

Tri-County Baptist Church:- Preliminary Plan Amendment No. 11997100A

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Staff Report Date: 10-31-14

Description

Tri-County Baptist Church: Preliminary Plan No. 11997100A

A request to remove forest conservation easements and to amend the existing conditions of approval to allow a weekday child daycare use with six or fewer staff, to be located within the existing church building located at 7821 Damascus Road, on 15.69 acres; zoned RDT in the Damascus Master Plan area.

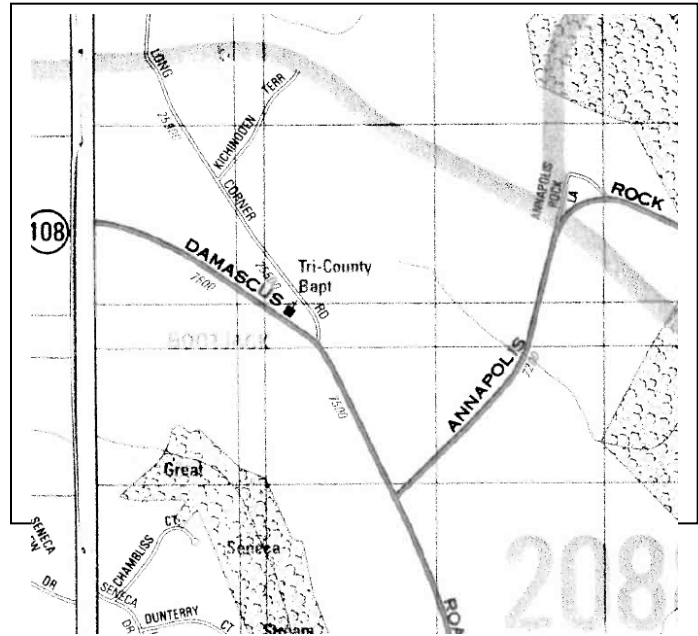
Staff Recommendation: Approval with conditions

Submittal Date: March 24, 2014

Applicant: Tri-County Baptist Church

Summary

- A request to allow a weekday child day care use with six or fewer staff within the existing church building.
- A request to remove forest conservation easements from the property/record plat. Forest conservation requirements were met at an off-site forest bank and on-site easements were never removed.
- Neighbors have expressed concern about the number of allowed children, the size and location of the septic system, impacts to wells, intensity of the use, the prevalence of weeds and maintenance.
- This application was accepted as a Consent Item but has been removed from the Consent Agenda to be considered in a public hearing.



RECOMMENDATION: Approval, subject to the following conditions:

Amend Condition No. 1 of the Planning Board Opinion for Tri-County Baptist Church, dated July 13, 2000 as follows:

(1) Approval under this preliminary plan is limited to a House of Worship with a maximum of 642 seats ~~and~~ ~~no~~ a weekday child day-care program with no more than 6 staff and no ~~or~~ weekday private school. Any modifications to ~~this use~~ these uses may require further Planning Board review.

Add the following conditions:

(11) The Applicant must submit a complete record plat application to M-NCPPC within 120 days from the Initiation Date for this Application which removes the Category I forest conservation easements from the Property.

(12) The certified preliminary plan must be amended to show no on-site forest easements.

SITE and VICINITY DESCRIPTION

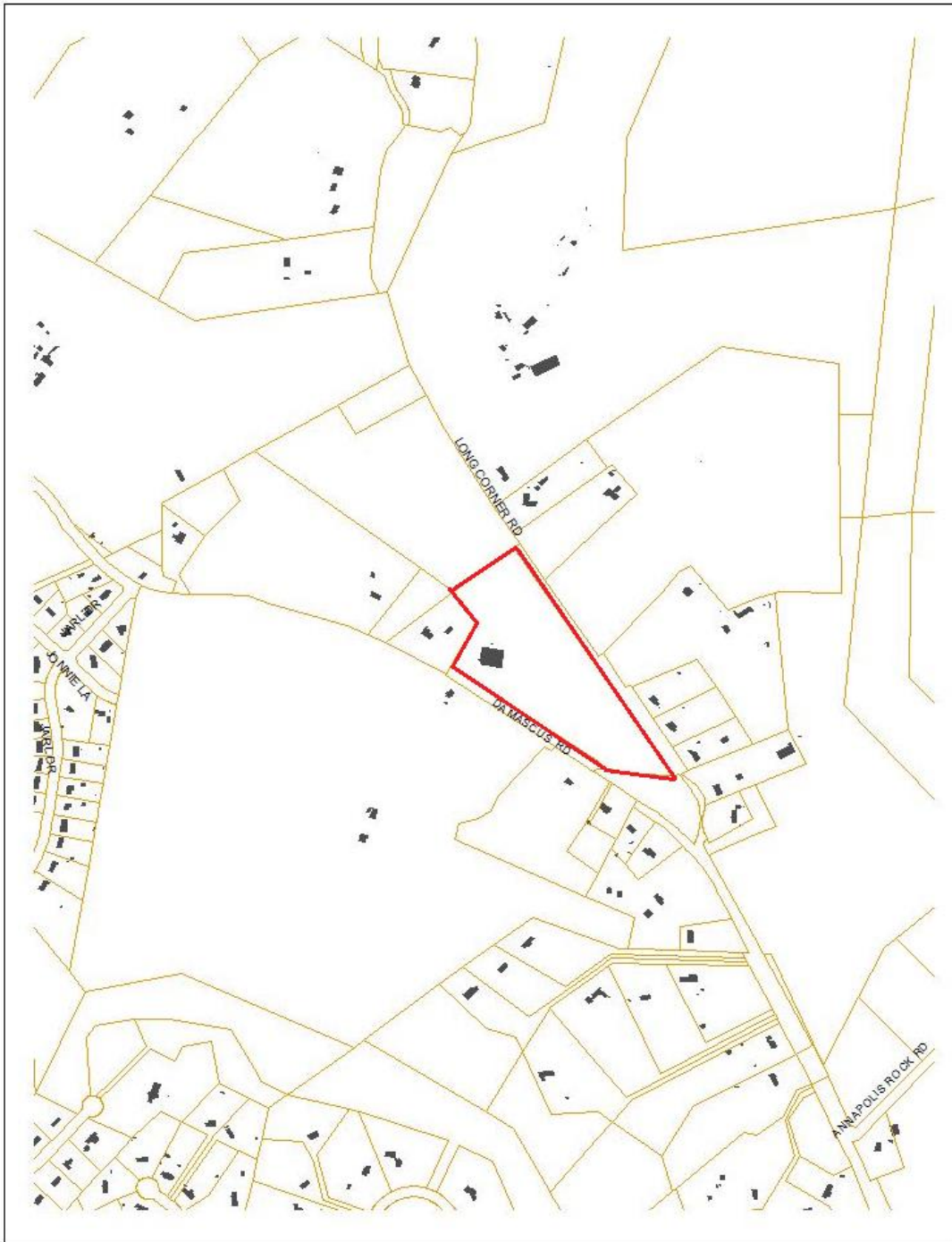
The property associated with the Tri-County Baptist Church, located at 7821 Damascus Road, is shown on Record Plat No. 21636 (Attachment 1), as a 15.6 acre lot in the Rural Density Transfer (RDT) zone ("Property"). The lot was created subsequent to the Planning Board approval of preliminary plan 119971000 (Attachment 2) by Opinion mailed July 13, 2000 (Attachment 3). The Property has frontage on both Damascus Road (MD 108) and Long Corner Road. Long Corner Road and Damascus Road intersect immediately to the south of the Property. The Property is developed with a 300 seat church and 75 parking spaces with access only to Damascus Road. There is an expansive stormwater management dry pond located to the south (downslope) of the church building and parking. The preliminary plan and record plat show other areas on the Property reserved for septic systems and forest conservation easements¹.

The surrounding properties are all zoned RDT. One family residential uses generally front to the two roads abutting the Property, with expansive agricultural fields located to the rear of the homes. Immediately to the north is a house with a fenced field holding grazing livestock with another house and equestrian facility just to the north of that. Confronting on Damascus Road is one single family home with an expansive 118 acre agricultural field to the rear of the house. Confronting on Long Corner Road are approximately 9 to 10 homes with agricultural fields to their rear. In general, residential density is very low; agriculture is the predominant use in the general vicinity.

¹ The forest conservation easements were required to meet the forest conservation requirements in effect at the time of the original preliminary plan approval. Subsequent to platting the Property with said easements, the Applicant received a Certificate of Compliance in 2002 agreeing to meet all forest requirements off-site in a forest bank. The conservation easements remain on the record plat and are technically in violation of the forest conservation law. The Applicant has agreed to use this Amendment as a means to resolve this issue.

Damascus Road is classified by the 2005 Damascus Master Plan (“Master Plan”) as a major highway with a 120 foot wide right-of-way. The Master Plan recommends this, and other roads, to remain as a two lane roadway to preserve agricultural and rural character. Long Corner Road is classified as a Country Road with a 70 foot wide right-of-way and is also to remain as a two lane road.

Vicinity Map



Aerial View



PROJECT DESCRIPTION

The Application requests a modification to the Planning Board condition which restricted the use of the Property to a 642 seat House of Worship with no weekday child-care program. The proposal would allow a daycare use to operate within the existing church building and that it would have no more than six staff. By State Code requirements, the number of children allowed to attend the daycare is limited by the number of staff and the age of the children. There are no outward changes required to the existing building to accommodate the day care use within the building. Space within the building will be altered to meet the State requirements for day care operations. The 75 parking spaces are more than sufficient to meet the parking requirements of a day care with six staff. The only outward change might be a sign that would need to meet the signage requirements of the Zoning Ordinance.

The Applicant has also agreed to use this Amendment application to request Planning Board permission to remove the forest conservation easements that remain on the Property. The Applicant worked with Planning Staff in 2001 - 2002 to satisfy all of the forest conservation requirements for the church approval at the Mason Island forest bank. A Certificate of Compliance Agreement ("Agreement") was recorded in the County Land Records (Attachment 4) in February 2002 in accordance with the adopted procedures for offsite planting in effect at that time. The Final Forest Conservation Plan was revised eliminating the easements. Technically, once the Agreement was recorded and the Final Forest Conservation Plan was revised the forest easements on the record plat should have been removed through re-recording of a plat. Because they remain on the record plat, and because they are being mowed occasionally, there is a technical violation of the forest conservation law. The Applicant was advised of this situation immediately after submission of this Application and has elected to use this Application to request permission to remove the easements by recording of a new record plat that shows no forest easements on site. Staff does not object to this request.

ANALYSIS AND FINDINGS – Chapter 50

Conformance to the Master Plan

The 2006 Damascus Master Plan does not make specific recommendations for the Subject Property but recommends the RDT zone for the general area to promote agriculture as the preferred use. The Tri County Baptist Church was and continues to be a permitted use in the RDT zone. The lot on which the church sits was found to be in conformance with the RDT zoning standards when it was initially approved by the Planning Board. The addition of a day care use that requires no outward changes to the approved structures or parking on the Property is a reasonable request in which an existing and active church building that generally sees limited activity during the weekdays is used for other purposes that serve the congregation and community as a whole. Staff therefore, finds the Application to be in substantial conformance with the Master Plan.

Adequate Public Facilities

Roads and Transportation Facilities

The Local Area Transportation Review (LATR) guidelines provide a specific exemption for child day care operations with six or less staff because they do not generate 30 or more peak hour trips in the morning or evening peak hours. This Application is therefore, exempt from the LATR. The Property is located in the Rural Policy Area where there is no Policy Area Mobility Review (PAMR) mitigation requirement. The Application satisfies PAMR requirements.

Road frontage improvements are not required for this Application since they were completed under a State Highway Administration permit approval when the church was constructed. An on-road bike path is recommended by the Master Plan for the length of Damascus Road from the Town of Damascus to the north, across the Property frontage and to Hipsley Mill Road to the south. This bike route will be implemented by the state as part of a comprehensive project that places signage along this road.

School Capacity

The Application generates no school aged children; therefore, this review does not apply.

Stormwater Management

The MCDPS-Water Resources Section approved a stormwater management concept for the original church construction. That stormwater management facility remains on the Property and will continue to handle stormwater management requirements for the runoff.

Other Public Facilities and Services

Well locations and septic systems have been approved by the MCDPS to meet the capacity demands of a 642 seat church. The septic facilities are deemed adequate for the child day care use. The MCFRS reviewed the original application and finds that emergency access is adequately provided to the building. Police stations, fire stations and health clinics are currently operating within the standards set by the Subdivision Staging Policies currently in effect. Other utilities already provide necessary service to the church building. The Application can be adequately served by all other public facilities and services.

Subdivision Design

The size, shape, width and orientation of the lot the lot was determined to be appropriate when it was originally approved for the church use. The lot will not change in configuration other than to remove the forest easements as discussed below. The prior Planning Board findings for Subdivision Design remain valid for this Application.

Environment

Forest Conservation Plan (Attachment 5)

As mentioned previously, the original preliminary plan for the church was subject to the Montgomery County Forest Conservation law. After the approval of preliminary plan No. 119971000, the record plat was recorded with approximately 3.1 acres of Category I easement all of which were to be planted in forest to satisfy the requirements of the Forest Conservation Law. Subsequent to the recordation of the record plat, the Applicant exercised the option to use an offsite forest bank rather than afforest on the Property within the recorded easements. In accordance with the procedures in effect at that time, an available offsite forest bank was located and a Certificate of Compliance Agreement was approved and recorded in the Land Records. Ostensibly, the easements on the Property should have been removed at that time; however, they remain on the Property as reflected on Record Plat No. 21636.

Technically, there is a violation of the forest conservation law since these easement areas are being mowed by the Applicant. Staff was not aware of this situation until after the Application for this amendment was received. The Applicant is willing to use this Application as a means to address the issue and requests Planning Board approval to remove the easements by recording a new record plat with no forest easements. Staff has recommended a condition of approval whereby the preliminary plan drawing is amended to show no easements and that requires the Applicant to submit a complete record plat application to MNCPPC within 120 days of the Initiation Date for the Resolution of the Board's action on this Application. The Applicant has been made aware of the nature of the violation and the penalties that are provided for in Section 50-41 of the Subdivision Regulations should they fail to meet the conditions recommended herein.

Zoning Standards

The lot was found to conform to the zoning ordinance when it was originally reviewed and approved for the church. As a 15.6 acre lot in the RDT zone, the lot was determined to meet the grandfathering provision found in Section 59-C-9.74(b)(2) of the zoning ordinance that allows platting of deed parcels created before the adoption of the sectional map amendment that zoned the property RDT. Under this provision, a property could be platted if it met the area and dimensional requirements of the zoning standards in place prior to adoption of the RDT zoning. The Property was created by deed prior to January 6, 1981 at which time it was zoned Rural, or 5 acre zoning. The lot was found to meet the area and dimensional requirements of the Rural zone and was recorded by plat for the House of Worship.

CORRESPONDENCE

Signage was appropriately placed on the Property and the Application was noticed in accordance with adopted procedures for Consent Agenda consideration. However, Staff has received correspondence from adjacent neighbors expressing certain concerns about the property, the intensity of the use and the general appearance of the site. Staff believes that part of the heightened concern was that the original application for this amendment included reference to a six staff daycare with 414 children. Staff brought this to the Applicant's attention who inadvertently calculated the permitted number of children, not by the number of staff as prescribe by State Code, but rather by the number of available parking spaces by which the 69 available spaces was sufficient for 414 children. A revised set of plans was sent out to the neighbors. The Application was removed from the Consent Agenda and has been placed on the Planning Board's public hearing agenda. A letter dated June 2014 (Attachment 6) was received that outlined seven bullet points. Staff will address those seven points below:

- The neighbors understand that the septic system approved for the church is essentially large enough to accommodate 14 single family homes. Staff suspects that the neighbors relate the size of the septic system to environmental impact to They question how it was possible to approve a church that has the same environmental impact as 14 single family homes?

Staff Response: The church is a permitted non-residential use in the RDT zone. The initial and back up septic reserve areas are in fact expansive but they meet the requirements for a 642 seat church even though only a 300 seat church has been built to date. Much of the septic field is held in reserve in case the initial field (in use today) should fail and need replacement. A properly designed and maintained septic system should not have detrimental environmental impacts. The septic system requirements are even more stringent in the Patuxent watershed to afford greater protection.

Only one lot was approved by the original preliminary plan for the church and the lot was found to meet all requirements of forest conservation, stormwater management and protection of the Patuxent River watershed by application of the Patuxent Primary Management Area (PMA) guidelines. Imperviousness within the transition area of the PMA was held to less than 10%.

- The neighbors believe that the calculated water consumption for 414 children would be a serious problem for local well water supplies.

Staff Response: Subsequent to the corrected plans now showing 30 children, the well water withdrawal should not be an issue according to a discussion with MCDPS staff.

- Wastewater for 414 children would overwhelm the septic system.

Staff Response: Subsequent to the corrected plans now showing 30 children, the septic concerns should not be an issue. The septic system for the church is well equipped to handle the expected flows according to a discussion with MCDPS staff

- Local neighbor wells could be contaminated.

Staff Response: The septic system on the property is designed to accommodate a 642 seat church. It is designed to properly treat septic effluent after passing through a septic tank. The septic system was installed under permit from the Montgomery County Department of Permitting Services and should not have a negative impact on local wells.

- The Tri-County Church *sold* its forest easement off site to the owner of the Mason Island Farm which will further impact the Patuxent River.

Staff Response: Under a Certificate of Compliance Agreement between Staff, the Applicant, and a forest bank Agent, the forest conservation requirements were met (not sold) in an offsite forest bank called the Mason Island Bank. The easements are still shown on the record plat for which the Planning Board is asked to remove.

- Up to 414 children could be attending and noise will be an issue.

Staff Response: Noise should not be an issue with the revised plan for a six staff daycare.

- Numerous complaints have been filed with Montgomery County about lack of property maintenance lack of stormwater management maintenance and thistle infestation.

Staff Response: The Planning Board has no authority over property maintenance or weed infestation.

- A general concern that even though there are no changes to the building or parking, it will have a negative impact to the agricultural zone, the Patuxent watershed and the surrounding neighbors.

Staff Response: With the clarification that this will only be a day care with six staff which the Applicant has stated will have no more than 30 children (36 allowed under state code), staff does not believe there will be any significant negative impacts to the local community.

In a telephone conversation with one of the neighbors, questions were raised as to the location of one of the septic reserve areas on the Property with respect to his well on his property. Under current requirements, a well must not be located less than 100 feet from any septic reserve area. Upon checking with MCDPS staff and having them look at the permit for the home on Lot 2 (P815) under the ownership of Lee Rosenthal, the separation between that residential well and the nearest point of the septic reserve area on the Property was 105 feet. That was the closest documented well on adjacent property to any part of the Church's septic system.

CONCLUSION

The proposed lot continues to meet all requirements established in the Subdivision Regulations and the Zoning Ordinance and the new use substantially conform to the recommendations of the Master Plan. Access and public facilities will be adequate to serve the proposed lot, and the Application has been reviewed by other applicable county agencies. Therefore, approval of the Application with the conditions specified above is recommended.

Attachments

- Attachment 1 – Record Plat
- Attachment 2 – Preliminary Plan
- Attachment 3 – Opinion
- Attachment 4– Agreement
- Attachment 5 – Forest Conservation Plan
- Attachment 6 – Letter from Citizens

Attachment 1 - Record Plat

- NOTES**
- ALL TERMS, CONDITIONS, AGREEMENTS, LIMITATIONS AND REQUIREMENTS ASSOCIATED WITH ANY PROPERTY APPLIED BY THE MONTGOMERY COUNTY PLANNING BOARD ARE REFERRED TO SIMPLY AND NOT BE EXTENDED BY THE RECORDATION OF THIS PLAT UNLESS EXPRESSLY CONTRADICTED BY THE RECORDING INSTRUMENT.
 - THE SUBDIVISION RECORD PLAT IS NOT INTENDED TO SHOW OVERLAPPING PROPERTY INTERESTS. THE DIMENSIONS AND AREA OF THIS PROPERTY OWNERSHIP AND USE FOR EVERY WATER RESTRICTING DIMENSION AND USE OF THIS PROPERTY OR ANY PART THEREOF SHALL BE INTENDED TO REPLACE AN EXAMINATION OF THE SD TO VERIFY THAT ALL WATER RESTRICTING DIMENSIONS ARE CORRECT.
 - THE PROPERTY SHOWN HEREON IS SUBJECT TO THE REQUIREMENTS OF THE MONTGOMERY COUNTY FOREST CONSERVATION LAW OF 1982 INCLUDING APPROVAL OF A FINAL FOREST CONSERVATION PLAN AND APPROPRIATE AMENDMENTS TO THE FOREST CONSERVATION PLAN AS APPROVED UNDER THE FOREST CONSERVATION LAW.
 - CONSERVATION PLANNING AND RESTORATION ACTIVITIES SHALL BE CONDUCTED IN ACCORDANCE WITH THE 1982 FOREST CONSERVATION LAW AND THE FOREST CONSERVATION PLAN AS APPROVED UNDER THE FOREST CONSERVATION LAW.
 - SEPTIC BUILDING RESTRICTION LINES MAY BE CHANGED SUBJECT TO THE APPROVAL OF THE MONTGOMERY COUNTY BOARD OF HEALTH.
 - SEPTIC SYSTEMS SHALL BE INSTALLED IN ACCORDANCE WITH THE MONTGOMERY COUNTY BOARD OF HEALTH ORDINANCES.
 - THE SOURCE OF THE 100 YEAR FLOODPLAIN SHOWN HEREON WAS TAKEN FROM FLOODPLAIN STUDY RECORD DATED OCTOBER 1998 BY COUNTESS AND LAMBERT, INC. APPROVED BY WOTPA IN A LETTER DATED 12/21/98.
 - THIS SUBDIVISION IS FOR WELL AND SEPTIC SYSTEMS ONLY.
 - THE PROPERTY IS ZONED RBT.
 - THIS PROPERTY IS SUBJECT TO A RESTRICTION OF CONVEYANCES W/F MARLAND & D.L. YANIS LATER RECORDED IN RECORD FILE NO. 613-82.

CONSERVATION EASEMENT/RESTRICTION AREA

LINE	BEARING	DISTANCE
L1	S 54°25'31" W	118.55
L2	S 50°11'37" W	118.55
L3	S 86°45'37" W	53.97
L4	S 86°45'37" W	12.14
L5	N 87°09'00" W	120.00
L6	N 87°09'00" W	120.00
L7	N 67°58'57" E	48.51
L8	S 23°03'01" E	215.35
L9	S 62°21'48" W	107.92
L10	N 86°23'00" W	233.97

STORM WATER MANAGEMENT EASEMENT

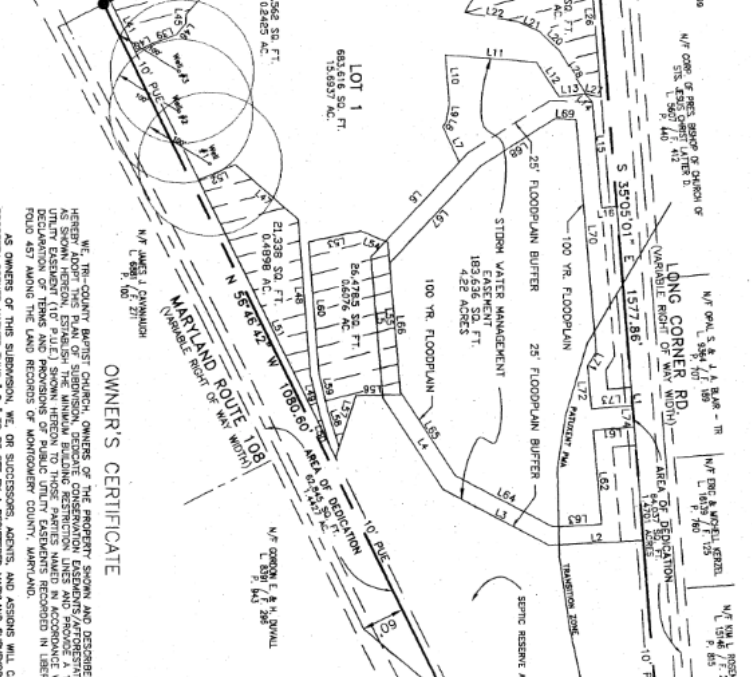
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L7	N 67°58'57" E	48.51
L8	S 23°03'01" E	215.35
L9	S 62°21'48" W	107.92
L10	N 86°23'00" W	233.97

100 YEAR FLOODPLAIN

LINE	BEARING	DISTANCE
L1	S 54°25'31" W	118.55
L2	S 50°11'37" W	118.55
L3	S 86°45'37" W	53.97
L4	S 86°45'37" W	12.14
L5	N 87°09'00" W	120.00
L6	N 87°09'00" W	120.00
L7	N 67°58'57" E	48.51
L8	S 23°03'01" E	215.35
L9	S 62°21'48" W	107.92
L10	N 86°23'00" W	233.97

THE EASEMENTS

LINE	BEARING	DISTANCE
L1	S 54°25'31" W	118.55
L2	S 50°11'37" W	118.55
L3	S 86°45'37" W	53.97
L4	S 86°45'37" W	12.14
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L9	S 62°21'48" W	107.92
L10	N 86°23'00" W	233.97



OWNER'S CERTIFICATE

WE, THE COUNTY BOARD OF HEALTH, OWNERS OF THE PROPERTY SHOWN AND DESCRIBED HEREON HEREBY CERTIFY THAT THE DIMENSIONS AND AREA OF THIS PROPERTY SHOWN HEREON AS SHOWN HEREON, EXCEPT THE MINIMAL BUILDING RESTRICTION LINES AND PROVIDE A 10' PUBLIC UTILITY EASEMENT (10' PUBLIC UTILITY) SHOWN HEREON TO THOSE PARTIES NAMED IN ACCORDANCE WITH THE FOREST CONSERVATION LAW OF 1982 AND THE FOREST CONSERVATION PLAN AS APPROVED UNDER THE FOREST CONSERVATION LAW.

AS OWNERS OF THE SUBDIVISION, WE, OR SUCCESSORS, AGENTS, AND ASSIGNEES WILL CAUSE ALL PROPERTY INTERESTS MARKED THIS "R" TO BE SET BY A REGISTERED MARYLAND SURVEYOR IN ACCORDANCE WITH SECTION 5-241(a)(2) OF THE MONTGOMERY COUNTY CODE.

THERE ARE NO SUTS, ACTIONS OF LAW, LIENS, LINES OR TRUSTS AFFECTING THE SUBJECT PROPERTY SHOWN HEREON.

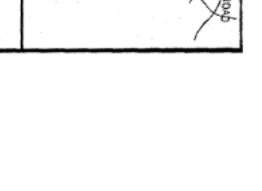
SURVEYOR'S CERTIFICATE

I HEREBY STATE TO THE BEST OF MY PROFESSIONAL KNOWLEDGE AND BELIEF THAT THE PLAT SHOWN HEREON IS CORRECT. THAT IT IS A SUBDIVISION OF LAND BELONGING TO THE COUNTY BAPTIST CHURCH, A BODY DATED NOVEMBER 17, 1998 AND RECORDED IN LIBER 13786, FOLIO 283 AMONG THE LAND RECORDS OF MONTGOMERY COUNTY, MARYLAND.

I HEREBY CERTIFY THAT THE LIMITS OF THE 100 YEAR FLOODPLAIN SHOWN ON THIS RECORD PLAT IS AN ACCURATE REFLECTION AS TRANSMITTED FROM THE FLOODPLAIN STUDY REFERENCED IN THE NOTES OF THIS PLAT.

THE PROPERTY CORNERS MARKED THIS "R" WILL BE SET IN ACCORDANCE WITH SECTION 5-241(a) OF THE MONTGOMERY COUNTY CODE AND THAT THE DIMENSIONS AND AREA OF THIS PROPERTY SHOWN HEREON AS SHOWN HEREON TO PUBLIC USE IS 126,843 SQUARE FEET OR 2.9122 ACRES OF LAND.

DATE: 07-16-06
 JAMES J. DUNN, SURVEYOR
 PROFESSIONAL SURVEYOR
 STATE OF MARYLAND
 MONTGOMERY COUNTY, MARYLAND
 No. 5218
 FILED
 JUL 9 2006



DEPARTMENT OF PERMITTING SERVICES
 MONTGOMERY COUNTY, MARYLAND

APPROVED: *Charles Johnson*
 DIRECTOR

APPROVED: August 3, 2006
 MARYLAND NATIONAL CAPITAL PARK AND PLANNING COMMISSION
 MONTGOMERY COUNTY PLANNING BOARD

MANC&A P.C. RECORD FILE NO. 613-82

TOTAL AREA OF LOTS = 683,616 S.F. OR 15.6837 ACRES
 TOTAL NUMBER OF LOTS = 1
 TOTAL AREA OF DEDICATION = 126,843 S.F. OR 2.9122 ACRES
 TOTAL AREA OF PLAT = 810,459 S.F. OR 18.6055 ACRES

2-0102319710091393 RPT

RECORDED
 PLAT BOOK
 PLAT NO.

DATE: 07/16/06
 JAMES J. DUNN, SURVEYOR
 PROFESSIONAL SURVEYOR
 STATE OF MARYLAND
 MONTGOMERY COUNTY, MARYLAND
 No. 5218
 FILED
 JUL 9 2006

WITNESSES:
James J. Dunn
Christina Miller

0' 100' 200' 300'

0' CONNELL & LAWRENCE, INC.
 ENGINEERS, SURVEYORS & LAND PLANNERS
 17004 Georgia Avenue, Suite 202, Olney, Maryland 20825
 TEL: (301) 938-4970 FAX: (301) 938-4972

Attachment 3 - Planning Board Opinion

Date Mailed: July 13, 2000

Action: Approved Staff Recommendation
Motion of Comm. Holmes, seconded by
Comm. Perdue with a vote of 3-0;
Comms. Holmes, Perdue, and Hussmann
voting in favor (Comms. Bryant and
Wellington absent)

MONTGOMERY COUNTY PLANNING BOARD

OPINION

Preliminary Plan 1-97100

NAME OF PLAN: TRI-COUNTY BAPTIST CHURCH

On 06/06/97, TRI-COUNTY BAPTIST CHURCH submitted an application for the approval of a preliminary plan of subdivision of property in the RDT zone. The application proposed to create 1 lot on 18.6 acres of land. The application was designated Preliminary Plan 1-97100. On 06/01/00, Preliminary Plan 1-97100 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 1-97100 to be in accordance with the purposes and requirements of the Subdivision Regulations (Chapter 50, Montgomery County Code, as amended) and approves Preliminary Plan 1-97100, subject to the following conditions:

- (1) Approval under this preliminary plan is limited to a House of Worship with a maximum of 642 seats and no weekday child day-care program or weekday private school. Any modification to this use may require further Planning Board review
- (2) Compliance with the conditions of approval of the preliminary forest conservation plan. The applicant must meet all conditions prior to recording of plat or MCDPS issuance of sediment and erosion control permit, as appropriate
- (3) Prior to MCPB release of building permit, applicant to submit a final landscape, lighting and parking facilities plan for technical staff review and approval
- (4) Access and improvements to Damascus Road (MD108), as required, to be approved by MDSHA prior to issuance of building permit
- (5) Dedication to be 60 feet from center line of Damascus Road (MD108) and 40 feet from center line of Long Corner Road

Page 1 of 2

Planning Board opinion (cont.)

Preliminary Plan 1-97100

Page 2 of 2

- (6) Conditions of MCDPS (Well and Septic) approval dated 03/17/00
- (7) Conditions of MCDPS stormwater management approval dated 12/09/99
- (8) Other necessary easements
- (9) This preliminary plan will remain valid for thirty-seven (37) months from the date of mailing of the Planning Board opinion. Prior to the expiration of this validity period, a final record plat for all property delineated on the approved preliminary plan must be recorded or a request for an extension must be filed
- (10) The Adequate Public Facilities (APF) Review for this preliminary plan will remain valid for sixty-one (61) months from the date of mailing of the Planning Board opinion.

Page 2 of 2

Attachment 4 –Certificate of Compliance

20475 541

#28

Tax I.D. No. 03-01-00035431

CERTIFICATE OF COMPLIANCE AGREEMENT

THIS AGREEMENT, made this 31st day of January, 2002 by and between Tri-County Baptist Church ("Developer"), Forestry and Conservation, Inc. ("Agent"), and the Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission ("Planning Board").

WHEREAS, Developer sought to develop certain property situated in Montgomery County, Maryland and was required to submit an application for review by the Planning Board, the application was captioned Tri-County Baptist Church, Parcel N733; Preliminary Plan No. 1-97100 ("Plan"); Tax Plate GX22;

WHEREAS, the Plan, in accordance with applicable State and County law, was reviewed and approved by the Planning Board, expressly subject to certain terms and conditions of approval;

WHEREAS, a condition of the Plan approval required the Developer to submit for Planning Department approval, a Forest Conservation Plan ("FCP") prepared in accordance with Montgomery County forest conservation laws, regulations, and guidelines.

WHEREAS, the FCP must provide for such things as achieving required afforestation/reforestation and for the placement of a conservation easement on forested areas to be preserved either on the property proposed for development or on other property within the same watershed, unless the Planning Board of Planning Department has approved the afforestation/reforestation on property in a different watershed as part of the approved Forest Conservation Plan;

WHEREAS, Agent has identified and acquired various easement rights to certain offsite areas, other than the property proposed for development, which are suitable for the placement of a forest conservation easement which will meet the requirements of the forest conservation law ("Easement Areas");

WHEREAS, the rights of the Agent to provide such conservation easement and the acceptance by the owner of the property being burdened by the limitations and obligations set forth in the easement are established by a Conservation Easement Agreement recorded among the Montgomery County Land Records in Liber 17858, Folio 028 ("Conservation Easement");

RECORDING FEE 22.00
TAX PD SURE 3.22
TOTAL 25.00
Recd MOBG Rpt # 5104
RGR 304 BLK # 551
Feb 01, 2002 09:54 am

2002 FEB -1 A 9:56
MONTGOMERY COUNTY LAND RECORDS

MONTGOMERY COUNTY CIRCUIT COURT (Land Records) MQR 20475, p. 0541, MSA_CE63_20429. Date available 09/22/2005. Printed 05/02/2014.

Certificate of Compliance (cont)

20475 542

WHEREAS, Developer desires to utilize some or all of Agent's rights and interest in the Easement Areas to satisfy some or all of Developer's obligations under the forest conservation law and Plan approval;

WHEREAS, the Conservation Easement contemplated the Agent conveying some or all of its rights to one or more developers required to achieve obligations under the forest conservation law which conveyance would be evidenced by the execution and recordation of this Certificate of Compliance;

NOW, THEREFORE, in consideration of the foregoing recitals, which are expressly incorporated herein, the parties agree as follows:

1. That this Agreement shall be appended to the Conservation Easement and will make the Developer jointly and severally liable for all terms, conditions, and restrictions contained herein.
2. That the obligations set forth herein and in the Conservation Easement are being assumed by the Developer in satisfaction of Developer's requirements under the forest conservation law.
3. The Agent warrants that the Agent is fully vested with the forest conservation rights being conferred to the Developer, and that the Agent is capable of conveying such rights to the Developer, and that the Agent has not already conveyed the rights to any other party. The referenced project is required to provide 3.11 acres of offsite forest mitigation and shall utilize 3.11 acres of new forest mitigation of the total available 81.45187 acres with 47.98424 acres in existing forest and 33.46763 acres in new forest on the Mason Island Farm mitigation project owned by William F. Willard and Ann Marie Willard.
4. The property from which the conservation rights are being conveyed is located within the same watershed as is the project being developed or in another watershed with Maryland-National Capital Park and Planning Commission approval.

Certificate of Compliance (cont)

20475 543

IN WITNESS WHEREOF, the parties have executed this Agreement for the purposes contained herein.

WITNESS:

TRI-COUNTY BAPTIST CHURCH

KBSerrano
Printed Name R.B. Serrano

James Dean
James Dean, Co-Chairman,
Building Committee

Developer's Address:
Tri-County Baptist Church
7821 Damascus Road
Laytonsville, Maryland 20882

FORESTRY AND
CONSERVATION, INC.
A Maryland Corporation

Deborah J. Flanagan
Printed Name DEBORAH J. FLANAGAN

Vincent H. Berg
Vincent H. Berg, Agent and
Vice President

THE MONTGOMERY COUNTY PLANNING
BOARD OF THE MARYLAND-NATIONAL
CAPITAL PARK & PLANNING
COMMISSION

Lisa M. Springs
Printed Name LISA M. SPRINGS

Joseph R. Davis
Joseph R. Davis
Chief, Development
Review Division

APPROVED AS TO LEGAL SUFFICIENCY
Dnp 1/25/02
M-NCPPC LEGAL DEPARTMENT

MONTGOMERY COUNTY CIRCUIT COURT (Land Records) MQR 20475, p. 0543, MSA_CEG3_20429, Date available 09/22/2005. Printed 05/02/2014.

Certificate of Compliance (cont)

20475 544

Total Forest Mitigation Acreage This Site	81.45187 Acres
Total Existing Forest Mitigation Acreage This Site	47.98424 Acres
(-) Existing Forest Acres Utilized For This Project	0.00000 Acres
(-) Acres Existing Forest Utilized For Other Projects	46.88800 Acres
Remaining Existing Forest Acreage Available For Mitigation	0.00000 Acres
Total New Forest Mitigation Acreage This Site	33.46763 Acres
(-) New Forest Acres Utilized For This Project	3.11000 Acres
(-) Acres New Forest Utilized For Other Projects	22.51875 Acres
Remaining New Forest Acreage Available For Mitigation	7.83888 Acres

STATE OF Maryland *
 COUNTY OF Montgomery * to wit:

I HEREBY CERTIFY that on this 10 day of Oct 2001,
 2001, before me, a Notary Public in and for the State and County
 aforesaid, personally appeared James Dean, Co-Chairman of the
Tri-County Baptist Church, Building Committee, known to me (or
 satisfactorily proven) to be the person whose name is subscribed
 to the foregoing and annexed instrument and acknowledged that
 said individual executed the same for the purposes therein
 contained.

IN WITNESS WHEREOF, I hereunto set my hand and official
 seal.

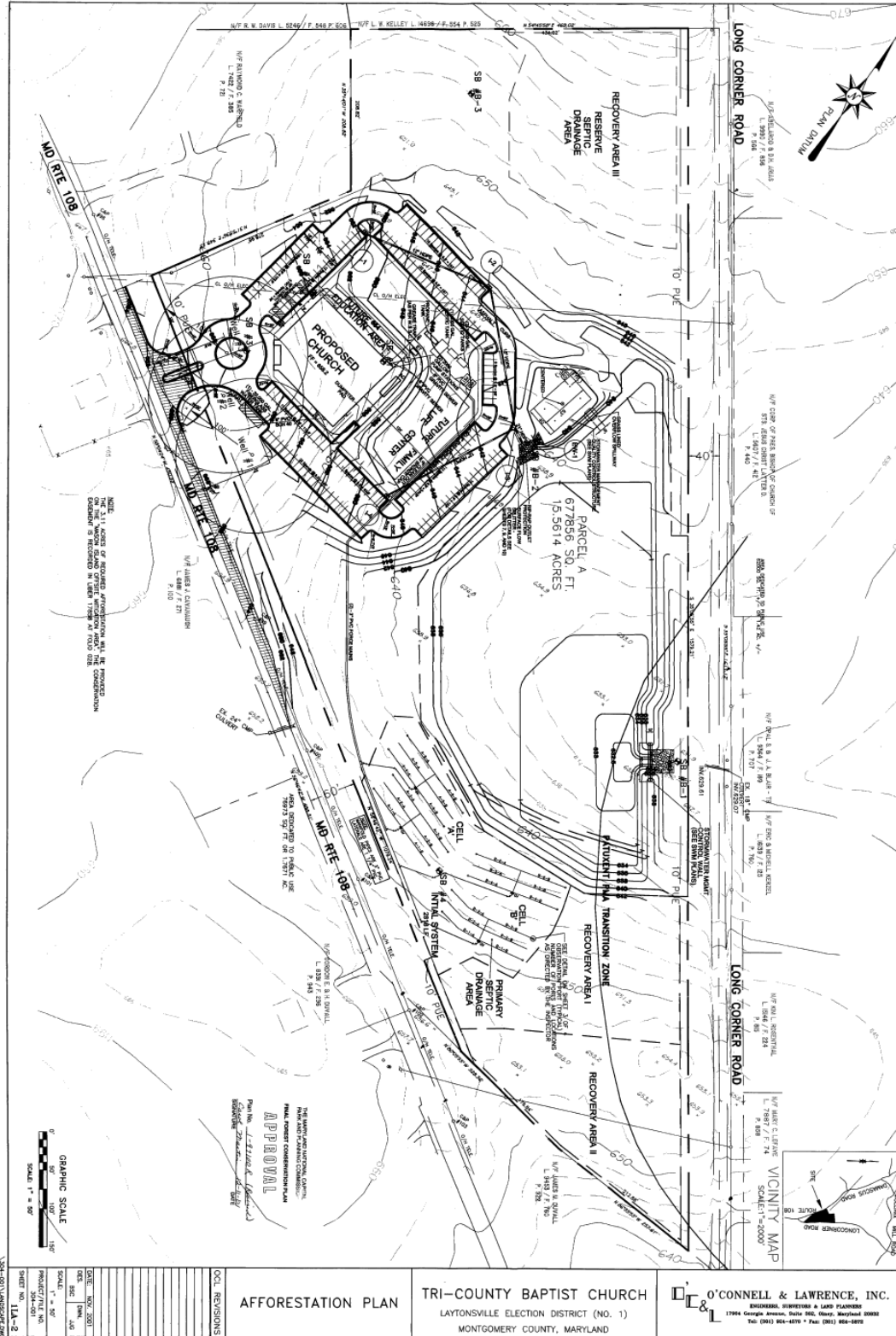
Marie J. Beck
 NOTARY PUBLIC MARIE J. BECK

[NOTARIAL SEAL]

My Commission Expires: 12-17-01

MONTGOMERY COUNTY CIRCUIT COURT (Land Records) MQR 20475, p. 0544, MSA_CE63_20429, Date available 09/22/2005, Printed 05/02/2014.

Attachment 5 – Forest Conseration Plan



AFFORESTATION PLAN

TRI-COUNTY BAPTIST CHURCH
 LAYTONSVILLE ELECTION DISTRICT (NO. 1)
 MONTGOMERY COUNTY, MARYLAND

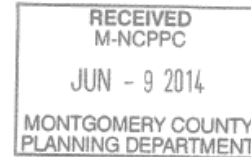
O'CONNELL & LAWRENCE, INC.
 ENGINEERS, SURVEYORS & LAND PLANNERS
 13064 GEORGE AVENUE, SUITE 202, ROCKY HILL, MARYLAND 20852
 TEL: (301) 954-6570 FAX: (301) 954-5875

DATE:	NOV. 2011
DRAWN BY:	AKJ
CHECKED BY:	AKJ
SCALE:	1" = 50'
PROJECT/TITLE NO.:	2011-011
SHEET NO.:	11A-8

Attachment 6 – Letter from Citizens

June, 2014

Development Application and regulatory Coordination Division, MNCPPC
8787 Georgia Ave,
Silver Spring, MD 20901-3760



To Whom it May Concern:

RE: Plan # 11997100A for the Tri-County Baptist Church at 7821 Damascus Road, Gaithersburg, MD

We are writing as concerned neighbors regarding information communicated to us on May 28, 2014 from O’Connell and Lawrence, Inc. pertaining to the Tri-County Baptist Church in Gaithersburg, MD. A letter was provided to us before the initial construction in 2002 of the Tri-County Baptist Church at 7821 Damascus Road, Gaithersburg, MD stating there will be no school or daycare on this site. Based on this information there was no opposition to the construction of a church. Now with the church seeking an amendment to the original permitting conditions, the neighbors of the Tri-County Church have great concerns on how this may impact their lives and properties. We now have oppositions with no interest in allowing the Tri-County Church to change its current status.

- According to the Warfield family, the previous owners of this parcel of land, it was sold to the Tricounty Baptist church because the land could not be subdivided for residential development since it is within the Montgomery County agricultural zone with direct run off into the Patuxent watershed. Based on the information we received by O’Connell and Lawrence, Inc. a daycare on this site has the environmental impact potential of 14 single family homes. If this parcel of land could not be subdivided for single family homes because of the impact on the agricultural zone, how can Montgomery County allow the Tri-County Baptist Church to have the same environmental impact as 14 single family homes in the agricultural zone?
- Based on a baseline water consumption worksheet and information received from O’Connell and Lawrence, Inc. daily water consumption can increase to 6,210 gallons per day for a daycare facility. This has significant potential to lower the water table in the surrounding community, and impact water availability to surrounding residences. There is no public water or sewer in this area of Montgomery County.
- Waste water flowing into a 3.8 acre septic field within the Patuxent watershed could increase to 4,494 gallons per day. The entire 3.8 acre septic field is within the Patuxent watershed according to the Montgomery County Environmental protection web page (<http://www.montgomerycountymd.gov/DEP/water/watershed.html>). This information is in conflict with the survey provided by O’Connell and Lawrence in the letter to the community regarding this project.
- In addition to the direct impact on the Patuxent watershed, surrounding wells could easily be contaminated with fecal waste.

Letter from Citizens (cont)

- The Tri-County Baptist Church sold its forest conservation easement off-site to the owner of the Mason Island Farm as recorded in L.20475 F.541 of the Montgomery County land record, further impacting the Patuxent watershed.
- Up to 414 children could be attending this facility increasing noise to the neighboring residences.
- Numerous complaints have been filed against Tri-County Baptist church through Montgomery County for a lack of property maintenance including a thistle infestation which has spread to neighboring properties and lack of upkeep to their storm water management pond embankment.
- Although the letter we received seeks to amend the current conditions with no building or parking access modifications, a change in status to include a daycare facility would negatively impact the agricultural zone, the Patuxent watershed and the surrounding residential neighbors.

The neighbors are strongly against plan # 11997100A amending conditions that would allow a weekday child daycare and any future expansion to the current building site at 7821 Damascus Road, Gaithersburg, MD.

Print Name	Sign Name	Address
Lee Rosenthal Kim Rosenthal		25525 Long Corner Rd Gaithersburg Md 20882
MARY LEFAVE	Mary Lefave	25521 LONG CORNER ROAD GAITHERSBURG MD 20882
LINDA ABBOCK	Linda Abcock	25511 Long Corner Rd. Gaithersburg, Md. 20882
M. Wayne WARFIELD	M. Wayne Warfield	7307 Damascus Rd Loytonville Md 20882
DAVID FARR		7700 Damascus rd Gaithersburg MD 20882

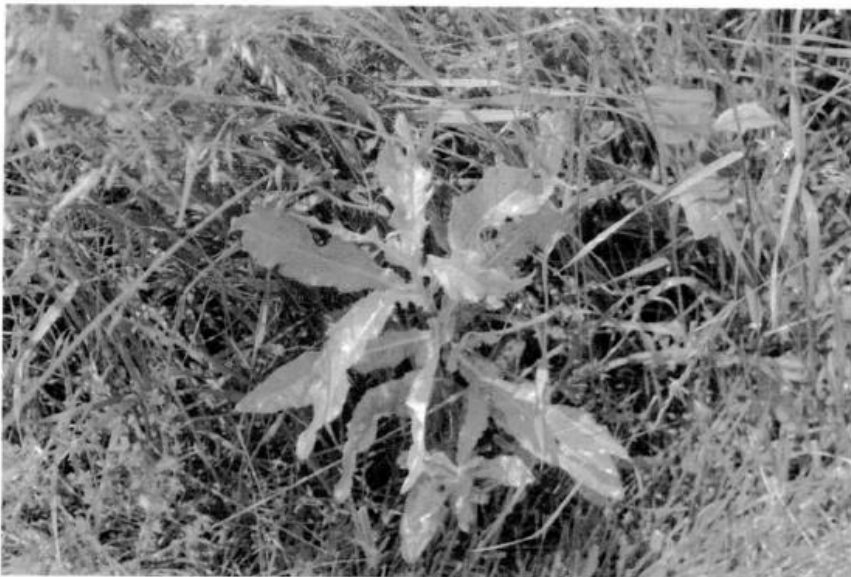
Letter from Citizens (cont)

Print Name	Sign Name	Address
JEFFREY BREWER	<i>JFB</i>	25529 Long Corner Rd Gaithersburg, MD 20882
Raymond C. Warfield Sr NANCY G. WARFIELD	Raymond C. Warfield Sr Nancy G. Warfield	7887 Damascus Rd. Gaithersburg MD 20882
Truman L. Kelley Sr. Lavinia W. Kelley	Truman L. Kelley Sr. Lavinia W. Kelley	1400 Long Corner Rd. Mt. Airy, Md. 21771
JOANNE WILSON	<i>Joanne Wilson</i>	25501 LONG CORNER RD GAITHERSBURG MD
JEFFREY BLAIR	<i>Jeff Blair</i>	25601 Long Corner Rd Gaithersburg, Md

Letter from Citizens (cont)



Tri-County Baptist Church storm water embankment overgrown with trees and vegetation



Several acres of thistle, an noxious weed, on the property of the Tri-County Baptist Church