of Certiorari filed
03/07/14	Commission's answer in opposition to petition for certiorari filed

Rounds v. Commission

Case No. September Term 2014, No. 00019

Lead Counsel: Gardner

Other Counsel: Dickerson

Abstract: Defense of claim for violations of the Maryland Constitution and declaratory relief concerning alleged Farm Road easement.

Status: Awaiting oral argument.

Docket:

12/20/13	Cert Granted
01/28/14	Appellant's Brief filed
02/27/14	Appellee's Brief filed

U.S. DISTRICT COURT OF MARYLAND

American Humanist Association, et al v. Commission

Case #CV-14-550

Lead Counsel: Gardner/Dickerson

Other Counsel:

Abstract: Defense of claim alleging religious advancement on public property

Status Docket:

02/25/14	Complaint filed in U. S. District Court for the District of Md
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Streeter v. Commission

Case No. RWT 12-CV-0976

Lead Counsel: Harvin

Other Counsel:

Abstract: Defense of claim alleging discrimination and retaliatory termination.

Status: Awaiting Final Order

Docket:

01/17/12	Complaint filed in Circuit Court for Prince George's County
04/03/12	Case removed to U.S. District Court
04/10/12	Commission's Preliminary Motion to Dismiss filed
01/07/13	Motion granted with conditions

Neal v. Commission

Case No. RWT 12-CV-1186

Lead Counsel: Harvin

Other Counsel:

Abstract: Defense of claim alleging discrimination.

Status: In Discovery

Docket:

04/23/12	Complaint filed
04/25/12	Waiver of Summons filed
06/25/12	Motion for Summary Judgment filed
09/12/12	Reply to Defendant's Opposition filed
01/07/13	Motion for Summary Judgment denied
09/19/13	Joint Motion requesting Settlement Conference
02/14/14	Order scheduling settlement conference
04/15/14	Settlement Conference