



Preliminary Plan No. 120100130: ISG Building

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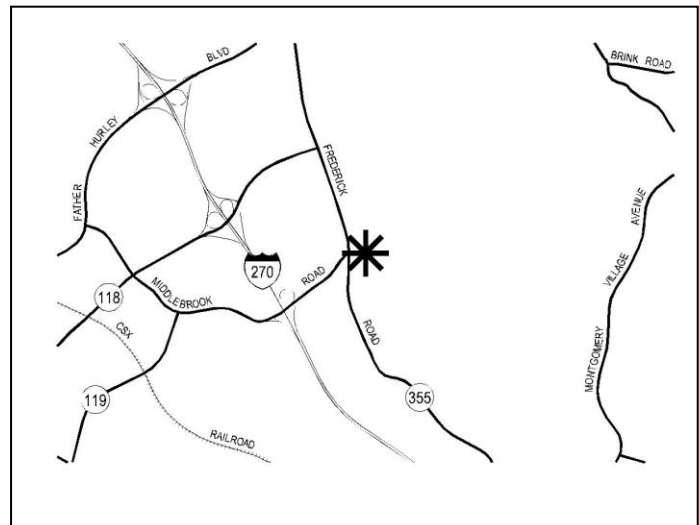
Description

Preliminary Plan No. 120100130: ISG Building

One lot requested for a religious institution, located at the intersection of Middlebrook Road and realigned Blunt Road, R-60 Zone; 1.44 acres, Germantown Employment Area Sector Plan

Review Basis: Chapter 50 and Chapter 22A
Applicant: Islamic Society of Germantown
Date Submitted: 12/16/09

Staff Recommendation: Approval with conditions and adoption of the Resolution



Summary

- This subdivision will create a single lot for a religious institution with a capacity of 283 by consolidating unplatted parcels, abandoned right-of-way and other property conveyed to the Applicant by Montgomery County that were made available due to the realignment and partial abandonment of Blunt Road.
- The proposed Mosque is exempt from the Adequate Public Facilities review pursuant to Section 50-35(k)(6) of the Subdivision regulations. LATR and PAMR reviews are not required.
- This Preliminary Plan and record plat will establish the eastern boundary of the right-of-way for the new alignment of Blunt Road as recommended in the local Sector Plan.
- A forest conservation plan with a tree variance is recommended for approval with this Application.

RECOMMENDATION: Approval subject to the following conditions:

- 1) Approval under this Preliminary Plan is limited to one lot for a religious institutional use with no weekday daycare or private school.
- 2) The Applicant must comply with the following condition of approval for Preliminary Forest Conservation Plan No. 120100130:
 - Prior to approval of the Final Forest Conservation Plan the Applicant must submit an ISA certified arborist report and tree save plan for tree ST-1 (as identified on the Preliminary Forest Conservation Plan) with protection measures to be approved by Staff as part of the final forest conservation plan approval.
- 3) The Planning Board has accepted the recommendations of the Montgomery County Department of Transportation (“MCDOT”) in its letters dated December 2, 2011 and April 28, 2011, and does hereby incorporate them as conditions of the Preliminary Plan approval. Therefore, the Applicant must comply with each of the recommendations as set forth in the letters, which may be amended by MCDOT provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 4) Prior to recordation of plat, the Applicant must satisfy the provisions for access and improvements as required by MCDOT.
- 5) The Planning Board has accepted the recommendations of the Montgomery County Department of Permitting Service (“MCDPS”) – Water Resources Section in its stormwater management concept letter dated September 20, 2011, and does hereby incorporate them as conditions of the Preliminary Plan approval. Therefore, the Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDPS – Stormwater Section provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 6) The Applicant must construct all public road improvements as shown on the approved Preliminary Plan. Only those roads (or portions thereof) expressly designated on the Preliminary Plan, “To Be Constructed By _____” are excluded from this condition.
- 7) Prior to recordation of the plat, the Applicant must satisfy MCDPS requirements to ensure the construction of a 5-foot wide sidewalk along the subject property frontage on future Blunt Road, unless construction is waived by MCDPS.
- 8) Prior to issuance of building permits, a landscape and lighting plan must be submitted for review and approved by Staff.
- 9) The certified Preliminary Plan must contain the following note:

“Unless specifically noted on this plan drawing or in the Planning Board conditions of approval, the building footprints, building heights, on-site parking, site circulation, and sidewalks shown on the Preliminary Plan are illustrative. The final locations of buildings, structures and hardscape will be determined at the time of issuance of building permit(s). Please refer to the zoning data table for development standards such as setbacks, building restriction lines, building height, and lot coverage for each lot. Other limitations for site development may also be included in the conditions of the Planning Board’s approval.”
- 10) The record plat must show necessary easements, including those for any utilities remaining in the abandoned Blunt Road right-of-way as required by the responsible utility provider.

SITE DESCRIPTION (Figure 1)

Preliminary Plan No. 120100130 (“Preliminary Plan” or “Application”) is located on the south side of Middlebrook Road and on the east side of realigned Blunt Road in the Germantown planning area. The property is 1.44 acres in size and is zoned R-60, consisting of an assemblage of unplatted parcels and abandoned right-of-way (“Property” or “Subject Property”). A section of pavement of former Blunt Road (now abandoned) bisects the Property from southwest to northeast and is mostly overgrown with encroaching roadside vegetation but it continues to be used by pedestrians on Middlebrook Road to access the nearby shopping center at Blunt Road and MD 355. The portion of the Property south of the former Blunt Road pavement is mostly cleared of vegetation; the portion north of the Blunt Road pavement is forested. Topography is generally flat and there are no streams, wetlands, or environmental buffers. The Property is within the Great Seneca Creek watershed; a Use I-P watershed. The Countywide Stream Protection Strategy (CSPS) rates streams in this section of the watershed as having fair overall water quality condition.

To the south of the Subject Property is a vacant recorded lot (Lot 18) in the OM zone (Office Building – Moderate Intensity). To the east is a residential community of one-family residences in the R-60 zone. Middlebrook Road abuts the Subject Property to the north and the realigned Blunt Road will abut the Property to the east. Commercial uses are located on the properties further to the east at the intersection of MD 355 and Middlebrook Road.

Middlebrook Road is partially constructed to its full width near its intersection with MD 355, but for most of its length on the east side of MD 355, it operates as a two lane road within the southern half of its master planned right-of-way. The completion of this section of Middlebrook Road to a six lane, major highway is tied to further evaluation of the Mid-County highway (M-83) that will intersect Middlebrook Road approximately one half mile to the west of the Subject Property.

ISG BUILDING 120100150



NOTICE

Figure 1

PROJECT DESCRIPTION (See Figures 2 and 3)

The Application requests a 1.44 acre lot to accommodate the construction of a religious institution (Mosque) with 78 parking spaces with vehicular access to realigned Blunt Road. The properties that have been assembled to create the lot consist of unplatted parcels acquired by the Applicant and a section of the former Blunt Road right-of-way. The abandonment of this section of Blunt Road and disposition of other County-owned property in the immediate area was the subject of a County Council Abandonment Resolution No. 17-212 (Attached). The abandoned properties were conveyed to the

Applicant with certain stipulations that included platting of the acquired properties by the Applicant and establishing the right-of-way boundary for the realignment of Blunt Road along the Property frontage.

The Mosque building will be located in the center of the new lot with a ring of parking and travel lanes around the building. Seventy-one parking spaces are required to accommodate the building's capacity of 283 people. The Preliminary Plan shows seventy-eight parking spaces will be provided including four handicap spaces. A sidewalk also provides pedestrian access from the parking lot to the front door of the facility and to emergency exits. Most of the parking lot will be porous pavement to meet the facility's stormwater management requirements. Water quality bioswales will be located along the perimeter of the site to also treat runoff. An existing six-foot high wood privacy fence will remain along the perimeter of the Property adjacent to the residential community. Evergreen plants will be placed between the fence and parking lot curb along the northern and eastern property lines to supplement the screening provided by the fence. Additional shade trees and groundcover will be placed in the numerous planting islands throughout the parking lot. The final landscape plan will be reviewed by staff prior to issuance of a building permit, as conditioned.

The proposed lot will have access only to Blunt Road which provides vehicular access to MD 355. At the intersection of Blunt Road and MD 355, motorists must make a right out only movement and travel north to the signalized intersection at Middlebrook Road where options exist to travel east or west, or perform a U-turn to go south on MD 355. MCDOT has approved road improvements that will initially require the Applicant to construct temporary improvements to include 20 feet of pavement within Blunt Road from the southern property line just to the north of the parking lot entrance in Blunt Road to accommodate turnaround and fire access staging area. A sidewalk along the entire frontage of Blunt Road will connect to the sidewalk in Middlebrook Road. The remaining contributions to improvements for Blunt Road will be detailed in an agreement with MCDOT to be finalized prior to the County signing the record plat for the lot. The agreement will detail the Applicant's responsibility for further road improvements and is discussed in more detail in the transportation section of this report.

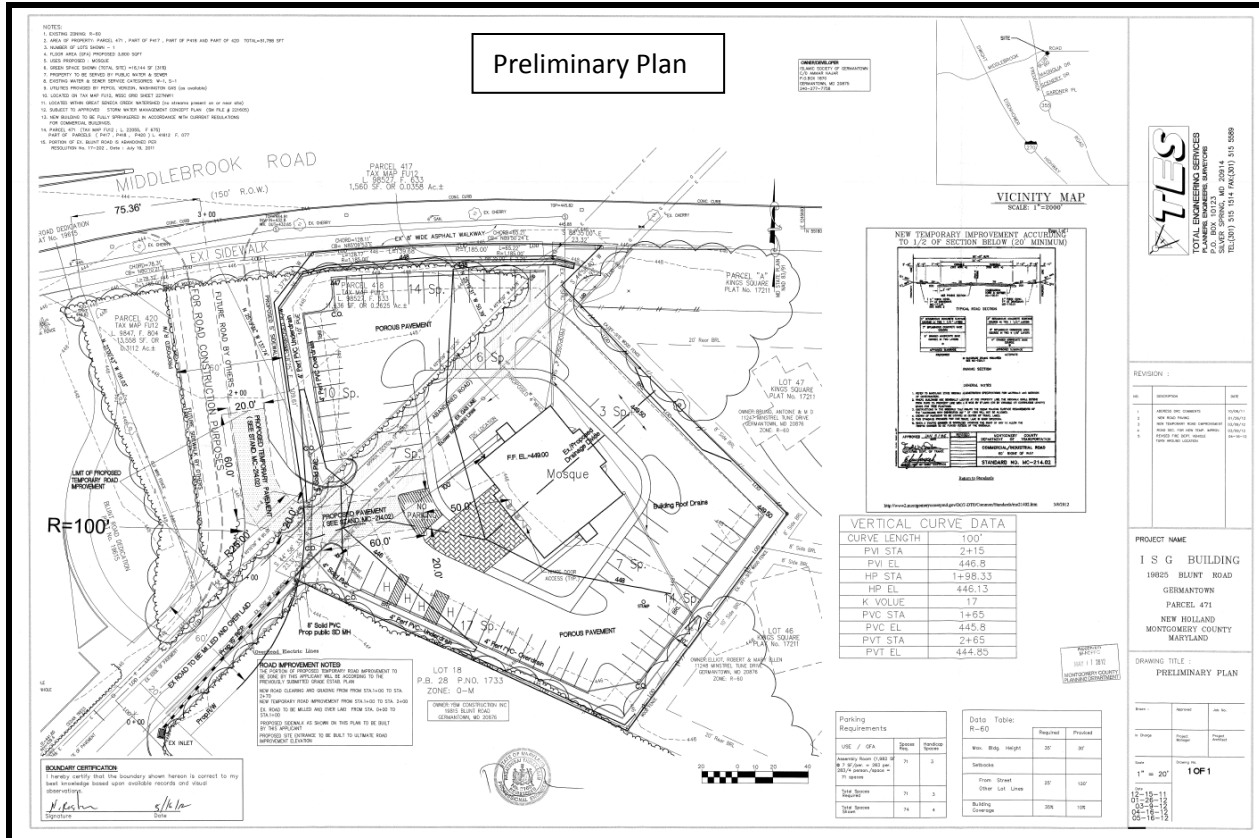


Figure 2

Montgomery County acquired sufficient properties in the immediate area of the Subject Property to provide for the Sector Plan's recommended 60 foot wide right-of-way width for Blunt Road and to provide for the realignment of Blunt Road so that it could intersect with Middlebrook Road in a safe configuration and location. The Applicant acquired a section of the old Blunt Road right-of-way and remnants of other adjacent County-owned properties not directly needed for the new Blunt Road realignment. The County retains ownership of other remnant properties on the opposite side of the realigned Blunt Road right-of-way and has suggested that they could be made available for acquisition by private interests for commercial development, as recommended by the Sector Plan. For these reasons, the Preliminary Plan is in substantial conformance with the Sector Plan.

Adequacy of Public Facilities

Roads and Transportation Facilities

A religious institution is provided specific exemptions from the Adequate Public Facilities review under Section 50-35(k)(6) of the Subdivision Regulations. LATR and PAMR reviews are not required for this Application.

As discussed, the Applicant is required to construct temporary road frontage improvements identified as "Proposed Temporary Pavement" on the Preliminary Plan. The temporary improvements, including twenty feet of pavement within Blunt Road and a sidewalk along the Property frontage to Middlebrook Road, will provide safe and adequate access to the Mosque for pedestrians and vehicles. The temporary improvements also provide adequate access for emergency apparatus. The sidewalk will be built at the final grade for future Blunt Road and provide local pedestrians, who currently use the old Blunt Road pavement, access from Middlebrook Road to the Mosque and the commercial uses on MD 355.

The remaining road frontage improvements required by the Applicant will be specified in a Declaration of Covenants to be reviewed and approved by MCDOT and accepted prior to the County signing the record plat for the Application. The future road improvements are generally discussed in the MCDOT approval letters of December 2, 2011 and April 28, 2012 and will require the Applicant to complete the typical frontage improvements in two stages. The first stage will be in conjunction with development of the adjacent OM-zoned, Lot 18 (SDPA 3-11, YBM Construction, Inc.) when development proceeds on that property. The Applicant will be required to participate with the developer of Lot 18 in construction of the full Blunt Road cross-section as a Business District street from the northernmost edge of the Applicant's temporary turnaround, south and west, to tie into the existing Blunt Road pavement along the shopping center frontage. The second stage of the Declaration of Covenants will require the Applicant to participate in constructing one-half of any remaining section of unbuilt Blunt Road from the temporary turnaround across the Property frontage to the north, and tie into Middlebrook Road.

The temporary improvements to Blunt Road were agreed to by MCDOT and the Applicant and are viewed as an equitable solution that provides adequate and safe initial access to the Mosque and allows the Applicant to begin construction and await participation in permanent road improvements with other developments as the need for additional capacity of Blunt Road increases.

Other Public Facilities and Services

The Application has been reviewed by all agencies that provide public facilities and services to the Subject Property. The Montgomery County Department of Fire and Rescue Services determined that the Application provides appropriate access for fire and rescue vehicles. The Washington Suburban Sanitary Commission has determined that local transmission and treatment facilities are adequate to serve the proposed development with water and sewer service. Police stations, firehouses and health services are currently operating within the standards set by the Subdivision Staging Policies currently in effect. The use does not generate any impact on schools and is not subject to a School Facilities Payment. Other utilities and services are available and will be adequate to serve the proposed use. Electricity, natural gas, and telecommunication providers are able to provide service to the Property.

Environment

Environmental Guidelines

The Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) (420111850) for the Property was approved on May 17, 2011. There are 0.46 acres of forest on the tract area which includes forest on the Property and within the Blunt Road right-of-way. There are no trees between 24" and 30" diameter at breast (DBH) and one tree, 30 inches and greater DBH on the common property line. Additionally, there is a 33" DBH White Oak immediately off site to the south with a critical root zone that extends on to the Property. There are no wetland, streams, buffers or other sensitive environmental features on the site.

Forest Conservation Plan (See Figure 4)

The forest conservation plan (FCP) indicates that development of the Property will require clearing of all 0.46 acres of forest with no forest retention which results in a 0.62 acre afforestation planting requirement. Staff does not believe there are reasonable opportunities to protect any of the forest with conservation easements. The Applicant proposes to meet the entire 0.62 acre planting requirement in an off-site mitigation bank.

Forest Conservation Variance (See Figure 5 and 6)

Section 22A-12(b) (3) of Forest Conservation Law provides criteria that identify certain individual trees as high priority for retention and protection. Any impact to these trees, including removal or disturbance within the tree's critical root zone (CRZ) requires a variance. An applicant for a variance must provide certain written information in support of the required findings in accordance with Section 22A-21 of the County Forest Conservation Law. The law requires a variance for any impact to trees that: measure 30 inches or greater diameter at breast height (DBH); are part of a historic site or designated with a historic structure; are designated as national, State, or County champion trees; are at least 75 percent of the diameter of the current State champion tree of that species, or trees, shrubs, or plants that are designated as Federal or State rare, threatened, or endangered species.

The Applicant submitted a variance request on May 3, 2012 for impacts to two trees 30 inches or greater at DBH. One tree will be removed and the second will have impact to the critical root zone.

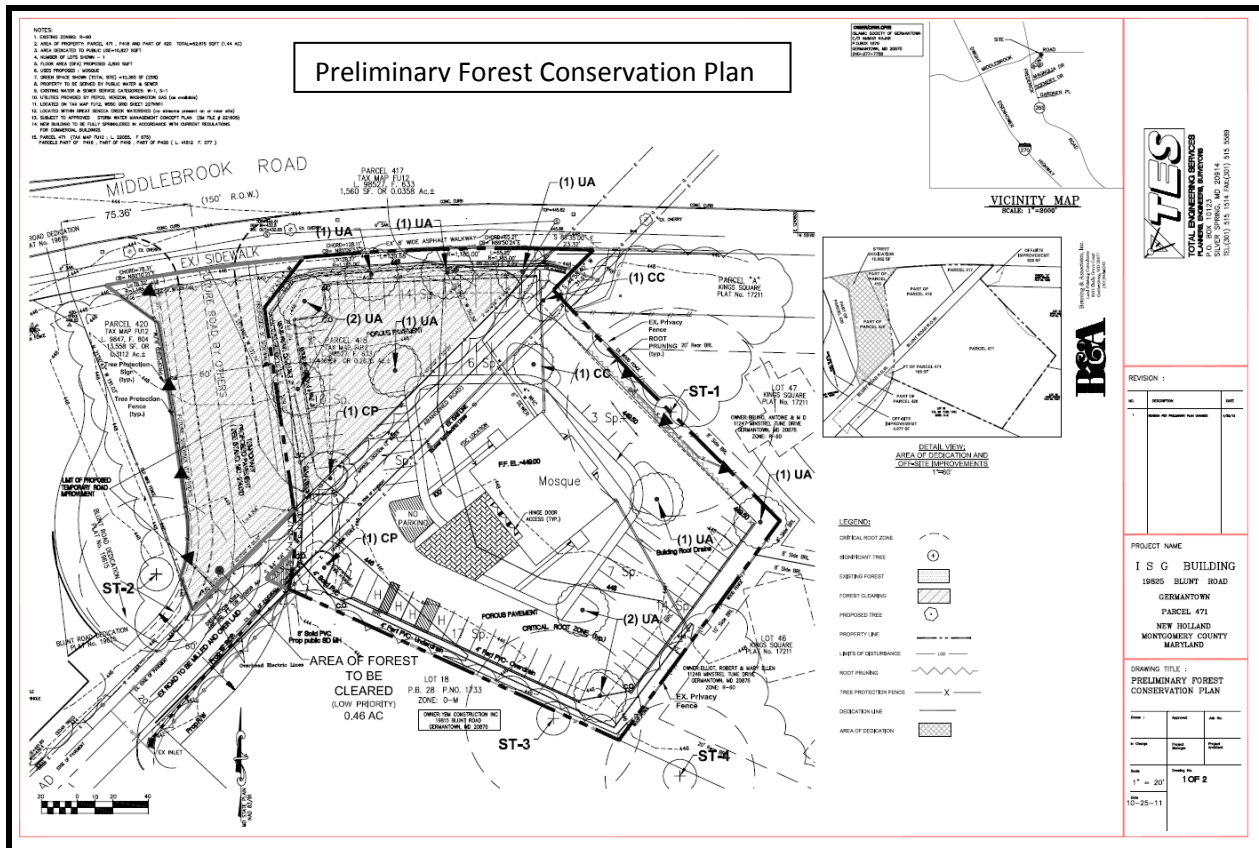


Figure 4

SPECIMEN TREE CHART							
TREE NUMBER	BOTANICAL NAME	COMMON NAME	SIZE (D.B.H.)	TREE CONDITION	% CRZ IMPACTED	STATUS	REASON FOR IMPACTS
ST-1	Acer negundo	Boxelder	39"	Poor (Hazard)	45%	To Remain	New parking facility and construction of mosque
ST-3	Quercus alba	White Oak	33"	Moderate	42%	Off-site	New parking facility and stormwater management swale

Figure 5

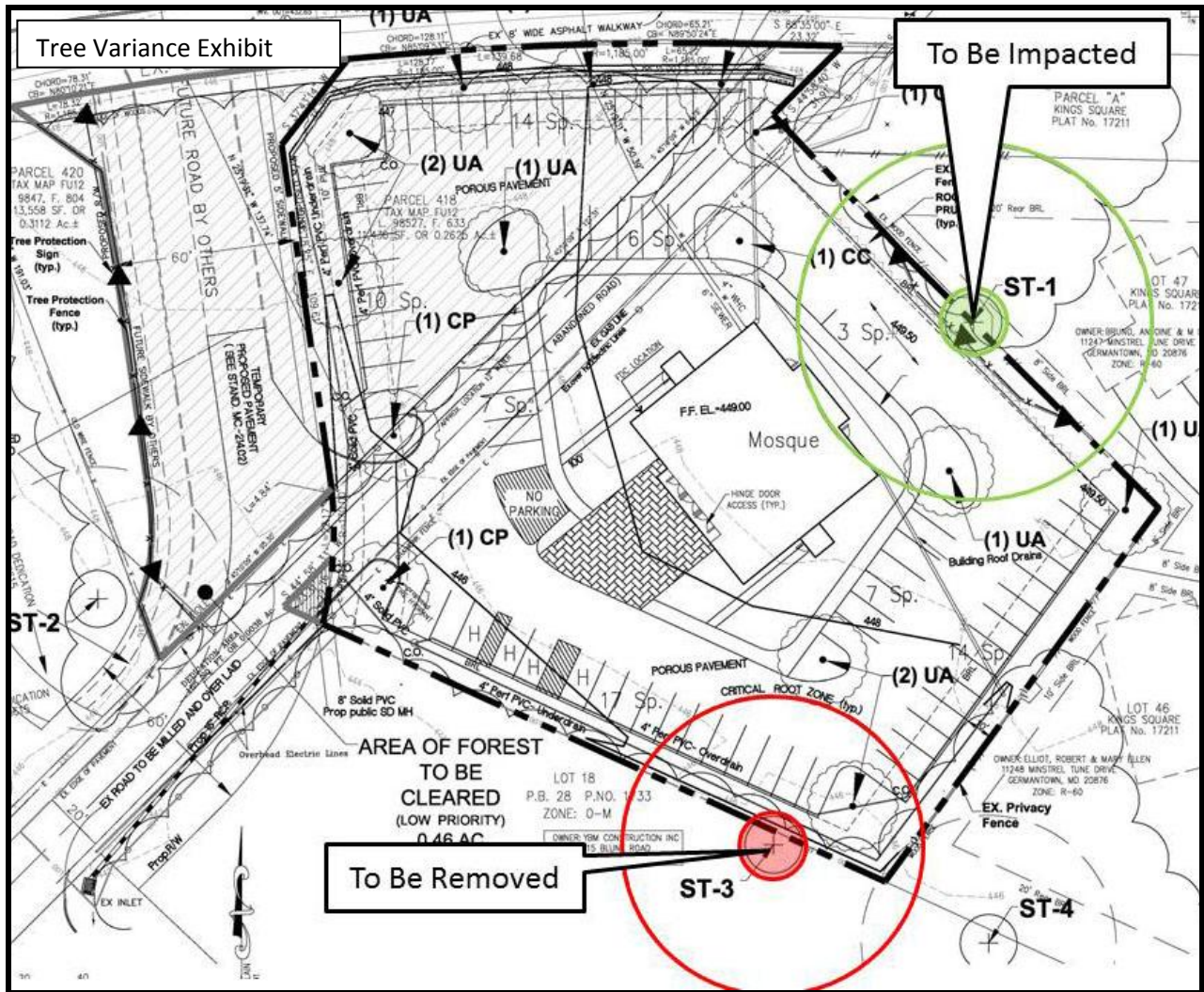


Figure 6

Unwarranted Hardship

As per Section 22A-21, a variance may only be granted if the Planning Board finds that leaving the requested trees in an undisturbed state would result in unwarranted hardship. In this case, the unwarranted hardship is caused by:

- The small size of the site
- The implementation of an institutional use as recommended in the Sector Plan
- Adequate parking facilities for a religious institution
- Adequate circulation and emergency services ingress and egress for a religious institution
- A layout restricted by customs and traditions of the religious institution

The Applicant has responded to the challenges of fitting the required program on a constrained site by designing a facility that works with all applicable zoning and regulatory requirements. The proposed use implements a specific recommendation in the Sector Plan; however, the entire site is not of sufficient

size to avoid impacts to adjacent tree's critical root zones. If the Applicant was not allowed to impact or remove the requested trees, the Applicant would not be able to build the place of worship in a manner that would satisfy their customs and traditions, implement the Sector Plan and meet county regulations for setback, rights-of-way and access.

Variance Findings

The Planning Board must make findings that the Applicant has met all requirements of section 22A-21 of the County Code before granting the variance. Staff has made the following determination on the required findings:

1. The request for a variance will not confer on the applicant a special privilege that would be denied to other applicants;

A place of worship is a permitted use in the R-60 zone and supported by the Sector Plan. No waivers of zoning, development standards or forest conservation standards are requested. The Applicant has responded to the challenges of fitting the required program on a constrained site by designing a facility that works with all applicable zoning and regulatory requirements. If the Applicant was not allowed to impact or remove the Protected Trees, they could not locate a facility on the Property that would satisfy their customs and traditions.

2. The variance request is not based on conditions or circumstances which are the result of the actions by the applicant;

The Applicant has prepared and submitted plans which meet all applicable development standards and requirements. The Applicant is developing a religious institution on a constrained site as recommended by the Sector Plan. Satisfying the customs and traditions of the Applicant and meeting all applicable zoning and regulatory requirements cannot be accomplished without the Variance.

3. The request for a variance is not based on a condition relating to land or building use, either permitted or non-conforming, on a neighboring property

The adjacent properties that are zoned for residential and commercial uses are not a contributing factor for the variance request.

4. Granting the variance request will not violate State water quality standards or cause measurable degradation in water quality.

The construction of the Mosque and associated parking areas has been planned to provide environmental site design (ESD) practices in accordance with the latest State and County requirements for stormwater management. State water quality standards will not be violated nor adversely impacted by the Variance.

County Arborist's Recommendation

On May 14, 2012 the County Arborist provided a written statement indicating that she was recommending approval of the variance with mitigation for the loss of resources due to the removal or disturbance trees subject to the law.

Mitigation

Staff does not recommend additional mitigation for the loss of the Tree ST-3 (as identified on the Preliminary Forest Conservation Plan). The tree is within an existing forest stand that will be compensated through the forest conservation worksheet. Tree ST-3 is located off-site, on Lot 18 which is also in the development process and has a variance submitted to Staff that requests removal of the same tree. Staff does not recommend mitigation for the impact to Tree ST-1 since there is no loss of the tree or its overall function. However, the current tree save measures of root pruning and tree protection fencing are inadequate; Staff recommends an ISA certified arborist report and tree save plan be prepared for Tree ST-1 to improve its long term survival potential.

Stormwater Management

The Preliminary Plan meets all requirements of Chapter 19, Article II, Section 19-20 through 19-35. The MCDPS-Water Resource Section approved a stormwater management concept for the Application on November 13, 2009. The concept consists of on-site water quality control and recharge by using pervious pavement and bioswales.

Compliance with the Subdivision Regulations and Zoning Ordinance

The Application has been reviewed for compliance with the Montgomery County Code, Chapter 50, the Subdivision Regulations, including the development standards under the R-60 zone. The Application meets all applicable sections. The proposed lot's size, width, shape and orientation is appropriate for the location of the subdivision taking into account the recommendations of the Sector Plan for a proposed institutional use. The lot is appropriately located on a Business District street that has access to MD 355.

The lot complies with the area and dimensional requirements of the R-60 zone as specified in Chapter 59, the Zoning Ordinance. The building and parking lots, as shown on the Preliminary Plan and the Zoning Data Table below, can meet all applicable zoning setbacks. The Application has been reviewed by other applicable county agencies, all of whom have recommended approval of the Preliminary Plan.

Zoning Data Table

PLAN DATA R-60 zone	Zoning Ordinance Development Standard	Proposed by the Preliminary Plan
Minimum Lot Area	6,000 square feet	62,274 square feet (1.44 acres)
Lot Width	60 ft.	180 ft.
Lot Frontage	25 ft.	180 ft.
Setbacks		
Front	25 ft. Min.	Must meet minimum at building permit
Side	8 ft. Min/ 18 ft. total	Must meet minimum at building permit
Rear	20 ft. Min.	Must meet minimum at building permit
Height	35 ft. Max.	Must meet minimum at building permit
MPDUs	No	No
TDRs	No	No
Site Plan Req'd	No	No

CITIZEN CORRESPONDENCE AND ISSUES

The Application has been properly noticed and signage has been placed in accordance with adopted procedures. The only correspondence from area residents has been from a Mr. Bruno, an adjacent property owner who shares a tree along the Property's eastern property line. The Applicant's arborist suggested early in the review of the Application that the tree, a Boxelder identified as tree ST-1 in the variance section, should be removed because of declining health. Mr. Bruno objected and would not consent to have the tree removed.

Recently, a certified letter was re-sent to Mr. Bruno asking for further comments on the tree's removal. The letter was rejected by the Bruno residence. The tree in question, ST-1, will be protected to the extent possible and not removed.

CONCLUSION

The proposed lot meets all requirements established in the Subdivision Regulations and the Zoning Ordinance and substantially conforms to the recommendations of the 2009, Germantown Employment Area Sector Plan. Access and public facilities will be adequate to serve the proposed lot, and the Application has been reviewed by other applicable county agencies, all of whom have recommended approval of the Preliminary Plan. Therefore, approval of the Application with the conditions specified above is recommended.

Attachments

Attachment A – Abandonment Resolution

Attachment B – Sector Plan Excerpts

Attachment C – Variance Request

Attachment D – County Arborist Letter

Attachment E – Agency Approval Letters