



Takoma Park City Council Meeting – September 26, 2018 Agenda Item 4

Voting Session

Resolution Approving the City of Takoma Park's Settlement with Fairview Investment Fund II, LP for the Preservation of the 2.68 ± Acres of Land Known as "Dorothy's Woods"

Recommended Council Action

Vote on Resolution.

Context with Key Issues

Dorothy's Woods, a 2.68 acre, mostly wooded parcel, is one of the largest undeveloped properties in Takoma Park. The City purchased Dorothy's Woods at an IRS auction in 2015 with the primary intent of preserving it as open space.

On September 10, 2018, the City Council met in closed session to consult with the City Attorney regarding options for the preservation of the City's interest in and control over the City-owned Dorothy's Woods parcel, which was subject to a foreclosure action by Fairview Investment Fund, the holder of a lien secured by the property, and scheduled to be sold at auction on September 13. Fairview sought to collect \$382,600 in principal, interest, penalties, and expenses from the proceeds of the foreclosure sale. After considering the City's legal options and the history of the negotiations with Fairview, the Council voted to authorize entering into a settlement agreement under which the City would pay Fairview \$250,000 in exchange for Fairview's dismissal of the foreclosure action against the City and release of the City's property from the lien. Residents donated \$100,000 to the City for the purpose of preserving Dorothy's Woods.

Council Priorities

A Livable Community for All; Environmentally Sustainable Community

Environmental Considerations

Retaining ownership and control of Dorothy's Woods preserves open space and tree canopy

Fiscal Considerations

The settlement requires the expenditure of \$150,000 of City funds, in addition to what has already been spent to date. Netting out tax proceeds realized by the City after initially purchasing the property and recording the deed, approximately \$85,000 in City funds have been spent to date. In sum, the City will have spent approximately \$235,000 to purchase and retain the property.

Racial Equity Considerations

While we cannot quantify the effect the Council's action will have on racial equity, we recognize that there is an inequitable distribution of City-owned public parks and open space in the City. The

Dorothy's Woods property is located within Ward 3 and borders Ward 2. Approximately 38 percent of Ward 3 residents are people of color, as are approximately 42 percent of Ward 2 residents. The attached map depicts areas in the City within one-eighth of a mile of public parks and open space. It is noteworthy that Ward 6, comprised of 81.5 percent people of color, has the largest amount of property not located within one-eighth of a mile of public parks and open space. Moving forward, the Council could consider the following actions to ensure that the benefits of Dorothy's Woods are realized across the City and to address the current inequitable distribution of City-owned public parks and open spaces:

- Assessing the impact redirecting funds in the budget to fund Dorothy's Woods will have on residents of color;
- Identifying potential locations for public parks and open spaces in currently underserved areas in the City; and
- Encouraging and facilitating programming and use of Dorothy's Woods by residents from across the City.

Attachments and Links

- Proposed Resolution
- Settlement Agreement
- Map Showing Public Open Space in Takoma Park (to supplement the Racial Equity Considerations section)

Introduced by:

**CITY OF TAKOMA PARK, MARYLAND
RESOLUTION NO. 2018-__**

**APPROVING THE CITY OF TAKOMA PARK'S SETTLEMENT WITH FAIRVIEW
INVESTMENT FUND II, LP FOR THE PRESERVATION OF THE 2.68 ± ACRES
OF LAND KNOWN AS "DOROTHY'S WOODS"**

- WHEREAS, the City Council adopted Resolution 2015-03 in which it designated as an important public purpose the preservation of the urban forest, natural spring and natural topographic features of 2.68 ± acres of undeveloped land, known as Parcel 3, owned by the Washington-McLaughlin Christian School, Inc.; and
- WHEREAS, on January 22, 2015, the City of Takoma Park ("City") was the successful bidder at an Internal Revenue Service ("IRS") public auction sale of Parcel 3; and
- WHEREAS, the City Council named Parcel 3 "Dorothy's Woods" after longtime Takoma Park resident and local historian Dorothy Thomsen Barnes and imposed a conservation easement on the parcel to preserve and maintain Dorothy's Woods in a natural forested state; and
- WHEREAS, the IRS public auction sale of Dorothy's Woods to the City was subject to any prior valid outstanding mortgages, encumbrances, or other liens in favor of third parties against the taxpayer, Washington-McLaughlin Christian School, Inc.; and
- WHEREAS, one of the prior liens, secured in part by the City-owned Dorothy's Woods property, was a Deed of Trust made by Washington-McLaughlin Christian School, Inc. in favor of Bank of America ("BOA") and transferred by BOA to Fairview Investment Fund II, LP ("Fairview"); and
- WHEREAS, the Washington-McLaughlin Christian School, Inc. defaulted in the payment of the debt secured by the Deed of Trust and Fairview filed a foreclosure action in the Circuit Court of Montgomery County, Maryland, against the City-owned Dorothy's Woods property; and
- WHEREAS, in recognition of the importance of the environmental benefits of Dorothy's Woods to the City and in order to prevent the sale of Dorothy's Woods at foreclosure sale, the City Council decided to enter into a settlement with Fairview, the holder of the Deed of Trust secured by the Dorothy's Woods property; and
- WHEREAS, pursuant to this Settlement Agreement, the City paid Fairview \$250,000 in exchange for Fairview's release of the Dorothy's Woods property from the lien of the Deed of Trust and Fairview's dismissal of its foreclosure action against the

City, in which Fairview sought to collect approximately \$382,600 from the sale of the property; and

WHEREAS, approximately \$100,000 of the settlement amount was paid by donations from City residents who desired to supplement available City funds in order to maintain the City’s ownership of Dorothy’s Woods and the City hereby expresses deep gratitude to these residents for their generosity.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND, that the City’s settlement with Fairview for the sum of \$250,000, in exchange for Fairview’s release of the Dorothy’s Woods property from the lien of the Deed of Trust and Fairview’s dismissal of its foreclosure action against the City, is hereby approved and ratified.

BE IT FURTHER RESOLVED that the Settlement Agreement, attached as Exhibit A, made on September 12, 2018, by and between Fairview and the City is approved and ratified.

This resolution is adopted by the Council of the City of Takoma Park, Maryland, this _____ day of _____, 2018.

ATTEST:

Jessie Carpenter, CMC
City Clerk