



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

MCPB
Item #
2/11 /10



MEMORANDUM

DATE: January 29, 2010

TO: Montgomery County Planning Board

VIA: Rose Krasnow, Chief *RK*
Catherine Conlon, Subdivision Supervisor *CAC*
Development Review Division

FROM: Richard Weaver, Coordinator (301-495-4544) *RAW*
Development Review Division

REVIEW TYPE: Preliminary Plan of Subdivision (Resubdivision)

APPLYING FOR: Two lots for one house of worship and associated parking

PROJECT NAME: Miracle Temple Assembly of God
CASE #: 120080290
REVIEW BASIS: Chapter 50, Montgomery County Subdivision Regulations

ZONE: R-200
LOCATION: In the southwest corner of the intersection of Woodwell Road and Alderton Road
MASTER PLAN: Aspen Hill

APPLICANT: Miracle Temple Assembly of God
ENGINEER: RDA

FILING DATE: July 22, 2008
HEARING DATE: February 11, 2010

RECOMMENDATION: Approval subject to the following conditions:

- 1) Approval under this preliminary plan is limited to two lots for one house of worship with a maximum of 360 seats and associated parking with no weekday education facilities or weekday daycare.
- 2) The proposed development must comply with the conditions of the preliminary forest conservation plan. The applicant must satisfy all conditions prior to recording of plat(s) or Montgomery County Department of Permitting Services (MCDPS) issuance of sediment and erosion control permits.
- 3) The Applicant must comply with the Landscape Plan revised on March 17, 2009, and must further modify the plan to include a lighting plan for staff approval, prior to issuance of building permits.
- 4) Prior to recordation of the plat, the Applicant must meet all MCDPS requirements to ensure the final construction, as part of this development, of an 8 ft. wide shared use path within the public street right-of-way along the property frontage of Alderton Road, as recommended by the draft ICC Functional Master Plan. The certified preliminary plan must be correctly reflect this trail.
- 5) The Applicant must comply with the conditions of the Montgomery County Department of Permitting Services (MCDPS) stormwater management approval dated August 29, 2007. These conditions may be amended by MCDPS provided the amendments do not conflict with other conditions of the preliminary plan approval.
- 6) The Applicant must comply with the conditions of the Montgomery County Department of Transportation (MCDOT) letter dated December 16, 2008. These conditions may be amended by MCDOT provided the amendments do not conflict with other conditions of the preliminary plan.
- 7) The Adequate Public Facility (APF) review for the preliminary plan will remain valid for eighty-five (85) months from the date of mailing of the Planning Board resolution.
- 8) Other necessary easements must be shown on the plat.

SITE DESCRIPTION (See figure 1)

The subject property "Property" or "Subject Property" is identified as Part of Lot 8, Harry Martin Subdivision, on Tax Map JR 23. It is 96,926 square feet in size and is zoned R-200. It is located in the southeast corner of the intersection of Woodwell Road and Alderton Road in the Aspen Hill Master Plan area, "Master Plan". Surrounding uses are consistently residential in all directions, developed under R-200 densities. The Matthew Henson State Park and trail, formerly the Rockville Facility right-of-way, lies to the south of the Property. Alderton Road currently terminates at the Matthew Henson Park.

The Subject Property is improved with a one family residential structure of unknown age and a number of associated outbuildings. There is no forest on the property and, other than four specimen trees, there are no environmentally significant features. The Property drains to the Northwest Branch, a Use-IV-P watershed. The Property is currently served or is accessible to water, sewer, gas, electric and telecommunications utilities.

PROJECT DESCRIPTION (see figure 2)

The application proposes to resubdivide the part of a lot into two lots and one stormwater management parcel; one lot will be 36,156 square feet in size and the other will be 46,609 square feet in size. The proposed use on the lots is for a religious institution with a capacity of 360 seats and its associated parking, both of which are permitted uses within the R-200 zone. This facility will operate on weekends only; there will be no weekday educational classes nor will there be a weekday child day care operation. The Pastor has stated that there will be an evening Bible study on Wednesday evenings. Access to the church will be at two locations, one on Woodwell Road and the other from Alderton Road.

MIRACLE TEMPLE ASSEMBLY OF GOD (120080290)

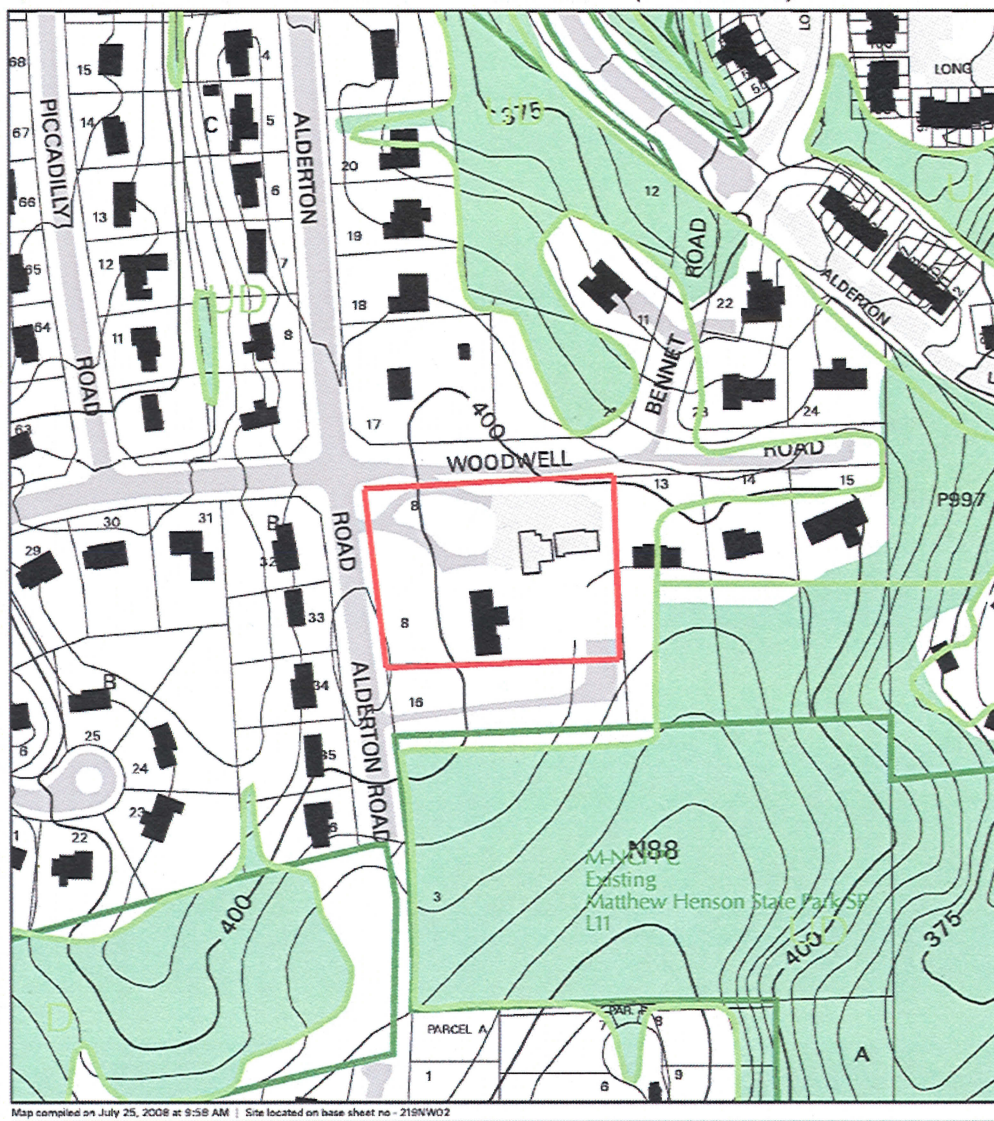


Figure 1

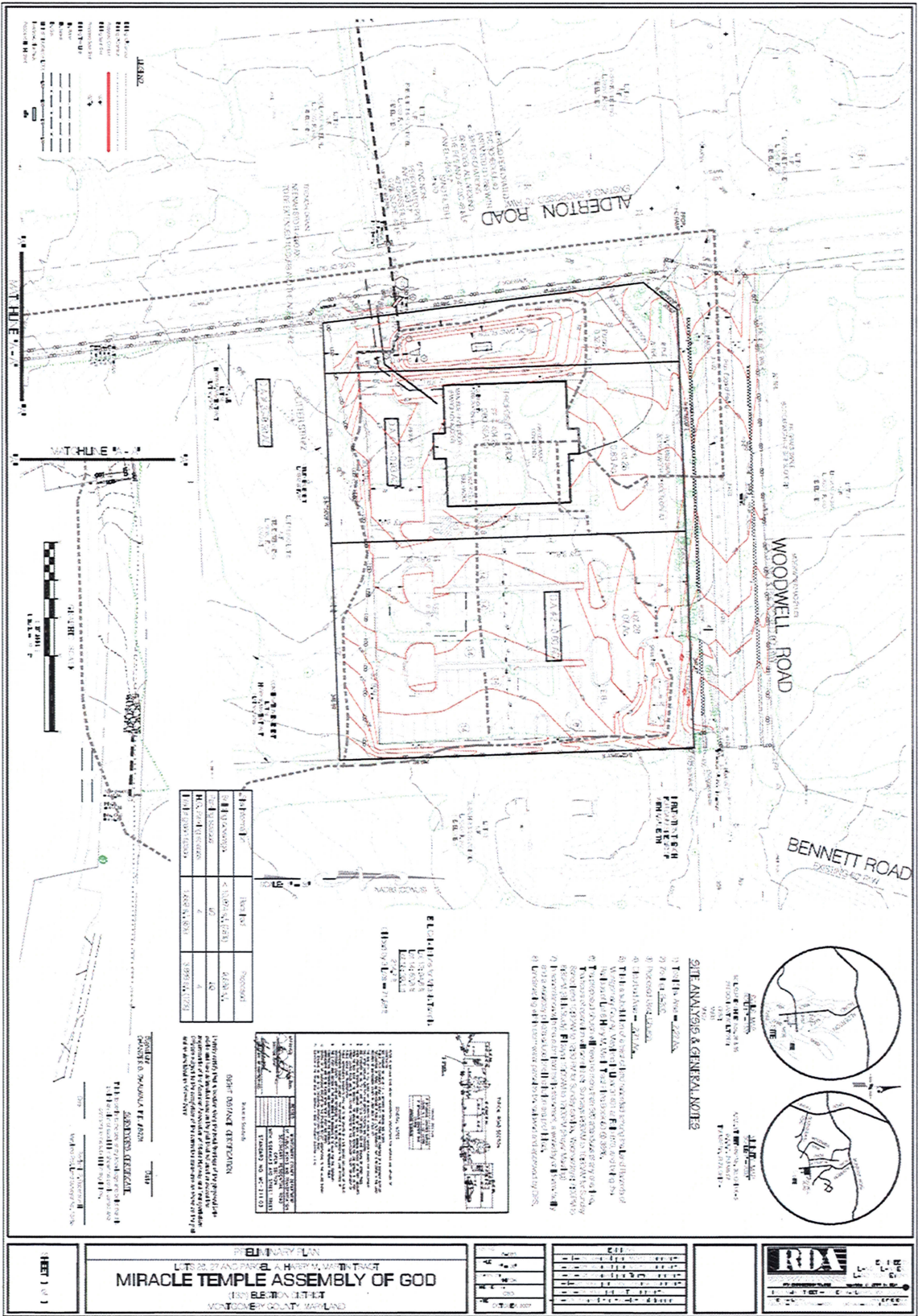


Figure 2

PREVIOUS PLANNING BOARD HEARING

This plan was initially submitted to create one lot. That configuration was considered by the Planning Board at a hearing on January 22, 2009. The Board did not agree that the proposed single lot had a high correlation with other lots in the neighborhood with respect to all seven of the resubdivision criteria. The Board suggested a waiver might be appropriate, and the applicant requested a deferral of the Board's decision to investigate that option. On February 19, 2009, the application was brought back before the Planning Board as a one lot resubdivision that included a request for a waiver pursuant to Section 50-38 of the Montgomery County Subdivision Regulations to permit a large lot. The waiver sought relief from the strict application of the resubdivision criteria based on unusual circumstances created by earlier resubdivision of the Property. The Applicant argued, and staff agreed, that the Property had not been properly platted when a portion of it was severed for a residential lot in 1994, leaving an unplatted remainder. If that resubdivision had been properly done, a larger lot would have been acceptable based on the fact that the resubdivision was bringing an even larger lot closer to conformance with other lots.

A lengthy discussion ensued regarding the resubdivision, the justification for the waiver and Churches as a permitted use in the zone. The opposition's attorney argued that it was not appropriate to grant such a waiver because it was not the minimum necessary to grant relief from the Subdivision Regulations because the property could likely be successfully divided into more than one. Others argued that a religious institution in the middle of a neighborhood would be a nuisance with respect to traffic, noise, and stormwater. Some residents implored the Board to deny the application based on community impact. It was also discussed that the property could be split into two or three lots, and that such a plan could possibly meet the resubdivision criteria test.

Ultimately, the Applicant's attorney requested a deferral to investigate a revision to the application that would request more than one lot that could both accommodate the church building and parking, and meet the resubdivision test. Deferral was again granted by the Board.

ANALYSIS AND FINDINGS FOR THE REVISED APPLICATION

Master Plan Compliance

The Aspen Hill Master Plan does not specifically make recommendations for this site. The Plan supports continuation of the current R-200 zoning. The proposed use is consistent with the Master Plan land use objectives of protection, enhancement and continuation of the current land use pattern. Religious institutions are permitted within the R-200 zone; therefore, the use is in conformance with the Master Plan.

Public Facilities

Roads and Transportation Facilities

The proposed use is exempt from the Adequate Public Facilities traffic test because it is a place of worship that will not generate 30 or more vehicle trips during the weekday morning or evening peak-hours. Staff finds that the current vehicle and pedestrian access for the subdivision will be safe and adequate with the public improvements proposed by this plan, namely sidewalks, widening of Woodwell Road and the access driveways.

Alderton Road is a master planned primary residential street with a 70 foot wide right-of-way with 36 feet of pavement width that can accommodate two through-lanes, parking on both sides of the street and sidewalks. It is designed to carry high amounts of residential traffic and to provide safe pedestrian access. Staff finds that local access to the proposed use is adequate with the road network as it currently exists. If Alderton Road is ever connected through the Matthew Henson State Park, it will likely be a major conduit, primarily for local residents, to access Bonifant Road, Layhill Road and Randolph Road, through the Poplar Run Subdivision to the south. This connection is envisioned by both the Kensington Wheaton Master Plan and the Aspen Hill Master Plan.

Other Public Facilities and Services

The application has been reviewed by all local utility agencies (gas, electric, and telecommunications) who have recommended approval of the plan with a finding that their respective utility can adequately serve the development. Other public facilities and services, such as schools, police stations, firehouses and health services, are operating within the standards set by the Growth Policy Resolution currently in effect. The Property is not subject to payment of a School Facilities Payment since this is not a residential use.

Environment

Forest Conservation

A preliminary forest conservation plan was submitted with the preliminary plan. There is a planting requirement of 0.41 acres. All forest conservation requirements are being met off-site, as there are no priority areas on-site. There are five specimen trees ($\geq 30''$) and two large trees ($\geq 24''$) onsite; all will be removed as part of the development. No off-site specimen or large trees will be affected by this development.

As per Maryland State Senate Bill 666, the applicant has requested a variance to remove the following trees: 43'' red maple in fair condition, 55'' silver maple in fair condition, 30'' yellow poplar in fair condition, 32'' yellow poplar in good condition, and 33'' willow oak in good condition. Montgomery County Code 22A (Forest Conservation Law (FCL)) Section 22A-21(c) requires the Planning Board to refer a copy of each variance request to the County Arborist in the Montgomery County Department of Environmental Protection and other appropriate officials or agencies for a written recommendation prior to acting on the request. The variance request was

referred to the County Arborist on January 20, 2009, and the Arborist has elected not to review the variance request, so the recommendation is presumed to be favorable. A letter to this effect was received from DEP dated January 28, 2010.

Forest Conservation Law (FCL), Section 22A-21(e) states that the Planning Board must make findings that the applicant has met all requirements of this section before granting a variance. FCL Sect. 22A-21(d) states that a variance must *not* be granted if granting the request:

1. *Will confer on the applicant a special privilege that would be denied to other applicants.*

Staff finding: The requested variance will not confer on the applicant any special privileges that would be denied to other applicants. Two of the trees are located in the Woodwell Road ROW; the other three trees requested to be removed are located interior to the project site. None of the trees are champion trees or 75% of the DBH of the state champion tree for that species. The circumstances related to this variance are neither unique nor avoidable, except by denying the development. Therefore, staff believes that this is not a special privilege that would be denied to other applicants.

2. *Is based on conditions or circumstances which are the result of the actions by the applicant.*

Staff finding: The requested variance is not based on conditions or circumstances which are the result of actions by the applicant. The requested variance is based on site layout and design for a religious institution of this size. An alternate site layout would not alter the need for the removal of these five trees.

3. *Arises from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property.*

Staff finding: The requested variance is a result of the proposed site design and layout on the subject property and not as a result of land or building use on a neighboring property.

4. *Will violate State water quality standards or cause measurable degradation in water quality.*

Staff finding: The requested variance will not violate State water quality standards or cause measurable degradation in water quality. Under section 22A-16(d) of the County Code "*The Board or Director may treat any forest clearing in a stream buffer, wetland or special protection area as creating a rebuttable presumption that the clearing had an adverse impact on water quality.*" In this case, the specimen trees proposed to be removed are not within a stream buffer, wetland or a special protection area, and as such it is presumed that the removal of these individual trees would not cause degradation to water quality.

As a result, staff believes the Board can make the appropriate findings to approve the applicant's request for a variance from the Forest Conservation Law to remove the five specimen trees. The approval is assumed into the Planning Board's approval of the forest conservation plan.

Stormwater Management

The application has an approved stormwater management concept dated August 29, 2007. Because the building and parking were shifted slightly to achieve proper setbacks with the two lot plan, a revised stormwater management concept was submitted and approved by MCDPS on July 31, 2009. The concept consists of on-site infiltration via sand filters and trenches, and channel protection measures via on-site detention using a shallow pond. The application meets the requirements of Chapter 50-24(j) for stormwater management.

Compliance with the Subdivision Regulations and Zoning Ordinance

This application has been reviewed for compliance with the Montgomery County Code, Chapter 50, the Subdivision Regulations. The application meets all applicable sections including the requirements for resubdivision, as described below. Staff has reviewed the proposed lot sizes, widths, shapes and orientation and find them to be appropriate for the location of the subdivision.

The lots were reviewed for compliance with the dimensional requirements of the R-200 zone as specified in the Zoning Ordinance. The lots, as proposed, will meet all the dimensional requirements for area, frontage, width, and setbacks in that zone. A summary of this review is included in attached Table 1. The application has been reviewed by other applicable county agencies, all of whom have recommended approval of the plan.

Conformance with Section 50-29(b)(2)(if applicable)

A. Statutory Review Criteria

In order to approve an application for resubdivision, the Planning Board must find that each of the proposed lots complies with all seven of the resubdivision criteria, set forth in Section 50-29(b)(2) of the Subdivision Regulations, which states:

Resubdivision. Lots on a plat for the Resubdivision of any lot, tract or other parcel of land that is part of an existing subdivision previously recorded in a plat book shall be of the same character as to street frontage, alignment, size, shape, width, area and suitability for residential use as other lots within the existing block, neighborhood or subdivision.

B. Neighborhood Delineation

In administering Section 50-29(b)(2) of the Subdivision Regulations, the Planning Board must determine the appropriate "Neighborhood" for evaluating the application. In this instance, the Neighborhood consists of 14 lots (Attachment A) all platted under the standard R-200 zone. Included are those lots north of Woodwell Road and east of Alderton Road, with frontage on Woodwell Road, Bennet Road and Alderton Road as well as those lots to the east and south. The Neighborhood excludes lots on the west side of Alderton Road because they were all approved under the R-200, density control method of development. Lot 3 to the south of the Subject Property was platted in 1954 as a buildable lot; however, it is now under public ownership and is

part of the Matthew Henson State Park. The Planning Board determined during previous discussions that it should not be part of the analysis Neighborhood and it has been excluded. The Neighborhood as suggested by staff includes an adequate sample of the lot and development pattern of the area to base the resubdivision comparison. A tabular summary of the area based on the resubdivision criteria is included in Attachment B.

C. Analysis

Comparison of the Character of Proposed Lot to Existing

In performing the analysis, the above-noted resubdivision criteria were applied to the delineated Neighborhood. The existing part of a lot is currently the largest division of land in the Neighborhood. If approved, it is staff's determination that the two resulting lots will be very much in character with the other lots in the analysis Neighborhood.

Based on the following review, staff finds that the proposed lots are of the same character with respect to the resubdivision criteria as other lots within the defined neighborhood. Therefore, the proposed resubdivision complies with the criteria of Section 50-29(b)(2). As set forth below, the attached tabular summary and graphical documentation support this conclusion:

Frontage:

The lot frontages in the Neighborhood range from 100 feet to 203 feet. The proposed lots will have frontages of 135 feet and 172 feet, respectively, for Lots 25 and 26. While proposed Lot 26 is one of the widest with respect to frontage, there are still 3 lots with wider frontages in the Neighborhood. The frontage measurements for both proposed lots are within the range for lot frontages for all lots in the analysis Neighborhood.

The proposed lot will be of the same character as existing lots in the neighborhood with respect to lot frontage.

Alignment:

All lots are perpendicular to the street including the proposed lot.

The proposed lots are of the same character as existing lots with respect to the alignment criterion.

Size:

Lot sizes range from 20,133 square feet to 69,982 square feet. The proposed lots will be 35,992 square feet in size and 46,609 square feet in size, respectively for Lots 25 and 26. While proposed Lot 26 is one of the largest lots in the Neighborhood with respect to size, 4 of the 14 lots have larger sizes. Both proposed lots are within the range for all lot sizes in the Neighborhood.

The proposed lot size is in character with the size of existing lots in the neighborhood.

Shape:

Lots in the Neighborhood are described as generally rectangular, irregular or generally trapezoidal. The proposed lots will be rectangular in shape; a shape that is fairly common in the Neighborhood.

The shapes of the proposed lots will be in character with shapes of the existing lots.

Width: (at the front building restriction line (brl))

Lot widths for existing lots range from 100 feet to 178 feet. The proposed lots will have lot widths at the building line of 135 feet and 172 feet, respectively for Lots 25 and 26. Lot 26 will be the second widest at the building line but it is important to note that there are a grouping of 5 lots with widths of 140 feet or more. Because of this grouping of wider lots, Lot 26 will be very similar to them and not out of character with the Neighborhood. Both proposed lots will have widths within the range of lot widths for all lots in the Neighborhood.

The proposed lots will be in character with existing lots in the neighborhood with respect to width.

Area:

The buildable areas for the lots in the Neighborhood range from 10,140 square feet to 29,997 square feet. The proposed lots will be have buildable areas of 18,700 square feet and 23,925 square feet, respectively, for Lots 25 and 26. Lot 26 will have the second largest buildable area of all lots in the Neighborhood. Note that 6 of the 14 existing lots have buildable areas greater than 21,000 square feet. Lot 26 will not differ significantly from these lots. The buildable areas for the proposed lots are within the range for all lot areas within the Neighborhood.

The proposed lots will be of the same character as other lots in the neighborhood with respect to buildable area.

Suitability for Residential Use:

Although a non-residential use is proposed, the proposed lots are suitable for residential use.

Citizen Correspondence and Issues

This plan was properly processed in accordance with the current submittal procedures. A pre-submission meeting was held with interested neighbors on March 26, 2008 at the Argyle Middle School. Fifteen individuals attended the meeting. The meeting was held at the Argyle Middle School, 1000 Argyle Road, Argyle, PA 17003. The meeting was held on March 26, 2008 at 7:00 PM. The meeting was held at the Argyle Middle School, 1000 Argyle Road, Argyle, PA 17003. The meeting was held on March 26, 2008 at 7:00 PM.

- Would this project require the opening of Alderton Road through the Matthew Henson State Park? *(Alderton Road will not be changed substantially and will not be connected through because of this plan approval. A curb cut for access and a sidewalk will be the only additions.)*
- Will the church be purchasing Lot 16 to the south of the Property to expand? *(No plans to purchase the lot to the immediate south to allow for expansion have been suggested by the applicant)*
- Overflow parking on local streets *(The plan proposes a few spaces in excess of the required amount of parking for a 360 seat church. Although possible, it is reasonable to expect that the church will not be consistently at full capacity for services.)*
- Lights on facility shining at all times. *(Lighting of parking for safety is necessary however, lighting will need to comply with the lighting plan required by staff. Shrouds on light standards will direct light downward rather than outward or upward)*
- Expansion of church and/or future plans *(There are no current plans for expansion. Any future expansion would require a Planning Board review)*
- Stormwater from previous landscape contractor uses on the site flooded adjacent homes. *(The application has met the MCDPS stormwater management requirements. No previous uses on the Property were required to have stormwater management. Activities of a nursery/landscape contractor who used the site were purported to cause wet basements across Alderton Road. Staff attempted on two occasions to have a field meeting with neighbors and MCDPS staff involved, however, there was no confirmation of a date from the neighbor(s) who requested this meeting. Both MNCPPC and MCDPS staff believe the introduction of paved surfaces and stormwater management will eliminate any groundwater issues.*

A letter was also received dated July 29, 2008 after the initial application was filed. Concerns raised by adjoining residents are summarized below:

- Location shown on Notice of Application is incorrect. *(The application was re-noticed to correct this error)*
- The church is not on a main artery and at a dead end. There will be too many cars and lives will be endangered. *(Alderton Road is a primary residential street with 36 feet of pavement width to accommodate parking on both sides and two through lanes. The location of a church on a primary street is appropriate. Although Alderton Road is currently a dead end, it connects to Bonifant Road, an arterial highway. Moreover, additional access routes via secondary residential streets to Bonifant and Layhill Road also exist.)*
- The Church will hurt home values. *(Not typically germane to the Board's decision, however, staff is not aware of any evidence to support this statement)*
- Traffic signals will be required given the additional traffic. *(This project will not require traffic signals to be placed at the intersection of Bonifant and Alderton Roads. All trips to and from this Property will be off-peak hour (weekend). The need for a traffic signal at Bonifant Road and Alderton Road will likely be re-evaluated if or when Alderton Road is completed as a through street to the Indian Spring development as proposed by the Aspen Hill and Kensington Wheaton Master Plans)*

Staff has also been in contact with the individual who owns the vacant lot immediately to the south of the Property (Lot 16). That owner has expressed some regret over the use of the Property for an institutional use as it would be next to the property on which he wished to one day build a private residence. Staff has approved a landscape plan that proposes a row of Pin Oaks along the common property line to supplement the existing forest cover on Lot 16. Staff believes that the plantings will provide a reasonable buffer from the proposed use.

The revised application for the two lot plan was also sent out to all individuals and civic associations as required by the current submittal procedures. The plan was taken back to the Development Review Committee for review by all participating agencies and has received all necessary approvals. Staff has continued to be in contact with any interested parties who wished to be updated on the plan. The application was correctly noticed as required by current procedures.

Staff finds that the residents' concerns have been addressed to the extent possible by this plan.

CONCLUSION

The proposed lots meet all requirements established in the Subdivision Regulations and the Zoning Ordinance and comply with the recommendations of the Aspen Hill Master Plan. Access and public facilities will be adequate to serve the proposed lots and use, and the application has been reviewed by other applicable county agencies, all of whom have recommended approval of the plan. Therefore, approval of the application with the conditions specified above is recommended.

ATTACHMENTS:

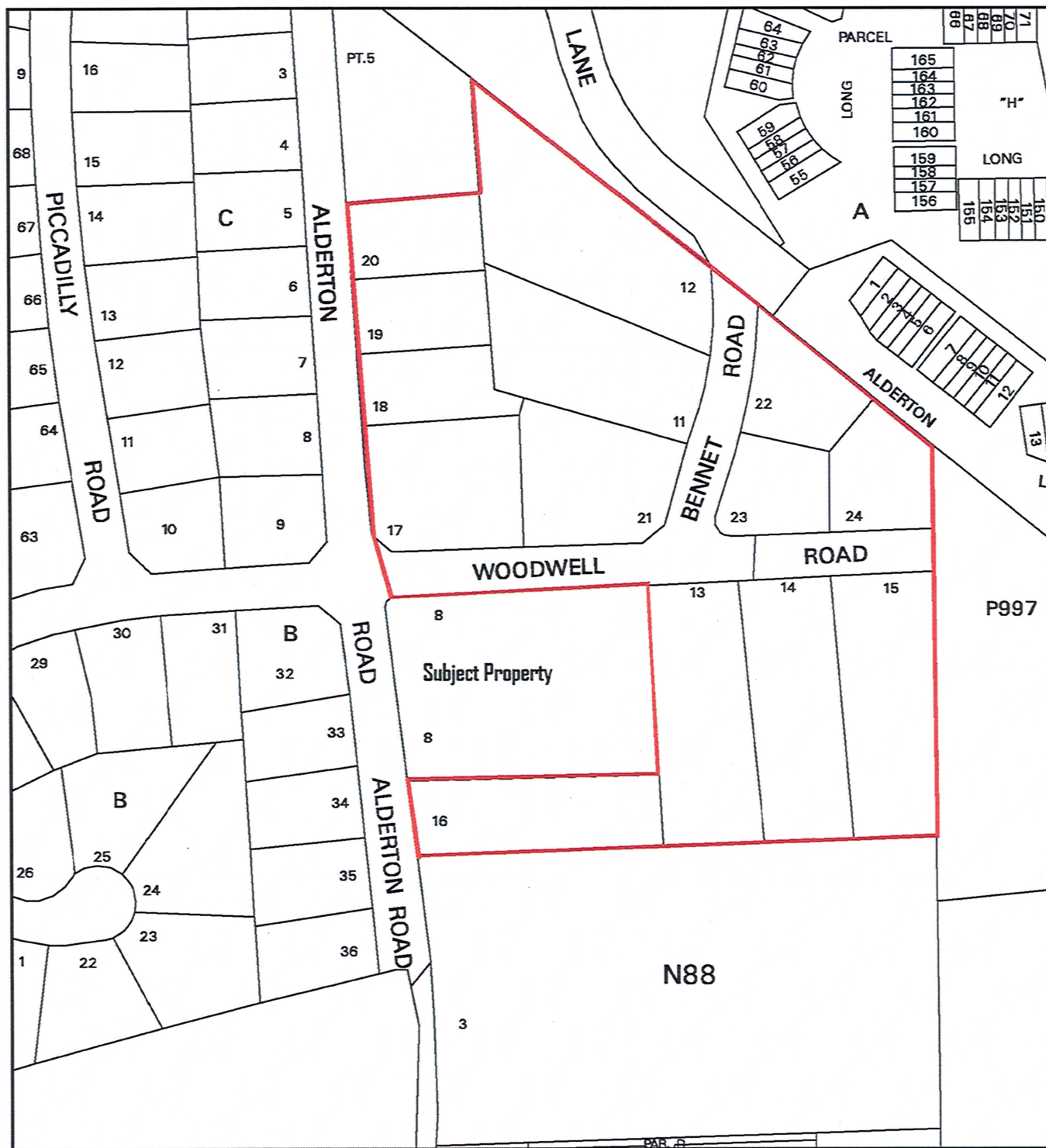
- A) Resubdivision Neighborhood
- B) Tabular Summary
- C) Wide Area Map

Table 1: Preliminary Plan Data Table and Checklist

Plan Name: Miracle Temple Assembly of God				
Plan Number: 120080290				
Zoning: R-200				
# of Lots: 2 and 1 SWM parcel				
# of Outlots: none				
Dev. Type: Religious Institution				
PLAN DATA	Zoning Ordinance Development Standard	Proposed for Approval by the Preliminary Plan	Verified	
Minimum Lot Area	20,000 sq. ft.	36,155 sq. ft.	RAW ↓	1/25/10
Lot Width	100 ft.	135 ft.		1/25/10
Lot Frontage	25 ft.	135 ft.		1/25/10
Setbacks				
Front	40 ft. Min.	Must meet minimum ¹		1/25/10
Side	12 ft. Min./ 25 ft. total	Must meet minimum ¹		1/25/10
Rear	30 ft. Min.	Must meet minimum ¹		1/25/10
Height	50 ft. Max.	May not exceed maximum ¹		1/25/10
Max lots per Zoning	4	2		1/25/10
MPDUs	N/A			1/25/10
TDRs	N/A		1/25/10	
Site Plan Req'd?	No		1/25/10	
FINDINGS				
<i>SUBDIVISION</i>				
Lot frontage on Public Street		Yes	RAW	1/25/10
Road dedication and frontage improvements		Yes	Agency letter	12/16/09
Environmental Guidelines		N/A	Staff memo	
Forest Conservation		Yes	Staff memo	1/7/09
Master Plan Compliance		Yes	Staff memo	1/7/09
Other (i.e., parks, historic preservation)		N/A	RAW	
Stormwater Management		Yes	Agency letter	8/29/07
Water and Sewer (WSSC)		Yes	Agency comments	8/25/08
10-yr Water and Sewer Plan Compliance		Yes	RAW	1/25/10
Well and Septic		N/A		
Local Area Traffic Review		N/A		
Policy Area Mobility Review		N/A		
Transportation Management Agreement		N/A		
School Cluster in Moratorium?		N/A		
School Facilities Payment?		N/A		
Fire and Rescue		Yes	Agency letter	11/17/08
Other (i.e., schools)				

¹ As determined by MCDPS at the time of building permit.

MIRACLE TEMPLE ASSEMBLY OF GOD 120080290



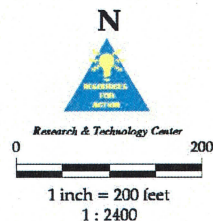
Map compiled on January 22, 2010 at 12:08 PM | Site located on base sheet no - 219NW02

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Attachment B

120080280 Miracle Temple Resubdivision Table

Lot #	Lot Size	Frontage	Alignment	Lot Shape	Width	Buildable Area	Suitability
25	35,992	135	perpendicular	rectangular	135	18,700	Yes
26	46,609	172	perpendicular	rectangular	172	23,925	Yes
13	48,081	130	perpendicular	rectangular	130	21,636	Yes
14	48,081	130	perpendicular	rectangular	130	21,636	Yes
15	49,890	140	perpendicular	rectangular	140	22,450	Yes
16	34,192	100	perpendicular	rectangular	100	15,386	Yes
22	20,609	185	perpendicular	irregular	131	10,300	Yes
23	20,133	150/160	perpendicular	pipestem	125	10,250	Yes
24	22,523	142	perpendicular	irregular	142	12,009	Yes
12	59,982	126	perpendicular	irregular	146	29,997	Yes
11	45,302	85	perpendicular	irregular	136	23,557	Yes
21	36,953	135/185	perpendicular	rectangular	178	16,200	Yes
17	39,382	170/203	perpendicular	square	165	21,661	Yes
18	20,258	102	perpendicular	irregular	101	10,150	Yes
19	20,156	105	perpendicular	rectangular	105	10,140	Yes
20	20,156	105	perpendicular	rectangular	105	10,140	Yes

NOTES

All lots are suitable for residential development

MIRACLE TEMPLE ASSEMBLY OF GOD 120080290



Map compiled on January 22, 2009 at 10:05 AM | Site located on base sheet no - 219NW02

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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

