

MCPB
Item #
3/11/10



MEMORANDUM

DATE: ~~February 19, 2010~~ REVISED – March 4, 2010

TO: Montgomery County Planning Board

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

FROM: Erin Grayson, Senior Planner (301) 495-4598 *EG*

REVIEW TYPE: Preliminary Plan Limited Amendment Review

APPLYING FOR: Amendment to the approved preliminary plan and final forest conservation plan to remove a previously recorded 1.48-acre Category I forest conservation easement and replace it off-site.

PROJECT NAME: Islamic Center of Maryland

CASE #: 12002041B

REVIEW BASIS: Chapter 50, Montgomery County Subdivision Regulations and Chapter 22A, Montgomery County Forest Conservation Law

ZONE: RE-1

LOCATION: On the east side of Woodfield Road, approximately 500 feet north of Cypress Hill Drive

MASTER PLAN: Gaithersburg & Vicinity

APPLICANT: Islamic Center of Maryland

CONSULTANT: CDDI, Inc.

FILING DATE: January 12, 2010

HEARING DATE: March 11, 2010

RECOMMENDATION: Staff recommends that the Planning Board approve this limited amendment to the preliminary plan of subdivision to revise the forest conservation plan with the conditions specified below:

- 1) Deletion of condition #4 in the Opinion dated 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 ~~at twice the land rate of the current 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) The Applicant must develop a landscape plan for the eastern property boundary after consultation with adjacent property owners. The landscape plan must include a minimum planting area 25 feet in width along the eastern property boundary and must be submitted for review and approval by MNCPPC staff with the record plat application. The submittal must include verification that a meeting occurred.
- 6) All other previous conditions of approval contained in Planning Board Opinion dated January 30, 2003 remain in full force and effect.

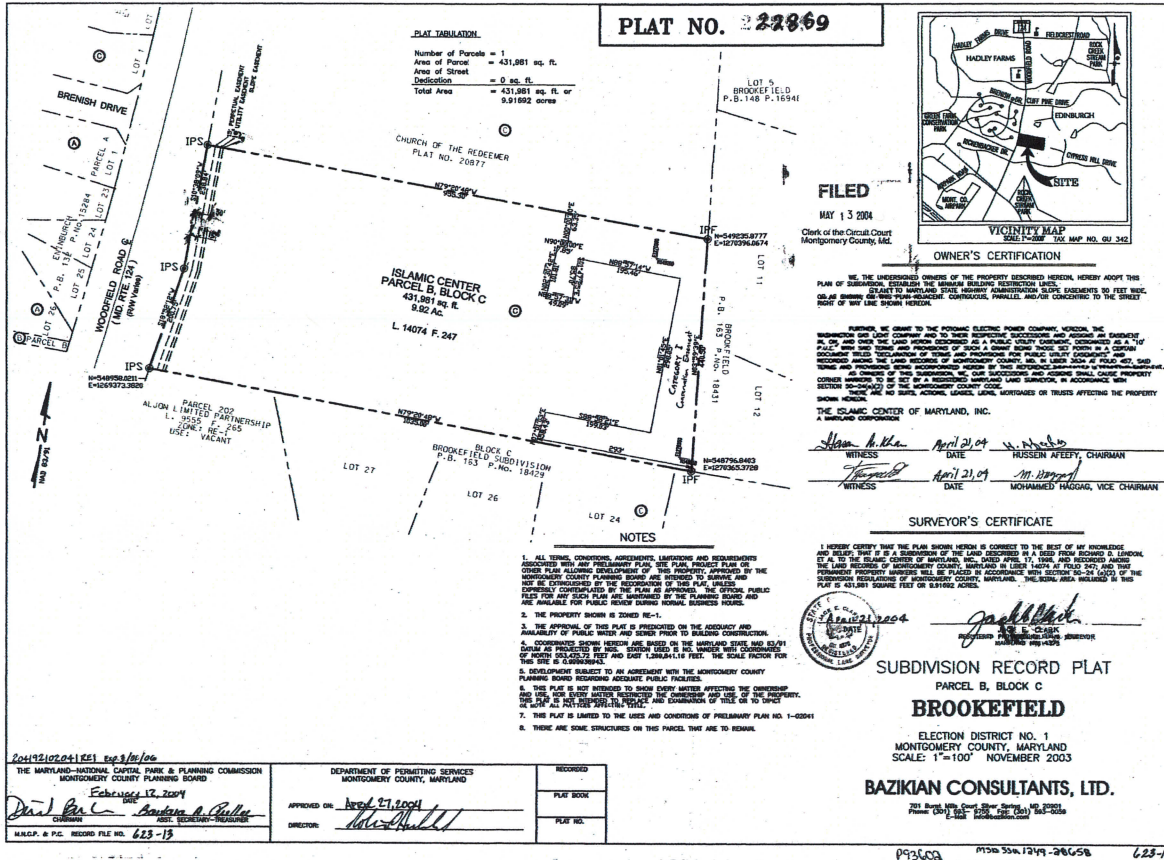
SITE DESCRIPTION and BACKGROUND

The Subject Property, referred to as the Islamic Center of Maryland (ICM), is located on the east side of Woodfield Road (MD 124), approximately 500 feet north of Cypress Hill Drive. It is zoned RE-1 and contains 9.90 acres. Directly north of the site is a 13.05-acre site containing the Church of the Redeemer, across Woodfield Road to the west is a residential neighborhood zoned R-MH; a residential neighborhood zoned RE-1 is located to the east, and undeveloped State Highway Administration (SHA) right-of-way is located directly south of the site.

The site lies within the Upper Rock Creek Special Protection Area (SPA). The preliminary plan, however, was approved prior to November 15, 2004 and as such, the project site is exempt from the provisions of the Upper Rock Creek Overlay Zone per Section 59-C-18.242(b)(iv) of the Montgomery County Zoning Ordinance.

The original preliminary plan (#120020410, Attachment B) for ICM was approved by the Planning Board on December 12, 2002, with the conditions specified in the Planning Board Opinion dated January 30, 2003. As stated in the Opinion (Attachment A), approval of the plan allowed for a 650-seat sanctuary, an on-site Imam's residence, a weekday educational institution for a maximum of 53 students in grades K-12, and a weekday child daycare center for students attending the institution. The record plat for the Property was recorded on May 13, 2004. This

record plat, which is depicted on the following page below, included a 1.48-acre on-site Category I forest conservation easement for forest retention and planting to meet the site's forest conservation requirements.



On December 27, 2007 ICM filed for an extension of the APF validity period established by the Opinion dated January 30, 2003, due to delays encountered by the Applicant with the Maryland State Highway Administration's final design for an alternative access road for ICM from Cypress Hill Drive to the southern boundary of the ICM site. This decision process left no time for ICM to complete their sediment control permit and get a building permit prior to the expiration of the project's adequate public facilities (APF) approval. Ultimately, the Applicant requested a waiver of Section 50-20(c)(5) of the Subdivision Regulations pursuant to Section 50-38, to permit a 3-year extension of the validity period for the adequate public facilities (APF) approval for Preliminary Plan No. 120020410, until February 28, 2011. Approval of the waiver and extension request was granted by the Planning Board on February 28, 2008.

PROJECT DESCRIPTION

In the final forest conservation plan (Attachment C), submitted by the Applicant on January 4, 2010, a future indoor pool, tennis court and stormwater management facilities are shown adjacent to the edge of the existing forest conservation easement. The consequence of the planned improvements is a desire to remove the easement. Removal of the existing forest

conservation easement will provide additional buildable area for any improvements to the site planned in the future.

In order to remove the Category I forest conservation easement from the Property, the Applicant is seeking to amend the preliminary plan of subdivision and the final forest conservation plan. The easement will be replaced by purchasing acreage at an off-site location at a rate of 2 acres purchased for every 1 acre being replaced.

It is important to note that while the improvements proposed on the final forest conservation plan do not produce additional peak hour trips, any uses proposed in the future that do generate additional peak hour trips will require further Adequate Public Facilities review by MNCPPC.

ANALYSIS OF THE REQUESTED AMENDMENT

Staff supports meeting the forest planting requirements off-site and removing 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. Given the proposed activities that the Islamic Center is suggesting for the area adjacent to the current easement, staff believes that this will result in future forest conservation violations if the easement is not removed. For these reasons, staff supports removing the easement from this property and requiring the Applicant to meet the forest conservation requirements by purchasing credits in an MNCPPC approved forest bank.

The Planning Board approved the previous plan 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 ~~1.24~~ 1.48 acres to compensate for previous on-site planting. ~~An off-site planting requirement of 0.48 acres is necessary to compensate for previous on-site forest retention. These two requirements total 1.73 acres of off-site planting (numbers are rounded upward).~~ Furthermore, to compensate for the fact that the easement was previously recorded, staff is recommending that off-site planting occur on an additional 1.48 acres, which is the size of the existing easement, for a total of ~~3.2~~ 2.96 acres of planting in an approved forest bank. Since forest banks are not currently available within the Upper Rock Creek Special Protection Area, it is suggested that the Applicant purchase credits in a forest bank as close as possible to the Upper Rock Creek Special Protection Area. The nearest forest bank to this site would be the Our House forest bank located in the Hawlings River watershed, but the ultimate location will be determined when the final forest conservation plan is complete.

Citizen Correspondence and Issues

Staff has been contacted by Mr. Chris Abod, a resident of the residential neighborhood that abuts the Subject Property to the east. Mr. Abod expressed concerns that removal of the forest conservation easement and any subsequent development in this area will worsen drainage along the common property line and eliminate any noise and lighting screening barrier that currently exists. Mr. Abod also expressed concern that the Planning Board will approve removal of the forest conservation easement without knowing the full scope of the Applicant's planned improvements. Because a regulated buffer area between this religious institution and adjacent residential development will be removed, staff has included condition #4 on page 2 of this report. A landscape plan submitted by the Applicant for review by staff will ensure that adequate screening is provided and maintained.

CONCLUSION

Staff recommends approval of the limited amendment to the preliminary plan of subdivision to revise the forest conservation plan. With conditions of approval specified on page 2 of this report, the preliminary plan continues to meet the requirements of Chapter 22A of the Montgomery County Forest Conservation Law. All remaining conditions of approval remain in full force and effect.

Attachments

- Attachment A – Preliminary Plan Opinion dated January 30, 2003
- Attachment B – Original Preliminary Plan
- Attachment C – Final Forest Conservation Plan
- Attachment D – Updated Environmental Planning Staff Memo



Date Mailed: January 30, 2003

Action: Approved Staff Recommendation

**Motion of Comm. Bryant, seconded by
Comm. Perdue with a vote of 5-0;**

Comms. Berlage, Bryant, Perdue,
Robinson and Wellington voting
in favor

MONTGOMERY COUNTY PLANNING BOARD

OPINION

Preliminary Plan 1-02041

NAME OF PLAN: ISLAMIC CENTER OF MARYLAND

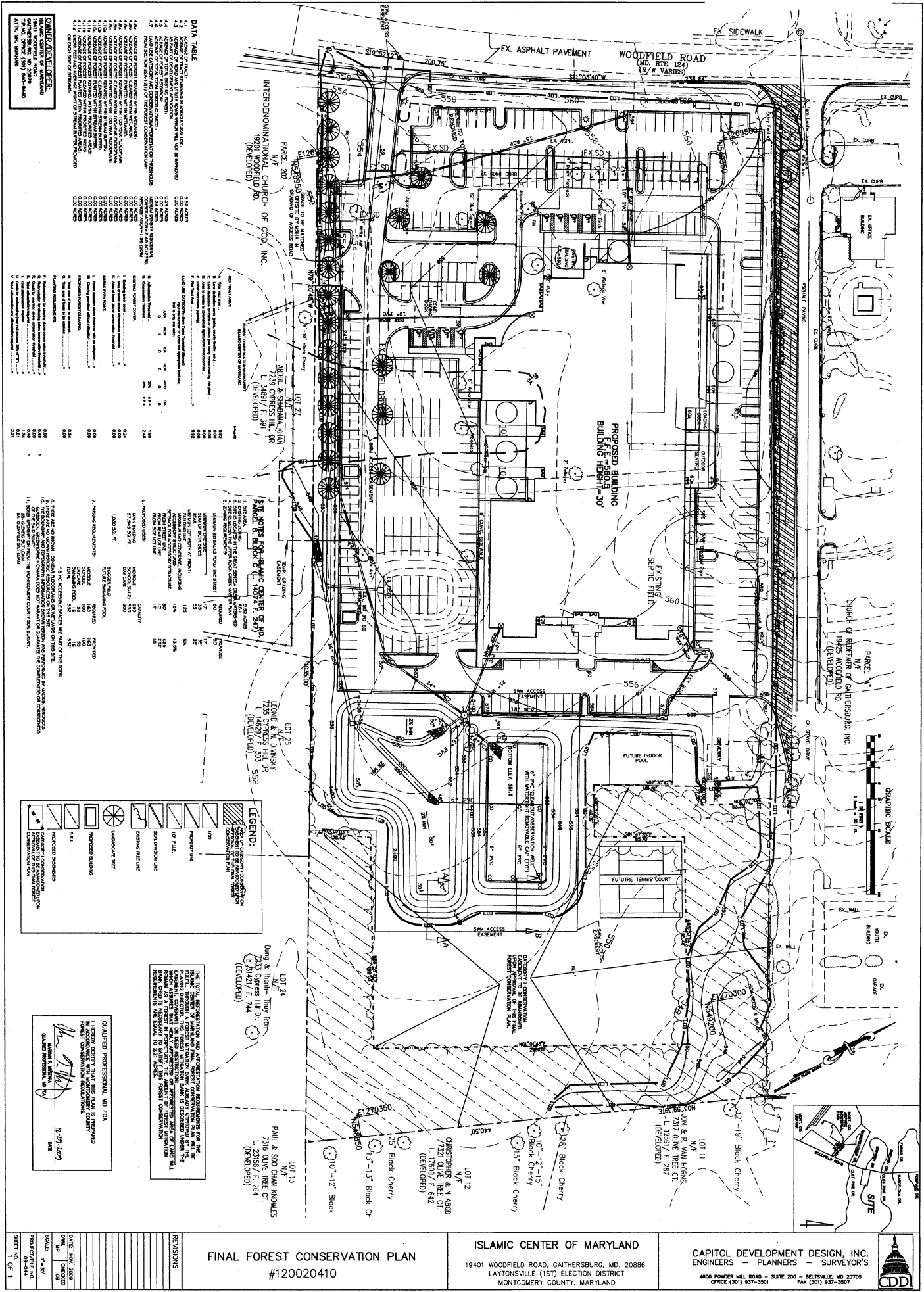
On 10/16/01, ISLAMIC CENTER OF MARYLAND submitted an application for the approval of a preliminary plan of subdivision of property in the RE-1 zone. The application proposed to create 1 lot on 9.90 acres of land. The application was designated Preliminary Plan 1-02041. On 12/12/02, Preliminary Plan 1-02041 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 1-02041 to be in accordance with the purposes and requirements of the Subdivision Regulations (Chapter 50, Montgomery County Code, as amended) and approves Preliminary Plan 1-02041.

Approval, Subject to the Following Conditions:

- 1) Limit the preliminary plan approval to a house of worship with the following limitations:
 - A 650-seat sanctuary
 - An on-site Imam's residence
 - A weekday educational institution for a maximum of 53 students in kindergarten through 12th grade with a weekday child daycare center for those attending the educational institution. A weekday child daycare center with a maximum of 58 children would have the equivalent traffic impact
 - Any future increase in the maximum number of children for either the educational institution or child daycare center (as a Phase 2) will require further APF review

- 2) Coordinate with the Maryland State Highway Administration (SHA) regarding the following:
 - The two site accesses from Woodfield Road (MD 124)
A new access limited to right-turn-in and right-turn-out only south of Brenish Drive. Joint use of the existing access for the Church of Redeemer opposite Brenish Drive.

- SHA's Consolidated Transportation Program (CTP) Project to widen Woodfield Road along the western property line of the site which includes five-foot sidewalks on both sides and a Class I bikeway
- 3) 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
 - 4) Record plat to show delineation of a Category I conservation easement over the area of forest conservation
 - 5) Compliance with the conditions of MCDPS stormwater management approval dated, May 9, 2002
 - 6) Access and improvements as required to be approved by MDSHA prior to issuance of access permits
 - 7) Prior to recordation of plat, a final landscape, lighting and sidewalk circulation plan including a five-foot sidewalk leading-in from Woodfield Road to the site which are not shown on the current plans must be submitted for review and approval by MNCPPC technical staff
 - 8) This preliminary plan will remain valid for thirty-seven (37) months from the date of mailing of the Planning Board opinion. Prior to this date, a final record plat must be recorded for all property delineated on the approved preliminary plan, or a request for an extension must be filed
 - 9) The Adequate Public Facility (APF) review for the preliminary plan will remain valid for sixty-one (61) months from the date of mailing of the Planning Board opinion
 - 10) Other necessary easements



DATA TABLE

4.1	CONCRETE	0.05	0.05
4.2	ASPHALT	0.05	0.05
4.3	GRAVEL	0.05	0.05
4.4	WOOD	0.05	0.05
4.5	BRICK	0.05	0.05
4.6	IRON	0.05	0.05
4.7	COPPER	0.05	0.05
4.8	ALUMINUM	0.05	0.05
4.9	GLASS	0.05	0.05
4.10	STEEL	0.05	0.05
4.11	PAINT	0.05	0.05
4.12	LANDSCAPING	0.05	0.05
4.13	UTILITIES	0.05	0.05
4.14	ROOFING	0.05	0.05
4.15	MECHANICAL	0.05	0.05
4.16	ELECTRICAL	0.05	0.05
4.17	PLUMBING	0.05	0.05
4.18	HEATING	0.05	0.05
4.19	Cooling	0.05	0.05
4.20	Other	0.05	0.05
4.21	Subtotal	0.05	0.05
4.22	Total	0.05	0.05

QUALIFIED PROFESSIONAL AND CDA

PAUL & SUE CHAN KIMMLES
7316 OLIVE TREE CT
L 23156 / F. 284
(DEVELOPED)

Ding & Hsieh-Thuy Tran
7333 Opress Hill Dr
L 23142 / F. 744
(DEVELOPED)

CHRISTOPHER & NABOOD
7321 OLIVE TREE CT
L 23150 / F. 942
(DEVELOPED)

LOT 12
N/F
ABDOL & SHABANA KHAN
7235 Opress Hill Dr
L 14629 / F. 303 552
(DEVELOPED)

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LOT 25
N/F
TENNIS & DUNNIXY
7235 Opress Hill Dr
L 14629 / F. 303 552
(DEVELOPED)

LOT 11
N/F
DON & P VIAN HORNE
3317 OLIVE TREE CT
L 12589 / F. 287
(DEVELOPED)

LOT 13
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LEGEND

- PROPOSED BUILDING
- PROPOSED PARKING
- PROPOSED DRIVEWAY
- PROPOSED SIDEWALK
- PROPOSED LANDSCAPING
- PROPOSED UTILITIES
- PROPOSED MECHANICAL
- PROPOSED ELECTRICAL
- PROPOSED HEATING
- PROPOSED COOLING
- PROPOSED OTHER
- EXISTING BUILDING
- EXISTING PARKING
- EXISTING DRIVEWAY
- EXISTING SIDEWALK
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(DEVELOPED)

FINAL FOREST CONSERVATION PLAN
#120020410

ISLAMIC CENTER OF MARYLAND
19401 WOODFIELD ROAD, GAITHERSBURG, MD 20886
LAYTONSVILLE (151) ELECTION DISTRICT
MONTGOMERY COUNTY, MARYLAND

CAPITOL DEVELOPMENT DESIGN, INC.
PLANNERS - SURVEYOR'S
4600 POWDER MILL ROAD - SUITE 200 - BELTSVILLE, MD 20705
OFFICE (301) 937-3501 FAX (301) 937-3507



DATE: 08/20/2008
SCALE: 1"=40'
PROJECT FILE NO: 08-204
SHEET NO. OF 1



**THE MARYLAND-NATIONAL CAPITAL PARK AND
PLANNING COMMISSION**

Planning Department, Montgomery County, Maryland
8787 Georgia Avenue, Silver Spring, Maryland 20910

MEMORANDUM

TO: Erin Grayson, Senior Planner, Development Review

VIA: Mark Pfefferle, Acting Chief, Environmental Planning

FROM: Doug Johnsen, RLA; Planner Coordinator, Environmental Planning

DATE: March 3, 2010

SUBJECT: Amended Preliminary Plan
Final Forest Conservation Plan
Islamic Center of Maryland
120020410 & 12002041B

RECOMMENDATION

Environmental Planning staff has reviewed the amended preliminary plan of subdivision and the associated final forest conservation plan referenced above. Staff recommends approval of the amended preliminary plan and the final forest conservation plan with the following conditions:

1. Applicant to replace the existing Category I Forest Conservation Easement by providing 2.96 acres of off-site forest planting or equivalent credit.
2. Applicant must submit a Final Forest Conservation Plan in accordance with Forest Conservation Regulations, Section 109-B for staff review and approval within 30 days of the Planning Board Resolution of this approval.

BACKGROUND

The 9.92-acre property is located just outside Gaithersburg at 19401 Woodfield Road approximately 800 feet north of the intersection of Woodfield Road and Cypress Mill Drive. The project site is bounded by Woodfield Road on the west, The Church of the Redeemer on the north and neighboring residential properties on the east and south. Currently, the property is an existing house of worship. The applicant is seeking to amend the preliminary plan of subdivision and the forest conservation plan in order to remove the Category I Conservation Easement from the property. The easement will be replaced by purchasing acreage at an off-site location at a rate of 2 acres purchased for every 1 acre replaced. The off-site location will be determined at the time of final forest conservation plan

The existing Category I CE onsite is 1.48 acres in size and is unforested. Staff policy for the replacement of onsite easements is to substitute at a 2:1 rate. Therefore, staff recommends replacement of the CE by providing 2.96 acres of off-site forest planting or equivalent credit in an approved forest bank. Since no forest banks are available within the Upper Rock Creek Special Protection Area (URC SPA) it is suggested that the applicant purchase credits in a forest bank as close as possible to the URC SPA. The nearest forest bank to this site would be the Our House forest bank located in the Hawlings River watershed.

Staff supports the removal of the Category I CE from this property for two reasons:

1. The easement is a standalone easement not connected or adjacent to any larger contiguous forest, see Fig. 2. Given the proposed activities that the Islamic Center is suggesting for the area adjacent to the current existing easement, staff believes that this will result in future forest conservation violations if the easement is not removed.
2. There are no stream valley buffers or environmental buffers on this site that would require afforestation/reforestation. For these reasons staff supports removing the easement from this property and having the applicant meet the forest conservation requirements by purchasing credits in an MNCPPC approved forest bank.

CONCLUSION

Staff recommends approval of the amendment to the preliminary plan of subdivision for forest conservation purposes.