



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

Item #
MCPB 7-1-2010

MEMORANDUM

DATE: June 18, 2010

TO: Montgomery County Planning Board

VIA: Rose Krasnow, Chief *RK*
Catherine Conlon, Supervisor *CC*
Development Review Division
Mark Pfefferle, Acting Chief, Environmental Planning *MP*

FROM: Richard A. Weaver, Planner Coordinator *RAW*
Development Review Division

REVIEW TYPE: Limited Amendment to the Preliminary Plan and amendment of the forest conservation plan

APPLYING FOR: Addition of Education Center, courtyard and parking lot for a religious institution

PLAN NAME: Damascus United Methodist Church

PLAN NUMBER: 11991093A

PLAN TYPE: Preliminary Plan Amendment

REVIEW BASIS: Chapter 50, Montgomery County Subdivision Relations

ZONE: R-200

LOCATION: Located on the south side of New Church Road between Woodfield Road and Mount Vernon Avenue in Damascus

APPLICANT: Damascus United Methodist Church

HEARING DATE: July 1, 2010

STAFF RECOMMENDATION: Approval, Subject to the Following Conditions:

1. Compliance with the conditions of approval of the Final Forest Conservation Plan. The applicant must meet all conditions prior to recording of plat or MCDPS issuance of sediment and erosion control permit(s) as appropriate. The specific conditions include the following:
 - a. Category I conservation easements must be placed over all offsite forest conservation areas as shown on the approved forest conservation plan. Conservation easements must be recorded by deed instrument.
 - b. A copy of the recorded deed for the off-site forest conservation easement must be submitted to staff within 120 days of the mailing date of the Resolution for this amendment.
 - c. Applicant must comply with the Landscape and Tree Save Plan dated September 2008.

BACKGROUND

The approved preliminary plan (199910930) was to accommodate an addition to the church building and allow the Property to be platted in order to secure building permits for that construction. Condition #1 of the Planning Board Opinion dated July 22, 1992 required that an agreement (“Agreement”) with the Planning Board be approved, in part, to limit development of the site to a house of worship and associated uses. The Agreement created certain restrictions on the Property for the purposes of limiting uses and the construction of structures to ensure that public facilities would not be overburdened. The church has remained in compliance with the Agreement with respect to allowed uses and structures. This amendment serves to allow an opportunity for public comment on new elements of the development that are included in the amendment.

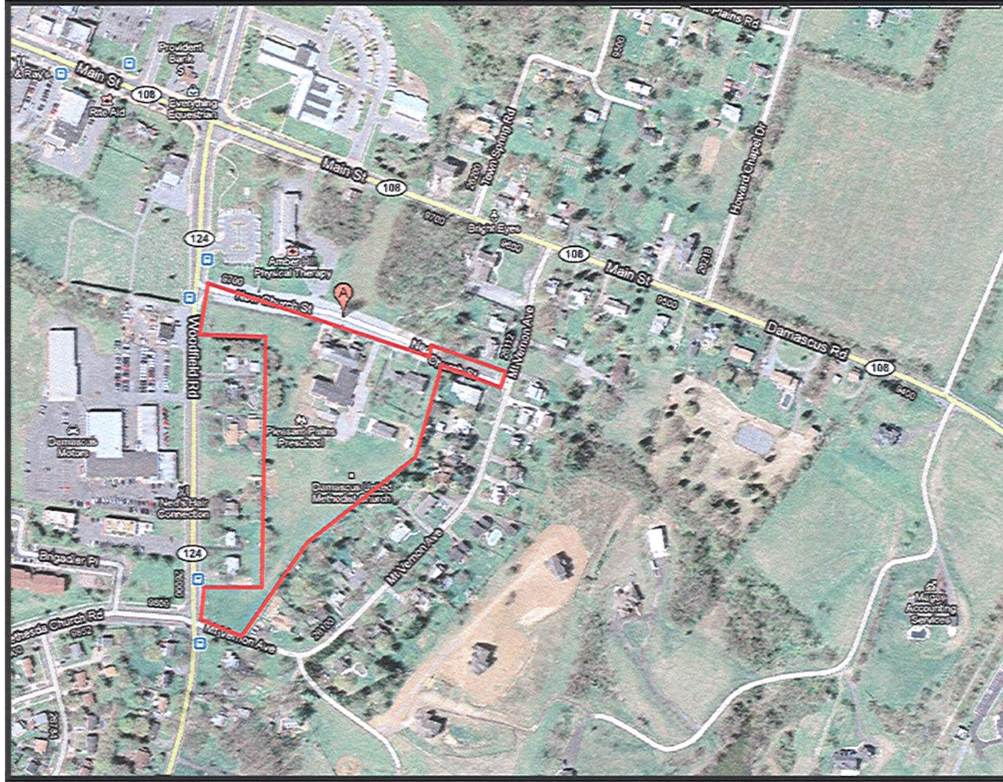
Condition #2 of the Opinion required a forest conservation plan. The forest conservation plan approval required establishment of a 1.25-acre, on-site forest conservation easement or in lieu of the on-site easement an off-site easement would be acceptable. In 1993, an agreement was reached between MNCPPC and the applicant to meet the forest conservation requirements at an offsite location; however, the off-site easement was not recorded and the offsite location is no longer available. This amendment seeks to finalize the off-site easement associated with the approved forest conservation plan.

SITE DESCRIPTION

The Damascus United Methodist Church is an 8.4-acre site located at 9700 New Church Street in Damascus. The property is zoned R-200 and located at the southeast corner of the intersection of New Church Street and Woodfield Road (MD Route 124). The site is occupied by the existing Damascus United Methodist Church with an annex building, parking area, playgrounds, a pavilion, and sheds. A daycare center operates out of the annex building. The remainder of the property is comprised of open, grassed field with individual trees located primarily along the perimeter of the property. A medical office building abuts the site to the north with single family

residential uses along Mount Vernon to the east and to the west along Woodfield Road. The property is located in the Great Seneca Creek watershed, a Use I waterway.

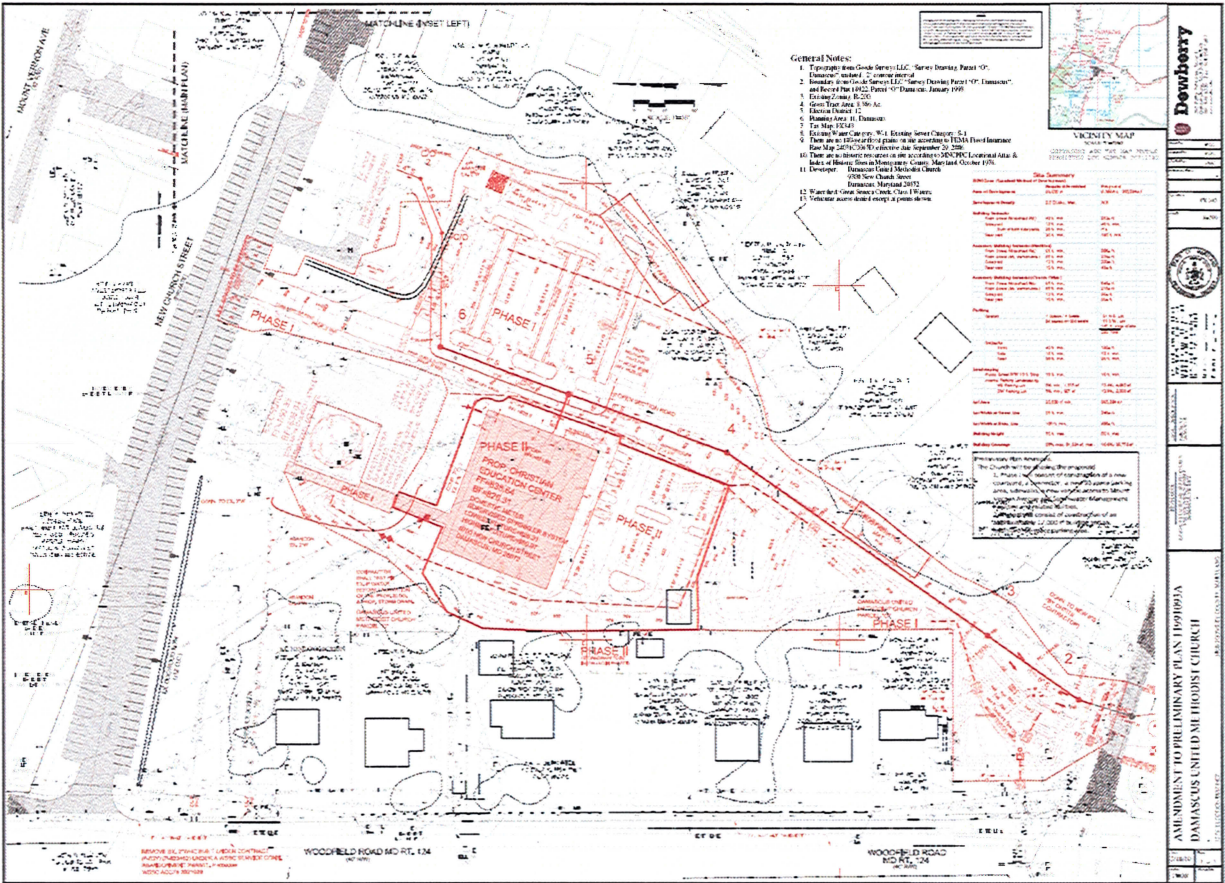
Exhibit 1: Vicinity Map



PROJECT DESCRIPTION

This limited preliminary plan amendment was submitted to revise the conditions of the Final Forest Conservation plan to establish the off-site forest conservation easement location and to establish a timeframe in which the deed for that easement is recorded. This plan amendment also allows an opportunity for public comment on the additional building, pavement and infrastructure associated with this church project. The additional buildings and pavement on this property do not require any changes to the record plat or to the previous conditions of the Planning Board's approval nor do they generate any additional peak-hour vehicular trips. Therefore, they do not require further transportation related Adequate Public Facilities review pursuant to 50-35(k)(6) of the Montgomery County Subdivision Regulations.

The modifications to the plan will be done in two phases and are shown on the redline drawing below.



Phase I

Construction of a new courtyard and a 93 space parking lot with a new access driveway to Mount Vernon Avenue.

Phase II

Construction of a new 17,000 square foot religious education center.

OTHER ADEQUATE PUBLIC FACILITIES

As determined in the original approval of this project, public facilities continue to be adequate to serve the existing and proposed development on the Property.

FOREST CONSERVATION PLAN

A forest conservation plan (119910930) was approved for the property in July 1992. The approved forest conservation plan included a condition for the establishment of a 1.25-acre, on-site forest conservation easement or in lieu of the on-site easement, the requirement could be met offsite. In 1993, an agreement was reached between MNCPPC and the applicant to meet the

forest conservation requirements at an offsite location; however, the easement was never recorded and the offsite location is no longer available. In November 2009, Environmental Planning staff approved an amendment to the forest conservation plan, with the sole purpose being the identification of an offsite location to satisfy the original forest conservation requirements. A Category I 2.5-acre forest conservation easement will be established over an existing offsite forest to meet the original forest conservation requirements of the subdivision plan.

This amendment application also includes a Tree Save and Landscaping Plan for the site. Tree Save measures, including root aeration mats are shown along the eastern edge of the site to reduce impact to a number of specimen trees located along the common property line with adjacent residential lots. Grading in this area necessitates these measures to enhance the survivability of these trees. The Landscape Plan also shows the planting requirements for the parking facilities required as part of the parking facilities plan approved by the Montgomery County Department of Permitting Services (MCDPS). Staff recommends approval of the Tree Save and Landscape Plan.

STORMWATER MANAGEMENT

A stormwater management concept plan was approved by MCDPS on April 27, 2009. The concept consists of partial on-site channel protection measures with a dry pond and a partial waiver of channel protection because of the downstream facility known as the Valley Park regional facility. On-site water quality will be provided using sand filters, bio-filters and grassed channels. The plan complies with Section 50-24(j) of the Subdivision Regulations pertaining to stormwater management concept approvals.

NOTIFICATION AND COMMUNITY COMMENT

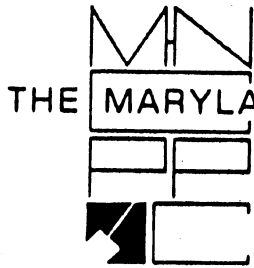
The applicant notified adjacent and confronting property owners as well as community groups and civic associations of the application submission to MNCPPC, as required. As of the date of this report, no concerns from these parties have been brought to Staff's attention.

CONCLUSION

This amendment proposes additional uses that are permitted by right in the R-200 zone, i.e. a religious institution and accessory uses. The plan continues to be bound by all applicable previous conditions of approval for preliminary plan 119910930 and amended by the conditions contained herein.

Attachment A – July 22, 1992 Opinion
Attachment B – Planning Board Agreement

Date of Mailing: July 22, 1992



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
8787 Georgia Avenue • Silver Spring, Maryland 20910-3760

Action: Approved Staff Recommendation
(Motion of Comm. Richardson, seconded by Comm. Aron, with a vote of 4-0; Comms. Richardson, Aron, Bauman and Baptiste voting in favor, with Comm. Floreen being absent.)

MONTGOMERY COUNTY PLANNING BOARD

OPINION

Preliminary Plan 1-91093
NAME OF PLAN: DAMASCUS UNITED METHODIST CH.

On 09-19-91, DAMASCUS UNITED METHODIST, submitted an application for the approval of a preliminary plan of subdivision of property in the R200 zone. The application proposed to create 1 lots on 8.23 ACRES of land. The application was designated Preliminary Plan 1-91093. On 07-16-92, Preliminary Plan 1-91093 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 1-91093 to be in accordance with the purposes and requirements of the Subdivision Regulations (Chapter 50, Montgomery County Code, as amended) and approves Preliminary Plan 1-91093, subject to the following conditions:

1. Agreement with Planning Board to limit development to a house of worship and associated uses
2. Prior to recording of plat(s) and/or issuance of sediment and erosion control permit(s), applicant must meet the applicable conditions of the forest conservation plan
3. Access and improvements as approved by MCDOT and MDSA
4. Conditions of DEP stormwater management approval dated 6-15-92
5. Dedication of Woodfield Road (Route 124) 40' off center line and all intersection truncations for further rights-of-way
6. Necessary easements

8976-001
1100692swg
agr

AGREEMENT

THIS AGREEMENT, made this 1st day of November, 1992, by and between DAMASCUS UNITED METHODIST CHURCH (hereinafter "Damascus") and the MONTGOMERY COUNTY PLANNING BOARD of the MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION (hereinafter the "Planning Board").

W I T N E S S E T H :

WHEREAS, Damascus is the owner in fee simple of that certain parcel of real estate situate in Montgomery County, Maryland ("Property"), more particularly identified on Exhibit "A" attached hereto and made a part hereof, subject to easements, rights-of-way, covenants and restrictions of record; and

WHEREAS, subdivision of the Property required a review by the Planning Board of the adequacy of the public facilities available to serve the property; and

WHEREAS, in order to pass the adequate public facilities review, use and operation of improvements to the Property must be restricted; and

WHEREAS, Damascus and the Planning Board agreed that the Property could be subdivided provided the necessary restrictions were contained in an agreement which shall bind Damascus, its heirs, successors and assigns and which shall be noted on the record plat for the Property; and

WHEREAS, by the execution of this Agreement, Damascus intends to create restrictions on the Property necessary to meet the conditions of subdivision approval. The purposes of these restrictions are to limit the construction of structures on the Property and to limit the use of the Property so that persons and properties will not be harmed by overburdened public facilities. Damascus intends that the restrictions created by this Agreement shall be binding on itself, its successors, assigns, and lessees and on the land and improvements described herein in perpetuity or until released with the consent of the Planning Board.

NOW, THEREFORE, in consideration of the mutual promises and stipulations set forth herein, other good and valuable consideration, receipt of which is hereby acknowledged, and in accordance with the approval of the subdivision of the property and of the premises and the covenants contained herein, the parties, their successors, and assigns, hereby covenant and agree as follows:

1. The recitals set forth above are hereby incorporated herein by reference and made a part hereof.

2. Development on the Property must be limited to a house of worship and associated uses. Development and use of the Property are restricted in the manner specified by the conditions of the Planning Board in Preliminary Plan No. 1-91093.

3. Damascus must not violate the restrictions agreed to in Paragraph 2 above without the successful completion of an adequate public facilities review by the Planning Board pursuant to Section 50-35(k) Montgomery County Code.

4. Damascus must notify the Planning Board of an application for a building permit or a use and occupancy permit for the Property. Damascus must not seek a building permit or a use and occupancy permit for a structure or use on the Property that violates the restriction created herein. In the event permits are sought which violate the restrictions created herein, neither the Planning Board nor The Maryland-National Capital Park and Planning Commission need recommend issuance of any such permit, and Montgomery County, Maryland may withhold issuance of any such permit.

5. Upon prior notice to Damascus, representatives or designees of the Planning Board may enter upon the Property from time to time for the purpose of inspection and enforcement of the terms, conditions, and restrictions created herein. Wherever possible, a representative of Damascus shall be present at an inspection. In the event that the representative or designee determines on the basis of the inspection that the restrictions created herein are being violated, the representative or designee must promptly advise Damascus concerning the problem.

6. The Planning Board, The Maryland-National Capital Park and Planning Commission, and Montgomery County, Maryland have the right to bring an action for any legal or equitable relief necessary to enforce the restrictions created herein.

7. Upon request Damascus, the Planning Board shall release the Property from these restrictions if it finds that public facilities are adequate pursuant to Section 50-35(k) of the Montgomery County Code for additional development of the Property. Such a review shall include the public facilities impact of any existing building or use to remain on the Property as well as that of the proposed additional development.

8. This Agreement shall bind and inure to Damascus, its successors and assigns. Wherever this Agreement refers to the Montgomery County Planning Board, it shall also refer to any successor agency, if any, who will administer the "Adequate Public Facilities" Ordinance (Section 50-33(k) of the Montgomery County Code).

9. A notation of this Agreement must be made on any record plat from the Property.

10. This Agreement may only be modified in a writing signed by the parties hereto, their heirs, successors or assigns.

IN WITNESS WHEREOF, this instrument has been executed by Damascus and the Planning Board on the day and year hereinbefore written.

ATTEST:

DAMASCUS UNITED METHODIST CHURCH

[Signature]

By: *[Signature]*

MONTGOMERY COUNTY PLANNING BOARD

[Signature]
12/4/92

By: *[Signature]*

APPROVED AS TO LEGAL SUFFICIENCY

[Signature]
M-NCPPC Legal Department

Date 11/30