



SEPTEMBER 23, 2014
CITY OF COLLEGE PARK
COUNCIL CHAMBERS

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

(There will be a closed session at the conclusion of the regular meeting to discuss a personnel matter.)

MEDITATION

PLEDGE OF ALLEGIANCE: Councilmember Stulich

ROLL CALL

MINUTES: September 9, 2014 Regular Meeting, September 9, 2014 Public Hearings on Ordinances 14-O-07, 14-O-08 and 14-O-09. Under separate cover: confidential minutes of the September 9, 2014 closed session.

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: Cole Holocker

COMMENTS FROM THE AUDIENCE ON NON-AGENDA ITEMS

PRESENTATIONS

CONSENT AGENDA

14-R-31 Resolution Of The Mayor And Council Of The City Of College Park, Maryland Adopting The Recommendations Of The Advisory Planning Commission Regarding Variance Application Number CPV-2014-05, 5926 Bryn Mawr Road, College Park, Maryland, Recommending Approval Of A Variance From The Requirements Of The Prince George's

Motion by:
To: Adopt
Second:
Aye: _____
Nay: _____
Other: _____

County Zoning Ordinance, Section 27-420(A), To Permit
The Construction Of A 6-Foot High Fence. (Appeal period
ends September 23, 2014.)

- 14-G-93 Approval of a Driveway Apron Variance for 3533
Marlbrough Way

ACTION ITEMS

- 14-G-94 Appointments to Boards and Committees

Motion by:
To: Adopt
Second:
Aye: _____ Nay: _____
Other: _____

COUNCIL COMMENTS

COMMENTS FROM THE AUDIENCE

ADJOURN

CLOSED SESSION

***Pursuant to Section C6-3 of the Charter of the City of College Park, Maryland, the Mayor
and Council will meet in closed session following the regular meeting to discuss a
Personnel Matter***

INFORMATION/STATUS REPORT

None.

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.

MINUTES

MINUTES
Regular Meeting of the College Park City Council
Tuesday, September 9, 2014
7:30 p.m. – 8:01 p.m.

PRESENT: Mayor Fellows; Councilmembers Kabir, Brennan, Dennis, Stullich, Day, and Hew. Councilmember Mitchell arrived at 7:56 p.m.

ABSENT: Councilmember Wojahn

ALSO PRESENT: Joe Nagro, City Manager; Janeen Miller, City Clerk; Bill Gardiner, Assistant City Manager; Sue Ford, City Attorney; Bob Ryan, Director of Public Services; Jim Miller, Parking Enforcement Manager; Cole Holocker, Student Liaison.

Mayor Fellows opened the regular meeting at 7:30 p.m. Councilmember Dennis led the pledge of allegiance.

Minutes: A motion was made by Councilmember Stullich and seconded by Councilmember Dennis to approve the minutes of the August 6, 2014 Special Session; August 12, 2014 Regular Meeting; August 12, 2014 Public Hearing on 14-CR-01; and the transcript in lieu of minutes for Oral Argument in Case CPV-2014-05. The motion passed 6 – 0 – 0.

Announcements:

Councilmember Dennis announced the Lakeland Civic Association meeting on Thursday, September 11, at 7:00 p.m. at the College Park Community Center.

Councilmember Brennan said the Berwyn District Civic Association would meet on Thursday, September 18, at 8:00 p.m. at Fealy Hall.

Councilmember Kabir said the North College Park Civic Association would meet at 7:30 p.m. on Thursday, September 11.

Amendments to the Agenda: A motion was made by Councilmember Dennis and seconded by Councilmember Stullich to amend the agenda by adding a closed session to discuss a personnel matter at the end of the agenda. The motion carried 6 – 0 – 0.

City Manager's Report: Mr. Nagro said Rossburg Lane will be shut down as of Monday, September 15, to make way for the Toll Brothers development. He gave the weekend party report. Since school started, there have been 8 referrals to the Student Code of Conduct, 5 Municipal Infractions issued for noise, and 39 warning letters. There is a home game on Saturday; hopefully the on-campus tailgate will cut down on neighborhood disturbances. SHA has asked the City for a letter stating the City's interest in maintaining a retaining wall on US 1 – this will be added to a future Worksession.

Student Liaison's Report: Mr. Holocker said the pedestrian crossing signal on US 1 @ Fraternity Row was malfunctioning but has now been resolved. UMD is hosting WVU on Saturday; parking permits are almost sold out. Be prepared for increased traffic.

CONSENT AGENDA: A motion was made by Councilmember Brennan and seconded by Councilmember Day to adopt the Consent Agenda which consisted of the following:

- 14-G-90** Award of a contract to M. T. Laney Company, Inc., in an amount not to exceed \$270,000, for milling and paving the other half of certain streets where WSSC is providing half-width milling and paving on streets disturbed during the water main replacement project in the Hollywood and Berwyn neighborhoods. This award is subject to the approval of a contract by the City Attorney and rides, pursuant to §69-2(B) of the City Code, WSSC's competitively bid Contract No. 5986, which has been extended for a second option year. The City Manager is authorized to sign the contract.
- 14-R-30** Resolution Of The Mayor And Council Of The City Of College Park, Maryland Adopting The Recommendations Of The Advisory Planning Commission Regarding Reconsideration Of Variance CPV-2013-02 (Reconsideration Case Is Identified As CPV-2013-02/R), 3533 Marlborough Way, College Park, Maryland, Recommending Validating Existing Conditions Subject To The Applicant Providing An "As-Built" Site Plan.

The motion carried 6 – 0 – 0.

ACTION ITEMS

- 14-O-07** Adoption of 14-O-07, An Ordinance Of The Mayor and Council of the City of College Park Amending Chapter 184 "Vehicles And Traffic", By Repealing And Reenacting Article VII "Speed Monitoring Systems", Section 184-45 "Systems In School Zones And Within One-Half Mile Of An Institution Of Higher Education" To Amend The Section To Conform To State Mandated Changes.

A motion was made by Councilmember Kabir and seconded by Councilmember Day to adopt Ordinance 14-O-07, amending Chapter 184, "Vehicles and Traffic", Section 184-45, "Systems in School Zones and Within One-Half Mile of an Institution of Higher Education" to conform the section to State mandated changes.

Councilmember Kabir explained that the State legislature in the last session adopted numerous amendments to the speed camera law. Most of these changes do not require amendment of the City code. However, two matters are already addressed in the City Code and so require amendment to conform to the State requirements. The changes in the ordinance reflect a 15-day

waiting period before citations may be issued when cameras are moved or placed in position where not previously placed, and additional signage requirements.

Due to the earlier Public Hearing, no audience comments were taken.

There were no comments from Council.

The motion passed 6 – 0 – 0.

14-O-08 Adoption of 14-O-08, An Ordinance of The Mayor and Council of the City of College Park Amending Chapter 184, “Vehicles And Traffic”, By Repealing And Reenacting §184-9, “Permit Parking In Restricted Residential Zones” To Better Define Where Visitor Parking Permits May Be Used And To Provide An Enforcement Mechanism.

A motion was made by Councilmember Kabir and seconded by Councilmember Dennis to adopt Ordinance 14-O-08, amending Chapter 184, “Vehicles and Traffic”, Section 184-9, “Permit Parking in Restricted Residential Zones” to better define where visitor parking permits may be used and to provide an enforcement mechanism.

Councilmember Kabir said that during previous Council discussion it became apparent that different types of misuse of a parking permit may be occurring. One is consistent use of a visitor permit to park some distance from the house to which the permit is issued, with a parking pattern that suggests the permit is being used by a non-resident for commuter parking purposes. The second instance is when an actual resident at an address for which a parking permit is available routinely uses the visitor permit instead of a resident parking pass. Revocation of a residential parking permit is not one of the enforcement mechanisms currently available under the City code. It is probable that a letter notifying the residents of a household that the resident and visitor permits may be revoked due to improper use would gain more compliance. In addition, there are a number of references in the law that, based on current practice under Chapter 151, should be deleted. The ordinance addresses resident concerns by defining a limited area for use of a visitor permit in proximity to the address of the host resident, and providing for revocation of residential parking permits and visitor permits when misused. The City will continue to suspend enforcement in an area to allow social events, such as reunions, birthday parties, weddings, etc. without the need to purchase additional visitor permits, if Parking is notified beforehand.

Due to the earlier Public Hearing, no audience comments were taken.

There were no comments from Council.

The motion passed 6 – 0 – 0.

14-O-09 Adoption of 14-O-09, An Ordinance of the Mayor and Council of the City of College Park Amending Chapter 38, "Code Of Ethics", By Repealing And Reenacting Article I, "General Provisions", Section 38-4, "Definitions", Article II, "Ethics Commission", Section 38-8, "Procedures For Adjudicating Alleged Violations", And Article IV, "Required Disclosures", Section 38-15, "Financial Disclosure Of City Elected Officials And Candidates To Be City Elected Officials", Section 38-16, "Financial Disclosure Of Employees And Appointed Officials" And Section 38-17 "Additional Conflict Of Interest Statements And Correction Of Inaccurate Or Incomplete Filings Required", To Amend The Ethics Code To Clarify The Definition Of Interest That Must Be Reported, Including A Procedure For Dismissal Of A Complaint, Clarifying The Requirements For Elected Officials, Candidate, Appointed Official And Employee Disclosure And Providing A Remedy For Failure Of A Candidate To File The Required Disclosures

A motion was made by Councilmember Hew and seconded by Councilmember Day to adopt Ordinance 14-O-09, amending Chapter 38, "Code of Ethics", Sections 38-4, "Definitions", 38-8, "Procedures for Adjudicating Alleged Violations", 38-15, "Financial Disclosure of City Elected Officials and Candidates to Be City Elected Officials", 38-16, "Financial Disclosure of Employees and Appointed Officials", and 38-17, "Additional Conflict of Interest Statements and Correction of Inaccurate or Incomplete Filings Required", to clarify the definition of interest that must be reported, including a procedure for dismissal of a complaint, clarify the requirements for elected official, candidate, appointed official and employee disclosure and provide a remedy for failure of a candidate to file the required disclosures.

Councilmember Hew said that the Ethics Commission recently provided Mayor and Council with recommended revisions to the City's Ethics Code. These recommendations were made based for the most part on the experience of the Ethics Commission with respect to the election process and their required review of the financial disclosure form and also include the State mandated revision with respect to mutual funds. The amendments also help to align the Ethics Code with the City elections process.

Due to the earlier Public Hearing, no audience comments were taken.

There were no comments from Council.

The motion passed 6 – 0 – 0.

14-G-91 Approval of a Letter to the District Council with comments on the College Park – Riverdale Park TDDP

A motion was made by Councilmember Stullich and seconded by Councilmember Brennan to approve a letter with comments and recommendations on The Adopted College Park-

Riverdale Park Transit District Development Plan (TDDP). The letter shall serve as the City's written testimony for the public hearing before the Prince George's County District Council on September 16, 2014 at 7:00 p.m.

Councilmember Stullich explained that the process for updating the 1997 College Park-Riverdale Park TDDP began last May and involved several community workshops and a series of stakeholder group meetings. On May 29, the Planning Board held a public hearing where the city provided verbal and written testimony. The Planning Board subsequently adopted the TDDP on July 17, and that version was responsive to many of the city's comments. The next step in the process is for the District Council to approve the TDDP after holding one or more public hearings, one of which is scheduled for next Tuesday. The vision for the metro area is for a transformation from an auto and suburban-oriented office and industrial area into a vibrant, walkable, mixed-use center. It includes new residential neighborhoods and a revitalized M Square Research Park that capitalize on public transit, existing recreational amenities, historic features and affiliation with the University of Maryland. In general, the City supports this vision and the TDDP, but continues to have a few concerns and recommendations for improving the plan which are contained in the letter. Councilmember Stullich summarized and commented on the concerns listed in the letter.

There were no comments from the audience or from the Council.

The motion passed 6 – 0 – 0.

14-O-10 Introduction of 14-O-10, An Ordinance Of The Mayor And Council Of The City Of College Park, Amending The College Park Code By Repealing Chapter 15, "Boards, Commissions And Committees", Article IX, "Rent Stabilization Board", §§15-39 Through 15-54, And Chapter 127 "Rent Stabilization", §§127-1 Through 127-13, In Their Entirety; And By Repealing An Re-Enacting Chapter 110, "Fees And Penalties", §110-1, "Fees And Interests" And §110-2, "Penalties", To Delete Those Sections That Comprise The Rent Stabilization Law

A motion was made by Councilmember Day and seconded by Councilmember Dennis to introduce Ordinance 14-O-10, An Ordinance Of The Mayor And Council Of The City Of College Park, Amending The College Park Code By Repealing Chapter 15, "Boards, Commissions And Committees", Article IX, "Rent Stabilization Board", §§15-39 Through 15-54, And Chapter 127 "Rent Stabilization", §§127-1 Through 127-13, In Their Entirety; And By Repealing An Re-Enacting Chapter 110, "Fees And Penalties", §110-1, "Fees And Interests" And §110-2, "Penalties", To Delete Those Sections That Comprise The Rent Stabilization Law. The Public Hearing is scheduled for October 14, 2014 at 7:25 p.m.

(Councilmember Mitchell arrived)

COUNCIL COMMENTS:

Councilmember Mitchell commented on the groundbreaking ceremony she attended today for the new operations building at the College Park Aviation Museum.

Mayor Fellows discussed last night's meeting of the Neighborhood Quality of Life Committee. He is excited about the participation of all the members and it promises to be a strong year.

Councilmember Brennan discussed the weekend Free Adult Dental Clinic sponsored by Catholic Charities and UMD School of Public Health. Hundreds of people were treated.

COMMENTS FROM THE AUDIENCE: None

ADJOURN: A motion was made by Councilmember Mitchell and seconded by Councilmember Day to adjourn into a Closed Session to discuss a personnel matter. The Council will not be returning into public session tonight. The motion passed 7 – 0 – 0. Mayor Fellows adjourned the regular meeting at 8:01 p.m.

Janeen S. Miller, CMC City Clerk	Date Approved
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Pursuant to §C6-3 of the College Park City Charter, at 8:01 p.m. on September 9, 2014, in the Council Chambers of City Hall, a motion was made by Councilmember Mitchell and seconded by Councilmember Day to enter into an Executive Session to "Discuss a Personnel Matter."

The motion passed 7 – 0 – 0 and after a brief recess the closed session convened at 8:15 p.m.

Present: Mayor Andrew Fellows; Councilmembers Kabir, Brennan, Dennis, Stulich, Day, Hew and Mitchell.

Absent: Councilmember Wojahn

Also Present: None.

Topics Discussed: Mayor Fellows and the City Council discussed the process for the City Manager's evaluation.

Actions Taken: None.

Adjourn: A motion was made by Councilmember Brennan and seconded by Councilmember Dennis to adjourn the Executive Session, and with a vote of 7 – 0 – 0, Mayor Fellows adjourned the Executive Session at 8:24 p.m.

MINUTES
Public Hearing of the College Park City Council
Tuesday, September 9, 2014
7:15 P.M.

14-O-07

Ordinance Amending Chapter 184 “Vehicles And Traffic”, By Repealing And Reenacting Article VII “Speed Monitoring Systems”, Section 184-45 “Systems In School Zones And Within One-Half Mile Of An Institution Of Higher Education” To Amend The Section To Conform To State Mandated Changes

PRESENT: Mayor Fellows; Councilmembers Brennan, Dennis, Day and Hew.

ABSENT: Councilmembers Kabir, Wojahn, Stulich and Mitchell.

ALSO PRESENT: Joe Nagro, City Manager; Janeen Miller, City Clerk; Bill Gardiner, Assistant City Manager; Bob Ryan, Director of Public Services; Jim Miller, Parking Enforcement Manager; Sue Ford, City Attorney, and Cole Holocker, Student Liaison.

Mayor Fellows opened the public hearing on Ordinance 14-O-07 at 7:15 p.m. and invited public comment.

No one came forward to comment on this ordinance.

Mayor Fellows closed the public hearing at 7:16 p.m.

Janeen S. Miller, CMC
City Clerk

Date Approved

MINUTES
Public Hearing of the College Park City Council
Tuesday, September 9, 2014
7:16 P.M.

14-O-08

Ordinance Amending Chapter 184, "Vehicles And Traffic", By Repealing And Reenacting §184-9, "Permit Parking In Restricted Residential Zones" To Better Define Where Visitor Parking Permits May Be Used And To Provide An Enforcement Mechanism

PRESENT: Mayor Fellows; Councilmembers Brennan, Dennis, Day and Hew.

ABSENT: Councilmembers Kabir, Wojahn, Stullich and Mitchell.

ALSO PRESENT: Joe Nagro, City Manager; Janeen Miller, City Clerk; Bill Gardiner, Assistant City Manager; Bob Ryan, Director of Public Services; Jim Miller, Parking Enforcement Manager; Sue Ford, City Attorney, and Cole Holocker, Student Liaison.

Mayor Fellows opened the public hearing on Ordinance 14-O-08 at 7:16 p.m. and invited public comment.

No one came forward to comment on this ordinance.

Mayor Fellows closed the public hearing at 7:17 p.m.

Janeen S. Miller, CMC
City Clerk

Date Approved

MINUTES
Public Hearing of the College Park City Council
Tuesday, September 9, 2014
7:17 P.M.

14-O-09

Ordinance Amending Chapter 38, "Code Of Ethics", By Repealing And Reenacting Article I, "General Provisions", Section 38-4, "Definitions", Article II, "Ethics Commission", Section 38-8, "Procedures For Adjudicating Alleged Violations", And Article IV, "Required Disclosures", Section 38-15, "Financial Disclosure Of City Elected Officials And Candidates To Be City Elected Officials", Section 38-16, "Financial Disclosure Of Employees And Appointed Officials" And Section 38-17 "Additional Conflict Of Interest Statements And Correction Of Inaccurate Or Incomplete Filings Required", To Amend The Ethics Code To Clarify The Definition Of Interest That Must Be Reported, Including A Procedure For Dismissal Of A Complaint, Clarifying The Requirements For Elected Officials, Candidate, Appointed Official And Employee Disclosure And Providing A Remedy For Failure Of A Candidate To File The Required Disclosures

PRESENT: Mayor Fellows; Councilmembers Brennan, Dennis, Day and Hew.

ABSENT: Councilmembers Kabir, Wojahn, Stullich and Mitchell.

ALSO PRESENT: Joe Nagro, City Manager; Janeen Miller, City Clerk; Bill Gardiner, Assistant City Manager; Bob Ryan, Director of Public Services; Jim Miller, Parking Enforcement Manager; Sue Ford, City Attorney, and Cole Holocker, Student Liaison.

Mayor Fellows opened the public hearing on Ordinance 14-O-09 at 7:17 p.m. and invited public comment.

No one came forward to comment on this ordinance.

Mayor Fellows closed the public hearing at 7:18 p.m.

Janeen S. Miller, CMC
City Clerk

Date Approved

14-R-31



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. CPV-2014-05 Name: Yaris U. Reyes Carbajal**

Address: 5926 Bryn Mawr Road, 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 23, 2014.

CERTIFICATE OF SERVICE

This is to certify that on **September 25, 2014**, 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 RECOMMENDATIONS OF THE ADVISORY PLANNING COMMISSION REGARDING VARIANCE APPLICATION NUMBER CPV-2014-05, 5926 BRYN MAWR ROAD, COLLEGE PARK, MARYLAND, RECOMMENDING APPROVAL OF A VARIANCE FROM THE REQUIREMENTS OF THE PRINCE GEORGE'S COUNTY ZONING ORDINANCE, SECTION 27-420(A), TO PERMIT THE CONSTRUCTION OF A 6-FOOT HIGH FENCE.

- WHEREAS,** the City of College Park, Maryland (hereinafter, the "City") has, pursuant to Ordinance Number 11-O-03 (hereinafter, the "Ordinance"), and in accordance with Section 27-924 of the Prince George's County Zoning Ordinance (hereinafter, "Zoning Ordinance"), enacted an ordinance which sets forth procedural regulations governing any or all of the following: departures from design and landscaping standards, parking and loading standards, sign design standards, and variances for lot size, setback, and similar requirements for land within the corporate boundaries of the City, alternative compliance from landscaping requirements, certification, revocation, and revision of nonconforming uses, and minor changes to approved special exceptions; and
- WHEREAS,** the City is authorized by the Ordinance to grant an application for a waiver or variance for lot size, setback, and similar requirements where, by reason of exceptional narrowness, shallowness, shape, topography, or other extraordinary situation or condition of the specific parcel of property, the strict application of the Zoning Ordinance would result in peculiar and unusual practical difficulties or an exceptional or undue hardship upon the owner of the property, and a variance can be granted without substantial impairment of the intent, purpose and integrity of the General Plan or Master Plan; and
- WHEREAS,** the Advisory Planning Commission (hereinafter "APC") is authorized by Section 190-3 of the City Code to hear requests for variances from the terms of the Zoning Ordinance with respect to lot size, setback, and other requirements from which a variance may be granted by the Prince George's County Board of Appeals, including variances from Section 27-420 (a) of the Prince George's County Zoning Ordinance, and to make recommendations to the Mayor and Council in connection therewith; and
- WHEREAS,** the Mayor and Council are authorized by City Code Section 190-6 to accept or deny the recommendation of the APC with respect to variance requests; and
- WHEREAS,** on May 9, 2014, Yaris Reyes Carbajal (hereinafter, the "Applicant"), submitted an appeal from Prince George's County Zoning Ordinance, Section 27-420 (a) which restricts fences in the front yard and side yard of corner lots to a height of four feet. The specific request is for a variance from the requirements set forth in the Prince George's County Zoning Ordinance, Section 27-420 (a), in order to construct a six-foot high, board-on-board fence in the side yards. A variance of two feet from the maximum height of four feet is required.

- WHEREAS,** on June 5, 2014, 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 and Exhibits 1-6 with respect to whether the subject application meets the standards for granting a variance set forth in the Ordinance.
- WHEREAS,** based upon the evidence and testimony presented, the APC voted 4-0-0 to recommend that the variance be granted subject to certain conditions set forth in Resolution 14-RR-06; and
- WHEREAS,** on July 15, 2014, the City Council requested Oral Argument which was held on August 12, 2014; and
- WHEREAS,** the City Council remanded the case to the APC to clarify the portions of the property requiring a variance; and
- WHEREAS,** on September 4, 2014 the APC heard additional testimony and accepted supplemental Exhibits with regard to the requested variances and based upon the evidence and testimony presented, recommended via Resolution 14-RR-07 that the variances be granted subject to certain conditions; 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 set forth in Resolution 14-RR-07 as to the Application as follows:

Section 1 Findings of fact:

- 1.1 The property is a corner lot.
- 1.2 The property is triangular in shape.
- 1.3 The surrounding neighborhood is zoned R-55 and is single-family residential in character.
- 1.4 The County's Ordinance requires a variance on the subject property to construct a 6-foot fence in both side yards.
- 1.5 The City Code does not consider the proposed fence a front yard fence; therefore a variance is not needed from the City Code.
- 1.6 Edmonston Road is a very busy road that adjoins Kenilworth Avenue and has no residential housing on the east side.
- 1.7 The property owner, Yaris Carbajal, testified at the June 5th hearing that he has a two year old child and a dog that he wishes to protect from running into the busy street. The applicant had a previous dog that was killed running out to the street at this property. The owner testified that he has filed two police reports for theft: one, when his storage shed was broken into and the second, when his van was stolen.

- 1.8 Mr. Stacey Patterson testified at the June 5th hearing, that he is the adjoining property owner, living at 5924 Bryn Mawr Road. He stated that he is not opposed to the fence but he wants it to be a professional fence, an attractive fence and not a makeshift fence. He also stated that he is concerned about the Applicant trespassing on his property to repair and maintain the fence if it is put on the property line. Mr. Patterson stated that he feels a six foot high fence would be an intrusion on his property and that four feet high is much more characteristic of the neighborhood.
- 1.9 Additional testimony was presented by Staff in a slide presentation at the September 4, 2014 hearing that correctly defined the yards according to how the County would define them in this case including a color coded diagram illustrating the locations of the front, sides, and rear yards. The front yard is that part of the yard extending from the front of the house to Bryn Mawr Road. The west side yard is that area to the west of the house and the front yard, extending to the rear property line; this side yard is bounded by Bryn Mawr Road, the rear property line, and the west side of the house extended in both directions. The east side yard is bounded by Edmonston Road, the rear property line, and the east side of the house extended in both directions.
- 1.10 Additional testimony was presented by the property owner, Yaris Reyes and his wife, Heisy Garcia, at the September 4, 2014 hearing, that placing the fence two feet within their property line would create negative impacts such as reducing their property value, a loss of use of a significant portion of their property, the possibility of creating an adverse possession situation, and the possibility of an inaccessible area between fences if the adjoining property owner decided to build a fence on his property line.
- 1.11 Additional testimony was presented by the property owner through a slide presentation at the September 4, 2014 hearing that illustrated the existence of many 6-foot high fences in the neighborhood.
- 1.12 Additional testimony was presented by the property owner at the September 4, 2014 hearing that illustrated that there is an existing chain-link fence in their rear yard that is several feet within their property line. This fence acts as a retaining wall keeping the ground two feet higher on the side nearer the applicant's house than the side facing the adjoining property owner's property. A four foot fence would only be two feet above the higher ground level, and thus would be insufficient to provide the privacy and safety desired by the applicant.

Section 2 Conclusions of Law

The APC makes the following conclusions of law with regard to CPV-2014-05 for a height variance to install a 6-foot high, fence in the side yards.

- 2.1 The property has extraordinary conditions. The property has an exceptional shape in that the property is a triangular shaped corner lot

along a busy street and the house is not oriented parallel to either street. This creates a situation in which the rear yard is very limited while the side yards take up most of the lot. A six-foot fence is permitted in the rear yard but front and side yards are only permitted to be four-foot high for corner lots. Also, the property has a significant grade change on the Edmonston Road side of the lot. The house is higher than Edmonston Road.

- 2.2 The strict application of the County Zoning Ordinance will result in undue hardship upon the property owner by preventing him from adequately protecting his child, his pet and his property. He lost a dog who ran onto Edmonston Road and he has been the victim of property crime at this address.
- 2.3 Granting the variance will not impair the intent, purpose or integrity of any applicable County General Plan or County Master Plan. In fact, the purpose of the 6-foot high fence is to protect the private and public health, safety, welfare and comfort by preventing accidents that can be caused by children and pets running from the property into the street. Also, the 6-foot high fence is requested as a deterrent from criminal activity, to protect the property owner's personal property and prevent trespassing.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the City of College Park, Maryland that the findings of fact and conclusions of law of the APC as set forth above are hereby adopted and a variance of 2 feet from the maximum height of 4 feet is approved with the following conditions:

- 1) A finished side of the fence shall face outward.
- 2) The fence may be board-on-board but shall not be a stockade fence nor chain-link.

ADOPTED, by the Mayor and Council of the City of College Park, Maryland at a regular meeting on the _____ day of September 2014.

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

14-G-93

MEMORANDUM

To: Joe Nagro, City Manager 
From: Steven E. Halpern, P.E. 
Date: August 27, 2014
Subject: Request for Driveway Apron Variance at 3533 Marlborough Way

Issue:

Attached is a letter dated September 11, 2013 from Mr. Richard Kager, owner of the property at 3533 Marlborough Way, requesting permission to construct a doublewide concrete driveway apron.

Summary:

City policy requires staff to review requests for non-standard driveway aprons (those that differ from the City standard) and recommend approval or disapproval to the Mayor and Council. Mr. Richard Kager is requesting permission to construct a doublewide concrete driveway apron. The City Standard is a singlewide driveway apron - 17 feet wide at the street and 10 feet wide at the property line. Standard attached. It is the intent of the policy established by the Mayor and Council on March 26, 1996 to have the property owners of non-standard driveway aprons assume financial responsibility for the replacement of that portion of the driveway apron in excess of the City Standard, and to convey this responsibility to all future owners of the property if the variance request is approved.

On June 11, 2013 Mr. Kager was granted approval by the Advisory Planning Commission (CPV-2013-02) to expand his driveway pad (10' x 12') to accommodate the lift of his wheelchair van. Mr. Kager is wheelchair bound. The expanded driveway pad also allows Mr. Kager safe and reliable access to a newly constructed ADA compliant sidewalk which extends from his driveway to the side entrance to his home. On August 7, 2014 the Advisory Planning Commission met and recommended validating the existing conditions on the property that would allow for a double wide driveway apron to be constructed. The existing condition which was the slope of front lawn inadvertently caused the initial work on the property to be slightly out of compliance with the original APC approval and therefore had to be validated for the doublewide driveway variance process to be initiated.

3533 Marlborough Way is located in the College Park Woods subdivision. Location Map attached. Marlborough Way is a typical local residential street within a 50-ft right-of-way. The street is 26 feet wide, provides for two way traffic, and on-street parking is available on both sides of the street. The houses fronting Marlborough Way are set back about 35 to 45 feet from the property

line. There are no on-street parking restrictions in this neighborhood. It is staffs opinion that the construction of a double wide concrete driveway apron will not impact on-street parking or affect the traffic operation of this street.

Mr. Richard Kager is agreeable with the condition that a Declaration of Covenants be a condition for granting approval for constructing a double wide concrete driveway apron and recognizes that the property owner shall be solely responsible for all construction costs associated with this work.

Recommendation:

Based on staffs' review of Mr. Richard Kager's request for permission to construct a doublewide concrete driveway apron, it is recommended that his request be granted.

Attachments:

Letter from Mr. Richard Kager requesting a driveway apron variance

Location Map

City Standard Singlewide Driveway Apron

September 11, 2013

Steven E. Halpern, P.E.
City of College Park
9217 51st Avenue
College Park, MD 20740-1947

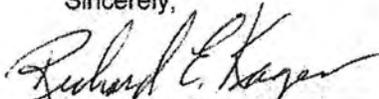
Dear Mr. Halpern:

My Family and I appreciate your visit on September 10, 2013. As you saw, we made an investment to install, 1) an "ADA" type slope, 2) stairs with less rise leading to the front door, 3) sturdy handrails, and 4) an extended driveway to accommodate my vehicles, one of which is an "ADA" type van.

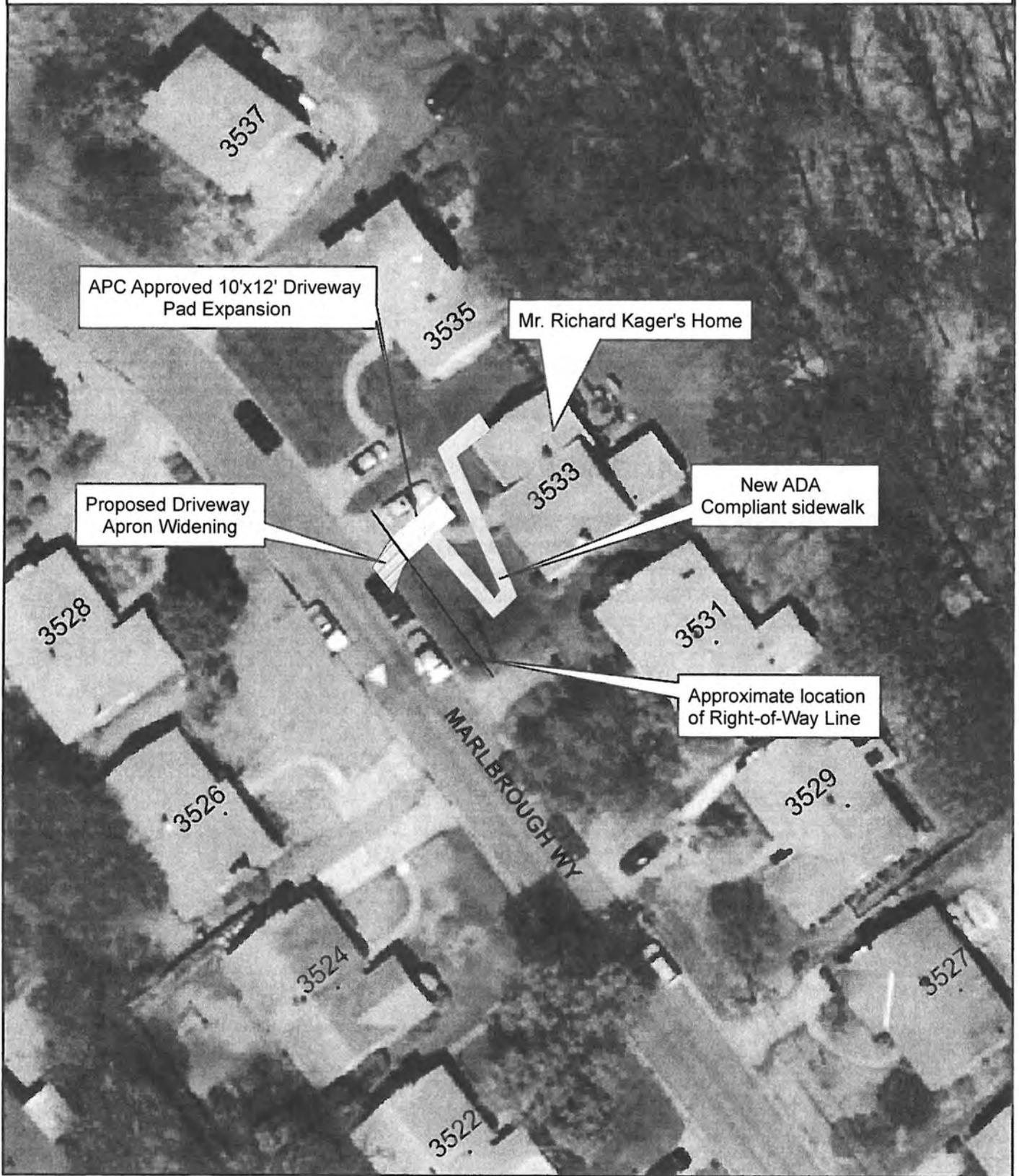
I would like to petition the City of College Park for approval to build a "double wide" driveway. A "double wide" driveway would give me safe access to my vehicles and prevent impact and degradation to my lawn. My Family and I have done a great job maintaining the landscaping, and in my opinion the recently completed construction of the "ADA" slope, stairs, and handrails has provide me safe ingress and egress from my home, while complimenting the landscaping.

My Family and I appreciate your assistance in the matter.

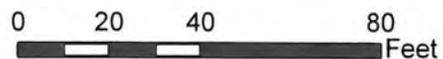
Sincerely,


Richard E. Kager

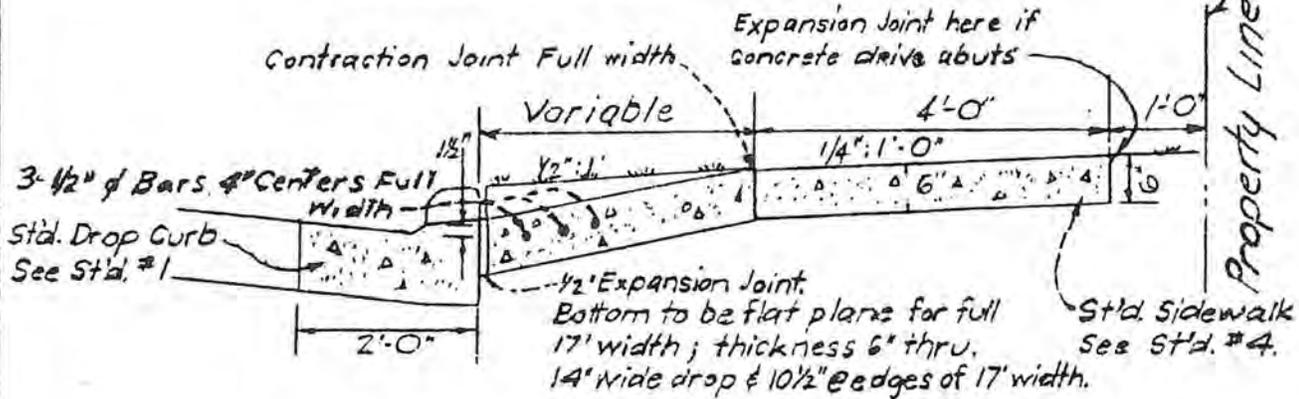
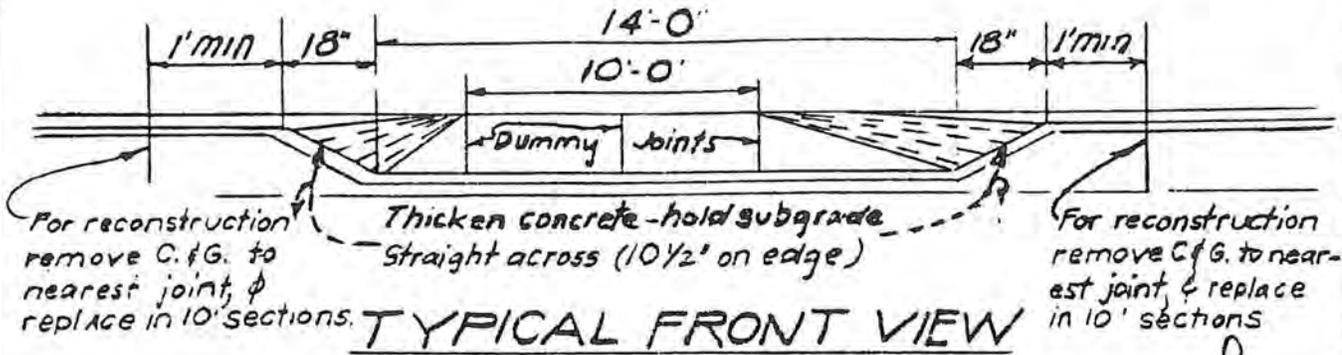
Attachment 3533 Marlborough Way - Driveway Apron Variance



By: College Park Engineering
Date :2-18-14
Source: M-NCPPC GIS



STANDARD DRIVEWAY ENTRANCE STANDARD No 2



SPECIFICATION SUMMARY:

1. Subgrade thoroughly compacted with vibratory or pneumatic compactor - unsatisfactory material replaced with S.R.C. Spec. G. P. - 1.
2. Concrete shall not be placed on frozen subgrade.
3. Forms - steel or wood - subject to approval of Municipal Engineer.
4. Hair broom finish & clear cure
5. Concrete - air entrained, 6 1/2 bag portland cement concrete, Max. Slump = 4 inches.
6. Special attention is called to thickened edges.

7. All expansion joint material shall be premoulded, non-extrudable, asphalt impregnated.

City of College Park

APPROVED

DATE: 1/12/72

MAYOR

ENGINEER

GREENHORNE & O'MARA CIVIL ENGINEERS — LAND SURVEYORS 6715 Kenilworth Ave Riverdale, Md. APpleton 22	Drawn by <u>JM</u>	Scale <u>As Shown</u>	Date <u>Jan, 1972</u>
	Checked by	Job No.	File No.
	Approved by		<u>M-1159-L</u>

14-G-94

Appointments to Boards and Committees

14-G-94

Councilmember Mitchell:

Appoint Normand Bernache to the Cable Television Commission

Councilmember Wojahn:

Reappoint Jane Hopkins to the Cable Television Commission