



MONTGOMERY COUNTY PLANNING DEPARTMENT
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION **MCPB**

Item #
June 7, 2007



MEMORANDUM

DATE: May 21, 2007

TO: Montgomery County Planning Board

VIA: Rose Krasnow, Chief *RK*
Catherine Conlon, Supervisor *CC*
Development Review Division *DMK*

FROM: Dolores Kinney, Senior Planner (301) 495-1321
Development Review Division

REVIEW TYPE: Request for an Extensions of the Validity Period for Preliminary Plan and the Adequate Public Facilities Review

PROJECT NAME: Spencer Farm Parcel B

CASE #: 120010600

REVIEW BASIS: Chapter 50, Montgomery County Subdivision Regulations

ZONE: RE-1 and RC

USE: Religious educational institution previously approved

LOCATION: Located on the north side of Spencerville Road, approximately 1,000 feet east of the intersection with Peach Orchard Road

MASTER PLAN: Cloverly

APPLICANT: Spencerville Seventh Day Adventist Church

ENGINEER: Oyster, Imus & Petzold, Inc.

FILING DATE: March 19, 2007

HEARING DATE: June 7, 2007

STAFF RECOMMENDATION: Extend the Preliminary Plan until July 31, 2007 and the Adequate Public Facilities until March 19, 2008.

BACKGROUND

The Subject Property is located on the north side of Spencerville Road, approximately 1,000 feet east of the intersection with Peach Orchard Road (Attachment A). It is within the Paint Branch Watershed Special Protection Area and contains 31.40 acres. The Subject Property is zoned RE-1 and RC.

The preliminary plan for Spencer Farm (Preliminary Plan No. 120010600) was approved on December 6, 2001 for a religious educational institution with a maximum number of 450 students, and a weekday child daycare program for up to 60 children (Attachment B). The Planning Board opinion for the action was mailed on February 19, 2002 (Attachment C). As a condition of the plan approval, the validity period for the preliminary plan was set at 37 months from the opinion mailing date, or March 19, 2005. The validity period for the Adequate Public Facilities review was established as 61 months from the opinion mailing date, or March 19, 2007.

Subsequent to the preliminary plan approval, the Planning Board has granted two extensions of the plan validity period based upon the finding that significant, unusual, and unanticipated events, beyond applicant's control and not facilitated or created by applicant, substantially impaired their ability to validate the plan and that exceptional or undue hardship (as evidenced, in part, by the efforts undertaken by applicant to implement the terms and conditions of the plan approval in order to validate its plan) would result to applicant if the plan were not extended (see Attachments D and E for staff analysis of these requests). By letter dated March 19, 2007, and subsequent letters dated March 23, 2007 and April 27, 2007 (Attachments F-H), the Applicant is requesting another extension of the preliminary plan validity, and an extension of the validity period for the adequate public facilities review.

DISCUSSION OF THE EXTENSIONS

Preliminary Plan Validity

Pursuant to Section 50-35 (h)(3)(d) of the Subdivision Regulations, the Planning Board may only grant a request to extend the validity period of a preliminary plan if the Board is persuaded that:

- i. delays, subsequent to the plan approval by the government or some other party, essential to the applicant's ability to perform terms or conditions of the plan approval, have materially prevented the applicant from validating the plan, provided such delays are not created or facilitated by the applicant; or
- ii. the occurrence of significant, unusual, and unanticipated events, beyond the applicant's control and not facilitated or created by the applicant, have substantially impaired the applicant's ability to validate its plan and that

exceptional or undue hardship (as evidenced, in part, by the efforts undertaken by applicant to implement the terms and conditions of the plan approval in order to validate it plan) would result to applicant if the plan were not extended.

The applicant's letter seeks the current extension based on reviewing agency delays that materially prevented the applicant from validating the plan.

Applicant's Position

The Applicant's March 23, 2007 letter points out that the applicant's team began addressing the final items needed for recordation of plats in October, 2006 after the Planning Board acted upon the last extension. Approvals needed included final stormwater management, erosion and sediment control, sewer, and highway paving plans; and final forest conservation and impervious surface plans. The applicant notes that they submitted the information needed to complete the final forest conservation and impervious surface reviews on December 8, 2006, with follow-up submittals on December 15 and 20, 2006. But for some reason, the submitted information did not reach the Environmental Planning staff reviewer. After the plans were resubmitted on January 20, 2007, environmental staff responded with comments and a request for additional information on February 13, 2007. From that point up to the end of the March 19, 2007 validity period the applicant and staff traded information and comments, but did not reach a point where the necessary approvals could be granted.

The applicant contends that the environmental reviews related to this plan were delayed by staff's inclusion of new and unexpected issues at the final stage of the review, and by staff's failure to respond to submittals in a timely fashion. These delays, according to the applicant, prevented the record plat from being recorded before the March 19, 2007 expiration date. The necessary approvals have now been granted and the applicant requests an additional 3-month extension so the record plat, which has been approved by all agencies and is ready to be sent to the land records office, can be recorded.

Staff's Position

It is evident that the Applicant has experienced difficulty in moving forward with the completion of the plan since the Board's approval on December 6, 2001. An initial extension request was granted by the Planning Board until March 25, 2006 based on a finding that there were a number of obstacles that contributed to the initial delay of the preliminary plan completion. Some of the same obstacles which precipitated those delays continued to prevent the recordation of the plat. Therefore the Planning Board granted another extension until March 19, 2007.

As to the latest extension request, it is staff's opinion that environmental review of the submitted plans was not untimely, but some of the elements of that review were unusual and unanticipated, and did affect the applicant's ability to validate the plan. Specifically, the review of the final forest conservation plan was affected by a recent decision on the part of staff and the applicant to create an offsite reforestation bank on the

subject property. This bank was created for use by the applicant to provide mitigation for forest being cleared as part of a separate project on the site of their existing church/school at 16325 New Hampshire Avenue. Although both projects have been ongoing for the past year, the forest conservation plans for each were being prepared by two different consultants. Staff assumed the two consultants were coordinating the comments made on the plans, but that did not occur. As a result, bank plans involving the new school site were prepared by the consultants for the church project, but were not shared or incorporated into the forest conservation plan for the school. This resulted in staff rejecting the final submission of the forest conservation plan for the school, because it did not incorporate the elements of the offsite reforestation bank.

Although the consultant for the school project did amend the forest conservation plan as required, and the plans were subsequently approved by Environmental staff just before the preliminary plan validity date, too much time had elapsed to actually get the record plat recorded. Staff acknowledges that confusion on the part of both staff and the applicant did cause delays in the approval of the forest conservation plan for this site. The fact that a concept for offsite reforestation banking was not a part of the original forest conservation plan approval for the subject property created the need for a change in the plan that was unanticipated by the applicant, which in turn delayed the final approval of the plan. Staff supports an extension of the validity period for the subject plan based upon these delays. The plat has already been reviewed, and just needs to be delivered to the land records office, but an impervious surface agreement remains outstanding after expiration of the APF validity period. Therefore, Staff recommends extension of the plan until July 31, 2007, one month longer than requested by the applicant.

Adequate Public Facilities Validity

As previously stated, the preliminary plan approval also established a validity period for the Adequate Public Facilities (APF) review that was completed for the subject property. This validity period expired on March 19, 2007. By letter of April 27, 2007, the Applicant has also requested that the Planning Board reinstate and extend the APF validity.

Sections 50-20(c)(5), (7) and (8) of the Montgomery County Code contain provisions under which the Planning Board may grant extensions of APF for non-residential developments. The subject application does not qualify for extension under any of these sections because none of the development or roadway improvements have been started. Nevertheless, Transportation Planning staff supports a limited extension in this instance.

As previously noted, Spencerville Seventh Day Adventist Church currently operates a private school on their existing church site at 16325 New Hampshire Avenue. The existing school accommodates 300 students in grades K through 12, and there is an associated daycare program for up to 30 children. The new school location will accommodate up to 400 students and 60 daycare children. Since approximately two-thirds of the traffic related to the proposed use is already in the general vicinity of the new site, Transportation Planning staff does not believe a short delay in construction of the new school will have a significant effect on road capacity. Although thru-traffic

along MD 198 has increased over the last few years with the opening of Norbeck Road Extended, connecting Spencerville Road with Norbeck Road, staff's review of available traffic data for area intersections (i.e., those that would be included in a Local Area Transportation Review traffic study for the subject site for APF purposes) indicated that they will operate below the respective area congestion standards. In addition, no significant land use changes are anticipated within the study area in the near future. Therefore, staff supports the applicant's request for reinstatement and extension of the APF approval and recommends that it be granted until September 19, 2007, a total of six months beyond the original expiration date.

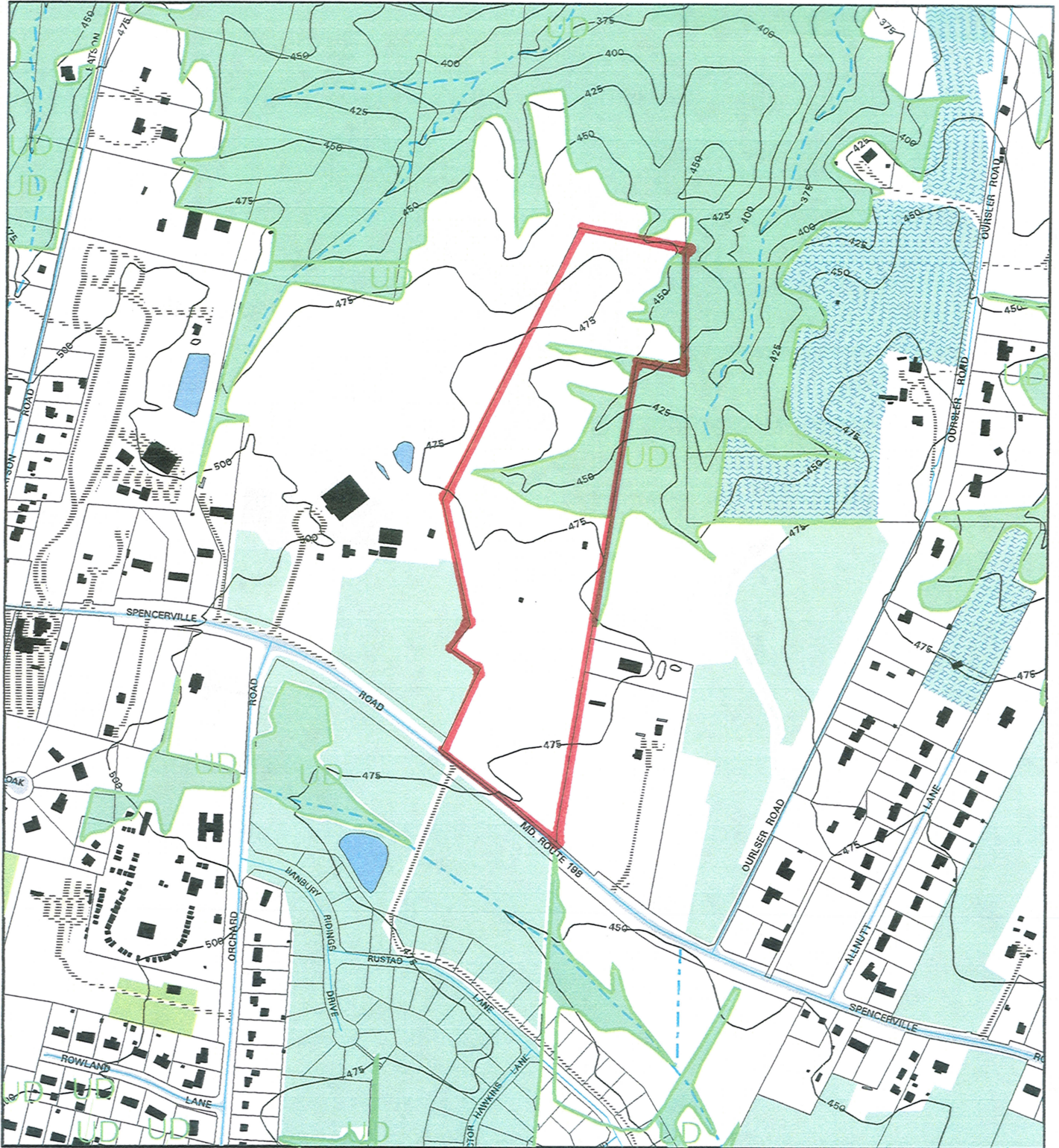
CONCLUSION

It is staff's determination that unanticipated changes needed before the final forest conservation plan for the subject property resulted in confusion between staff and the applicant that caused delays could be approved, which in turn made it impossible to record the plat for the property prior to the expiration of the plan validity period. In staff's opinion, this delay provides reasonable justification upon which the Planning Board can base the approval of a limited extension of the current validity period pursuant to Section 50-35(h)(3)(d) of the Subdivision Regulations. Staff therefore recommends that the preliminary plan be extended to July 31, 2007, to allow adequate time for the plat to be recorded. In addition, staff supports reinstatement, and a six-month extension, of the APF approval until September 19, 2007, based upon a finding that a short delay in construction of the new school will not have a significant affect on area road capacity.

ATTACHMENTS:

Attachment A	Vicinity Map
Attachment B	Approved Preliminary Plan
Attachment C	Preliminary Plan Opinion
Attachment D	August 4, 2005 Extension Staff Report (without attachments)
Attachment E	September 11, 2006 Extension Staff Report (without attachments)
Attachment F	March 19, 2007 Extension Request
Attachment G	March 23, 2007 Supplemental Information Letter
Attachment H	April 27, 2007 APF Extension Request

SPENCER FARM PARCEL B (120010600)



Map compiled on September 05, 2006 at 11:02 AM | Site located on base sheet no - 221NE03

NOTICE

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MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
8787 Georgia Avenue - Silver Spring, Maryland 20910-3760

Key Map



N

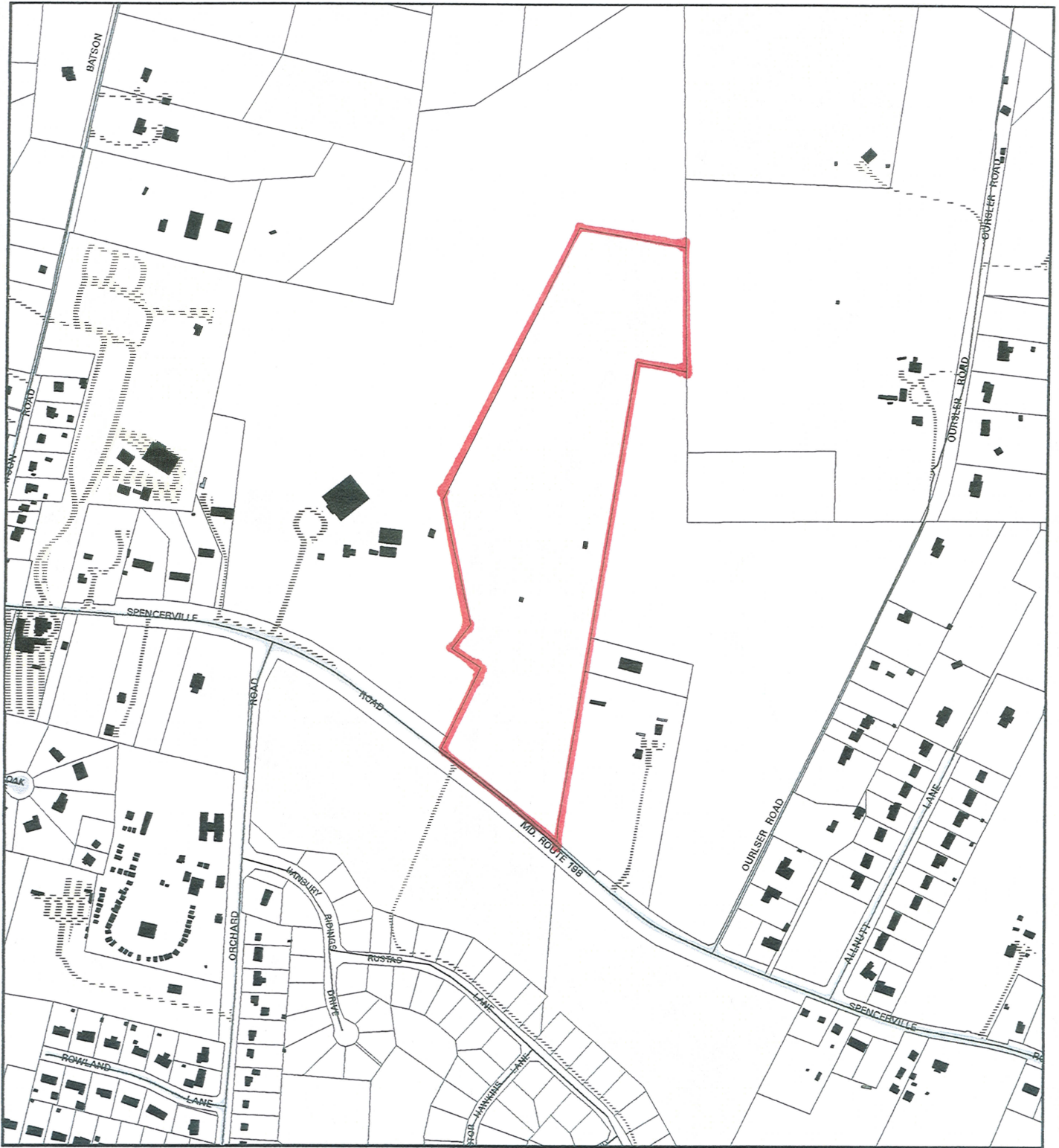


Research & Technology Center



1 inch = 600 feet
1 : 7200

SPENCER FARM PARCEL B (120010600)



Map compiled on September 05, 2006 at 11:08 AM | Site located on base sheet no - 221NE03

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Key Map



N



Research & Technology Center



1 inch = 600 feet
1 : 7200



Date Mailed: February 19, 2002

Action: Approved Staff Recommendation

Motion of Comm. Bryant, seconded by
Comm. Robinson with a vote of 5-0;Comms. Bryant, Holmes, Perdue,
Robinson and Wellington
voting in favor

MONTGOMERY COUNTY PLANNING BOARD

OPINION

Preliminary Plan 1-01060

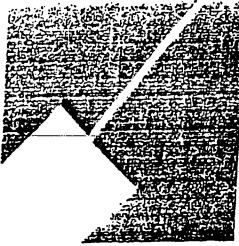
NAME OF PLAN: SPENCER FARM, PARCEL B

On 03/15/01, SPENCERVILLE SEVENTH DAY ADVENTIST CHURCH submitted an application for the approval of a preliminary plan of subdivision of property in the RE-1/RC zone. The application proposed to create 1 lot on 31.40 acres of land. The application was designated Preliminary Plan 1-01060. On 12/06/01, Preliminary Plan 1-01060 was brought before the Montgomery County Planning Board for a public hearing. At the public hearing, the Montgomery County Planning Board heard testimony and received evidence submitted in the record on the application. Based upon the testimony and evidence presented by staff and on the information on the Preliminary Subdivision Plan Application Form, attached hereto and made a part hereof, the Montgomery County Planning Board finds Preliminary Plan 1-01060 to be in accordance with the purposes and requirements of the Subdivision Regulations (Chapter 50, Montgomery County Code, as amended) and approves Preliminary Plan 1-01060.

Approval, subject to the following conditions:

1. Prior to record plat, applicant to enter into an agreement with the Planning Board to limit impervious surfaces to no more than 10 percent within the Upper Paint Branch Special Protection Area, as shown on the revised preliminary plan.
2. Prior to release of building permits, applicant to demonstrate conformance to impervious surface limits as shown on the revised preliminary plan. Any modifications to these plans that increase site imperviousness may require Planning Board action.
3. Compliance with the conditions of approval for the preliminary forest conservation plan dated September 28, 2001 and revised November 29, 2001. The final forest conservation plan must be approved prior to the recording of plat. The applicant must meet all conditions prior to recording of plat or MCDPS issuance of sediment and erosion control permit(s), as appropriate. Conditions include, but are not limited to, the following:
 - a. Category I conservation easements to be placed over environmental buffers, forest-save areas, and afforestation areas. Easements to be shown on record plats.
 - b. As part of the final forest conservation plan, show measures to protect 62-inch silver maple. This may include relocating a proposed equipment building to lie outside the tree's critical root zone.

4. If sewer service is to be provided by a gravity line that is located within the approved, but unbuilt, Peach Orchard Heights subdivision, the sewer line is to be located within the recorded Rustad Lane right-of-way. If there are sections of the sewer line that must lie outside the road right-of-way in order to connect to the existing sewer system or to the subject property, location of the line must be field-located and reviewed and approved by M-NCPPC.
5. Conformance to the conditions as stated in DPS' water quality plan approval letter dated August 14, 2001.
6. Compliance with the conditions of approval for the preliminary forest conservation plan. The applicant must satisfy all conditions prior to recording of plat(s) or MCDPS issuance of sediment and erosion control permits
7. All roads rights-of-way shown on the approved preliminary plan shall be dedicated by the applicant, to the full width mandated by the Cloverly Master Plan, unless otherwise designated on the preliminary plan
8. Limit the preliminary plan to a private weekday educational institute on the new site for kindergarten through twelfth grade, a maximum of 450 students, and a weekday child daycare program for up to 60 children.
9. Coordinate with and submit a plan to the Maryland State Highway Administration (SHA) regarding the site access from Spencerville Road (MD 198) based on the current weekday peak-hour of the site with 300 children and the projected arrival and departure pattern for the proposed 450 children, to satisfy SHA's requirements for acceleration, deceleration, and bypass lanes. Review and approval to be done prior to record plat and agreement to limit impervious surfaces.
10. Provide sufficient on-site queuing area so that vehicles waiting to drop-off and pick-up students will not spill over onto Spencerville Road. Review and approval to be done prior to record plat and agreement to limit impervious surfaces.
11. Provide final parking facilities plan to be reviewed by technical staff
12. Dedicate 25 feet of additional right-of-way for 120 feet along Spencerville Road.
13. Coordinate with SHA's MD 28-MD 198 Planning Study (e.g., contact the project manager, Shawn Burnette, at 1-410-545-9531)
14. Record plat to show delineation of a Category I or II (as appropriate) conservation easement over the stream buffer(s) and all forest conservation areas
15. Compliance with conditions of MCDPS storm water management approval
16. Access and improvements as required to be approved by MDSHA prior to issuance of access Permit
17. This preliminary plan will remain valid for thirty-seven (37) months from the date of mailing of the Planning Board opinion. Prior to the expiration of this validity period, a final record plat for all property delineated on the approved preliminary plan must be recorded or a request for an extension must be filed
18. The Adequate Public Facility (APF) Review for this preliminary plan will remain valid for sixty-one (61) months from the date of mailing of the Planning Board opinion
19. A Lighting and Landscaping plan must be submitted as part of the record plat application for review and approval by staff prior to recording of plat
20. Necessary Easements



8787 Georgia Avenue
Silver Spring, Maryland 20910-3760
301-495-4500, www.mncppc.org

August 10, 2005

Spencerville Seventh Day Adventist Church
15930 Good Hope Road
Silver Spring, MD 20905

Preliminary Plan No. 1-01060E

Request for an extension of the validity date for the **SPENCER FARM, PARCEL B - EXTENTION**

This is to inform you that the Montgomery County Planning Board considered your request for an extension to the validity period of the above-mentioned plan at its regularly scheduled meeting of **August 4, 2005**. At that time, the Planning Board voted 3-0 to grant an extension to March 25, 2006. (Commissioner Perdue made the motion; Commissioner Wellington seconded; Chairman Berlage, and Commissioners Perdue and Wellington voted in favor; Commissioners Bryant and Robinson absent.

If you have any questions concerning this Planning Board action, please call me at (301) 495-4544.

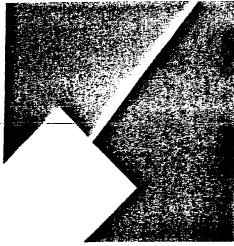
Sincerely,

A handwritten signature in cursive script, likely belonging to Richard Weaver.

Richard Weaver, Planner Coordinator
Development Review Division

cc:

M-NCPPC



MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

MCPB

Item #

October 5, 2006

8787 Georgia Avenue
Silver Spring, Maryland 20910-3760
301-495-4500, www.mncppc.orgMEMORANDUM

DATE: September 11, 2006

TO: Montgomery County Planning Board

VIA: Rose Krasnow, Chief *RK*
Catherine Conlon, Supervisor *CC*
Development Review Division *DM*

FROM: Dolores Kinney, Senior Planner (301) 495-1321
Development Review Division

REVIEW TYPE: Request for an Extension of the Preliminary Plan Validity Period

PROJECT NAME: Spencer Farm Parcel B

CASE #: 120010600 (Formerly 1-010600)

REVIEW BASIS: Chapter 50, Section 50-35 (h)(3)(d), Montgomery County
Subdivision Regulations

ZONE: RE-1 and RC

USE: Religious educational institution previously approved

LOCATION: Located on the north side of Spencerville Road, approximately
1,000 feet east of the intersection with Peach Orchard Road

MASTER PLAN: Cloverly

APPLICANT: Spencerville Seventh Day Adventist Church

ENGINEER: Oyster, Imus & Petzold, Inc.

FILING DATE: August 7, 2006

HEARING DATE: October 5, 2006

STAFF RECOMMENDATION: Grant one-year extension of the validity period to March 25, 2007, pursuant to Section 50-35(h)(3)(d), Montgomery County Subdivision Regulations.

PROJECT DESCRIPTION

The Subject Property is located on the north side of Spencerville Road, approximately 1,000 feet east of the intersection with Peach Orchard Road (Attachment A). It is within the Paint Branch Watershed Special Protection Area and contains 31.40 acres. The Subject Property is zoned RE-1 and RC. The Planning Board approved Preliminary Plan #120010600, entitled Spencer Farm Parcel B, for the Subject Property, on December 6, 2001 for a religious educational institution (Attachment B).

BACKGROUND

The Planning Board Opinion for the approval of the subject preliminary plan was mailed on February 19, 2002 (Attachment C). As a condition of that approval the validity period of the preliminary plan was set at 37 months from the opinion date, or March 19, 2005. By letter dated February 25, 2005, (Attachment D), the Applicant requested an extension of the validity period for an additional six-month period. The reasons for the request were: 1) delays in the procedure pertaining to the transfer of ownership to the current owners; 2) delays due to impacts of the ICC alignments on the adjacent property; and 3) continued negotiations with potential shared users of the proposed sewer. By letter dated August 10, 2005, (Attachment E), the Planning Board granted a one-year extension until March 25, 2006.

By letter dated July 27, 2006, (Attachment F), the applicant is requesting further extension of the validity period of the preliminary plan for another year. The current request was not submitted in a timely manner, due to the Applicant's misunderstanding regarding the expiration of the extension previously granted by the Planning Board. The Applicant thought that the extension would expire one year from the date of the extension approval letter, dated August 10, 2005. Although the extension request was not submitted prior to the expiration of the validity period, the Applicant is requesting reinstatement of the preliminary plan, and further extension based upon unusual and unanticipated events, beyond the applicant's control, which delayed the completion of the terms of the plan approval.

Section 50-35(h)(3)(d)

Grounds for Extension of the Validity Period of a Preliminary Plan

The Planning Board may only grant a request to extend the validity period of a preliminary plan if the Board is persuaded that:

- i. delays, subsequent to the plan approval by the government or some other party, essential to the applicant's ability to perform terms or conditions of the plan approval, have materially prevented the applicant from validating the plan, provided such delays are not created or facilitated by the applicant; or

- ii. the occurrence of significant, unusual, and unanticipated events, beyond the applicant's control and not facilitated or created by the applicant, have substantially impaired the applicant's ability to validate its plan and that exceptional or undue hardship (as evidenced, in part, by the efforts undertaken by applicant to implement the terms and conditions of the plan approval in order to validate its plan) would result to applicant if the plan were not extended.

Applicant's Position

There were a number of events, which occurred concurrently, that prevented the preliminary plan from moving forward. First, provision of sewer, which is a prerequisite to recordation of a record plat, was problematic. According to the information provided by the Applicant, from 2001 through 2005, a period of four years, the Applicant was attempting to design and implement a sewage disposal system.

As part of the Spencer Farm approval, an option to connect to a planned gravity sewer extension in the nearby Peach Orchard Heights subdivision was identified. However, the property within the Peach Orchard Heights Subdivision was acquired by SHA as one of the alternative routes for the Inter-County Connector (ICC), which put on hold construction of the planned sewer. In June 2001, the Applicant was granted permission by the State Highway Administration (SHA) to construct the sewer outfall in the public rights-of-way in the Peach Orchard Heights Subdivision.

The sewer outfall and the grading elevation right-of-way plans were being prepared when the Applicant entered into negotiations with other possible users of the proposed sewer to determine the shared cost. The negotiations began in 2001 and continued into 2003, but failed when the users refused to contribute. In August of 2004, it was determined that the estimated construction cost to the Applicant for a gravity sewer was \$400,000. The shared cost was \$200,000. Therefore, the sewer service was too costly to pursue.

In October 2004, the Applicant began to pursue a temporary septic system, which required water table testing. But the option to use septic failed in September 2005 when it was determined that the soils in the Paint Branch Watershed Special Protection Area were not suitable. The test results indicated that a septic system in this area was not environmentally safe.

After the Applicant resumed work on the gravity sewer plan, in November 2005, it was determined that a dedicated pressure sewer could be used to serve the Subject Property. This option is currently under review by the Washington Sanitary Sewer Commission (WSSC). The Applicant believes that once the sewer system is approved by WSSC, there should be no further delays to prevent recordation of the plat.

Staff's Position

An initial extension request was granted based on a finding that there were a number of obstacles that contributed to the initial delay of the preliminary plan completion. Some of the same obstacles, which precipitated those delays, have continued to prevent the recordation of the plat.

The Applicant has explored water table testing, which proved not to be a viable option. The Applicant also pursued installing gravity sewer, but could not achieve participation and shared costs from other users.

In accordance with Section 50-35(h)(d), Staff finds that failed negotiations with potential shared users of the sewer, and the failed water table testing constitute unusual and unanticipated events, beyond the applicant's control and not facilitated or created by the applicant, which have substantially impaired the applicant's ability to validate the preliminary plan.

It is evident that the Applicant has experienced difficulty in moving forward with the completion of the plan since the Board's approval on December 6, 2001. Given the time, effort and resources, financial and otherwise, undertaken to pursue the preliminary plan, the Applicant would suffer undue hardship if the plan were not extended. The applicant has attempted to pursue compliance with the conditions of the preliminary plan, but faced obstacles, which impaired the ability to validate the preliminary plan. The applicant has provided sufficient grounds to justify the extension of the validity period of the subject preliminary plan. As such, an additional one-year extension of the validity period to March 2007 should be granted.

ATTACHMENTS:

Attachment A	Vicinity Map
Attachment B	Preliminary Plan
Attachment C	Preliminary Plan Opinion
Attachment D	February 25, 2005 Extension Request
Attachment E	August 10, 2006 Planning Board Extension Approval
Attachment F	July 27, 2006 Extension Request
Attachment G	Supplement to July 27 th Extension Request
Attachment H	July 29, 2005 Staff Report

ATTACHMENT F



SEVENTH-DAY
ADVENTIST
CHURCH

Spencerville Church

Catherine Conlon
Supervisor Development Review Division

Fax: 301-495-1306

16325 New Hampshire Avenue
Silver Spring, Maryland
20905 USA
Telephone: (301) 384-2920
Fax: (301) 421-9550
www.spencervillesda.org

Reference: Spencer Farm, Parcel B, Plan #1-01060

We hereby serve notice of our intent to file a formal extension request for the referenced plan name and parcel. An application along with fees and justifying support information will be delivered within a week. Please insure notice of our intention is documented prior to the close of business today March 19, 2007.

Thank You

Gerald D Lutz, Pastor

March 23, 2007

ATTACHMENT G

Ms. Rose G. Krasnow, Chief
MNCP&PC Review Division
8787 Georgia Avenue
Silver Spring, MD 20910

**RE: Request for an Extension
Spencer Farm Parcel B - Preliminary Plan 1-01060**

Dear Ms. Krasnow:

On behalf of the pastor and membership of Spencerville Seventh Day Adventist Church along with the members and directors of Spencerville Adventist Academy, we hereby formally request an extension to the validity period for the project know as Spencer Farm Parcel B.

The previous extension, which was approved on October 5, 2006, expired March 19, 2007. It noted reasons for the delays, among other things, the county connector alignment, public sewer access, attempted private onsite sewage disposal (failed water table and soil test for an environmentally safe system). We noted we were in the process of a WSSC review of our application to construct a private offsite pump sewer system. We subsequently received their approval. Available sewer service was one of the conditions.

At the time the Board approved our extension request, there were 20 conditions to be addressed prior to the approval of our preliminary plan. Our design team immediately reacted to expedite the approvals required. A package of response to the conditions was assembled and presented to staff on December 8, 2006. The transmittal from Oyster, Imus & Petzold, Inc. noted inclusion of:

- Draft of Forest Conservation Maintenance and Management Agreement
- Attachment "A" (copy of approved Forest Conservation Plan)
- Attachment "B" (Easement Document)
- Exhibit A (Easement Descriptions for the two "Tree Bank" areas)
- Sketch A and B (Drawings of the two easement areas)
- Sketch "C" (drawing of the entire property showing propose Parcel "B" and the FC Easements).

On December 15, 2006; another package was submitted with a transmittal noting inclusion of:

- Revised Forest Conservation Plan
- Copy of your Comments (for review)

Yet another submission was made on December 20, 2006; it was addressed to Ms. Candy Bunnag and hand delivered through the normal intake process. On a routine follow up one of our engineers, who was not able to reach staff via phone made a visit to Park and Planning. He was informed that this submission never reached her desk. It was resubmitted on January 20, 2007; one day after learning this.

Our team was working concurrently to obtain approval from WSSC for the sewer system. We were required to perform a separate survey of roughly one-mile of offsite easement, and develop a preliminary design of the pump system. Normally design of a gravity system can be completed post conceptual WSSC approval. In our case the system concept approval required an actual design be submitted. Without this approval one of the conditions for approval would not be met. We shortly thereafter, received the approval and provided evidence of it to staff.

On December 20, 2006; our consultant addressed the comments pertaining to the Roadway improvement plan for Montgomery County MD-198. On January 8, 2007; we received (from SHA), three additional comments. These were promptly addressed and resubmitted. We subsequently received their approval and provided evidence of it to staff.

On December 20, 2006; we submitted the lighting, landscape and parking plan addressing comment #19. The transmittal for this submission was directed to your attention (Ms. Rose G. Krasnow, Chief).

On Monday, January 29, 2007; we received communication from staff member Taslima Alam noting that only three issues remained outstanding. They pertained to condition #1, 19, 9 and 10 the landscape and lighting plan, State Highway acceptance of our plan and the need for us to submit a preliminary plan compliance agreement. These were all in the hands of reviewers. At this time we had every reason to believe that this was the entire outstanding list of conditions to be addressed prior to approval and recording.

The Lighting and landscape plan was approved and called to our attention on Tuesday, February 6, 2007. State Highway also approved the roadway issues and it was determined by staff that the WSSC approval letter did not actually have to be included prior to recordation. Other satisfactory evidence was provided instead.

Staff noted to our consultant on the morning of February 6, 2007; that the lighting and landscaping plan was approved and that the only other signature of approval needed to come from Ms. Bunnag. In the afternoon of February 6, 2007; our consultant went to Park and Planning hoping to move the plan to DPS for their final review. He learned that an issue relating to the impervious requirements was unresolved. Ms. Bunnag had been involved in helping the Spencerville church use a portion of surplus property (on the academy site), to create a "conservation bank". This was established to justify the enlargement of a parking area at the church site. The School site still has more than two acres of surplus available for this purpose. It was Ms. Bunnag who had suggested this process during the review of the Church site. The plan which was prepared by another engineer had been approved, planted and inspected several months prior. Staff noted that though the boundary of the site was the same on both plans there was an inconsistency between the two plans. We

worked diligently to correct this to her satisfaction. Any staff comment was addressed promptly (in most cases within 24 hours).

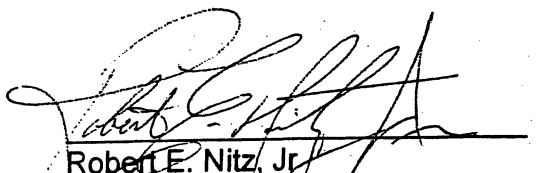
On February 13, 2007; we received a FAX at 1:00 p.m. from staff (Ms. Bunnag), noting issues pertaining to the impervious calculation and for the first time in the process, deficiencies in the "Forest Conservation Plan". We went from needing to meet only three remaining requirements to learning of new, significant issues, which were not previously, known to us. Had these questions been part of any previous comments we would have addressed them. We have been diligent in our response. At least six resubmissions have been made since February 20, 2007; in many cases addressing new issues. Numerous communications exist to support our prompt response. We recently requested an update on our response to her comments and learned that again, Ms. Bunnag had never received them. We recreated the response and again hand delivered it.

Even with the above noted challenges, we were able to receive all approvals except a final approval from Ms. Bunnag by Thursday, March 15, 2007. We appealed to staff supervisors on Friday, March 16, 2007; to expedite the signature and recording process, but learned it could not be accomplished. Final signature from Ms. Bunnag was provided on Tuesday March 20, 2007.

We understand that the workload is overwhelming the staff at Park and Planning. It is not our intention to single out or approach our situation with malice toward the commission. We do believe that we have made every effort to comply with the requirements for approval of our plan. It should be noted that a major contributing factor to the delays is the limited access to review staff. If there is a policy that staff is only available at certain times of the day or days of the week (either for phone conversation or meetings at the counter), what times are these? Is there a policy about what is a reasonable time to wait for a returned phone call? As of Friday, March 16, 2007; I had placed no less than a dozen calls over a six-week period without a returned call. My first returned call came from a staff supervisor who obviously heard my distress regarding this issue. With only minor improvement in this area we would not be asking for an extension at this time.

At this time we believe we only need a short window in order to complete the process of recording the plat. Staff would know better than we would. We would like to request a three-month extension, which could be shortened to the satisfaction of the board depending on what is needed to complete the process. We are not aware of any additional information required from us at this time. We solicit your advice on this matter as we seek to minimize additional delay. We ask that we be granted this extension approval.

Sincerely,



Robert E. Nitz, Jr.
Agent for Spencerville SDA Church

ATTACHMENT H

April 27, 2007

Ms. Rose G. Krasnow, Chief
MNCP&PC Review Division
8787 Georgia Avenue
Silver Spring, MD 20910

RE: REVISED - Request for an Extension
Spencer Farm Parcel B - Preliminary Plan 1-01060

Dear Ms. Krasnow:

Please revise our request to extend the validity period of Preliminary Plan #1-01060, to include the information previously referenced in our application letter dated March 23, 2007, and to also consider an extension to the Adequate Public Facilities Validity Period. Justification for our request is presented below.

Under section (3) Extension of Validity Period, subsection (D) Grounds for Extension of the Validity Period of a Preliminary Plan, which states that the Planning Board may only grant a request to extend the validity period of a preliminary plan if the Board is persuaded that: (i) delays, subsequent to the plan approval by the government or some other party, essential to the applicant's ability to perform terms of conditions of the plan approval, have materially prevented applicant from validating the plan, provided such delays are not created or facilitated by the applicant; or (ii) the occurrence of significant, unusual, and unanticipated events, beyond applicant's control and not facilitated or created by applicant, have substantially impaired applicant's ability to validate its plan and that exceptional or undue hardship (as evidenced, in part, by the efforts undertaken by applicant to implement the terms and conditions of the plan approval in order to validate its plan) would result to applicant if the plan were not extended.

The applicant has had no ability to control the timing of such elements as the Proposed Inter-County Connector extension and its chosen route. The applicant's access to the original designed sewer system (type and route), was held up and ultimately determined to be unavailable due to continuing issues related to the ICC. The applicant was also required to make substantial revisions to the Sediment and Erosion Control Plans; Storm Water Concept Plans and has revised the Impervious Area and Conservation Area Plans and documents to meet current standards. The requirement for some of these changes were not noted in comments generated by staff until very late in the Validity period. Delays in processing by State Highway Administration and WSSC have further hindered the Applicant's ability to validate the plan in the time allotted. The applicant's proactive attempt to circumvent further time delays included consideration for the use of a private septic system. The Applicant performed water table testing and soil boring analysis to study the possibility. Test results revealed that a satisfactory system could not be designed for this site, therefore the Applicant continued and ultimately received approval from WSSC to construct a private offsite system. Other causes for delay beyond the Applicant's control are noted in the previously submitted Request for an Extension to the Preliminary Plan validity period.

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The Applicant notes that further delays would cause additional hardship in the form of added administrative cost, added design and increased construction cost and possible loss of donor support, to name a few. Perhaps the most adverse impact caused by further delay is that while waiting to construct the new facilities, the school will continue to be limited by the current facilities. Though code compliant, our facilities are not adequate to provide the level of education, and student care, which will be provided by the new facilities. The new school design is more in keeping with the design of Montgomery County school buildings. Students who are waiting to enter Spencerville Academy will continue to be educated by or enter for the first time, the Montgomery County School system, we believe this has the effect of adding to the overcrowding of the local public school system.

According to section 50-35 of the Preliminary subdivision plans-Approval procedure. Section (h)(3)(D) ii, the final paragraph states "An applicant may request, and the Board may approve, one or more extensions". Spencerville Academy is anxious to validate the preliminary plan and move to construction at the earliest possible date. Please note that the final preliminary plan approval signature by staff was received only one day after the expiration of the Validity Period. At that time with only a few additional days the plan could have been recorded. The applicant made every effort to complete the process within the allotted period. Please see the chronology listed in the original request for an extension submitted by the applicant on March 23, 2007, for details.

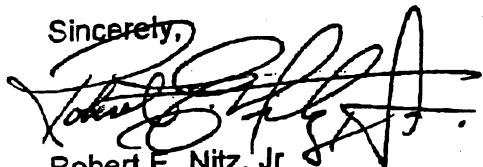
Concurrent with the expiration of the Preliminary Plan Validity Period the Adequate Public Facilities Validity period also expired. Since the only reason for expiration of the active APF period was the expiration of the Preliminary Plan validity period and since that expiration occurred for the reasons previously mentioned and noted herein, we request an extension of the APF validity period as well. The subdivision code states that "The Planning Board may approve one or more extensions", (to the APF validity period), "provided that the length of all extensions for the development do not exceed 2-1/2 years for subdivisions with an original validity period of 5 years". The Applicant has not previously needed or requested an extension to this validity period. Section 50-35 (k) Adequate Public Facilities (states), "The Planning Board must not approve a preliminary plan of subdivision unless the Board finds that public facilities will be adequate to support and service the area of the proposed subdivision." Paragraph (6) (states), "This subsection does not apply to any place of worship, residence for religious staff, parish hall, or addition to a school associated with a place of worship." Our facilities will include a Chapel (place of worship), an area comparable to a parish hall and is a school associated with a place of worship. Though not an addition, the new location is in close proximity (less than one mile) to the existing location and generally in the same traffic system. Our current enrolment is 325 students; the future (new location) enrolment is planned to increase by only 38% to 450. Even with the increase, the new facilities provide numerous improvements to the local traffic infrastructure. Much improved ingress/egress, proper queuing for student drop off and pick up will eliminate school traffic backing up onto the local roadways. The new location entrance driveway is located roughly 1/4 mile from the nearest intersection. The current facilities do not allow for acceleration or deceleration prior to entering the traffic flow, there is very limited queuing area and the traffic from the school directly impacts the intersection, which is located at the corner of the school property. The Applicant has recently received approval from Maryland Department of Transportation for the

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improvements to the frontage of the new site. The new location provides more efficient, safer traffic flow and less adverse impact to the existing local infrastructure.

We respectfully request approval to extend the referenced Validity Periods and to assist with recording the Preliminary Plan.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert E. Nitz, Jr.", written over a horizontal line.

Robert E. Nitz, Jr
Agent for Spencerville SDA Church