



SEPTEMBER 10, 2013
CITY OF COLLEGE PARK
COUNCIL CHAMBERS

7:15 P.M.

Public Hearing – Ordinance 13-O-09

Ordinance Of The Mayor And Council Of The City Of College Park, Maryland, Amending Chapter 125 “Housing Regulations” By Repealing And Reenacting §125-8 “Maintenance Of Dwellings” To Require That Roofs Be Covered With Materials Designed For Use As A Permanent Roofing Surface

7:30 P.M.

MAYOR AND COUNCIL MEETING
AGENDA

MEDITATION

PLEDGE OF ALLEGIANCE: Councilmember Kabir

ROLL CALL

MINUTES: Approval of transcript in lieu of minutes for Oral Argument in Case CPV-2013004, 4810 Nantucket Road; Special Session on August 7, 2013; Regular Meeting on August 13, 2013.

ANNOUNCEMENTS

ACKNOWLEDGMENT OF DIGNITARIES

ACKNOWLEDGMENT OF NEWLY APPOINTED BOARD AND COMMITTEE MEMBERS

AWARDS

PROCLAMATIONS

AMENDMENTS TO THE AGENDA

CITY MANAGER’S REPORT: Joe Nagro

STUDENT LIAISON’S REPORT: Catherine McGrath

COMMENTS FROM THE AUDIENCE ON NON-AGENDA ITEMS

PRESENTATION

Dr. Andrea Goodwin, Director
University of Maryland Office of Student Conduct

CONSENT AGENDA

- 13-R-18 Resolution of the Mayor and Council of the City of College Park Adopting The Recommendation Of The Advisory Planning Commission Regarding Request for Certification of Non-Conforming Use CNU-2013-01 for College Park Homes, 7007, 7009, 7011, 7011a, 7013, 7015 and 7017 Fordham Court, College Park, Maryland, Recommending Approval of the Request for Certification of Non-Conforming Use
- Motion by:
To: Adopt
Second:
Aye: _____
Nay: _____
Other: _____
- 13-R-19 Resolution of the Mayor and Council of the City of College Park Adopting The Recommendation Of The Advisory Planning Commission Regarding Request for Certification of Non-Conforming Use CNU-2013-04 for College Park Homes, 6923 Carleton Terrace, College Park Maryland, Recommending Approval of the Request for Certification of Non-Conforming Use
- 13-G-96 Approval and ratification of Program Year 35 Community Development Block Grant Reprogrammed Application for the installation of pedestrian street lights in downtown College Park
- 13-G-97 Approval of an Extension of the City Manager's Contract
- 13-G-98 Approval of a Purchase from Johnson Truck Center for a 37,700 pound GVWR 2013 Freightliner M2 106 Chassis with a Dump body, a V-Box Salt Spreader and a Snow Plow in the amount of \$148,482.00

ACTION ITEMS

- 13-O-09 Adoption of 13-O-09, An Ordinance Of The Mayor And Council Of The City Of College Park, Maryland, Amending Chapter 125 "Housing Regulations" By Repealing And Reenacting §125-8 "Maintenance Of Dwellings" To Require That Roofs Be Covered With Materials Designed For Use As A Permanent Roofing Surface
- Motion by: Wojahn
To: Adopt
Second:
Aye: _____
Nay: _____
Other: _____
- 13-G-99 Approval of a letter to WMATA with City comments on proposed changes to the B30 bus route
- Motion by: Wojahn
To:
Second:
Aye: _____ Nay: _____
Other: _____
- 13-CR-02 Introduction of 13-CR-02, A Charter Resolution Of The Mayor And Council Of The City Of College Park, Maryland, Amending Article III "Mayor And Council", §C3-4, "Compensation" Of The City Charter To Increase The Mayor's Annual Salary To \$10,500.00 And Each Council Members' Annual Salary To \$7,000.00, Effective January 1, 2014. ***(The Public Hearing is scheduled for October 8, 2013 at 7:15 p.m. in the Council Chambers)***
- Motion by: Catlin
To: Introduce
Second:

COUNCIL COMMENTS

COMMENTS FROM THE AUDIENCE

ADJOURN

In accordance with the Americans With Disabilities Act, if you need special assistance, you may contact the City Clerk's Office at 240-487-3501 and describe the assistance that is necessary. This agenda is subject to change. For current information, please contact the City Clerk.

7:15

PUBLIC

HEARING:

13-0-09

ORDINANCE
OF THE MAYOR AND COUNCIL OF THE CITY OF COLLEGE PARK,
MARYLAND, AMENDING CHAPTER 125 “HOUSING REGULATIONS” BY
REPEALING AND REENACTING §125-8 “MAINTENANCE OF DWELLINGS” TO
REQUIRE THAT ROOFS BE COVERED WITH MATERIALS DESIGNED FOR USE
AS A PERMANENT ROOFING SURFACE .

WHEREAS, pursuant to Md. Code Ann., Art. 23A, §2, the City of College Park, Maryland (hereinafter, the “City”) has the power to pass such ordinances as it deems necessary to protect the health, safety and welfare of the citizens of the municipality and to prevent and remove

WHEREAS, Mayor and Council have adopted Housing Regulations to ensure the health and safety of the residents of the City, and certain procedures to enforce the Housing Regulations; and

WHEREAS, the Mayor and Council wish to ensure that roofs of residential structures are covered with roofing shingles, tiles or other products designed for use as a permanent roofing surface.

Section 1. NOW THEREFORE, BE IT ORDAINED AND ENACTED, by the Mayor and Council of the City of College Park, Maryland that Chapter 125 “Housing Regulations” §125-8 "Maintenance of dwellings", be, and is hereby, repealed and reenacted with amendments to read as follows:

§125-8. Maintenance of dwellings.

No person shall occupy as owner-occupant or let to another for occupancy any dwelling or dwelling or rooming unit, for the purpose of living therein, which does not comply with the following requirements:

CAPS : Indicate matter added to existing law.
[Brackets] : Indicate matter deleted from law.
Asterisks * * * : Indicate matter remaining unchanged in existing law but not set forth in Ordinance

A. Every foundation, floor, wall, ceiling and roof shall be reasonably weather tight and rodent proof, shall be capable of affording privacy and shall be kept in good repair. ALL ROOFS SHALL BE COVERED WITH ROOFING SHINGLES, TILES, OR OTHER MATERIALS DESIGNED FOR USE AS A PERMANENT ROOFING SURFACE.

B. through I. * * * * *

Section 2. BE IT FURTHER ORDAINED AND ENACTED by the Mayor and Council of the City of College Park that, upon formal introduction of this proposed Ordinance, which shall be by way of a motion duly seconded and without any further vote, the City Clerk shall distribute a copy to each Council member and shall maintain a reasonable number of copies in the office of the City Clerk and shall publish this proposed ordinance or a fair summary thereof in a newspaper having a general circulation in the City of College Park together with a notice setting out the time and place for a public hearing thereon and for its consideration by the Council. The public hearing, hereby set for 7:15 p.m. P.M. on the 10th day of September, 2013, shall follow the publication by at least seven (7) days, may be held separately or in connection with a regular or special Council meeting and may be adjourned from time to time. All persons interested shall have an opportunity to be heard. After the hearing, the Council may adopt the proposed ordinance with or without amendments or reject it. As soon as practicable after adoption, the City Clerk shall have a fair summary of the Ordinance and notice of its adoption published in a newspaper having a general circulation in the City of College Park and available at the City's offices. This Ordinance shall become effective on _____, 2013 provided that a fair summary

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of this Ordinance is published at least once prior to the date of passage and once as soon as practical after the date of passage in a newspaper having general circulation in the City.

INTRODUCED by the Mayor and Council of the City of College Park, Maryland at a regular meeting on the 16th day of July, 2013.

ADOPTED by the Mayor and Council of the City of College Park, Maryland at a regular meeting on the _____ day of _____ 2013.

EFFECTIVE the _____ day of _____, 2013.

ATTEST:

CITY OF COLLEGE PARK,

Janeen S. Miller, CMC, City Clerk

Andrew M. Fellows, Mayor

**APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:**

Suellen M. Ferguson, City Attorney

CAPS
[Brackets]
Asterisks ***

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**NOTICE OF PUBLIC HEARING
ORDINANCE 13-O-09
TUESDAY, SEPTEMBER 10, 2013
2ND FLOOR COUNCIL CHAMBERS
CITY HALL, 4500 KNOX ROAD
7:15 P.M.**

**ORDINANCE
OF THE MAYOR AND COUNCIL OF THE CITY OF COLLEGE
PARK, MARYLAND, AMENDING CHAPTER 125 "HOUSING
REGULATIONS" BY REPEALING AND REENACTING §125-8
"MAINTENANCE OF DWELLINGS" TO REQUIRE THAT ROOFS
BE COVERED WITH MATERIALS DESIGNED FOR USE AS A
PERMANENT ROOFING SURFACE.**

**COPIES OF THIS ORDINANCE MAY BE OBTAINED FROM
THE CITY CLERK'S OFFICE, 4500 KNOX ROAD, COLLEGE
PARK, MD 20740, CALL 240-487-3501, OR VISIT
WWW.COLLEGEPAKMD.GOV.**

Posted:

bulletin board 7-19-13

call 7-19-13

website 7-19-13



CITY OF COLLEGE PARK MUSEUM

4500 KNOX ROAD 20740 • 240-487-3500

WWW

August 8, 2013

City Hall Bulletin Board

MAYOR AND COUNCIL MEETINGS

TUESDAY, AUGUST 13, 2013

- 7:00 PM ORAL ARGUMENT ON CPV-2013-04, 4810 NANTUCKET
- 7:30 PM MAYOR AND COUNCIL REGULAR MEETING, FOLLOWED BY A CLOSED SESSION TO CONSULT WITH COUNSEL ON A LEGAL MATTER AND TO CONSIDER A PERSONNEL MATTER

All meetings take place in the 2nd floor Council Chambers of City Hall, 4500 Knox Road, College Park, MD unless noted. All meetings are open to the public except Executive Sessions. In accordance with the Americans with Disabilities Act, if you need special assistance, please contact the City Clerk's Office at 240-487-3501 and describe the assistance that is necessary.

All Mayor and Council meetings can be viewed live on Comcast cable channel 71 or Verizon channel 25. Regular Council Meetings and Worksessions are rebroadcast in their entirety at the following times: Wednesdays at 8pm, Thursdays and Fridays at 6pm, and Saturdays at 10am

Worksessions and Council meetings may also be viewed live over the internet. Those interested in watching the live meetings from their computer should visit the City's website at www.collegeparkmd.gov, and click on the menu item "Council Meetings Video". You will be redirected to the Granicus, Inc. web site which will host the web streaming and archiving of Council meetings. Meetings that are streamed will also be archived for future viewing through the City's website.

Meeting Agendas are posted on the City's website on the Friday afternoon prior to the meetings www.collegeparkmd.gov – and are available at the City Clerk's office. Meeting back-up materials will be posted to the website on the Monday prior to the meeting.

Meeting schedule is subject to change. For current information, please contact the City Clerk's Office at 240-487-3501.

NOTICE OF PUBLIC HEARING

ORDINANCE 13-O-09

TUESDAY, SEPTEMBER 10, 2013 – 7:15 P.M.

2ND FLOOR COUNCIL CHAMBERS

CITY HALL, 4500 KNOX ROAD

Ordinance of the Mayor and Council of the City of College Park, MD, amending Chapter 125 "Housing Regulations" by repealing and reenacting §125-8 "Maintenance of Dwellings" to require that roofs be covered with materials designed for use as a permanent roofing surface.

Copies of this Ordinance may be obtained from the City Clerk's Office at 4500 Knox Road, College Park, MD 20740 or visit: www.collegeparkmd.gov.

EMPLOYMENT OPPORTUNITIES

ASSISTANT CITY MANAGER

The City of College Park, MD, is seeking an Assistant City Manager. College Park is a small, culturally-diverse city of 30,000 residents

COLLEGE PARK MUNICIPAL ELECTIONS TUESDAY, NOVEMBER 5, 2013

The City of College Park will hold elections for the offices of Mayor and eight district Council Members, two from each of the four Council districts, on Tuesday, November 5, 2013.

In order to be eligible to vote in the November 5th City Election, you MUST be registered to vote with Prince George's County Board of Elections at your current address in College Park by 4:30 p.m. on Tuesday, October 8, 2013. To check your registration status with the County, call the Board of Elections at 301-430-8020. Voter Registration Forms are available by calling 301-430-8020 or you may pick up a form at any City building or any Maryland Motor Vehicle Administration office. You may also download a form from the State Board of Elections: www.elections.state.md.us. If you have moved since the last time you voted, you must change your address with the Prince George's County Board of Elections.

If you wish to run for office, candidacy packets are available from our website at www.collegeparkmd.gov or the City Clerk's Office at 4500 Knox Road, College Park, MD 20740.

The following guidelines apply to candidacy: At the time of taking office, the Mayor shall have attained the age of 25 years, and each member of the Council shall have attained the age of 21 years. Each elective officer must be a citizen of the United States, a resident of the State of Maryland and a registered voter of College Park. Each elective officer of the City of College Park shall have continuously resided in the City for at least one year immediately preceding the date of election, been a registered voter in the City for at least one year immediately preceding the date of election, and shall continuously reside in the City during his/her term of office; each district Council member must reside in the district from which he/she is elected; and each officer shall retain throughout his/her respective term of office all the qualifications necessary for his/her election, and failure to retain all of such qualifications shall cause forfeiture of office.

For more information on running for office, please contact the City Clerk's Office, Monday through Friday, 8:00 a.m. through 5:00 p.m. at 240-487-3501.

Chief of Elections: John Robson. College Park Election Supervisors: Janet Evander, Maxine Gross, Charles Smolka and Terri Wertz.

Youth, Family and Senior Services...
Senior Services 301-345-8100
Youth and Family Services 240-487-3550

AVAILABLE CITY SENIOR SERVICES

Do You Know about College Park's

- Quarterly Senior Socials?
- Wonderful Day Trips?
- Transportation to nearby medical appointments?

Did You Know College Park's Senior Services Also Offer:

- Advocacy with Other Agencies and Doctors Offices?
- Information and Referral?
- Liaison to Other Community Resources?

TO LEARN MORE **and to get on City Seniors mailing list**, contact the City Seniors Program office 301-345-8100.



City Hall Bulletin Board

MAYOR AND COUNCIL MEETINGS

TUESDAY, SEPTEMBER 3, 2013

7:30 P.M. MAYOR AND COUNCIL WORKSESSION

TUESDAY, SEPTEMBER 10, 2013

7:15 P.M. PUBLIC HEARING ON ORDINANCE 13-O-09, §125-8, ROOFING MATERIALS

7:30 P.M. MAYOR AND COUNCIL REGULAR MEETING

MONDAY, SEPTEMBER 16, 2013

6:30 P.M. ANNUAL LEGISLATIVE DINNER – UNIVERSITY OF MARYLAND GOLF COURSE CLUBHOUSE

TUESDAY, SEPTEMBER 17, 2013

7:30 P.M. MAYOR AND COUNCIL WORKSESSION

TUESDAY, SEPTEMBER 24, 2013

7:30 P.M. MAYOR AND COUNCIL REGULAR MEETING

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COUNCIL ACTION

At their regular meeting on August 13, 2013, the College Park City Council took the following actions (negative votes are noted):

Awarded a Concrete Maintenance and Asphalt Resurfacing Contract to NZI Construction Corporation.

Adopted Resolution 13-R-16 submitting an application to the FY '14 Community Legacy Program for \$75,000.

Adopted Resolution 13-R-17 submitting an application to the FY '14 Strategic Demolition and Smart Growth Impact Fund for \$125,000.

Approved a Memorandum of Understanding with the University of Maryland Department of Transportation Services to allow City residents to ride the Shuttle UM at a cost to the City of \$6,000.

Approved a stop sign request to be installed on Limestone Place at the intersection with Marlborough Way.

Approved a Letter of Agreement with State Highway Administration for a feasibility study (to be conducted by KCI Technologies) for undergrounding utilities on US Rt. 1, from College Avenue to MD 193.

Approved a letter to the Prince George's County Board of License Commissioners (BOLC) with City comments for the September 4, 2013 Show Cause Hearing re: Big Play Sports Grill for non-compliance with security plan.

Reappointed Ed Maginnis to the Ethics Commission and Stephen Jascourt to the Committee for a Better Environment.

NOTICE OF PUBLIC HEARING

ORDINANCE 13-O-09

TUESDAY, SEPTEMBER 10, 2013 – 7:15 P.M.

2ND FLOOR COUNCIL CHAMBERS
CITY HALL, 4500 KNOX ROAD

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From The Public Works Dept...

9217 51st Avenue

240-487-3590

publicworks@collegeparkmd.gov

PUBLIC WORKS CLOSED LABOR DAY

Public Works will be closed Monday, September 2, in observance of Labor Day. Refuse, recycling, and yard waste collections will be delayed one day during this holiday week. Collections will be made on the following schedule:

- Monday collections – Tuesday, September 3
- Tuesday collections – Wednesday, September 4
- Wednesday collections – Thursday, September 5

Collections for brush and special trash will only be made on Friday, September 6, during this holiday week. You must call or email Public Works in advance to schedule a pickup: 240-487-3590; publicworks@collegeparkmd.gov. Items set out for pick up that have not been called in for a scheduled pick up may not be collected.

TRAFFIC ALERT – UMD SPECIAL EVENTS

Please be aware of pedestrians along city roads and expect heavier traffic throughout the day and evening for the following UMD events:

- Saturday, 8/31: UM football vs. Florida International (12:30 p.m.)
- Saturday, 9/7: UM football vs. Old Dominion (4:00 p.m.)

OCTOBER CLEANUP SATURDAYS

OCTOBER 5 AND 12, 7:30 AM-12:00 PM

PUBLIC WORKS, 9217 51ST AVENUE

The City of College Park Public Works facility will be open for City residents the first and second Saturdays in October. City residents may drop off bulky trash, electronics for recycling, and yard trim. Hazardous materials will not be accepted (shingles, propane tanks, paint, etc.). Air conditioners, heat pumps, refrigerators and freezers may incur a disposal fee; tires will incur a disposal fee of \$4.00 each. These weekends are only open for College Park City residents; you must show proof of residency in the City of College Park to participate.

You can also donate the items you no longer want or need during the cleanup Saturdays! American Rescue Workers will be present to accept clothing and household items. Community Forklift will be collecting reusable building, landscape, and gardening supplies (surplus or salvaged). All items need to be in good condition. Clean out your homes, garages, and sheds; and bring over the items you no longer use or need, donate them for reuse, and receive a tax deduction for your donations.

Remember – you **MUST** be a resident of the City of College Park AND bring proof of City residency in order to participate. Call or email Public Works with questions or for more information (240-487-3590; publicworks@collegeparkmd.gov).

DOCUMENT SHREDDING SATURDAY

OCTOBER 5, 8:00 AM-12:00 PM

PUBLIC WORKS, 9217 51ST AVENUE

Document shredding services will be available to City of College Park residents. Bring your old tax records, medical paperwork, and any other confidential information to be shredded while you wait. All paper will be recycled. You must be a resident of the City of College Park and bring proof of residency to participate.

BACK TO SCHOOL RECYCLING REMINDERS

Reduce waste and excessive purchases – look at the supplies, backpacks, etc. from last school year and decide what can be reused before your back-to-school shopping spree. During the school year, use a lunchbox and reusable containers for sandwiches, snacks, drinks, and cutlery to reduce waste from packaging.

Choose items with less packaging; use refillable pens, pencils, folders and notebooks whenever possible, instead of the single-use alternatives. Don't forget your reusable shopping bags!

Make bulk purchases for commonly-used items like notebook and printer paper, folders, pens and pencils. Do you have family or friends with similar-aged students? Consider splitting big purchases to save money and storage space.

Buy recycled content supplies. There are many options for paper products, folders, binders, pens, pencils, rulers, pencil cases, even planners that contain some amount of recycled materials. Purchasing recycled-content products helps perpetuate recycling programs.

Recycle in the classroom and at home. Don't forget to recycle (or reuse) notebook paper, construction paper, printer paper, index cards, folders, and newsletters. Other back-to-school recyclable items include shoe boxes, juice and milk boxes (no straws), paperboard and cardboard packaging, plastic beverage bottles, and plastic containers for yogurt and applesauce (make sure they are clean first!)

MINUTES

CITY OF COLLEGE PARK, MARYLAND

+ + + + +

CITY COUNCIL

+ + + + +

ORAL ARGUMENT IN CASE CPV-2013-04
SIRAK AND MESERET TEFFERA
4810 NANTUCKET ROAD

+ + + + +

TUESDAY
AUGUST 13, 2013

+ + + + +

The City Council met in the City Council Chambers, 4500 Knox Street, College Park, Maryland, at 7:00 p.m., Andrew M. Fellows, Mayor, presiding.

COUNCILMEMBERS PRESENT:

- ANDREW M. FELLOWS, MAYOR
- MARCUS AFZALI
- ROBERT T. CATLIN
- ROBERT W. DAY
- MONROE S. DENNIS
- FAZLUL KABIR
- DENISE C. MITCHELL
- STEPHANIE STULLICH
- PATRICK L. WOJAHN

RECEIVED

AUG 29 2013

**City of College Park
Administration Office**

Theresa...
Planning
Janeen Miller

ORIGINAL

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WASHINGTON, D.C. 20005-3701

STAFF PRESENT:

JONATHAN BROWN, City Planner
SUELLEN FERGUSON, City Attorney
SUE FORD, City Attorney
JANINE MILLER, City Clerk
JOSEPH L. NAGRO, City Manager
TERRY SCHUM, Director of Planning

ALSO PRESENT:

SIRAK TEFFERA

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1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 P-R-O-C-E-E-D-I-N-G-S

2 7:00 p.m.

3 MAYOR FELLOWS: Good evening and
4 welcome to the 7:00 p.m. August 13th hearing,
5 the oral argument in CPV-2013-04. This is
6 concerning 4810 Nantucket Road. And I
7 believe, Ms. Schum, you'll begin things.

8 MS. SCHUM: Yes, good evening, Mr.
9 Mayor, members of council. For the record,
10 Terry Schum, planning director for the City of
11 College Park. Tonight you are hearing oral
12 argument on case CPV-2013-04. And what you
13 have in a packet before you is a complete
14 record of the case that the planning
15 department prepared for you.

16 And in this record you will have
17 the rules of procedure for the hearing
18 tonight, the notice of public hearing, the
19 Applicant's request for oral argument, the
20 recommendation of the APC in the form of a
21 resolution, the staff report and associated
22 exhibits, as well as a verbatim transcript

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1 from the APC hearing.

2 So, in terms of the rules of
3 procedure, it's been a while since maybe
4 you've had oral argument like this. I think
5 you will remember that you are limited to the
6 facts and information contained in the record
7 made at the APC hearing.

8 That's why we have provided this
9 packet of information for you. Anyone who
10 speaks is limited to that as well. And the
11 Applicants tonight are the only persons who
12 will be arguing against the recommendation of
13 the APC since there were no other parties of
14 record to the hearing at the APC level.

15 So, if you're ready, I'd like to
16 begin with a brief orientation to the case,
17 and then we'll proceed to the Applicant's
18 argument before you.

19 MAYOR FELLOWS: All right, thank
20 you.

21 MS. SCHUM: So, we've said this is
22 CPV-2013-04. The address of the property is

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1 4810 Nantucket Road. And on May 7, 2013,
2 Sirak and Meseret Teffera submitted an
3 application for two variances related to the
4 widening of a driveway in the front yard of
5 their home at the address I just mentioned,
6 4810 Nantucket Road.

7 And we have an exhibit, and it's
8 exhibit 7a in your packet, that shows the
9 existing house and the original driveway. And
10 I will pull that up on the screen for you
11 right now. So, this is exhibit 7a showing the
12 original asphalt driveway in the western side
13 yard of the property.

14 The first variance request that
15 the Applicant made was in effect a waiver of
16 the requirement of Section 27-120.01c that
17 states, "No parking space, parking area, or
18 parking structure other than a driveway no
19 wider than its associated garage, carport, or
20 other parking structure, may be built in the
21 front yard of a dwelling except a townhouse or
22 multifamily dwelling in the area between the

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1 front street line and the sides of the
2 dwelling." That's the first variance request
3 asking that they be permitted to actually
4 expand their driveway in the front yard of the
5 property.

6 The second variance related to the
7 first. It's from Section 27-442c, table 2,
8 which proscribes the maximum lot coverage for
9 a single family detached home in the R-50 zone
10 to be 30 percent. The Applicants proposed to
11 exceed this maximum lot coverage by four
12 percent, so the total would be 34 percent.

13 If you look at Exhibit 6, and I'll
14 - this is Exhibit 4, let's see, 5 - Actually,
15 it's Exhibit 5 on the screen, but it's in
16 Exhibit 6 in your packet. And this shows the
17 proposed site plan and illustrates the
18 situation before you tonight.

19 So, the site itself measures 55
20 feet wide and 100 feet deep, for a total of
21 5500 square feet. The original asphalt
22 driveway, which you saw previously, was six

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1 feet wide and 24 feet long, located in the
2 side yard of the property, and that area is
3 shown in gray up on the screen, so that's this
4 area right here.

5 The yellow portion shows the area
6 of expansion of the driveway, which is an
7 addition of 11 feet by 20 feet, so that's the
8 area right here. So, the gray plus the yellow
9 equals the expanded area of the driveway.

10 The work to reconstruct the
11 driveway was performed without obtaining
12 county or city building permits as required.
13 A stop work order was issued by the city and
14 posted on the property on May 3, 2013, while
15 the Applicants were at work.

16 The concrete was being poured at
17 the time of the stop work order, so the pour
18 was completed and the concrete was smoothed
19 out. And I have an exhibit that illustrates
20 that if I can get to it.

21 Yes, this shows that the entire
22 driveway, the original asphalt and additional

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1 land area, was reconstructed, concrete was
2 poured. So the photo on the left shows the
3 rough concrete actually being poured, and the
4 photo on the right shows the stop work order
5 that was issued on the same day.

6 And if we go back to - let's see,
7 I'm trying to find Exhibit 5, let's see.
8 Pardon me, I'm sorry. I actually think the
9 best thing to do is to all the way back to the
10 beginning. And this shows the finished
11 product.

12 So the concrete that was poured
13 was actually smoothed over on the same day
14 that the stop work order was issued. So once
15 it was poured, there was really little for the
16 contractor to do but to actually finish it off
17 unless it were to be left in a rough state.
18 So this photograph shows the reconstructed
19 driveway.

20 For your information, a city and
21 county standard or typical driveway width is
22 about 10 feet wide. And the city allows one

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1 standard width driveway apron, which the city
2 maintains in the city's right of way. And if
3 someone wants a second curb cut or a non-
4 standard driveway apron, in other words, a
5 wider driveway and associated apron, then
6 permission must be obtained from you, the city
7 council, for that to happen, and then the
8 Applicant would be required to maintain it.

9 So, in this instance, because no
10 permit was obtained before the work started,
11 there was no associated, you know, driveway
12 apron permission before you. It was all in
13 discovery before the APC.

14 So the APC held a public hearing
15 on the application on June 6, 2013, at which
16 time the Applicants testified, and there were
17 no other parties of record. The APC made the
18 following conclusions of law which I will read
19 to you based on the three criteria that are
20 required to be met in order to grant a
21 variance. And I can just get these back on
22 the screen for you for your reference.

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1 So the first conclusion based on
2 the criteria is that - and you can follow
3 along with this in the resolution from the
4 APC. It says, "There is exceptional
5 narrowness, shallowness, shape or topographic
6 conditions or other extraordinary situations
7 or conditions related to the property. It is
8 similar to other properties in the
9 neighborhood."

10 The second conclusion the APC made
11 is that, "The strict application of the county
12 zoning ordinance will not result in peculiar
13 and unusual practical difficulties to, or
14 exceptional or undue hardship upon the
15 property owner. The property had a standard
16 sized driveway.

17 While the Applicant will have to
18 remove the expanded portion of the driveway,
19 this hardship is self-created as the work was
20 done without a permit, such that the removal
21 of the non-permitted improvement should not be
22 considered an exceptional or undue hardship."

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1 And the third conclusion is that,
2 "Granting the requested variances would impair
3 the intent of the master plan. The code of
4 the county prohibits driveways in the front of
5 houses where they do not connect to a garage
6 or carport, and a double wide driveway is not
7 characteristic of the neighborhood and results
8 in excessive lot coverage."

9 The APC voted 5-0 to deny the two
10 variance requests, and the APC notice of
11 recommendation was mailed on June 19, 2013.
12 The Applicant subsequently filed a request for
13 oral argument on June 28, 2013, within the 15
14 day appeal period that's required.

15 That concludes the staff
16 orientation. And if you have questions, I'll
17 be happy to try to answer.

18 MAYOR FELLOWS: Questions of the
19 staff? Mr. Wojahn?

20 COUNCILMEMBER WOJAHN: Sorry.
21 Thank you, Ms. Schum for your presentation.
22 I was wondering if you could give us a sense

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1 of the houses on the street. And I don't know
2 if - I think there were some pictures of
3 different houses and their driveways. Do you
4 have a sense of how many have the single wide
5 driveways versus double wide?

6 MS. SCHUM: No, that's not
7 something that's in the records. Staff did
8 not count, but I believe you can see from the
9 aerial photograph which is in the record, that
10 there are several houses that do have double
11 wide driveways.

12 We have no way of knowing when
13 they were actually constructed. And the law
14 that prohibits parking in the front yard is a
15 fairly new requirement of the county. It's
16 about 10 years old. So any property that
17 constructed their property in the front yard
18 prior to that is obviously grandfathered in.
19 They're not a violation of the law.

20 So there are some properties on
21 the street with these so-called double wide
22 driveways, and they're, I would say, the

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1 majority of the driveways on the street have
2 a single wide driveway, a nine or 10 foot wide
3 driveway that's actually solely within the
4 side yard of the property. There may be a few
5 that encroach a foot or so in the front yard,
6 but we don't have those calculations as part
7 of the record.

8 COUNCILMEMBER WOJAHN: Right. And
9 I'm sorry, but the aerial location map that's
10 in our packets is - makes it a little bit
11 difficult to see.

12 MS. SCHUM: Let's see if I can go
13 back and - yeah.

14 COUNCILMEMBER WOJAHN: I'm not
15 sure that that helps much.

16 (Laughter)

17 MS. SCHUM: Some of the driveways
18 are showing up fairly well on here, and - but
19 not all of them.

20 COUNCILMEMBER WOJAHN: Okay, but
21 do you -

22 MS. SCHUM: So obviously this is

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1 Nantucket Street properties front on both
2 sides. You can see some of the driveways.

3 COUNCILMEMBER WOJAHN: Yeah, it's
4 hard to tell if they're -

5 MS. SCHUM: Right. Most of the
6 properties do have a driveway though. I think
7 that is characteristic of the street is to
8 have off street parking.

9 COUNCILMEMBER WOJAHN: Okay.

10 MAYOR FELLOWS: Thank you, Mr.
11 Wojahn. Dr. Kabir?

12 COUNCILMEMBER KABIR: Thank you,
13 Ms. Schum, and thanks for the presentation.
14 Yeah, it's in my district in District 1, and
15 you know, I do actually know quite a few
16 neighbors. I do drive on that street a lot.

17 So, it looks like there are some,
18 or a dozen houses on the one side, east side,
19 and I was driving the other day on the side
20 where 4810 is located.

21 MAYOR FELLOWS: Dr. Kabir, I just
22 wanted to note your questions should be

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1 related to things that are in the record.

2 COUNCILMEMBER KABIR: Yeah, it's
3 related to, related to the same questions my
4 colleague asked.

5 MS. FERGUSON: And Mr. Mayor?

6 MAYOR FELLOWS: Yes?

7 MS. FERGUSON: In particular, a
8 councilmember should not be testifying from
9 personal knowledge in terms of the record, to
10 fill in for the record. If there is something
11 that council wishes to know that isn't in the
12 record, you can always remand it to the APC to
13 find that.

14 But since there's no testimony at
15 this level, a councilmember may not substitute
16 their factual knowledge at this point.

17 COUNCILMEMBER KABIR: Yes.

18 MS. FERGUSON: Okay.

19 COUNCILMEMBER KABIR: It was
20 actually my question. I was going to ask a
21 question and that's -

22 MAYOR FELLOWS: What prompted me

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1 to say that was you were talking about driving
2 around and about your observations, and I
3 thought that's not part of the record, so -

4 COUNCILMEMBER KABIR: Yes, it's
5 not, but as my council - my job -

6 (Laughter)

7 COUNCILMEMBER KABIR: I actually
8 do that all the time. Maybe that shouldn't be
9 on the record.

10 MAYOR FELLOWS: So do you have a
11 question based on the record?

12 COUNCILMEMBER KABIR: I do have a
13 question. And there is one house, which is
14 4716, and that - I saw the driveway and it was
15 kind of new.

16 MAYOR FELLOWS: Again, you're,
17 you're stating your observation instead of -

18 COUNCILMEMBER KABIR: No, I'm
19 asking, is there any way to find out when it
20 was built? It looks like the answer is no.

21 MS. SCHUM: Well, there is, of
22 course, a way to find out when the house was

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1 built, but if it's not in the record, I don't
2 know that it's relevant tonight, and I don't
3 have that information before you tonight.

4 COUNCILMEMBER KABIR: Okay, thank
5 you.

6 MAYOR FELLOWS: Thank you. Mr.
7 Day?

8 COUNCILMEMBER DAY: Is it safe to
9 say that most of these driveways that are on
10 this road, that are single, go straight to the
11 back yard?

12 MS. SCHUM: From - They go
13 straight to the back yard, but they are
14 located in the side yard.

15 COUNCILMEMBER DAY: Okay, they're
16 located in the side yard -

17 MS. SCHUM: Some of the houses
18 have fences. You can't see beyond the fence.

19 COUNCILMEMBER DAY: Right, but do
20 they go past - does the driveway go past the
21 front of the house?

22 MS. SCHUM: Does it extend into

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1 the front yard?

2 COUNCILMEMBER DAY: Does it - no,
3 no. Does it go past the front edge of the
4 house? Does it go into - along the side yard,
5 does it go, continue - If you look at their -
6 the picture that you had up, they have a deck
7 that's there. Do most of those driveways
8 continue back along that fence?

9 MS. SCHUM: I, I don't know. I
10 don't have that information.

11 MAYOR FELLOWS: Any other
12 questions?

13 COUNCILMEMBER DENNIS: I do have a
14 question.

15 MAYOR FELLOWS: Mr. Dennis?

16 COUNCILMEMBER DENNIS: Yes. So,
17 I'm looking at Exhibit 5 and Exhibit 6 from
18 our package, and it appears that not only was
19 the original driveway widened, but it appears
20 that there was work done to the curb which
21 would have been normally - Well, would that
22 curb work have been done by a contractor to

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1 widen the driveway, or would it have been done
2 by some city-provided contract work?

3 MS. SCHUM: City practice is for a
4 city permit to be released to a private owner
5 or contractor to actually perform the work of
6 constructing the apron. So the city's staff
7 or crews do not go out and actually construct
8 the apron in the city right of way. Rather,
9 the city engineer would issue a permit
10 according to the city standard to allow that
11 apron to be constructed.

12 COUNCILMEMBER DENNIS: Thank you.

13 MAYOR FELLOWS: Thank you, Mr.
14 Dennis. Other questions based on the record?
15 Ms. Mitchell?

16 COUNCILMEMBER MITCHELL: This
17 question is just for clarification so I
18 understand what I heard you to report. That
19 prior to - 10 years ago, prior to this, people
20 - some individuals did have the double wide
21 driveway, but after the new law was put in
22 place, those individuals were grandfathered,

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1 but moving forward you could no longer have
2 this type of driveway?

3 MS. SCHUM: That is correct. And
4 in your packet, the Applicant has submitted
5 Exhibit 9a, 9b, and 9c which provide you with
6 three examples of three addresses on Nantucket
7 that, in fact, illustrate that situation, that
8 do have driveways expanded into the front
9 yard.

10 COUNCILMEMBER MITCHELL: Thank
11 you, Mr. Mayor.

12 MAYOR FELLOWS: All right, thank
13 you, Ms. Mitchell. Some other questions? Mr.
14 Wojahn?

15 COUNCILMEMBER WOJAHN: And it may
16 be difficult to tell this, but just in regards
17 to Exhibits 9a, 9b, and 9c, can you say do you
18 know when those were built? Do you know if
19 they were - Is there any record of a recent
20 variance request in regards to either of those
21 for - before the city?

22 MS. SCHUM: No, the city has no

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1 recent record of variances for any of those
2 properties.

3 COUNCILMEMBER WOJAHN: Okay. All
4 right, thank you.

5 MAYOR FELLOWS: All right. Seeing
6 no other questions of Ms. Schum, is it time
7 for the Applicant?

8 MS...SCHUM: Yes.

9 MAYOR FELLOWS: All right. I
10 believe the Applicant is here. Come on up to
11 the microphone. And again, please restrict
12 your remarks to things that are on the record.
13 And thank you and welcome. And your name and
14 address for the record?

15 MR. TEFFERA: Yes, my name is
16 Sirak Teffera. My wife should be here, but
17 she started a new work job which is in
18 Forestville. It's a bit far. She wasn't able
19 to be here on time.

20 You know, the whole thing is, we
21 improved to our property. We've been here in
22 this house over 14 years. We love, you know,

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1 our neighborhood. We just, we are very
2 connected to the city. Me and my wife both
3 are members of the University of Maryland
4 University College alumni, and we - our two
5 kids, we are just planning to join to the
6 University of Maryland soon.

7 Even, you know, my - both my
8 wife's and my friends are just moving to new
9 developments and properties. We are very much
10 connected here and we love it, and we wanted
11 to do something on the property, and we did.

12 And we had some difficulties on
13 the driveway, which is on the old driveway.
14 Always my wife and me, we weren't able to, you
15 know, to park our cars. Sometimes on the
16 street has a problem to get a parking spot.

17 And the drive, you know, the
18 street is just getting busy, just, you know,
19 even it is, you know, what it used to be years
20 ago.

21 And when we just tried to make
22 some improvements, we just, you know, see how

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1 goes the street in the neighborhood. Some
2 people have expanded, you know, double parking
3 space. And we don't have any idea when we
4 start to resurfacing and doing our driveway,
5 we wanted just, okay, to be convenient to the
6 - our family, my wife and my kids, my mother-
7 in-law, she is, she is of the same time.

8 And when we started doing that,
9 the work was - took over a week and to - just
10 to do the job, the whole thing. So on the
11 last, you know, very last on finishing time,
12 we found the, you know, the stop work sign.
13 And this was eventually - we don't even have
14 idea.

15 That was the last minute, if you
16 can see that on the, on the picture. By the
17 time when we get home, the work was done. And
18 the only thing is they take care of the clean
19 up after that.

20 So, you know, just - the
21 beginning, we don't have any idea on this
22 because we are working on existing driveway,

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1 that was our understanding, and we shouldn't -
2 we didn't know that we have to go through the
3 permits.

4 We did all this when we do all
5 other works, and there is no, just, you know,
6 hiding. This is in the front of our property.
7 But we - I wish we knew this and we didn't go
8 through all this stuff.

9 This is really just, you know,
10 since that day, you know, all my family, we
11 don't feel that good which is, you know, is a
12 stabbing to our emotion actually. This is a
13 very innocent mistake we did. We didn't know
14 that, and we didn't want to go through all
15 this stuff.

16 It's difficult just, you know,
17 living on the same property and doing, you
18 know. We wanted to have like our neighbors in
19 the neighborhood. And, you know, I just
20 wanted to bring it, you know, we wanted to
21 bring it to this - to the mayor and the
22 council just to present ourselves, you know,

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1 honestly. I just - we don't know.

2 Maybe it's the right way how to
3 present it, but you know, this is very - from
4 the bottom of our feelings and, you know, this
5 is - nothing is hidden. And just, you know,
6 to make you - to make a decision.

7 MAYOR FELLOWS: Okay, thank you.
8 Questions of the Applicant? Is that
9 appropriate based - again, based on the
10 record? Dr. Kabir?

11 COUNCILMEMBER KABIR: I'll be
12 careful.

13 (Laughter)

14 MAYOR FELLOWS: Thank you.

15 COUNCILMEMBER KABIR: I'll ask
16 questions from the record and based on the
17 testimony. So you said that you had
18 difficulties in building it and now you feel
19 the pain of taking it out. Can you give us a
20 sense?

21 It looks like it's something to do
22 with the costs that are involved right? How

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1 much did you spend to build it? Can I ask
2 that?

3 MAYOR FELLOWS: I believe not
4 because that's not in the record.

5 COUNCILMEMBER KABIR: Okay.

6 MS. FORD: That's outside of the
7 record, sorry.

8 MAYOR FELLOWS: So unfortunately
9 we have lots of people to keep us on track -

10 COUNCILMEMBER KABIR: Okay.

11 MAYOR FELLOWS: I realize this is
12 a little bit challenging, but please restrict

13 -

14 COUNCILMEMBER KABIR: It is
15 challenging.

16 MAYOR FELLOWS: - your questions -

17 COUNCILMEMBER KABIR: That's fine.

18 That's fine.

19 MAYOR FELLOWS: - to things that
20 are in the record.

21 COUNCILMEMBER KABIR: Yes, I meant
22 to follow it.

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1 MAYOR FELLOWS: All right, Mr.
2 Wojahn?

3 COUNCILMEMBER WOJAHN: First of
4 all, I just want to say I sympathize with you
5 being here tonight if I can speak candidly for
6 a second. My first time here in these
7 chambers was actually standing where you are
8 now trying to do the same thing, so I, I know
9 it's not an easy position and I appreciate you
10 coming down here and presenting your case to
11 us.

12 Just so you know, what we have to
13 look at is a series of rules, and we have to
14 look at the justification for whether or not
15 to grant this variance according to the rules
16 that we have to follow, and look at a set of
17 criteria.

18 And one of those criteria, just so
19 you understand, is whether or not your
20 property is different, is exceptional than the
21 properties around you. My question is, based
22 on, based on the record, based on what's in

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1 the record, can you tell us what makes your
2 property different, exceptional, that might,
3 that might, that might justify us granting
4 your variance?

5 MAYOR FELLOWS: Again,
6 unfortunately, you'll have to answer with
7 things that are in the record.

8 MR. TEFFERA: Yes, I think I put
9 some pictures - we put some pictures very much
10 is the same. It is no different than the
11 other property, the other property across the
12 street which is a little bit farther to north,
13 has the same, you know, the same double park
14 space and the same kind of property.

15 And we were just, you know, we
16 knew - or we didn't know the whole thing when
17 we started doing this, we just - just tried
18 too much, not necessarily just if they - we
19 could ever to have access for two cars to be
20 parked, you know, side by side.

21 And it's, you know, the same
22 thing, it was very difficult for us to get

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1 access to our cars, especially, you know, we
2 have aged - my mother-in-law, she is older.
3 She uses canes. Eventually she's going to
4 need more accessible just to, you know, we
5 don't know what will happen. So, this is some
6 kind of difficulties.

7 MS. FORD: This isn't relevant to
8 the case. The testimony about the mother-in-
9 law and the cane is outside of the record.
10 That wasn't part of the record.

11 MAYOR FELLOWS: Thank you, and
12 please -

13 COUNCILMEMBER WOJAHN: And maybe,
14 because I want to be more clear about what I'm
15 asking, and what you talked about is mostly
16 stuff that's unique to your situation and what
17 you have as individuals, but the first
18 criteria that we have to look at is about the
19 property, and about what makes a property
20 unique, exceptional from the other properties
21 in the area.

22 MR. TEFFERA: Okay, if I -

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1 MAYOR FELLOWS: Just - so again,
2 to remind you -

3 MR. TEFFERA: Okay.

4 MAYOR FELLOWS: In your response,
5 you'll have to respond with things that were
6 in the record during the planning hearings.

7 MR. TEFFERA: I - We added some
8 addition to the property, and we lifted up the
9 value of the property. And at the same time,
10 we got a new, you know, assessed value from
11 the state in these last two weeks.

12 MS. FORD: Again, this is outside
13 of the record, the assessed value of the
14 property.

15 MR. TEFFERA: Well -

16 MAYOR FELLOWS: It is challenging,
17 I realize that, but - Ms. Mitchell?

18 COUNCILMEMBER MITCHELL: Thank
19 you, Mr. Mayor, and thank you again for coming
20 down to present your case to us so we have a
21 face to a name. But I guess my question I
22 would like to ask you is to be clear, you did

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1 not understand the process for obtaining a
2 permit from the city to do this?

3 MR. TEFFERA: I swear we had no
4 idea on this.

5 MAYOR FELLOWS: Mr. Day?

6 COUNCILMEMBER DAY: So you had
7 gone to the county to get a county permit, and
8 the county did not clarify to you about any of
9 the other permits that you needed?

10 MR. TEFFERA: Yes, just all - any
11 of the work done in the property is through
12 the permits, you know, we need the - just
13 involve all kind of - yeah, this is a major
14 work we did on the property.

15 COUNCILMEMBER DAY: So when you
16 were doing the driveway, were you aware that
17 you needed -

18 MR. TEFFERA: No.

19 COUNCILMEMBER DAY: - a city
20 permit along with -

21 MR. TEFFERA: We told we are
22 working on existing driveway, and we didn't

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1 have any idea on this. Even the people who
2 were working for us on that say they don't
3 have any idea. Even if we knew it, we just
4 block, you know, stop paying the payment, but
5 no, no idea.

6 MAYOR FELLOWS: Thank you, Mr.
7 Day. Other questions for the Applicant based
8 on the record? All right, thank you. I
9 believe - is there - I have forgotten what the
10 next step of this process is.

11 MS. FORD: At this point, if there
12 was anybody who wanted to testify in favor of
13 the APC decision, if there had been a neighbor
14 who was in favor of that or something like
15 that, that would be appropriate now. I don't
16 believe anybody here is because there was no
17 one else testifying that night.

18 So, you have the APC's
19 recommendation and exhibits before you, so at
20 this point, I think it would, unless there's
21 more questions, it would be appropriate to
22 deliberate and make a decision.

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1 MAYOR FELLOWS: Okay, thank you,
2 and thank you very much for coming down here,
3 sir.

4 MR. TEFFERA: Thank you, thank you
5 very much.

6 MAYOR FELLOWS: So, open it to
7 deliberation.

8 COUNCILMEMBER KABIR: Yes, I -

9 MAYOR FELLOWS: Sure, Dr. Kabir?

10 COUNCILMEMBER KABIR: Okay. Yes,
11 it's very hard because it looks like based on
12 the testimony that we have - and I want to
13 thank actually the members of APC, I have a
14 huge respect for them, their hard work, and
15 just look at the volume of work they have done
16 and they spent quite a lot of time.

17 But it looks like the Applicant
18 was kind of, I would say he is innocent, and
19 I do support that because he didn't know the
20 rule, which has been actually noted in here.
21 And the contractor who worked on the case, he
22 did not tell him that the work needs to be

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1 done, and he never actually had to go through
2 this. That's also in the record. I think I
3 saw that.

4 So I think a variance is a
5 variance. It's, you know, every variance case
6 is unique, and you know, I have a lot of
7 sympathy for this person, this resident, and
8 I don't think it would be creating any
9 precedence if we allow this small variance.

10 Because as, you know, based on the
11 pictures I have seen, there are quite a few
12 houses on the same street that do have
13 actually double driveways. So, I'm kind of
14 leaning towards supporting the variance. I
15 understand it's a unique case, but that's
16 based on the testimony.

17 MAYOR FELLOWS: All right, thank
18 you, Dr. Kabir. Mr. Wojahn, did I see your
19 hand?

20 COUNCILMEMBER WOJAHN: Yeah, is a
21 motion in order at this point, or how do we do
22 this?

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1 MS. FORD: Yes, you could have a
2 motion, and if there is a second, then
3 discussion would be appropriate on that
4 motion.

5 COUNCILMEMBER WOJAHN: Okay, in
6 that case I'd like to move to affirm the APC's
7 recommendation to deny the two variances.

8 COUNCILMEMBER MITCHELL: Second.

9 MAYOR FELLOWS: I have a motion by
10 Mr. Wojahn, a second by Ms. Mitchell. And
11 further comments, Mr. Wojahn?

12 COUNCILMEMBER WOJAHN: Yes, I
13 mean, I agree with Mr. Kabir in a couple of
14 senses. I have a lot of sympathy for Mr. and
15 Mrs. Teffera, and it seems like what might
16 have happened here is an unscrupulous
17 contractor, which we have a number of in the
18 community, not following the proper
19 procedures, not directing Mr. Teffera and his
20 wife to the proper procedures.

21 But that doesn't change the facts
22 and the law that are before us. And as

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1 essentially a judicial entity that has to
2 apply the law to the facts, we don't set the
3 policy in this case. It's not our job to set
4 the rules in this case. It's our job to take
5 the rules that exist and apply them to the
6 facts.

7 And I asked Mr. Teffera to discuss
8 the first criteria that we have to look at.
9 And the three criteria that we have, they're
10 all requirements. They're all things that we
11 have to, that we have to make sure are in
12 place in order to grant this variance.

13 The first one of those is that
14 this property has to be unique, exceptional
15 from other properties in the area. And it's
16 not. It doesn't have a unique size. It
17 doesn't have a unique shape. It doesn't have
18 any particular characteristics that are unique
19 about it.

20 And I appreciate that there are,
21 that there may be hardships here for some of
22 those that were discussed are off the record,

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1 but just for Mr. Teffera to be able to go to
2 his car and with the traffic that exists, I
3 know that traffic is a problem on Nantucket,
4 there may be some hardships involved here.
5 But that's - that goes to another criteria,
6 and all three criteria have to be met.

7 So, I can't get past this first
8 one that says that the property has to have
9 exceptional and inherent - Thank you for
10 placing it up for me on the screen -
11 exceptional narrowness, shallowness or shape,
12 exceptional topographic conditions or other
13 extraordinary situations or conditions.

14 There's nothing that differs this
15 property from other properties in the
16 neighborhood. So, I just can't, with the
17 unanimous decision of the APC, 5-0 decision,
18 which is somewhat rare that they all agree on
19 something like this, I can't see us
20 overturning the decision that they made.

21 MAYOR FELLOWS: Thank you, Mr.
22 Wojahn. Mr. Afzali?

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1 COUNCILMEMBER AFZALI: Thank you,
2 Mr. Mayor. First of all, again I'm going to
3 have to agree with Councilmember Wojahn.
4 Reading the decision, I feel the same way, if,
5 you know, you read through all the comments in
6 them. I feel the same way the board members
7 do, which is I really want to pass this.

8 I really want to grant them this
9 variance. And that's kind of a common theme
10 actually reading the comments is - I see why.
11 You just come across extremely likable. I
12 trust everything you're saying, and I want to
13 be able to do this for you.

14 And I feel like we're in the same
15 unfortunate situation that the board, the APC
16 was in, which is simply the laws are stated.
17 This just simply doesn't apply. I think
18 there's a reason for a 5-0 vote. Our job as
19 a council tonight is to really see if there's
20 anything that we saw in any of the testimony
21 that would make us believe that that 5-0 vote
22 was incorrect.

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1 And I can't think of anything we
2 heard in the 30 minutes of testimony tonight
3 from either our staff or from the Applicant
4 that would make me think that all three of
5 these criteria are met and that the APC was
6 simply wrong.

7 I can't think of something that
8 would just say all three - And really if you
9 want to vote against the APC's decision, you
10 have to make an argument why I believe all
11 three of these conditions are incorrect, I
12 mean, why all three of these conditions are
13 met, why the APC was wrong, and assert some
14 basis of those on the record. I just don't
15 know how anyone can possibly make that
16 argument.

17 That being said, the one
18 possibility, and I really don't feel - I would
19 really give this to Councilmember Wojahn and
20 Fazlul to see what they think. The only thing
21 they could do to make me not vote for the
22 APC's decision tonight was if you two, as the

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1 councilmembers for District 1, felt that there
2 was more information that needs to come out
3 and wanted to send this recommended back to
4 the APC.

5 I honestly don't think that would
6 change anything. I think that would just
7 probably take more time, create more
8 annoyances you have to go through, back
9 through this process again. I think it would
10 be the same result and just make the Applicant
11 go through a lot of work.

12 So, I don't think we should do it.
13 If you guys thinks there is information out
14 there that would truly make a difference on
15 this that did not come up, that's a
16 possibility. But besides that, I'm going to
17 have to agree with Councilmember Wojahn and
18 vote with him on this.

19 MAYOR FELLOWS: Thank you, Mr.
20 Afzali. Mr. Day?

21 COUNCILMEMBER DAY: This is tough
22 one because we are, as a former member of the

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1 APC, I will tell you this is a tough one
2 because I've sat through these types of cases
3 before. I do think that there is a lot of
4 information that probably could be brought
5 out, and was not asked or was not searched for
6 in this situation.

7 This is tough because I look at
8 this from a former member of the board, and I
9 look at it as a councilmember, and as a
10 councilmember, I can't really see how to
11 change this short of remanding it back to the
12 APC. And I too would refer back to the two
13 council members from that district to have a
14 look at that and maybe consider that.

15 COUNCILMEMBER AFZALI: Before
16 continuing comments, can I ask Suellen a
17 question, just a clarification?

18 MAYOR FELLOWS: Yes.

19 COUNCILMEMBER AFZALI: Okay, thank
20 you, Mr. Mayor. I mean, again, I don't think
21 this is the right decision unless Patrick and
22 Fazlul really make, or Councilmembers Kabir

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1 and Wojahn make a compelling case. If it's
2 reprimanded, is that just general, or do we
3 have to say we want this specific information?

4 MS. FERGUSON: If you are talking
5 about remanding it?

6 COUNCILMEMBER AFZALI: Remanding
7 it, sorry, I apologize.

8 MS. FERGUSON: It would be for
9 specific items. And I will note that the one
10 question Councilmember Kabir was getting to
11 would actually be irrelevant anyway -

12 COUNCILMEMBER AFZALI: Okay.

13 MS. FERGUSON: - the one about the
14 value of the work that was done. That is
15 what's called a self-imposed hardship, and
16 those don't count if you proceed without
17 permit, without getting the variance, and
18 you've imposed a hardship on yourself so that
19 you have to take the drive - part of the
20 driveway out, that doesn't count as a
21 hardship.

22 So that was one thing I wanted to

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1 make sure you knew because I know that was a
2 question and we wouldn't let you go any
3 further on that. But it's mainly not just
4 it's not in the record, it's not relevant to
5 the record. We don't take testimony on that
6 at the APC level because it doesn't matter.

7 COUNCILMEMBER AFZALI: That is
8 very useful, thank you.

9 MAYOR FELLOWS: Thank you. Ms.
10 Stullich?

11 COUNCILMEMBER STULLICH: Yes, I, I
12 share the pain that I think maybe all of us
13 are feeling in this situation. It's hard when
14 you have an Applicant come before you and say,
15 or an Appellant, I'm sorry, in this case who
16 seems like a, you know, a good person, a good
17 citizen of the city, and you know, acted in
18 all innocence in doing something that was a
19 violation.

20 But the dilemma that we have is
21 that we aren't here to make decisions based on
22 how we feel about somebody, but based on the

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1 facts of the case. I would argue against
2 remanding this back to the APC because I
3 believe that would just prolong the pain of
4 this case.

5 I don't see how it will be
6 possible to overcome criteria number one. The
7 property simply does not meet that criteria,
8 and there's really no way to say that it does.
9 And if we are to send it back, if we were to
10 send it back to the APC, I think they would
11 have a hard time knowing what to do other than
12 to make the same decision and then be back
13 here again.

14 I think it's hard when somebody,
15 you know, honestly is not aware of the law or
16 the code, but that doesn't really change the
17 facts of the situation. I know I, myself,
18 have made mistakes in my life that cost me
19 some money, and that was painful. But, you
20 know, it's nothing something that we can
21 really fix by saying -

22 We can't find that these criteria

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1 are met when they're not met. So, as much as
2 I sympathize with the Applicant, I think - I
3 do also want to say that this requirement is
4 in place for a reason, like all requirements,
5 and that we sometimes have to implement and
6 adjudicate.

7 And residents do generally have
8 concerns about what is perceived as too much
9 of a property being turned into parking, and
10 turned into pavement, and impervious surface.
11 And those requirements are there because of
12 perception of policy makers that they're
13 wanted.

14 And if, you know, we didn't think
15 that that was - You know, if that's not a
16 value or a priority, then that should be
17 changed. But if it - You know, once there's
18 a requirement in place, we have to implement
19 it in an even-handed manner. I believe there
20 are good reasons for the requirement.

21 I think the problem here is just
22 that we have someone who wasn't aware of the

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1 requirements, and I'm sure if he was he would
2 have acted differently. But, you know, the
3 facts are what they are. Thank you.

4 MAYOR FELLOWS: Thank you, Ms.
5 Stullich. Mr. Wojahn, did you want to comment
6 further on your motion?

7 COUNCILMEMBER WOJAHN: Yeah, well,
8 I just, I wanted to respond to the suggestion
9 about remanding it to the APC - not
10 suggestion, okay. Thank you.

11 (Laughter)

12 COUNCILMEMBER WOJAHN: Well, I do
13 appreciate the whatever you'd like to call it.

14 (Laughter)

15 COUNCILMEMBER WOJAHN: And I -
16 That was an approach that I recommend - that
17 I actually made a motion for in a previous
18 variance that came before us that was similar
19 to this case where it was a very sympathetic
20 appellant, a very difficult decision to make,
21 and very difficult to, in that case as well,
22 to apply the law to the facts and not grant

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1 the variance.

2 But unfortunately, it had the same
3 result that Ms. Stulich just suggested, that
4 it basically just prolonged the, the difficult
5 decision making, and ended up with exactly the
6 same result. It went back to the APC, the APC
7 made the same recommendation, and then the
8 council ultimately went with the APC's
9 decision.

10 I just fail to see in this case
11 what issue there is remaining that the, that
12 the Appellant could still show to allow this
13 variance to be granted. He's - there - not to
14 say that there's always a perfect opportunity
15 to develop a record and develop someone's
16 case, but, but he has - he and his wife had
17 had an opportunity to put forward the three
18 criteria.

19 They were discussed with the
20 staff. I just don't know what at this point,
21 what other issue could cause us to reconsider
22 this. Again, it was a 5-0 decision by the, by

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1 the APC, who had a much greater opportunity to
2 develop the record more fully than we do here.

3 And they, if you read the
4 transcripts, they did ask a lot of questions,
5 a lot of the things were going - the same
6 things were going through their mind that is
7 going - that are going through our mind now in
8 terms of really wanting to try to grant this
9 variance for the, for the Applicant, but just
10 not seeing anyway that it could be done.

11 So, I think if we remand it, we're
12 just going to be prolonging the inevitable.

13 MAYOR FELLOWS: Thank you, Mr.
14 Wojahn. Dr. Kabir, did you want to comment
15 further on the motion?

16 COUNCILMEMBER KABIR: I understand
17 that we all are trying to help, and kind of we
18 are helpless too. So, I have a question for
19 Suellen or Tony. I understand it's not on the
20 record, but in general terms, if - it's
21 nothing to do with this case, but in general -

22

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1 MAYOR FELLOWS: Well, if it has
2 nothing to do with this case -

3 COUNCILMEMBER KABIR: I mean, not
4 particular -- I'm just giving - I'm asking,
5 actually. So, if the Applicant comes up with
6 some reason which is not in the record here,
7 can he go back to the APC with that reason?
8 For example, he was talking about his mother-
9 in-law who is very ill and he cannot walk
10 along. And I understand it's not on the
11 record, I recognize that. Can he go back?

12 MS. FERGUSON: Actually, I think
13 you're catching me a little flat footed on
14 this one. This is - We are implementing
15 county law here.

16 COUNCILMEMBER KABIR: Right.

17 MS. FERGUSON: And I believe that
18 a denial of this kind is - it fits for a
19 certain period of time. Is it - there's a
20 certain period of time during which you cannot
21 come back and ask for the same thing again,
22 but I'm not sure how long that is.

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1 COUNCILMEMBER KABIR: Yeah.

2 MS. FERGUSON: I believe that that
3 is the case though. This is not our self-
4 imposed rules. These are - we're doing the
5 variances in concert with the county zoning
6 law, and so, the procedures that we adopt have
7 to be consistent with those.

8 COUNCILMEMBER KABIR: Yeah.

9 MS. FERGUSON: And that is my
10 recollection that it's - you are precluded
11 from applying again for a period of time.

12 MS. FORD: It's in Section 190-8
13 of the city code, and it says if the mayor and
14 council denies a variance, no further variance
15 covering the same specific subject on the same
16 property shall be filed within the following
17 12 month period. The second variance is also
18 denied.

19 No other subsequent variances
20 covering the same specific subject on the same
21 property shall be filed within each 18 month
22 period following the respective denial. So

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1 there's a 12-month hiatus during which the
2 Applicant could not ask for the same variance.

3 COUNCILMEMBER KABIR: 12 months
4 from the denial?

5 MS. FORD: From the time that the
6 mayor and council would deny the variance.

7 COUNCILMEMBER KABIR: Okay. It's
8 on the city code, right?

9 MS. FORD: Correct, that's in
10 Section 190-8 of the city code.

11 COUNCILMEMBER KABIR: Okay. And
12 how soon he needs to take out the driveway?

13 MS. FORD: That would be a
14 question for the enforcement people. The APC
15 doesn't have the authority in a variance
16 request or denial to issue orders with regard
17 to building code violations, so that would be
18 something for Ms. Ripley's department to
19 determine, if it's a code violation, if it
20 needs to be addressed, right. And she would
21 work - her department would work with the
22 Applicant on the removal time.

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1 COUNCILMEMBER KABIR: Okay.

2 MAYOR FELLOWS: Thank you, Dr.
3 Kabir. Any other comments? All right, all
4 those in favor of the motion, say aye.

5 MULTIPLE SPEAKERS: Aye.

6 MAYOR FELLOWS: Opposed?

7 COUNCILMEMBER KABIR: I'll
8 abstain.

9 MAYOR FELLOWS: I'm going to have
10 to do a roll call on that because I - So, Ms.
11 Mitchell?

12 COUNCILMEMBER MITCHELL: Aye.

13 MAYOR FELLOWS: Mr. Afzali?

14 COUNCILMEMBER AFZALI:

15 Unfortunately, aye.

16 MAYOR FELLOWS: All right. Mr.
17 Day?

18 COUNCILMEMBER DAY: Nay.

19 MAYOR FELLOWS: All right, Ms.
20 Stullich?

21 COUNCILMEMBER STULLICH: Aye.

22 MAYOR FELLOWS: All right, Mr.

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1 Dennis?

2 COUNCILMEMBER DENNIS: Aye.

3 MAYOR FELLOWS: Mr. Catlin?

4 MR. CATLIN: Aye.

5 MAYOR FELLOWS: All right, Mr.

6 Wojahn?

7 COUNCILMEMBER WOJAHN: Aye.

8 COUNCILMEMBER KABIR: Actually, I

9 vote no.

10 MAYOR FELLOWS: And Dr. Kabir, no.

11 All right, so it's 6-2 in favor of the motion,
12 and so the appeal is denied.

13 Mr. Teffera, I just wanted to say
14 thank you for coming down here tonight. And
15 I am, I think we're all very sorry for your
16 having to go through what you're going
17 through. I do hope you work with our city
18 staff, and that somehow there's some good that
19 comes out of this, but I'm sure you're pretty
20 frustrated at this point. So, thank you again
21 for coming down.

22 And that concludes - actually, is

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1 there anything else? I think that concludes
2 the -

3 MS. FORD: I'll excuse myself, and
4 thank everybody.

5 MAYOR FELLOWS: All right, well
6 thank -

7 (Laughter)

8 MS. FORD: My name is Susan Ford.

9 (Laughter)

10 SPEAKER: Yeah, we saw your name.

11 (Laughter)

12 MAYOR FELLOWS: Well it's very
13 nice to see you.

14 COUNCILMEMBER DAY: She does a
15 great job with the APC.

16 MAYOR FELLOWS: All right.

17 COUNCILMEMBER DAY: Believe me.

18 COUNCILMEMBER KABIR: Thank you.

19 MAYOR FELLOWS: This concludes the
20 - this hearing.

21 (Whereupon, the above-entitled
22 proceeding went off the record at 7:52 p.m.)

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C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Oral Argument in Case CPV-2013-04

Before: City of College Park, MD

Date: 08-13-13

Place: College Park, MD

was duly recorded and accurately transcribed under
my direction; further, that said transcript is a
true and accurate record of the proceedings.

Neal R. Gross

Court Reporter

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

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MINUTES
Special Session of the College Park City Council
Council Chambers
Wednesday, August 7, 2013
7:45 p.m. – 7:47 p.m.

PRESENT: Mayor Fellows; Councilmembers Kabir, Wojahn, Catlin, Dennis, Day, Afzali and Mitchell.

ABSENT: Councilmember Stullich

ALSO PRESENT: Joseph Nagro, City Manager; Suellen Ferguson, City Attorney; Janeen Miller, City Clerk; Michael Stiefvater, Economic Development Coordinator; Terry Schum, Director of Planning; Jeanne Ripley, Code Enforcement Manager; Steve Halpern, City Engineer; Jonathan Brown, Planner; Bob Stumpff, Director of Public Works; Sarah Price, Information Systems Manager; Steve Groh, Director of Finance.

During a regularly scheduled Worksession of the College Park City Council, a motion was made by Councilmember Catlin and seconded by Councilmember Afzali to enter into a Special Session. The Special Session was advertised on the meeting agenda. The motion carried 7 – 0 – 0 and the Council entered into the Special Session at 7:45 p.m.

Action Items:

13-R-15 Resolution Of The Mayor And Council Of The City Of College Park, Maryland Adopting The Recommendation Of The Advisory Planning Commission And Granting Departure Application Number CPD-2013-01, 4517 Knox Road, Alpha Xi Delta Building Corporation, For A Departure Of 9 Parking Spaces From The Required 24 Spaces

A motion was made by Councilmember Mitchell and seconded by Councilmember Day to adopt Resolution 13-R-15.

The motion carried 7 – 0 – 0.

Adjourn: A motion was made by Councilmember Afzali and seconded by Councilmember Day to adjourn the Special Session. With a vote of 7 – 0 – 0, the Special Session was adjourned at 7:47 p.m.

Janeen S. Miller
City Clerk

Date
Approved

MINUTES
Regular Meeting of the College Park City Council
Tuesday, August 13, 2013
7:52 p.m. – 8:31 p.m.

PRESENT: Mayor Andrew Fellows; Councilmembers Kabir, Wojahn, Catlin, Dennis, Stullich, Day, Afzali and Mitchell.

ABSENT: None.

ALSO PRESENT: Joe Nagro, City Manager; Janeen Miller, City Clerk; Suellen Ferguson, City Attorney; Terry Schum, Director of Planning; Robert Stumpff, Director of Public Works; Jill Clements, Director of Human Resources; Steve Groh, Director of Finance; Steve Halpern, City Engineer

Mayor Fellows opened the meeting at 7:52 p.m. following the Oral Argument in CPV-2013-04. Councilmember Mitchell led the Pledge of Allegiance.

Minutes: A motion was made by Councilmember Mitchell and seconded by Councilmember Dennis to approve the minutes of the Special Session on July 9, 2013, the Regular Meeting on July 16, 2013, and the confidential minutes of the closed session on July 16, 2013. The motion passed 8 – 0 – 0.

Announcements: Councilmember Catlin announced that the College Park Academy Public Charter School will open their doors on Monday August 19, 2013.

Proclamation: Mayor Fellows read the Proclamation in Honor of Regina Stone-Mitchell, Executive Director, College Park Housing Authority.

Amendments to the Agenda: The “lay-on-the-table” item will be added to the agenda as item 13-G-94: Stop Sign Request for Limestone Place at Marlborough Way.

City Manager’s Report: Mr. Nagro announced that restaurant week is August 11 – August 17. August 17 is also the final day of free Saturday parking in the downtown parking garage. This is also the last meeting of August. The next meeting will be Tuesday, September 3.

CONSENT AGENDA: A motion was made by Councilmember Mitchell and seconded by Councilmember Afzali to adopt the Consent Agenda, which consisted of the following items:

13-G-89 Award of FY ‘14 Miscellaneous Concrete Maintenance and Asphalt Resurfacing (RFP CP-13-01, Optional Year 1 Extension) to NZI Construction Corporation for \$693,000 as follows: \$388,000 for FY ’14 concrete maintenance and asphalt resurfacing, plus \$305,000 for the following grant projects, which will be reimbursed to the City: 1) PY 35R for FY 2012 - new streetlights on US 1 (on Knox Road and near Guilford Road) - grant of \$50,000 approved by County March 8, 2012. 2) PY 38R for FY2013 – new sidewalks along Knox Road (Yale Ave to Princeton Ave), Lakeland Rd (US1 to Rhode Island Ave), and Berwyn Rd (US1 to 48th Ave) – grant of \$90,000 approved by County March 8, 2012.

3) EDI - Widen sidewalk along US 1 in front of Bagel Place Parking Lot. Estimate \$65,000. 4) Safe Routes to School phase 3 in Hollywood - grant amount is \$100,000

13-R-16 Approval of a Resolution submitting an application to the FY '14 Community Legacy Program for \$75,000

13-R-17 Approval of a Resolution submitting an application to the FY '14 Strategic Demolition and Smart Growth Impact Fund for \$125,000

13-G-90 Renewal of MOU with University of Maryland Department of Transportation Services to allow City residents to ride the Shuttle UM at a cost to the City of \$6,000

13-G-94 Approval of a Stop Sign request on Limestone Place at Marlborough Way

The motion passed 8 – 0 – 0.

ACTION ITEMS

13-G-91 Approval of a Letter of Agreement with State Highway Administration for a feasibility study (to be conducted by KCI Technologies) for undergrounding utilities on US 1, from College Avenue to MD 193

A motion was made by Councilmember Afzali and seconded by Councilmember Mitchell to authorize the Mayor to sign a Letter of Agreement (LOA) with the Maryland State Highway Administration (SHA) pertaining to accomplishing and funding a feasibility study for the undergrounding of utilities in conjunction with the design of improvements for US Route 1 from College Avenue to MD 193.

Councilmember Afzali said that the SHA is in the design phase of the Route 1 reconstruction project and has informed the city that it is not their policy to relocate utilities underground, therefore the cost of a feasibility study, the engineering associated with utility redesign and the construction involved with relocating the utilities underground would be the responsibility of the city. The LOA includes the estimated cost of consultant services to perform the feasibility study in the amount of \$130,012 as well as \$9,933 for SHA overhead for management of the study. The city will also be responsible for all costs that exceed this estimate. The University of Maryland has provided a letter supporting the city's efforts to pursue the undergrounding of utilities and agreeing to share the costs associated with the feasibility study equally. The city and the university have long advocated that the overhead utilities be placed underground rather than relocated to another aboveground location as part of the Route 1 improvement project. Councilmember Afzali said he is not happy with the SHA's position on this, but this has been a priority for so long, it is time to move forward.

Councilmember Wojahn asked if the SHA design envisioned undergrounding. Ms. Schum said no. He asked about the impact of bike lanes on the undergrounding issue. Ms. Schum said they

are separate issues. Councilmember Wojahn expressed his concern about the terms of this Letter of Agreement, but he is encouraged by the university's position, and doesn't think we have much choice at this point.

Councilmember Kabir supports the undergrounding study but is concerned by the open-ended terms of the letter. Ms. Schum said SHA will notify the City when the study is 90% complete and will use a change-order process for approval of cost overruns. The university has indicated they will share equally in the total cost.

Mayor Fellows is glad we are a step closer to achieving the vision of undergrounding the utilities and appreciates the university's support.

The motion passed 8 – 0 – 0.

13-G-92 Approval of a letter to the Prince George's County Board of License Commissioners (BOLC) with City comments for the September 4, 2013 Show Cause Hearing re: Big Play Sports Grill for non-compliance with security plan

A motion was made by Councilmember Day and seconded by Councilmember Stullich to approve a letter to the Board of License Commissioners supporting the Board's strict enforcement of Big Play's Security Plan to insure that lapses such as the one that occurred on June 8, 2013 does not happen again.

Councilmember Day said we discussed this establishment's security plan in great detail when they were before Council for their Property Use Agreement and we are being fair to reinforce the message in this letter.

Councilmember Stullich had concerns about the establishment when Council was considering the liquor license, but she was surprised to hear of this incident because it seemed that they were operating responsibly and without problems. She hopes this was a one-time unusual event and there won't be future problems. We need bar owners to comply with these agreements.

Council requested that the applicant be copied on the letter and invited to speak with Council.

The motion passed 8 – 0 – 0.

13-G-93 Appointments to Boards and Committees

A motion was made by Councilmember Kabir and seconded by Councilmember Wojahn to reappoint Stephen Jascourt to the Committee for a Better Environment and to reappoint Ed Maginnis to the Ethics Commission. The motion passed 8 – 0 – 0.

COUNCIL COMMENTS:

Councilmember Day remarked on the Celebrity Waiter fundraising event at Ledo's Restaurant on August 28.

Councilmember Dennis commented on the University of Maryland student welcome video.

Councilmember Catlin said that Julie McClaren is leaving as director of the College Park Community Center.

ADJOURN: A motion was made by Councilmember Dennis and seconded by Councilmember Stulich to adjourn from the Regular Council meeting and to reconvene in a closed session to consult with counsel on a legal matter and to discuss a personnel matter. Council will not return into an open meeting. The motion passed 8 – 0 – 0 and the regular meeting was adjourned at 8:31 p.m.

Janeen S. Miller, CMC
City Clerk

Date
Approved

Pursuant to §C6-3 of the College Park City Charter, at 7:02 p.m. on August 7, 2013, in the Council Chambers of City Hall, a motion was made by Councilmember Mitchell and seconded by Councilmember Afzali to enter into an Executive Session for the following reasons:

- A: Discuss an employment matter
- G: Consult with Counsel on a Legal Matter

The motion passed 5 – 0 – 0.

Present: Mayor Andrew Fellows; Councilmembers Kabir (arrived at 7:07 pm.), Wojahn (arrived at 7:06 p.m.), Catlin, Dennis, Day, Afzali and Mitchell.

Absent: Councilmember Stulich

Also Present: Joe Nagro, City Manager; Janeen Miller, City Clerk; Suellen Ferguson, City Attorney; Steve Groh, Director of Finance.

Topics Discussed: The City Attorney advised the City Council on legal issues related to payroll and benefits administration for certain individuals.

Actions Taken: None.

Adjourn: A motion was made by Councilmember Afzali and seconded by Councilmember Wojahn to adjourn the Executive Session, and with a vote of 7 – 0 – 0, Mayor Fellows adjourned the Executive Session at 7:34 p.m.

Pursuant to §C6-3 of the College Park City Charter, at 8:31 p.m. on August 13, 2013, in the Council Chambers of City Hall, a motion was made by Councilmember Dennis and seconded by Councilmember Stullich to enter into an Executive Session for the following reasons:

- A: Discuss the performance evaluation of an appointee
- G: Consult with Counsel on a Legal Matter

The motion passed 8 – 0 – 0. After a short break, the closed session convened at 8:42 p.m.

Present: Mayor Andrew Fellows; Councilmembers Kabir, Wojahn, Catlin, Dennis, Stullich, Day, Afzali and Mitchell.

Absent: None.

Also Present: Joe Nagro, City Manager; Janeen Miller, City Clerk; Suellen Ferguson, City Attorney; Steve Groh, Director of Finance; Terry Schum, Director of Planning; Michael Stiefvater, Economic Development Coordinator; Mike Lightfield, consultant.

Topics Discussed: **A:** The City Council conducted a performance evaluation.
G: The City Attorney advised the City Council on a legal matter relating to an enforcement program. The City Attorney advised Council about legal and financial issues related to an existing lease agreement.

Actions Taken: None.

Adjourn: A motion was made by Councilmember Afzali and seconded by Councilmember Wojahn to adjourn the Executive Session, and with a vote of 8 – 0 – 0, Mayor Fellows adjourned the Executive Session at 11:28 p.m.

13-R-18



Office of the Mayor and Council
City of College Park
4500 Knox Road
College Park, Maryland 20740
Telephone: (240) 487-3501
Facsimile: (301) 699-8029

**NOTICE OF FINAL DECISION
of the
MAYOR AND COUNCIL
of the
CITY OF COLLEGE PARK**

RE: Case No. CNU-2013-01 Name: College Park Homes

Address: 7007, 7009, 7011, 7011a, 7013, 7015 & 7017
Fordham Ct., College Park, MD 20740

Enclosed herewith is a copy of the Resolution setting forth the action taken by the Mayor and Council of the City of College Park in this case on the following date:
September 10, 2013.

CERTIFICATE OF SERVICE

This is to certify that on September 12, 2013, the attached Resolution was mailed, postage prepaid, to all persons of record.

NOTICE

Any person of record may appeal the Mayor and Council decision within thirty (30) days to the Circuit Court of Prince George's County, 14735 Main Street, Upper Marlboro, MD 20772. Contact the Circuit Court for information on the appeal process at (301) 952-3655.

Janeen S. Miller, CMC
City Clerk

Copies to: Advisory Planning Commission
City Attorney
Applicant
Parties of Record

PG Co. DER, Permits & Review Section
M-NCPPC, Development Review Division
City Public Services Department

RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF COLLEGE PARK, MARYLAND ADOPTING THE RECOMMENDATION OF THE ADVISORY PLANNING COMMISSION REGARDING REQUEST FOR CERTIFICATION OF NON-CONFORMING USE CNU-2013-01 FOR COLLEGE PARK HOMES, 7007, 7009, 7011, 7011a, 7013, 7015 AND 7017 FORDHAM COURT, COLLEGE PARK, MARYLAND RECOMMENDING APPROVAL OF THE REQUEST FOR CERTIFICATION OF NON-CONFORMING USE

WHEREAS, Maryland Code, Article 28, Section 8-112.4(b)(1)(vi) states that the Prince George's County District Council may provide that the governing body of a municipal corporation may exercise the powers of the district council in regard to certification, revocation and revision of nonconforming uses; and

WHEREAS, Prince George's County Code Section 27-924 (a)(1) provides that an incorporated municipality may enact an ordinance which sets forth procedural regulations for certification of nonconforming uses; and

WHEREAS, pursuant to Section 190-11(B) of the Code of the City of College Park (the "City Code") the Advisory Planning Commission ("APC") is authorized to consider requests for certifications of nonconforming uses, and when appropriate to hold hearings thereon, and to make recommendations to the City Council in connection therewith; and

WHEREAS, Prince George's County Code Section 27-107.01 (166) provides that a "Nonconforming Use" is the use of any building, structure or land which is not in conformance with the requirement of the zone in which it is located, provided that the requirement was adopted after the use was lawfully established or the use was established after the requirement was adopted and the District Council has validated a building, use and occupancy or sign permit issued for it in error; and

WHEREAS, a nonconforming use may be certified if the use has not ceased to operate for more than 180 consecutive calendar days between the time the use became nonconforming and the date when the application is submitted, or based upon a finding that conditions of nonoperation for more than 180 consecutive calendar days were beyond the applicant's control and/or owner's control, were for the purpose of correcting code violations or were due to the seasonal nature of the use; and

WHEREAS, a nonconforming use certification requires submission of documentary evidence showing the following: the commencement date and continuous existence of the nonconforming use; specific data showing the exact nature, size and location of the building, structure or use; a legal description of the property; the precise location and limits of the use on the property and within any building it occupies; and if the applicant possesses one, a copy of a valid use and occupancy permit issued for the use prior to the date upon which it became a nonconforming use; and

WHEREAS, if a copy of a valid use and occupancy permit is submitted with the application and a request is not submitted to the Commission to conduct a public hearing, and, if based upon the documentary evidence the Commission is satisfied as to the commencement date and continuity of the nonconforming use, the Commission shall recommend certification of the use as nonconforming for the purpose of issuing a new use and occupancy permit identifying the use as nonconforming; and

WHEREAS, if a copy of a valid use and occupancy permit is not submitted with the application, if the documentary evidence submitted is not satisfactory to the Commission to prove the commencement date or continuity of the use, or if a public hearing has been requested by any party of interest challenging the commencing date and/or continuity of the use, the Commission shall conduct a public hearing on the application for the purpose of determining whether the use should be certified as nonconforming; and

WHEREAS, the Mayor and Council are authorized by the Ordinance to accept or deny the recommendation of the APC with respect to Certification of Non-Conforming Use requests; and

WHEREAS, on July 15, 2013 Robert M. Watkins, Jr. (hereinafter, the "Applicant"), submitted a request for certification of a nonconforming uses for seven, three-dwelling-unit structures located at 7007, 7009, 7011, 7011A, 7013, 7015 and 7017 Fordham Court, College Park, Maryland ("the Property"); and

WHEREAS, a copy of a valid use and occupancy permit was not submitted to prove the use was lawfully established, therefore, the Commission conducted a public hearing for the purpose of determining whether the use shall be certified nonconforming; and

WHEREAS, on August 1, 2013, the APC conducted a hearing on the merits of the application, at which time the APC heard testimony and accepted evidence, including the Staff Report with Exhibits 1 – 7, the Staff PowerPoint presentation and supplemental affidavits, identified as Exhibits 8a – 8c, submitted by the applicant, that consisting of three affidavits attesting to the existence and use of the buildings; and

WHEREAS, based upon the evidence and testimony presented, the APC voted 5-0-0 to recommend certification of the use as nonconforming and not illegal; and

WHEREAS, the Mayor and Council have reviewed the recommendation of the APC as to the Application and in particular have reviewed the APC's findings of fact and conclusions of law; and

WHEREAS, no exceptions have been filed; and

WHEREAS, the Mayor and Council are in agreement with and hereby adopt the findings of fact and conclusions of law of the APC as to the Application as follows:

Section 1 Findings of fact:

- 1) The subject development consists of seven apartment buildings located on six lots (7007 Fordham Court, 7009 Fordham Court, 7011 Fordham Court, 7011A Fordham Court, 7013 Fordham Court, 7015 Fordham Court, and 7017 Fordham Court). The property is located on the east side of U.S. Route 1. Each apartment building contains 3 dwelling units for a total of 21 dwelling units.
- 2) The current development is non-conforming due to exceeding current maximum density requirements and exceeding bedroom percentages.
- 3) The development is part of College Park Homes, a multifamily residential rental housing complex. The buildings were constructed in the early 1940's. The apartments were permitted at this time and were in compliance with the minimum "gross lot area per family" which was 625 square feet. The subject property consists of seven buildings on six lots.
- 4) History of Lots 12-16: These lots were rezoned from Residential A Zone to the Residential C Zone per Zoning Map Amendment #486 on January 29, 1942 which permits apartments. The property was placed in the R-18 Zone on November 24, 1949 which also permits apartments. The apartments became nonconforming on October 1, 1968, with the adoption of the bedroom percentages requirement amendment to the zoning ordinance. The property became nonconforming with respect to density on May 6, 1975, when the density of the R-18 zone was changed to the current 12 units per acres.
- 5) History of Lot 17: Lot 17 was rezoned from the Residential A Zone to the Commercial D Zone on January 29, 1942 per Zoning map Amendment #487 which permitted apartments in accordance with the provisions of the Residential C Zone. The property was placed in the C-1 Zone on November 29, 1949, which permitted dwellings in accordance with the adjoining residential zone, R-18, which permits apartments. The Zoning Ordinance was amended per Resolution #31-1960 on January 22, 1960 to only permit dwellings in accordance with the R-R or R-55 Zone which did not permit apartments. However, in May 1990 the property was rezoned to R-18, which permits apartments. The property became nonconforming with the adoption of the bedroom percentages zoning amendment on October 1, 1968. The property became nonconforming with respect to density on May 6, 1975, when the density of the R-18 zone was changed to the current 12 units per acres.

- 6) A valid Use and Occupancy permit issued prior to the date of nonconformance was not located or submitted requiring a Public Hearing. The site was posted with the required sign and written notice was mailed to all persons of record.
- 7) The Applicant submitted documentary evidence including a Site Plan which specifies the Zoning Ordinance requirements effective in 1942 and indicates that the buildings conformed to the Zoning Ordinance at the time they were constructed.
- 8) In addition, the Applicant submitted a letter from the Washington Suburban Sanitary Commission (WSSC) that lists the activation date of each account for each property as prior to 1968 (when the use first became non-conforming). The WSSC letter also stated that they have records of continuous use since 1995. City of College Park Residential Occupancy Permits, Rental Unit License Applications and Inspection Reports from prior to 1968 to the present time were submitted that indicate continuous use.
- 9) The applicant through counsel submitted an exhibit that was accepted as Exhibit 8, which contained four affidavits. Two affidavits, both dated December 9, 2010 were from Robert M. Watkins, Jr. and stated that he was the sole owner from 1995-1996 and joint owner with his wife, Jasmine Watkins since 1999; that the buildings were built in 1940; and that the buildings have been continuously occupied. Another affidavit signed by Carlton Green, dated July 31, 2013, stated that Mr. Green has lived in the neighborhood for more than 65 years, about 150 feet way from the seven apartment buildings. The affidavit stated that he delivered newspapers to the seven buildings in the 1950's and walked or drove by them till the present day and that the buildings appeared continuously occupied. The last affidavit, also dated July 31, 2013, was from Shannon Watkins. The affidavit stated that her grandfather built the apartments in the 1940s and that they have always been owned by her family. The affidavit also attests that the apartment buildings have been in continuous operation from at least 1978 to the present day and have not ceased operations for 180 or more consecutive days.
- 10) Shannon Watkins, the daughter of the property owner, testified that she manages the property and that her father owns the property. She stated that her mother managed the property until she died a year ago.
- 11) No one testified in opposition to the request for certification.

Section 2 Conclusions of Law

- 1) A Nonconforming Use Site Plan was submitted that indicates that the apartment buildings were established in accordance with all the regulations in effect at the time the uses began in the early 1940's.
- 2) Based on a preponderance of the documentary evidence submitted including City of College Park occupancy permits, Washington Suburban Sanitary Commission records, and four affidavits, the seven apartment buildings located at 7007, 7009, 7011, 7011A, 7013, 7015, and 7017 Fordham Court have been continuously operated as apartment buildings since the early 1940's, and there has been no break in operation for more than 180 days since the use became nonconforming on October 1, 1968.

NOW, THEREFORE, BE IT RESOLVED, Based on the evidence and testimony presented, following the reasoning in the staff report as well as the supplemental affidavits and the findings of fact and conclusions of law set forth hereinabove, the APC recommends certification of the use as nonconforming and not illegal.

ADOPTED, by the Mayor and Council of the City of College Park, Maryland at a regular meeting on the 10th day of September 2013.

CITY OF COLLEGE PARK,
MARYLAND

Janeen S. Miller, CMC
City Clerk

Andrew M. Fellows, Mayor

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

Suellen M. Ferguson
City Attorney

13-R-19



Office of the Mayor and Council
City of College Park
4500 Knox Road
College Park, Maryland 20740
Telephone: (240) 487-3501
Facsimile: (301) 699-8029

**NOTICE OF FINAL DECISION
of the
MAYOR AND COUNCIL
of the
CITY OF COLLEGE PARK**

RE: Case No. CNU-2013-04 Name: College Park Homes

Address: 6923 Carleton Terrace, College Park, MD 20740

Enclosed herewith is a copy of the Resolution setting forth the action taken by the Mayor and Council of the City of College Park in this case on the following date:

September 10, 2013.

CERTIFICATE OF SERVICE

This is to certify that on September 12, 2013, the attached Resolution was mailed, postage prepaid, to all persons of record.

NOTICE

Any person of record may appeal the Mayor and Council decision within thirty (30) days to the Circuit Court of Prince George's County, 14735 Main Street, Upper Marlboro, MD 20772. Contact the Circuit Court for information on the appeal process at (301) 952-3655.

Janeen S. Miller, CMC
City Clerk

Copies to: Advisory Planning Commission
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Parties of Record

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M-NCPPC, Development Review Division
City Public Services Department

RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF COLLEGE PARK, MARYLAND ADOPTING THE RECOMMENDATION OF THE ADVISORY PLANNING COMMISSION REGARDING REQUEST FOR CERTIFICATION OF NON-CONFORMING USE CNU-2013-04 FOR COLLEGE PARK HOMES, 6923 CARLETON TERRACE, COLLEGE PARK, MARYLAND RECOMMENDING APPROVAL OF THE REQUEST FOR CERTIFICATION OF NON-CONFORMING USE

WHEREAS, Maryland Code, Article 28, Section 8-112.4(b)(1)(vi) states that the Prince George's County District Council may provide that the governing body of a municipal corporation may exercise the powers of the district council in regard to certification, revocation and revision of nonconforming uses; and

WHEREAS, Prince George's County Code Section 27-924 (a)(1) provides that an incorporated municipality may enact an ordinance which sets forth procedural regulations for certification of nonconforming uses; and

WHEREAS, pursuant to Section 190-11(B) of the Code of the City of College Park (the "City Code") the Advisory Planning Commission ("APC") is authorized to consider requests for certifications of nonconforming uses, and when appropriate to hold hearings thereon, and to make recommendations to the City Council in connection therewith; and

WHEREAS, Prince George's County Code Section 27-107.01 (166) provides that a "Nonconforming Use" is the use of any building, structure or land which is not in conformance with the requirement of the zone in which it is located, provided that the requirement was adopted after the use was lawfully established or the use was established after the requirement was adopted and the District Council has validated a building, use and occupancy or sign permit issued for it in error; and

WHEREAS, a nonconforming use may be certified if the use has not ceased to operate for more than 180 consecutive calendar days between the time the use became nonconforming and the date when the application is submitted, or based upon a finding that conditions of nonoperation for more than 180 consecutive calendar days were beyond the applicant's control and/or owner's control, were for the purpose of correcting code violations or were due to the seasonal nature of the use; and

WHEREAS, a nonconforming use certification requires submission of documentary evidence showing the following: the commencement date and continuous existence of the nonconforming use; specific data showing the exact nature, size and location of the building, structure or use; a legal description of the property; the precise location and limits of the use on the property and within any building it occupies; and if the applicant possesses one, a copy of a valid use and occupancy permit issued for the use prior to the date upon which it became a nonconforming use; and

WHEREAS, if a copy of a valid use and occupancy permit is submitted with the application and a request is not submitted to the Commission to conduct a public hearing, and, if based upon the documentary evidence the Commission is satisfied as to the commencement date and continuity of the nonconforming use, the Commission shall recommend certification of the use as nonconforming for the purpose of issuing a new use and occupancy permit identifying the use as nonconforming; and

WHEREAS, if a copy of a valid use and occupancy permit is not submitted with the application, if the documentary evidence submitted is not satisfactory to the Commission to prove the commencement date or continuity of the use, or if a public hearing has been requested by any party of interest challenging the commencing date and/or continuity of the use, the Commission shall conduct a public hearing on the application for the purpose of determining whether the use should be certified as nonconforming; and

WHEREAS, the Mayor and Council are authorized by the Ordinance to accept or deny the recommendation of the APC with respect to Certification of Non-Conforming Use requests; and

WHEREAS, on July 15, 2013 Robert M. Watkins, Jr. (hereinafter, the "Applicant"), submitted a request for certification of a nonconforming use for a six unit apartment building located at 6923 Carleton Terrace, College Park, Maryland ("the Property"); and

WHEREAS, a copy of a valid use and occupancy permit was not submitted to prove the use was lawfully established, therefore, the Commission conducted a public hearing for the purpose of determining whether the use shall be certified nonconforming; and

WHEREAS, on August 1, 2013, the APC conducted a hearing on the merits of the application, at which time the APC heard testimony and accepted evidence, including the Staff Report with Exhibits 1 – 7, the Staff PowerPoint Presentation and supplemental affidavits, identified as Exhibits 8a – 8c, submitted by the applicant, that consisting of three affidavits attesting to the existence and use of the buildings; and

WHEREAS, based upon the evidence and testimony presented, the APC voted 5-0-0 to recommend certification of the use as nonconforming and not illegal; and

WHEREAS, the Mayor and Council have reviewed the recommendation of the APC as to the Application and in particular have reviewed the APC's findings of fact and conclusions of law; and

WHEREAS, no exceptions have been filed; and

WHEREAS, the Mayor and Council are in agreement with and hereby adopt the findings of fact and conclusions of law of the APC as to the Application as follows:

Section 1 Findings of fact:

- 1) The property is located on the east side of U.S. Route 1 at 6923 Carleton Terrace. The subject development consists of a six unit apartment building built in 1947.
- 2) The development is non-conforming due to exceeding current maximum density requirements and exceeding bedroom percentages.
- 3) The development is part of College Park Homes, a multifamily residential rental housing complex. On April 16, 1946, the property was rezoned from the Residential A Zone to the Residential C Zone per Zoning Map Amendment ZMA No.736 permitting apartments. The buildings were in compliance with the zoning regulations being built with a minimum "gross lot area per family" of 625 square feet. The property was placed in the R-55 Zone on November 26, 1949, which prohibited apartments and rendered the building non-conforming. On May 1, 1990, the property was rezoned to its current zone, R-18, by the Langley Park-College Park-Greenbelt Sectional Map Amendment and apartments became a permitted use again.
- 4) The building became nonconforming with respect to bedroom percentages in 1968 with the adoption of the bedroom percentages zoning amendment and with respect to density in 1975 with the adoption of a density amendment to the R-18 zone.
- 5) A valid Use and Occupancy permit issued prior to the date of nonconformance was not located or submitted requiring a Public Hearing. The site was posted with the required sign and written notice was mailed to all persons of record.
- 6) The Applicant submitted documentary evidence including a Site Plan which specifies the Zoning Ordinance requirements effective in 1947 and indicates that the building conformed to the Zoning Ordinance at the time it was constructed.
- 7) In addition, the Applicant submitted a letter from the Washington Suburban Sanitary Commission (WSSC) that listed the activation date of the property as November 1, 1960. The WSSC letter also stated that they have records of continuous use since 1995. City of College Park Residential Occupancy Permits, Rental Unit License Applications and Inspection Reports from prior to 1968 to the present time were submitted that indicate continuous use.

- 8) The applicant through counsel submitted an exhibit that was accepted as Exhibit 8, which contained two affidavits. The first affidavit signed by Carlton Green, dated July 31, 2013, stated that Mr. Green has lived in the neighborhood for more than 65 years, about 150 feet from the apartment building. The affidavit stated that he walked or drove by the building since the 1950's till the present day and that the building appeared continuously occupied. The second affidavit, also dated July 31, 2013, was from Shannon Watkins. The affidavit stated that her grandfather built the building in the 1940s and that it has always been owned by her family. The affidavit also attests that the apartment building has been in continuous operation from at least 1978 to the present day and have not ceased operations for 180 or more consecutive days.
- 9) No one testified in opposition to the request for certification.

Section 2 Conclusions of Law

- 1) A Nonconforming Use Site Plan was submitted that indicates that the apartment building was established in accordance with all the regulations in effect at the time the use began in 1947.
- 2) Based on a preponderance of the documentary evidence submitted including City of College Park occupancy permits, Washington Suburban Sanitary Commission records, and two affidavits, the structure at 6923 Carleton Terrace has been continuously operated as a six unit apartment building since 1947, and there has been no break in operation for more than 180 days since the use became nonconforming on October 1, 1968.

NOW, THEREFORE, BE IT RESOLVED, Based on the evidence and testimony presented, following the reasoning in the staff report as well as the supplemental affidavits and the findings of fact and conclusions of law set forth hereinabove, the APC recommends certification of the use as nonconforming and not illegal.

ADOPTED, by the Mayor and Council of the City of College Park, Maryland at a regular meeting on the 10th day of September 2013.

CITY OF COLLEGE PARK,
MARYLAND

Janeen S. Miller, CMC
City Clerk

Andrew M. Fellows, Mayor

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

Suellen M. Ferguson
City Attorney

13-G-96

MEMORANDUM

TO: Mayor and Council

FROM: Jonathan Brown, Planner *JB*

THROUGH: Joseph L. Nagro, City Manager *JLN*
Terry Schum, Planning Director *TS*

DATE: September 3, 2013

SUBJECT: PY 35 Community Development Block Grant Restructured /
Reprogrammed Application (CDBG PY35-R)

ISSUE

The City's CDBG PY35-R project involves a \$50,000.00 grant to install 6 pedestrian street lights in downtown College Park (see attached). In order to issue a final Notice to Proceed, the County is requesting newly signed copies of the grant agreement that reflect updated time frames for the project. We have determined that, although Council approved the original CDBG PY 35-R application, the revised project scope needs to be ratified by the Council.

SUMMARY

The PY35-R grant was intended to be used for sidewalk and street resurfacing projects similar to infrastructure projects begun under PY35. It was determined that the original PY35-R scope of work submitted by the City was not feasible and the streetlight project was substituted and approved by the county. Although the County approved the revisions, the Council inadvertently did not. In order to move forward with the grant agreement as submitted, City Council must approve and ratify the PY35-R grant as amended.

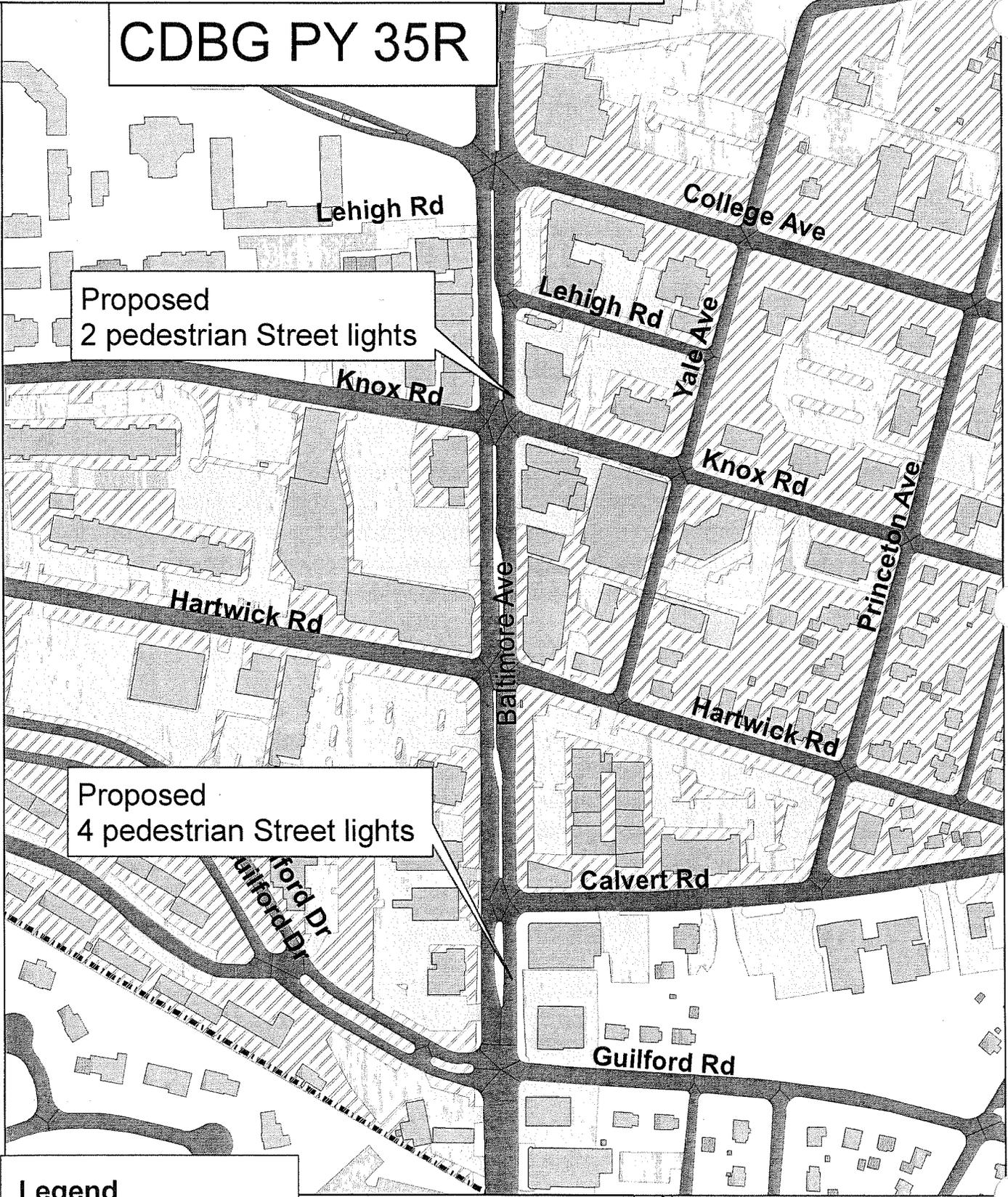
RECOMMENDATION

It is recommended that the City Council approve and ratify the PY35R grant agreement for the installation of pedestrian street lights.

1. Street light location map

City of College Park

CDBG PY 35R



Proposed
2 pedestrian Street lights

Proposed
4 pedestrian Street lights

Legend

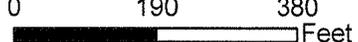
-  CDBG Eligible Areas
-  Building_2009_Poly

By: College Park Engineering
Date :10-26-10
Source: M-NCPPC GIS

N



0 190 380 Feet



13-G-97

13-G-98



MEMORANDUM

TO: Mayor and Council

FROM: Robert T. Stumpff, Director of Public Works *RTS*

THRU: Joseph L. Nagro, City Manager *JLN*

DATE: August 16, 2013

SUBJECT: Approval of a Purchase from Johnson Truck Center for a 37,700 Pounds GVWR (Gross Vehicle Weight Rating) 2013 Freightliner M2 106 Chassis with a Dump Body, V-Box Salt Spreader and a Snow Plow in the amount of \$148,482.00.

Background

In the C.I.P. budget for FY 2014 under the Vehicle Replacement Program, Number 925061, we have programmed to replace Truck 330, 1991 GMC Top Kick Open Body truck with a snow plow and V-Box Salt Spreader. In FY 2013, we replaced Truck 300, 1991 GMC Top Kick Open Body with a 2013 Freightliner M2 106 Chassis with a Dump Body, a V-Box Salt Spreader with a pre-wet system and a snow plow in the amount of \$148,482.00 by riding on a bid from the District of Columbia, Contract # DCKT - 2011-B-0134 pursuant to a sealed bid for medium duty dump trucks with V-Box spreaders and a snow plow. This contract indicated that any MWCOC member could purchase such pieces of equipment from this bid. We are still about to purchase this truck and accessories at the exact same price.

With this purchase all six of the medium duty dump trucks would have V-Box salt spreaders with a pre-wet system that allows us to mix liquid with the salt for easier and faster snow removal from the streets.

If we order now we should be able to have both the truck and equipment built and delivered to us in January 2014. These trucks are only built after the manufactures receive a firm order.

Recommendation

I recommend that the City of College Park purchase from Johnson Truck Center, Landover, MD, referencing DC Contract # DCKT – 2011-B-0134, but on a City of College Park purchase order, one (1) 2013 Freightliner M2 106 chassis with a Henderson dump body, a Henderson V-Box Spreader with a pre-wet system and a Henderson 10' snow plow in the amount of \$148,482.00. This expense would be charged to the current CIP account 925061 – Vehicle Replacement Program.

13-0-09

ORDINANCE
OF THE MAYOR AND COUNCIL OF THE CITY OF COLLEGE PARK,
MARYLAND, AMENDING CHAPTER 125 "HOUSING REGULATIONS" BY
REPEALING AND REENACTING §125-8 "MAINTENANCE OF DWELLINGS" TO
REQUIRE THAT ROOFS BE COVERED WITH MATERIALS DESIGNED FOR USE
AS A PERMANENT ROOFING SURFACE.

WHEREAS, pursuant to Md. Code Ann., Art. 23A, §2, the City of College Park, Maryland (hereinafter, the "City") has the power to pass such ordinances as it deems necessary to protect the health, safety and welfare of the citizens of the municipality and to prevent and remove

WHEREAS, Mayor and Council have adopted Housing Regulations to ensure the health and safety of the residents of the City, and certain procedures to enforce the Housing Regulations; and

WHEREAS, the Mayor and Council wish to ensure that roofs of residential structures are covered with roofing shingles, tiles or other products designed for use as a permanent roofing surface.

Section 1. NOW THEREFORE, BE IT ORDAINED AND ENACTED, by the Mayor and Council of the City of College Park, Maryland that Chapter 125 "Housing Regulations" §125-8 "Maintenance of dwellings", be, and is hereby, repealed and reenacted with amendments to read as follows:

§125-8. Maintenance of dwellings.

No person shall occupy as owner-occupant or let to another for occupancy any dwelling or dwelling or rooming unit, for the purpose of living therein, which does not comply with the following requirements:

CAPS
 [Brackets]
 Asterisks * * *

: Indicate matter added to existing law.
 : Indicate matter deleted from law.
 : Indicate matter remaining unchanged in existing law but not set forth in Ordinance

A. Every foundation, floor, wall, ceiling and roof shall be reasonably weather tight and rodent proof, shall be capable of affording privacy and shall be kept in good repair.

ALL ROOFS SHALL BE COVERED WITH ROOFING SHINGLES, TILES, OR OTHER MATERIALS DESIGNED FOR USE AS A PERMANENT ROOFING SURFACE.

B. through I. * * * * *

Section 2. BE IT FURTHER ORDAINED AND ENACTED by the Mayor and Council of the City of College Park that, upon formal introduction of this proposed Ordinance, which shall be by way of a motion duly seconded and without any further vote, the City Clerk shall distribute a copy to each Council member and shall maintain a reasonable number of copies in the office of the City Clerk and shall publish this proposed ordinance or a fair summary thereof in a newspaper having a general circulation in the City of College Park together with a notice setting out the time and place for a public hearing thereon and for its consideration by the Council. The public hearing, hereby set for 7:15 p.m. P.M. on the 10th day of September, 2013, shall follow the publication by at least seven (7) days, may be held separately or in connection with a regular or special Council meeting and may be adjourned from time to time. All persons interested shall have an opportunity to be heard. After the hearing, the Council may adopt the proposed ordinance with or without amendments or reject it. As soon as practicable after adoption, the City Clerk shall have a fair summary of the Ordinance and notice of its adoption published in a newspaper having a general circulation in the City of College Park and available at the City's offices. This Ordinance shall become effective on _____, 2013 provided that a fair summary

CAPS : Indicate matter added to existing law.
[Brackets] : Indicate matter deleted from law.
Asterisks * * * : Indicate matter remaining unchanged in existing law but not set forth in Ordinance

of this Ordinance is published at least once prior to the date of passage and once as soon as practical after the date of passage in a newspaper having general circulation in the City.

INTRODUCED by the Mayor and Council of the City of College Park, Maryland at a regular meeting on the 16th day of July, 2013.

ADOPTED by the Mayor and Council of the City of College Park, Maryland at a regular meeting on the _____ day of _____, 2013.

EFFECTIVE the _____ day of _____, 2013.

ATTEST:

CITY OF COLLEGE PARK,

Janeen S. Miller, CMC, City Clerk

Andrew M. Fellows, Mayor

**APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:**

Suellen M. Ferguson, City Attorney

CAPS
[Brackets]
Asterisks * * *

: Indicate matter added to existing law.
: Indicate matter deleted from law.
: Indicate matter remaining unchanged in existing law but not set forth in Ordinance

13-G-99

September 10, 2013

Office of the Secretary
Washington Metropolitan Area Transit Authority
600 Fifth Street, NW
Washington, DC 20001

Dear Chair Downs and the Board of the Washington Metropolitan Area Transit Authority:

The City of College Park writes to express its support for the proposal to increase the frequency and decrease the headways of the B30 bus between the Greenbelt Metro Station and to lengthen the times when the service is offered.

College Park residents frequently use the B30 to get to the airport. This provides easy and convenient access to the Thurgood Marshall Baltimore-Washington International Airport, which reduces traffic on the Baltimore-Washington Parkway and I-95, a benefit for travelers as well as people who work at the airport. It also provides an easy connection through the Baltimore public transit system up to Baltimore, especially on the weekends when the MARC Camden line is not running.

This expansion in service is greatly needed. The B30 bus is often overcrowded, especially since it needs to accommodate luggage for long trips. The 40-minute headways are often an added inconvenience for residents and workers traveling to the airport, and add to the overcrowding. Also, the limited times for service – approximately 6:30 am-11:00 pm on weekdays and 8:30 am-11:00 pm on weekends – mean that the bus service is unavailable for people with early morning departures or light night arrivals, as well as many of the employees who work early in the morning.

Please accept these comments in support of increasing the frequency and expanding the times of service for the B30 bus. Thank you for providing us this opportunity to comment.

Sincerely,

Andrew M. Fellows, Mayor

cc: 21st Delegation
Delegate Shane Robinson, Sponsor

13-CR-02

CHARTER RESOLUTION
OF THE MAYOR AND COUNCIL OF THE CITY OF COLLEGE PARK,
MARYLAND, AMENDING ARTICLE III "MAYOR AND COUNCIL", §C3-4,
"COMPENSATION" OF THE CITY CHARTER TO INCREASE THE MAYOR'S
ANNUAL SALARY TO \$10,500.00 AND EACH COUNCIL MEMBERS' ANNUAL
SALARY TO \$7,000.00, EFFECTIVE JANUARY 1, 2014.

A Charter Resolution of the Mayor and Council of the City of College Park, Maryland, adopted pursuant to the authority of Article XI-E of the Constitution of Maryland and Article 23A of the Annotated Code of Maryland (1957 edition, as amended); and

WHEREAS, Article 23A of the Annotated Code of Maryland authorizes the Mayor and Council to fix the salary or compensation of the Mayor and Council; and

WHEREAS, the present annual salaries of the Mayor and Council are \$7,500 and \$5,000, respectively; and

WHEREAS, the annual salaries of the Mayor and Council have not increased since 2008; and

WHEREAS, the Mayor and Council desire to increase the annual salaries of the Mayor and Council to \$10,500 for the Mayor and \$7,000 for each Council member annually; and

WHEREAS, this salary increase will be effective January 1, 2014 and will not, as required by the State Constitution and Section C3-4 of the Charter of the City of College Park, be effective during the current term of office of the Mayor and Council.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of College Park, Maryland, that:

Section 1. Article III, "Mayor and Council", §C3-4 "Compensation" of the City Charter is repealed, re-enacted and amended as follows:

CAPS : Indicate matter added to existing law.
 [Brackets] : Indicate matter deleted from law.
 Asterisks * * * : Indicate matter remaining unchanged in existing law but not set forth in Ordinance.

§C3-4 Compensation

The Mayor shall receive as compensation [~~\$6,600.00~~] \$7,500.00 per year as salary, payable on a monthly basis. Each Council member holding office under this Charter shall receive as compensation [~~\$4,400.00~~] \$5,000.00 per year as salary, payable on a monthly basis. The effective date for these salary figures shall be January 1, 200[4]8. Effective January 1, 20[08]14, the Mayor shall receive as compensation [~~\$7,500.00~~] \$10,500.00 per year as salary, and each Council member holding office under this Charter shall receive as compensation [~~\$5,000.00~~] \$7,000.00 per year as salary, payable on a monthly basis. No change in these amounts may be enacted by the Mayor and City Council to be effective during their current term of office.

Section 2. BE IT FURTHER RESOLVED that this Charter Resolution is adopted this _____ day of _____, 2013, and that the amendment to the Charter of the City of College Park, hereby proposed by this enactment, shall be and become effective upon the fiftieth (50th) day after its passage by the City unless petitioned to referendum in accordance with Article 23A §13 of the Annotated Code of Maryland within forty (40) days following its passage. A complete and exact copy of this Charter Resolution shall be posted in the City offices located at 4500 Knox Road, College Park, Maryland for forty (40) days following its passage by the Mayor and Council and a fair summary of the Charter Resolution shall be published in a newspaper having general circulation in the City not less than four (4) times, at weekly intervals, also within the forty (40) day period following its adoption by the City.

Section 3. BE IT FURTHER RESOLVED that, within ten (10) days after the Charter Resolution hereby enacted becomes effective, either as herein provided or following referendum, the City Manager for the City of College Park shall send separately, by mail,

bearing a postmark from the United States Postal Service, to the Department of Legislative Services, one copy of the following information concerning the Charter Resolution: (i) the complete text of this Resolution; (ii) the date of referendum election, if any, held with respect thereto; (iii) the number of votes cast for and against this Resolution by the Council of the City of College Park or in the referendum; and (iv) the effective date of the Charter Resolution.

Section 4. BE IT FURTHER RESOLVED that the City Manager of the City of College Park, Maryland, be, and hereby is specifically enjoined and instructed to carry out the provisions of Sections 2 and 3 as evidence of compliance herewith; and said City Manager shall cause to be affixed to the minutes of this meeting (i) an appropriate Certificate of Publication of the newspaper in which the fair summary of the Charter Resolution shall have been published; and (ii) certification of the mailing referred to in Section 3 and shall further cause to be completed and executed the Municipal Charter or Annexation Resolution Registration Form.

INTRODUCED by the Mayor and Council of the City of College Park, Maryland at a regular meeting on the _____ day of _____, 2013.

ADOPTED by the Mayor and Council of the City of College Park, Maryland at a regular meeting on the _____ day of _____, 2013.

EFFECTIVE the _____ day of _____, 2013.

ATTEST:

Janeen S. Miller, CMC, City Clerk

**THE CITY OF COLLEGE PARK,
MARYLAND**

By _____
Andrew M. Fellows, Mayor

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:**

Suellen M. Ferguson, City Attorney