



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

APR 14 2010

MCPB No. 10-33
Preliminary Plan No. 12002041B
Islamic Center of Maryland
Date of Hearing: March 11, 2010

MONTGOMERY COUNTY PLANNING BOARD

RESOLUTION

WHEREAS, pursuant to Montgomery County Code Chapter 50, the Montgomery County Planning Board ("Planning Board" or "Board") is vested with the authority to review amendments to approved preliminary plans; and

WHEREAS, on January 12, 2010, Islamic Center of Maryland ("Applicant"), filed an application for approval of a preliminary plan amendment to amend a previously approved preliminary plan¹ that created 1 lot on 13.05 acres of land in the RE-1 zone, located on the east side of Woodfield Road, approximately 500 feet north of Cypress Hill Drive ("Property" or "Subject Property"), in the Gaithersburg & Vicinity master plan area ("Master Plan"); and

WHEREAS, Applicant's preliminary plan amendment was designated Preliminary Plan No. 12002041B, Islamic Center of Maryland ("Amendment") and

WHEREAS, Planning Board staff ("Staff") issued a memorandum to the Planning Board, dated February 19, 2010, revised on March 4, 2010, setting forth its analysis, and recommendation for approval, of the Amendment subject to certain conditions ("Staff Report"); and

WHEREAS, following review and analysis of the Amendment by Staff and the staff of other governmental agencies, on March 11, 2010, the Planning Board held a public hearing on the Amendment (the "Hearing"); and

WHEREAS, at the Hearing, the Planning Board heard testimony and received evidence submitted for the record on the Amendment; and

¹ Preliminary Plan No. 120020410 was adopted by the Planning Board January 12, 2002, and mailed on January 30, 2003. Applicant later filed an amendment thereto as Preliminary Plan No. 12002041A, which was later withdrawn.

Approved as to
 Legal Sufficiency:

[Handwritten Signature] 3/31/10

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WHEREAS, on March 11, 2010, the Planning Board approved the Amendment subject to certain conditions, on motion of Commissioner Presley; seconded by Commissioner Wells-Harley; with a vote of 4-0, Commissioners Dreyfuss, Hanson, Presley and Wells-Harley voting in favor, Commissioner Alfandre being absent.

NOW, THEREFORE, BE IT RESOLVED, that, pursuant to the relevant provisions of Montgomery County Code Chapter 50, the Planning Board approved Preliminary Plan No. 12002041B that amends Preliminary Plan No. 120020410 that created 1 lot on 13.05 acres of land in the RE-1 zone, located on the east side of Woodfield Road, approximately 500 feet north of Cypress Hill Drive ("Property" or "Subject Property"), in the Gaithersburg & Vicinity master plan area ("Master Plan"), subject to the following conditions:

- 1) Deletion of condition #4 in the Opinion for Preliminary Plan No. 120020410 with the mailing date January 30, 2003 which states: Record plat to show delineation of a Category I conservation easement over the area of forest conservation.
- 2) The applicant must replace the existing Category I Forest Conservation Easement by providing 2.96 acres of off-site forest planting or equivalent credit in a forest mitigation bank.
- 3) The Applicant must submit a Final Forest Conservation Plan in accordance with Section 109-B of the Forest Conservation Regulations for MNCPPC staff approval within 30 days of the Planning Board's resolution approving the preliminary plan amendment.
- 4) The Applicant must submit an application to revise the existing record plat to remove the conservation easement within 6 months of the date of the Planning Board's resolution approving the preliminary plan amendment.
- 5) As part of the previously required landscape and lighting plan, the Applicant must develop a plan for screening the eastern and southern property boundaries. The plan must include a minimum planting area 25 feet in width along the eastern and southern property boundaries and must be submitted for review to adjacent property owners, and review and approval by MNCPPC staff with the record plat application. The submittal to MNCPPC staff must include verification that the proposed plan was submitted to adjacent property owners.
- 6) All other previous conditions of approval contained in Planning Board Opinion for Preliminary Plan No. 120020410 with the mailing date January 30, 2003 remain in full force and effect.

BE IT FURTHER RESOLVED, that having given full consideration to the recommendations and findings of its Staff as set forth in the Staff Report, which the Board hereby adopts and incorporates by reference (except as modified herein), and upon consideration of the entire record, the Montgomery County Planning Board FINDS, with the conditions of approval, that:

1. *The Application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A.*

The Planning Board approved the Applicant's request to meet the forest planting requirements off-site and remove the Category I Forest Conservation Easement in which on-site planting was to occur from this Property for three reasons. First, the project site is bounded by an institutional use on one side and residential uses on the other three sides, which make the ecological usefulness of a small forest negligible. Second, there are no high-priority stream valleys or environmental buffers on this site that would require afforestation or reforestation. Third, the easement is a standalone easement not connected or adjacent to any larger contiguous forest, and given the proposed activities that the Islamic Center is suggesting for the area adjacent to the current easement, the Planning Board believes that this creates a high likelihood of future forest conservation violations. The Planning Board finds removing the easement from this property and requiring the Applicant to meet the forest conservation requirements either off-site or by purchasing credits in an MNCPPC approved forest bank is appropriate and creates a better opportunity to meet the goals of forest conservation in the County.

The Planning Board approved Preliminary Plan No. 120020410 based on a finding that the associated Forest Conservation Plan met the requirements of Chapter 22A of the Montgomery County Forest Conservation Law. As previously described, the Applicant now wants to change the way the plan meets those requirements by doing off-site, rather than on-site, forest planting. Loss of the easement triggers an off-site planting requirement of 1.48 acres to compensate for previous on-site planting. Furthermore, to compensate for the fact that the easement was previously recorded, the Planning Board finds that off-site planting on an additional 1.48 acres, which is the size of the existing easement, for a total of 2.96 acres of planting in an approved forest bank, will meet the requirements of Chapter 22A of the Montgomery County Forest Conservation Law.

BE IT FURTHER RESOLVED, that this Resolution incorporates by reference all evidence of record, including maps, drawings, memoranda, correspondence, and other information: and

BE IT FURTHER RESOLVED, that the date of this Resolution is 09 14 2010 (which is the date that this Resolution is mailed to all parties of record); and

BE IT FURTHER RESOLVED, that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

* * * * *

CERTIFICATION

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission on motion of Commissioner Dreyfuss, seconded by Commissioner Wells-Harley, with Commissioners Hanson, Wells-Harley, Alfandre, and Dreyfuss voting in favor of the motion, and with Commissioner Presley absent, at its regular meeting held on Thursday, April 8, 2010, in Silver Spring, Maryland.



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