



Committee: Joint
Committee Review: N/A
Staff: Naeem M. Mia, Legislative Analyst
Purpose: To introduce agenda item – no vote expected
Keywords: Property Disposition, Town of Kensington, M-NCPPC

AGENDA ITEM #5E
November 9, 2021
Introduction

SUBJECT

Declaration of No Further Need – Disposition via Sale and Renovation of a Portion of Warner Circle Special Park, 10231 Carroll Place, Kensington, Maryland 20895

EXPECTED ATTENDEES

Greg Ossont, Deputy Director, Department of General Services (DGS)
Miti Figueredo, Deputy Director, Montgomery Parks - Maryland-National Capital Park and Planning Commission (M-NCPPC)

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

- None - Introduction only.
- A joint GO/PHED Committee worksession will be scheduled a future date.
- Public Hearing and Action will be scheduled at a future date.

DESCRIPTION/ISSUE

The County Executive requests Council approval of a Declaration of No Further Need (DNFN) to dispose of a portion of the County-owned (and M-NCPPC-managed) of Warner Circle Special Park, totaling 4.5 acres, located at 10231 Carroll Place, Kensington, Maryland 20895. M-NCPPC has managed and maintained the property since 1979 under an agreement with the County. The property is protected under a historical preservation easement within the Kensington Historic District and is listed on both the Montgomery County Master Plan for Historic Preservation and the National Register of Historic Places.

The disposition is in the form of the sale and renovation to the buyer, Karl Voglmayr, of two historic structures on the site Warner Circle Manor (designated as “Condominium Unit Two”) and Carriage House (“Condominium Unit Three”) into fifteen (15) market-rate for-sale condominium residences and a public use space. The park grounds (“Condominium Unit One”) will remain owned by the County and managed by M-NCPPC. The buyer will establish a Maryland-registered Limited Liability Company (LLC) to undertake the renovation and development of the site.

After closing, the Buyer will seek to obtain the necessary approvals for the development of Condominium Units Two and Three, including any required historic area work permits and approvals, financing, and building permits. This proposed course of action varies from the County’s usual requirement that such approval such obtained prior to the transfer of County property.

The disposition proposes a purchase price of \$677,500.00, payable to the County as follows:

- \$200,000 at closing;
- \$100,000 via promissory note secured by a first lien of trust;

- \$100,000 via assignment of the Maryland Heritage Structure Award;
- \$277,500 of in-kind contributions in the form of the public space to be constructed by the developer

Under the proposed transaction, all proceeds of the sale will be assigned to M-NCPPC to be allocated solely to the rehabilitation, refurbishment, and other costs for the park. Typically, 25% of County land sale proceeds are directed to the Housing Initiative Fund (HIF) and the remaining portion is available for use once the Council appropriates the funds.

The property transfer of this property complies with the requirements established under County Code 11B-45.01 Disposition of Real Property, including:

- This transaction is subject to the Property Disposition process as the property is a County-owned site which is no longer needed for public use.
- On September 17, 2021 Executive Order 078-21 was published in the County Register to give notice of the County’s intent to proceed with disposition to a buyer, Karl Voglmayr, for the sale and renovation of certain portions of Warner Circle Special Park.
- The Executive transmitted to the Council the material terms on September 17, 2021.
- The Executive transmitted to the Council the Declaration of No Further Need on October 27, 2021. A virtual public hearing was held on October 14, 2021.

SUMMARY OF KEY DISCUSSION POINTS

- Does the Council agree to the sale of this County property to Karl Voglmayr for renovation of the historic structures on the property into fifteen (15) for-sale condominium residences?
- Does the Council agree with the Executive’s recommendation to waive 25% of the land sale proceeds and fully transfer all proceeds to M-NCPPC for the use of maintaining the existing park (which will continue to be owned by the County)?
- Does the Council identify an alternative use for this property?
- Does the Council concur with the material terms of this lease?

This report contains:

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|--|--------|
| 1. Resolution Approving Transfer | © 1-2 |
| 2. October 27, 2021 memo from County Executive | © 3-5 |
| 3. September 17, 2021 memo from County Executive | © 6-8 |
| 4. Executive Order 078-21 | © 9-11 |

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Resolution No: _____
Introduced: November 9, 2021
Adopted: _____

COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: County Council

SUBJECT: Approval of Disposition via Sale and Renovation of a Portion of Warner Circle Special Park, 10231 Carroll Place, Kensington, Maryland 20895

Background

1. Montgomery County Code §11B-45 requires the Council to approve a Declaration of No Further Need before the Executive can dispose of real property that has more than nominal value. Prior to seeking Council approval of a Declaration of No Further Need, the Executive must:
 - (a) submit all material terms of the proposed disposition and any appraisal the Executive relied on in setting the property's market value to the Council; and
 - (b) publish a declaration in the County Register and post a notice on the County website that the County has no further need for the property.If the Council, by resolution, approves the Executive's Declaration of No Further Need, the Executive may dispose of the property for fair market value.
2. Montgomery County Code §11B-45 defines a disposition as "a sale, a lease or license for a term of 2 years or longer, or a lease or other document which includes an option to buy. If a license or lease for an initial term of less than 2 years is extended or renewed beyond 2 years, that extension or renewal is a disposition."
3. On September 17, 2021, the Executive transmitted the material terms of the proposed disposition. The Executive recommended the sale of the 4.5-acre County-owned property known as Warner Circle Special Park, located at 10231 Carroll Place, Kensington, Maryland 20895 to a buyer, Karl Voglmayr. The buyer proposed to renovate the structures on the property into fifteen (15) for-sale, condominium residences and a public use space.
4. The property has been managed by the Maryland-National Capital Park and Planning Commission ("Commission") since a 1979 agreement with the County. The property contains the park and two structures, including an 1893-1914 Queen Anne House and a 1914 carriage house. Both structures are protected under a historical preservation easement

within the Kensington Historic District and is listed on both the Montgomery County Master Plan for Historic Preservation and the National Register of Historic Places.

5. On September 17, 2021 Executive Order 078-21 was published in the County Register to give notice of the County's intent to proceed with disposition to Karl Voglmayr to renovate the structures on the property into fifteen (15) for-sale, condominium residences and a public use space. The County and Commission will continue to own and manage the park grounds, respectively.
6. The Council will schedule for a virtual public hearing and action on this recommended disposition at a future date.

Action

The County Council for Montgomery County, Maryland, approves the following action:

The Declaration of No Further Need for a portion of the County property located at 10231 Carroll Place, Kensington, Maryland 20895 is approved and the property may be disposed of as described in the material terms provided to the Council on September 17, 2021, the memorandum dated October 27, 2021, and in Executive Order 078-21 as published in the County Register on September 17, 2021. The County Council waives the requirement that the disposition be a fair market value transaction.

This is a correct copy of Council action.

Selena Mendy Singleton, Esq.
Clerk of the Council




OFFICE OF THE COUNTY EXECUTIVE

Marc Elrich
County Executive

MEMORANDUM

October 27, 2021

TO: Tom Hucker, President
Montgomery County Council

FROM: Marc Elrich, Montgomery County Executive 

SUBJECT: Declaration of No Further Need – Sale and Renovation of a Portion of Warner Circle Special Park

On September 17, 2021, I transmitted material terms to Council and provided notice of the proposed disposition and renovation of a portion of Warner Circle Special Park. The County is the owner of Warner Circle Special Park; however, the Maryland-National Park and Planning Commission (the “Commission”) has managed the property since its acquisition pursuant to an Agreement with the County dated May 24, 1972.

As proposed, the Maryland-National Capital Park and Planning Commission (the “Commission”) and Karl Voglmayr (“Buyer”) desire to establish a condominium regime that will create three condominium units: Condominium Unit One (Warner Circle Special Park), Condominium Unit Two (Warner Circle Manor), and Condominium Unit Three (Carriage House). Condominium Unit One will continue to be owned by the County and operated by the Commission. Condominium Units Two and Three will be renovated into 15 for-sale condominium units and public use space for the community.

It is the intent of the Commission and the proposed Buyer, subject to the terms and conditions described more fully in the Material Terms Memo dated September 17, 2021, to convey Condominium Units Two and Three to the Buyer as part of the initial transaction. After closing, the Buyer will endeavor to obtain the necessary approvals for the development of Condominium Units Two and Three, including any required historic area work permits and approvals, financing, and building permits (collectively, the “Approvals”). This proposed course of action varies from the County’s usual requirement that the Approvals be obtained prior to the transfer of County property.

The Commission negotiated a purchase price of Six Hundred Seventy-Seven Thousand Five Hundred Dollars (\$677,500.00) for Condominium Units Two and Three (the “Purchase Price”).

The proposed Purchase Price is to be payable as follows: (a) Two Hundred Thousand Dollars (\$200,000) in cash due at Closing; (b) One Hundred Thousand Dollars (\$100,000) via promissory note secured by a first lien deed of trust; (c) One Hundred Thousand Dollars (\$100,000) via Assignment of Maryland Heritage Structure Award; and (d) Two Hundred Seventy-Seven Thousand Five Hundred Dollars (\$277,500) in-kind consideration in the form of a public benefit from the contemplated public use of the community space to be provided in Condominium Unit Three.

Under the proposed transaction, all proceeds of the sale will be assigned to the Commission, and the County must agree that the Purchase Price, as and when received, be allocated solely to the rehabilitation, refurbishment, and other costs for Condominium Unit One (Warner Circle Special Park). Typically, 25% of County land sale proceeds are directed to the Housing Initiative Fund (HIF) and the remaining portion is available for use once the Council appropriates the funds.

Buyer seeks the County and Commission's cooperation in its efforts to obtain or qualify for any real estate tax abatements, historic tax credits or tax credit awards, including the Maryland Heritage Structure Award ("Award") that may be available with respect to the purchase, development, renovation or rehabilitation of the project or any units therein, provided such cooperation is at no cost to the County or Commission. After closing, Buyer intends to apply for and diligently pursue the Award. If Buyer receives the Award, Buyer agrees that the first \$100,000 of the Award must be allocated to the rehabilitation and refurbishment of Condominium Unit One (Warner Circle Special Park). The Commission proposed that it retain all interest in the Award in excess of \$100,000.

If Buyer receives the Award, the Commission and Buyer will determine at that time whether Buyer will undertake the rehabilitation and refurbishment of Condominium Unit One using \$100,000 of the Award or whether Buyer will transfer \$100,000 for that purpose to the Commission. The Award is a discretionary award administered by the Maryland Historical Trust and is not guaranteed to be awarded to the Buyer for the proposed project. Accordingly, so long as Buyer applies for and diligently pursues the Award, Buyer shall have no liability to the County or Commission if the Award is not awarded for the Warner Circle project. The Commission's proposed use of the Award will require the Council's appropriation of the Award funds to the Commission.

As required under Section 11B-45 of the Montgomery County Code, an Executive Order declaring that the County-owned site is no longer needed for public use must be issued. Attached please find Executive Order 078-21 which was published in the *County Register* on September 16, 2021 to give notice of my intent to proceed with the sale, subject to the material terms.

I hope this information is helpful. If you have any questions, please contact Greg Ossont, Deputy Director, Department of General Services, at 240.777.6192 or greg.ossont@montgomerycountymd.gov.

Enclosure: Material Terms Memo date September 17, 2021
 Executive Order No 078-21

cc: David Dise, Director, Department of General Services
 Greg Ossont, Deputy Director, Department of General Services
 Ronnie Warner, Division Chief, Department of General Services
 Cynthia Brenneman, Division Chief, Department of General Services
 Jennifer Bryant, Director, Office of Management and Budget
 Michael Coveyou, Director, Department of Finance
 Kimberly Williams, Controller, Department of Finance
 Pete Fosselman, Director, Bethesda-Chevy Chase Regional Services Center




OFFICE OF THE COUNTY EXECUTIVE

Marc Elrich
County Executive

MEMORANDUM

September 17, 2021

TO: Tom Hucker, President
Montgomery County Council

FROM: Marc Elrich, County Executive 

SUBJECT: Material Terms – Sale and Renovation of a Portion of Warner Circle
Special Park

The purpose of this memorandum is to provide the material terms of the proposed disposition and renovation of a portion of Warner Circle Special Parks. Attached you will find Executive Order No. 078-21 which was advertised in the County Register on September 16, 2021.

The County is the owner of Warner Circle Special Park, 10231 Carroll Place, Kensington, Maryland 20895 (Tax Account No. 13-01022343), containing approximately 4.5 acres of land (the “Property”). Since its acquisition, the Maryland-National Capital Park and Planning Commission (the “Commission”) has managed the Property pursuant to an Agreement with the County dated May 24, 1972 (the “1972 Agreement”) and has operated and continues to operate the Property with the expenditure of approximately \$1.7 million to-date to support the Property and the historic structures located on the Property.

The Commission entered into a non-binding Letter of Intent with Karl Voglmayr (“Buyer”), setting forth certain terms and conditions regarding his proposed purchase and renovation of a portion of the Property.

As proposed, the Commission and Buyer desire to establish a condominium regime that will create three condominium units: Condominium Unit One (Warner Circle Special Park), Condominium Unit Two (Warner Circle Manor), and Condominium Unit Three (Carriage House). Condominium Unit One will continue to be owned by the County and operated by the Commission. Condominium Units Two and Three will be renovated into 15 for-sale condominium units and public use space for the community.

It is the intent of the Commission and the proposed Buyer, subject to the terms and conditions described below, to convey Condominium Units Two and Three to the Buyer as part of the initial transaction. After closing, the Buyer will endeavor to obtain the necessary approvals for the development of Condominium Units Two and Three, including any required historic area work permits and approvals, financing, and building permits (collectively, the “Approvals”). This proposed course of action varies from the County’s usual requirement that the Approvals be obtained prior to the transfer of County property.

Buyer will draft the necessary condominium documents at Buyer’s sole expense, and it will be a condition precedent to closing on the sale of Condominium Units Two and Three that the final County and Commission approved condominium documents be recorded among the Land Records of Montgomery County.

The Property holds architectural, historical, and cultural importance to the residents of the Town of Kensington and the County. Buyer’s contemplated rehabilitation and re-use of the Property in accordance with the proposed transaction is intended to provide a benefit to the general public by preserving the historic structures, providing community space and continuing to subject the Property to certain legal restrictions regarding its alteration, improvement, development and use. On April 24, 2019, the Maryland Board of Public Works approved the proposed transaction. The Board of Public Works’ approval is required before the County and Commission can enter into a contract of sale under a historic preservation easement on the Property.

The Commission negotiated a purchase price of Six Hundred Seventy-Seven Thousand Five Hundred Dollars (\$677,500.00) for Condominium Units Two and Three (the “Purchase Price”). The proposed Purchase Price is to be payable as follows: (a) Two Hundred Thousand Dollars (\$200,000) in cash due at Closing; (b) One Hundred Thousand Dollars (\$100,000) via promissory note secured by a first lien deed of trust; (c) One Hundred Thousand Dollars (\$100,000) via Assignment of Maryland Heritage Structure Award; and (d) Two Hundred Seventy-Seven Thousand Five Hundred Dollars (\$277,500) in-kind consideration in the form of a public benefit from the contemplated public use of the community space to be provided in Condominium Unit Three.

Under the proposed transaction, all proceeds of the sale will be assigned to the Commission, and it is further proposed that the County agrees that the Purchase Price, as and when received, be allocated solely to the rehabilitation, refurbishment, and other costs for Condominium Unit One (Warner Circle Special Park). Typically, 25% of County land sale proceeds are directed to the Housing Initiative Fund (HIF) and the remaining portion is available for use once the Council appropriates the funds.

Buyer seeks the County and Commission’s cooperation in its efforts to obtain or qualify for any real estate tax abatements, historic tax credits or tax credit awards, including the Maryland Heritage Structure Award (“Award”) that may be available with respect to the purchase, development, renovation or rehabilitation of the project or any units therein, provided such cooperation is at no cost to the County or Commission. After Closing, Buyer intends to apply for and diligently pursue the Award. If Buyer receives the Award, Buyer agrees that the

first \$100,000 of the Award must be allocated to the rehabilitation and refurbishment of Condominium Unit One (Warner Circle Special Park). The Commission proposed that it retain all interest in the Award in excess of \$100,000.

If Buyer receives the Award, the Commission and Buyer will determine at that time whether Buyer will undertake the rehabilitation and refurbishment of Condominium Unit One using \$100,000 of the Award or whether Buyer will transfer \$100,000 for that purpose to the Commission. The Award is a discretionary award administered by the Maryland Historical Trust and is not guaranteed to be awarded to the Buyer for the proposed project. Accordingly, so long as Buyer applies for and diligently pursues the Award, Buyer shall have no liability to the County or Commission if the Award is not awarded for the Warner Circle project. The Commission's proposed use of the Award will require the Council's appropriation of the Award funds to the Commission.

I hope this information is helpful. If you have any questions, please contact Greg Ossont, Deputy Director, Department of General Services, at greg.ossont@montgomerycountymd.gov.

Enclosure: Executive Order No. 078-21

cc: David Dise, Director, Department of General Services
Greg Ossont, Deputy Director, Department of General Services
Ronnie Warner, Division Chief, Department of General Services
Cynthia Brenneman, Division Chief, Department of General Services
Jennifer Bryant, Director, Office of Management and Budget
Michael Coveyou, Director, Department of Finance
Kimberly Williams, Controller, Department of Finance
Pete Fosselman, Director, Bethesda-Chevy Chase Regional Services Center



MONTGOMERY COUNTY EXECUTIVE ORDER

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

Disposition of County Property: Warner Circle Buildings	Executive Order No. 078-21	Subject Suffix
Montgomery County Department of General Services	Department No.	Effective Date 09/17/2021

BACKGROUND

WHEREAS, the County is the owner of certain parcel(s) of property generally known as Warner Circle Special Park, 10231 Carroll Place, Kensington, Maryland 20895 (Tax Account No. 13-01022343), containing approximately 4.5 acres of land (the "Property"); and

WHEREAS, since its acquisition, the Maryland-National Capital Park and Planning Commission (the "Commission") has managed the Property pursuant to an Agreement with the County dated May 24, 1972 (the "1972 Agreement"), and has operated and continues to operate the Property with the expenditure of approximately \$1.7 million to-date to support the Property and the historic structures on the Property; and

WHEREAS, the Commission entered into a non-binding Letter of Intent ("LOI") with Karl Voglmayr, setting forth proposed terms and conditions regarding the purchase of a portion of the Property using an LLC to be registered with the State of Maryland (the "Buyer"); and

WHEREAS, the LOI proposes that a condominium regime be recorded creating three condominium units on the Property: (Warner Circle Special Park), Condominium Unit Two (Warner Circle Manor), and Condominium Unit Three (Carriage House); and

WHEREAS, Condominium Unit One will continue to be owned by the County and operated by the Commission and Condominium Units Two and Three will be renovated into 15 for-sale, residential, condominium units and public use space for the community; and

WHEREAS, the Buyer must draft all necessary condominium documents at Buyer's sole expense and it will be a condition precedent to closing on the Buyer's acquisition of Condominium Units Two and Three that the final County and Commission approved condominium documents be recorded among the Land Records of Montgomery County; and

WHEREAS, the Property is subject to certain legal restrictions regarding its alteration, improvement, development and use, including a historical preservation easement; and

WHEREAS, the Property holds architectural, historical, and cultural importance to the residents of the Town of Kensington, Montgomery County; and Buyer's contemplated rehabilitation and re-use of the Property in accordance with the proposed transaction is intended to provide a benefit to the general public by preserving the historic structures and providing community use space; and



MONTGOMERY COUNTY EXECUTIVE ORDER

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

Disposition of County Property: Warner Circle Buildings	Executive Order No. 078-21	Subject Suffix
Montgomery County Department of General Services	Department No.	Effective Date 09/17/2021

WHEREAS, on April 24, 2019, the Maryland Board of Public Works approved the proposed transaction, as required under an historic preservation easement on the Property, before the Property can be sold; and

WHEREAS, the development, construction, renovation and rehabilitation of Condominium Unit Two (Warner Circle Manor) and Condominium Unit Three (Carriage House) is referred to as the "Project;" and

WHEREAS, as proposed, the County will sell to Buyer, and Buyer will purchase from County, Condominium Units Two and Three at a purchase price of of Six Hundred Seventy-Seven Thousand Five Hundred Dollars (\$677,500.00) (the "Purchase Price"); and

WHEREAS, the Purchase Price shall be payable as follows: (a) Two Hundred Thousand Dollars (\$200,000) in cash due at closing; (b) One Hundred Thousand Dollars (\$100,000) via promissory note secured by a first lien deed of trust; (c) One Hundred Thousand Dollars (\$100,000) via Assignment of Maryland Heritage Structure Award ("Award"); and (d) Two Hundred Seventy-Seven Thousand Five Hundred Dollars (\$277,500) in-kind consideration in the form of public benefit from the contemplated public use of the community space proposed in Condominium Unit Three; and

WHEREAS, it is proposed that the Purchase Price, as and when received, be allocated solely to the rehabilitation, refurbishment, and other costs for Condominium Unit One; and

WHEREAS, after closing, Buyer will endeavor to obtain the necessary approvals, including historic area work permits and building permits, as well as the financing, for the renovation of the historic structures in Condominium Units Two and Three, into fifteen (15) residential condominium units and community space; and

WHEREAS, the County and the Commission intend to cooperate with Buyer in its efforts to obtain or qualify for any real estate tax abatements, historic tax credits or tax credit awards, including, without limitation, the Award, that may be available with respect to the purchase, development, renovation or rehabilitation of the Project, provided such cooperation shall be at no cost to the County or Commission; and

WHEREAS, after Closing, Buyer agrees to apply for and diligently pursue the Award and agrees that the first \$100,000 of the Award be allocated to the rehabilitation and refurbishment of Condominium Unit One; and

WHEREAS, it is proposed that the Commission retain the Award funds in excess of \$100,000; and



MONTGOMERY COUNTY EXECUTIVE ORDER

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

Disposition of County Property: Warner Circle Buildings	Executive Order No. 078-21	Subject Suffix
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WHEREAS, if Buyer receives the Award, it will then be determined whether Buyer will undertake the rehabilitation and refurbishment of Condominium Unit One using \$100,000 of the Award or, subject to County Council approval, whether Buyer will transfer \$100,000 for that purpose to the Commission; and

WHEREAS, under Section 11B-45 of the County Code, the County may waive the requirement that County land be disposed of at less than full market value; and

WHEREAS, as proposed, the disposition of the Condominium Units Two and Three, would be at less than full market value; and

WHEREAS, the less than full market value for Condominium Units Two and Three is in the best interest of the County to promote the restoration of the historic structures located thereon and to reduce the public expense of continuing to maintain the historic structures; and

WHEREAS, in accordance with the provisions of Montgomery County Code Section 11B-45, Disposition of Real Property, the County Executive must issue an Executive Order declaring that County owned or controlled land is no longer needed for County use.

ACTION

In consideration of the above recitals, the County Executive hereby declares that a portion of the Warner Circle Special Park, as described above, is no longer needed for County use and is available for disposition through sale to the LLC to be established by the proposed Buyer in the manner described in this Executive Order.

Approved as to Form and Legality
Office of the County Attorney

By:
Date: 9-2-21

APPROVED

Fariba Kassiri, Deputy Chief Administrative Officer
Date: 09/10/2021