



ISG Building: Preliminary Plan Amendment 12010013A

RAW

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Staff Report Date: 1/22/16

Description

ISG Building: Preliminary Plan Amendment 12010013A: Request to amend Preliminary Plan No. 120100130, Condition #1 to allow a daycare facility with no more than 6 staff and a private educational institution for no more than 38 students in the existing religious institution, located on Blunt Road, 300 feet east of Frederick Road on the east side of Frederick Road, 1.44 acres; R-60 zone; *Germantown Sector Plan* ("Master Plan").

Applicant: Islamic Society of Germantown (ISG)
Submitted: 3/10/2015



Summary

- A request to amend Preliminary Plan #120100130 approved on July 19, 2012 to allow a child daycare use with no more than six staff and a private educational institution for no more than 38 students within the existing religious institution.
- The additional uses will be contained within the existing building.
- The traffic statement indicates a daycare with six or less staff which is provided an exemption from Local Area Transportation Review and a small private educational institution which will not begin classes until after the evening peak hour period.

STAFF RECOMMENDATION

On March 10, 2015, the Islamic Society of Germantown (“Applicant”) filed a Preliminary Plan Amendment. Staff recommends approval of the proposed modifications in Preliminary Plan 12010013A: (ISG Building). Staff recommends modifying Condition #1 to allow a child care facility with no more than six staff members and a private school for no more than 38 students. All previous conditions of approval still apply except for those modified and/or added below:

Conditions

1. Modify Condition #1 of Resolution No. 12-77 to read:

“Approval under this Preliminary Plan Amendment is limited to one lot for a religious institution use with a child daycare facility with no more than 6 staff and a private educational institution for no more than 38 students with no classes beginning before 7:30 p.m. on a weeknight.”

2. Add the following condition:

“No more than 15 children are to be allowed in the outdoor play areas at any one time.”

SITE DESCRIPTION

Vicinity

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”).

Figure 1: Vicinity Map

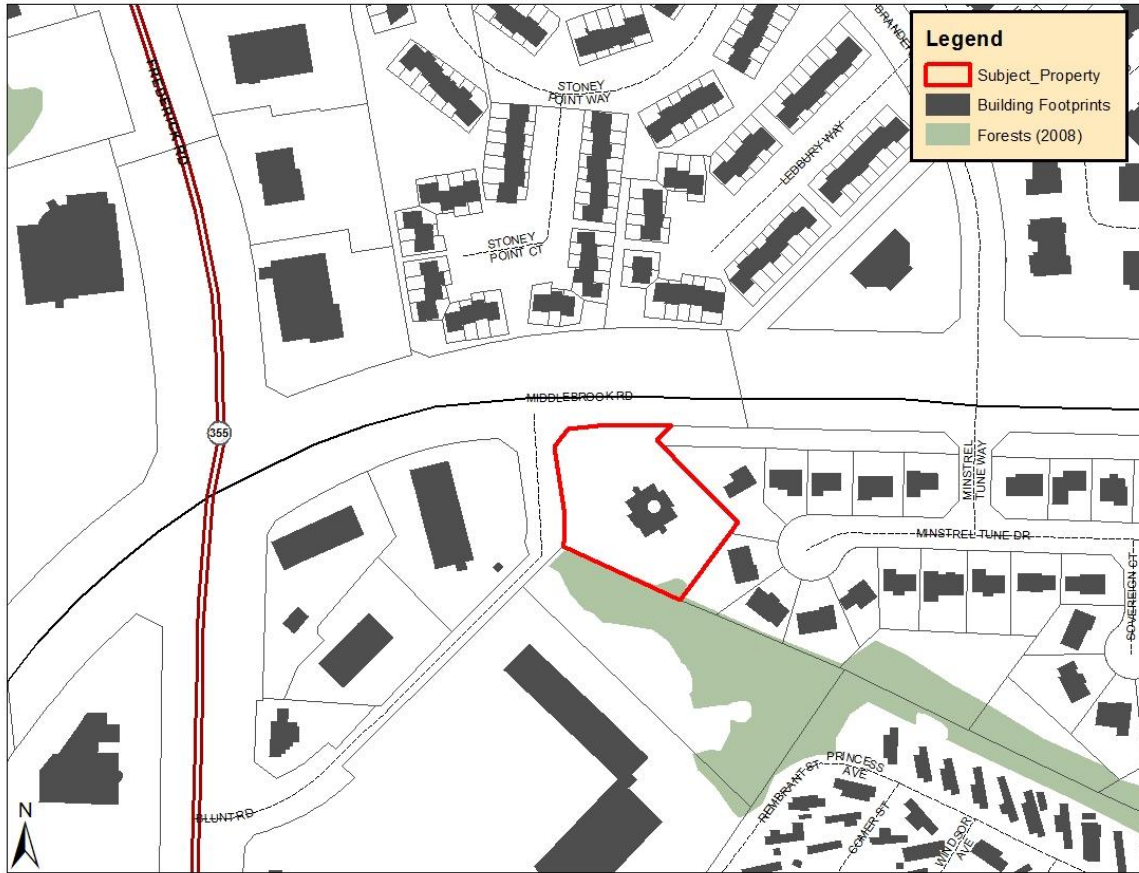
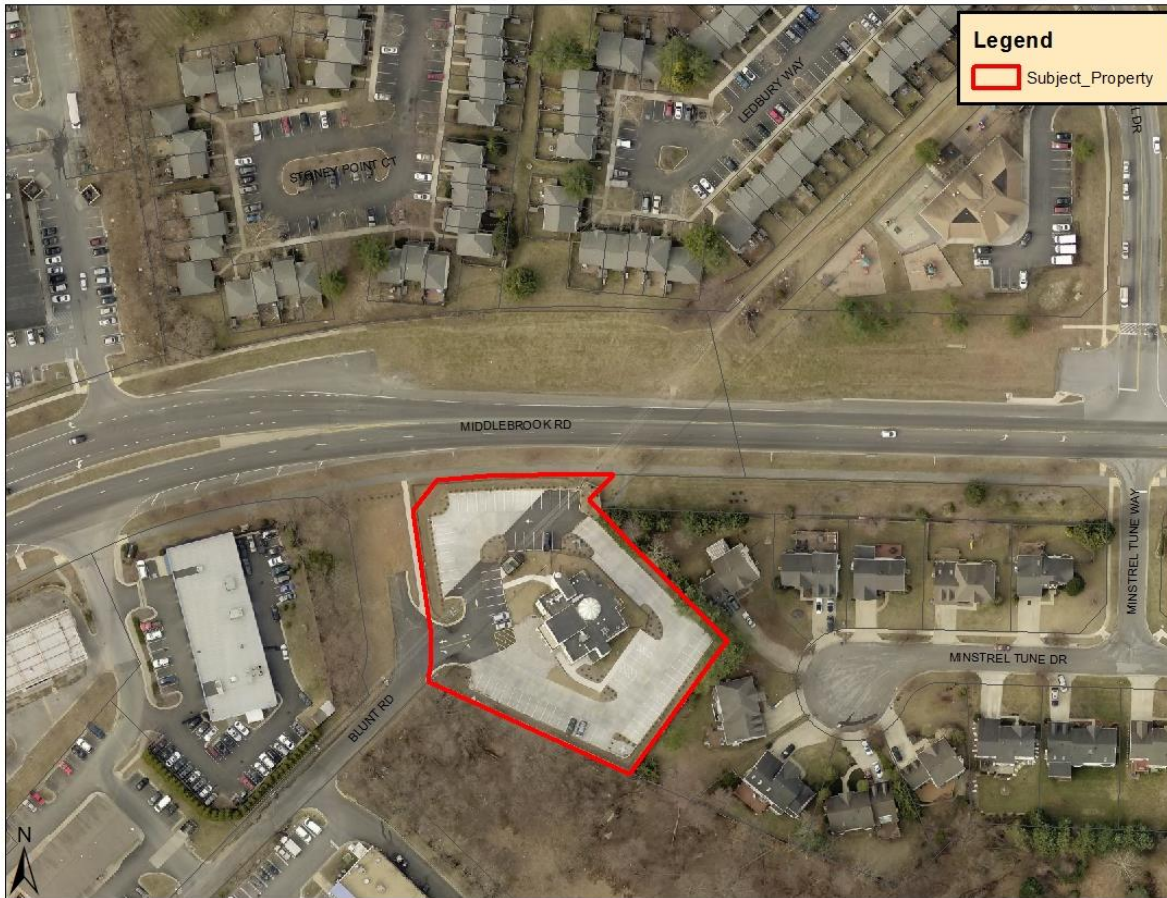


Figure 2: Aerial Map



Previous Approvals & Project History

Preliminary Plan

Preliminary Plan No. 120100130, ISG Building was approved for one lot for a religious institutional use with no weekday daycare or private school on July 19, 2012 by adoption of Resolution MCPB No. 12-77 (Attachment A).

Current Conditions

The religious institution has been constructed in accordance with the Preliminary Plan approval. Existing fenced and grassed outdoor areas will be used by the daycare adjacent to the building.

DISCUSSION and ANALYSIS

At the time Preliminary Plan #120100130 was approved, the Applicant had not requested a daycare or private school use on the Property and therefore, there was no Adequate Public Facilities (APF) analysis provided for these uses. Since there was no APF review for these uses, the Application was restricted in the approval of Preliminary Plan #120100130 to a House of Worship by Condition #1 of MCPB Resolution No. 12-77. The Applicant now wishes to utilize existing space within the building to hold educational programs for no more than 38 individuals and to provide a small daycare with no more than 6 staff. The number of children allowed to attend the daycare would be limited by the number of staff as provide Maryland State daycare licensing requirements. The addition of the two requested uses on the

Property requires consideration of APF and an amendment to the conditions placed on the original approval (120100130). Ordinarily, larger day care facilities and private educational institutions proposed in the R-60 Zone require applicants to seek conditional use approval before establishing either use. When these uses are proposed on land owned or leased by a religious organization, they are not subject to the conditional use requirements.

Private Educational Institution Use

The requested private education institution differs rather significantly from what is typically requested by religiously affiliated educational providers. The Applicant does not wish to provide a Maryland State approved curriculum - Kindergarten through 8th or 12th grade education, rather, the Applicant wishes to provide unspecified but varied educational programs as part of the Islamic Society of Germantown's educational outreach. The Applicant has chosen to avoid creating peak hour trips by agreeing to a condition that would limit the start of any classes to no earlier than 7:30 PM on weeknights, after the evening peak period. Ample parking is available using the existing parking lot that surrounds the building. The parking spaces remain in conformance per zoning requirements based on the capacity of the sanctuary.

Daycare Use

The daycare use will also utilize existing space within the building. A daycare with six or less staff is specifically provided an exemption from the Local Area Transportation Review and therefore, there is no requirement for a traffic study. The number of existing parking spaces remains in conformance with zoning code requirements.

Adequate Public Facilities

As part of the review of the original ISG application, there were findings made for the adequacy of public facilities and services including, fire and police service, health services, water and sewer availability, roads and public transportation, and emergency equipment access. All of these services were found to be adequate for the ISG project and are also adequate for the two uses proposed under this application. The Applicant was required to extend and improve Blunt Road to County standards and construct a County approved temporary terminus to Blunt Road along the Property frontage. The Applicant also was required to construct a sidewalk leading from Middlebrook Road to the terminus of Blunt Road for significantly improved pedestrian access in the local area. There are no additional public improvements required under this application and all prior determinations of adequate public facilities remain valid.

Citizen Concerns

In response to concerns from an adjoining neighbor who resides in the closest house to the facility's parking lot, staff has recommended a limit on the number of children who may play outside in either of the play areas to 15 at any one time. This coincides with the classroom sizes of the proposed daycare operation and should minimize noise associated with children at play. The parking area most adjacent to the neighbor is well screened by a six foot tall board on board fence located on the perimeter of the subject property and effectively eliminates headlights spillage on to the neighboring property. The fence is augmented by a similar board on board fence located on the neighbor's property that runs parallel with the Applicant's fence.

FOREST CONSERVATION PLAN ANALYSIS AND FINDINGS

The Application meets the requirements of Chapter 22A of the Montgomery County Forest Conservation Law. The Applicant does not propose any changes to the approved Forest Conservation Plan. The

proposed amendment does not alter any of the environmental findings of Preliminary Plan #120100130. The original conditions approved with Preliminary Plan No. 120100130 will remain in effect.

PUBLIC NOTICE

The Application was originally submitted as a Consent Agenda application. A notice regarding the amendment was sent to all parties of record by the Applicant. The notice gave interested parties 15 days to review and comment on the Amended Preliminary Plan. One sign was posted along the Subject Property frontage at the intersection of Blunt Road and Middlebrook Road. At the request of an adjacent Property owner, the application was removed from Consent consideration and placed on the regular Planning Board Agenda for a public hearing. Staff has been in touch with an adjacent property owner and their attorney.

CONCLUSION

The proposed modifications to Preliminary Plan #120100130 will not alter the overall character or impact of the development with respect to the original findings of approval. Staff recommends approval of Preliminary Plan Amendment 12010013A.

ATTACHMENT

Attachment A – Resolution No. 12-77 for Preliminary Plan No. 120100130

Attachment B – Applicant’s Statement of Justification



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

MCPB No. 12-77
Preliminary Plan No. 120100130
ISG Building
Date of Hearing: July 12, 2012

JUL 19 2012

RESOLUTION

WHEREAS, under Montgomery County Code Chapter 50, the Montgomery County Planning Board ("Planning Board" or "Board") has authority to review preliminary plan applications; and

WHEREAS, on December 12, 2009, the Islamic Society of Germantown ("Applicant") filed an application for approval of a preliminary plan of subdivision of property¹ that would create one lot for the construction of a religious institution with a capacity of 283 persons on 1.44 acres of land in the R-60 zone, located in the southeast corner of the intersection of Middlebrook Road and realigned Blunt Road ("Subject Property"), in the 2009 Germantown Employment Area Sector Plan ("Sector Plan") area; and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120100130, ISG Building ("Preliminary Plan" or "Application"); and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and other governmental agencies, Staff issued a memorandum to the Planning Board, dated June 29, 2012, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on July 12, 2012, the Planning Board held a public hearing on the Application, and at the hearing the Planning Board heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, at the hearing, the Planning Board voted to approve the Application, subject to certain conditions, by the vote as certified below.

¹ This application supersedes all previous applications and approvals of preliminary plans of subdivision, as no previous approvals were ever platted

Approved as to
Legal Sufficiency:

[Signature] 7/6/12
8787 Georgia Avenue, Silver Spring, Maryland 20910 Phone: 301.495.4605 Fax: 301.495.1320
MNCPPC Legal Department
www.montgomeryplanningboard.org E-Mail: mcp-chair@mncppc-mc.org

NOW, THEREFORE, BE IT RESOLVED THAT, the Planning Board approves Preliminary Plan No. 120090030 to create one lot on the Subject Property, subject to the following conditions:²

- 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 conditions of approval for the preliminary forest conservation plan No. 120100130:
 - a) 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.
 - b) Prior to any clearing or grading of the Subject Property, Applicant must receive Staff approval of the certificate of compliance for 0.62 acres of planting credits in an offsite forest conservation mitigation bank
- 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.

² For the purpose of these conditions, the term “Applicant” shall also mean the developer, the owner or any successor(s) in interest to the terms of this 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. The plan must include preservation of the six-foot wood privacy fence along the perimeter adjacent to the residential community; evergreen plants between the fence and parking lot curb along the northern and eastern property lines for additional screening, and additional shade trees and ground cover in the parking lot planting areas.
- 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.

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

1. The Preliminary Plan substantially conforms to the Sector Plan.

The Sector Plan places the Subject Property in the Fox Chapel District area. The Sector Plan confirms the R-60 zoning and specifically recommends that an institutional use is appropriate for the Subject Property. Further, the Sector Plan recommends that Blunt Road from MD 355 to Middlebrook Road be classified

as a two lane Business District street with a 60 foot wide right-of-way and that Blunt Road be connected to Middlebrook Road.

The Preliminary Plan is for an institutional use (religious facility). The Preliminary Plan establishes the eastern edge of a 60 foot wide area for future Blunt Road to be constructed. The Applicant will be required to construct temporary improvements within Blunt Road for initial access to the Property and will be required to participate in future improvements to Blunt Road as a Business District street under a separate agreement with MCDOT, which MCDOT will require as an access permit condition.

- 2. Public facilities will be adequate to support and service the area of the approved subdivision.*

Roads and Transportation Facilities

Pursuant to Section 50-35(k)(6) a religious institution is exempt from the Adequate Public Facilities review requirements.

The Applicant is initially required to construct temporary improvements as identified on the Preliminary Plan and required by MCDOT. The temporary improvements, including twenty feet of pavement within Blunt Road and a sidewalk along the 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.

Other Public Facilities and Services

The Application was 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 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 an impact to schools. Electricity, natural gas, and telecommunication providers can adequately serve the proposed use.

3. *The size, width, shape, and orientation of the approved lots are appropriate for the location of the subdivision.*

The Application meets all applicable sections of Chapter 50, the Montgomery County Subdivision Regulations, including the development standards under the R-60 zone. 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 an institutional use as approved. The lot is appropriately located on a Business District street that has access to MD 355.

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

A. Forest Conservation

The Board finds that as conditioned, the Forest Conservation Plan complies with the requirements of the Forest Conservation Law, including the *Environmental Guidelines*.

A preliminary forest conservation plan was submitted with the Application. The development will result in clearing all of the 0.46 acres of forest identified on the Natural Resource Inventory/ Forest Stand Delineation and the forest conservation worksheet. The cleared forest includes forest on the Property and within the Blunt Road right-of-way which must be removed for road construction and grading purposes. The Planning Board agreed that the 0.62 acres of planting requirements will be appropriately met by the Applicant in an off-site forest mitigation bank.

B. Forest Conservation Variance

Section 22A-12(b)(3) of the Forest Conservation Law identifies certain individual trees as high priority for retention and protection ("Protected Trees"). Any impact to these Protected Trees, including removal or any disturbance within a Protected Tree's critical root zone ("CRZ"), requires a variance under Section 22A-12(b)(3) ("Variance"). Otherwise such resources must be left in an undisturbed condition.

This Application will require the removal or CRZ impact to two Protected Trees identified in the Staff Report. In accordance with Section 22A-21(a), the Applicant has requested a Variance and the Board agreed that the Applicant would suffer unwarranted hardship by being denied reasonable and significant use of the Subject Property without the Variance.

The Board made the following findings necessary to grant the Tree Variance:

- i. Granting the Tree Variance will not confer on the Applicant a special privilege that would be denied to other applicants:

The Sector Plan specifically recommends an institutional use for the Subject Property. Further, the Sector Plan recommends that Blunt Road be connected to Middlebrook Road. The Applicant has responded to the challenges of fitting this institutional use on a constrained site and addressing the road improvements recommended in the Sector Plan 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, the Applicant would not be able to meet the Sector Plan goals for this site.

- ii. The need for the Tree Variance is not based on conditions or circumstances which are the result of actions by the Applicant.

The Applicant has prepared and submitted plans for development for this constrained site with an institutional use while meeting all applicable development standards and requirements, including those recommended by the Sector Plan. .

- iii. The need for the Tree 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.

- iv. Granting the Tree Variance 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 designed 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.

The Planning Board does not require additional mitigation for the loss of Tree ST-3 (as identified in the preliminary forest conservation plan). The tree is within an existing forest stand and its loss will be compensated through the required off-site planting. Further, Tree ST-3 is located on an adjacent property that will likely require removal for development of that property. The Planning Board does not require mitigation for Tree ST-1 to be impacted but not removed. There will be no reduction in the impacted tree's overall function, and an ISA certified arborist report and tree save plan will be prepared for the tree to improve its long term survival potential. .

- 5. The Application meets all applicable stormwater management requirements and will provide adequate control of stormwater runoff from the site. This finding is based on the determination by MCDPS that the Stormwater Management Concept Plan meets applicable standards.*

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.

BE IT FURTHER RESOLVED, that this Preliminary Plan will remain valid for 36 months from its Initiation Date (as defined in Montgomery County Code Section 50-35(h)) and that prior to the expiration of this validity period, a final record plat for all property delineated on the approved Preliminary Plan must be recorded among the Montgomery County Land Records or a request for an extension must be filed; and

BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is JUL 19 2012 (which is the date that this Resolution is mailed to all parties of record); and

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

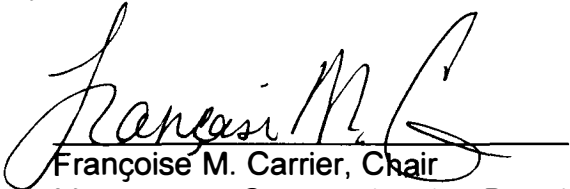
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CERTIFICATION

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of the Maryland-National Capital Park and

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Preliminary Plan No. 120100130
ISG Building
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Planning Commission on motion of Commissioner Anderson, seconded by Vice Chair Wells-Harley, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Anderson, Dreyfuss, and Presley voting in favor at its regular meeting held on Thursday, July 12, 2012, in Silver Spring, Maryland.



Françoise M. Carrier, Chair
Montgomery County Planning Board

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Preliminary Plan No. 120100130 ISG Building

Item #5

July 12, 2012

Speaker Sign-up Sheet

No.	Name & Phone Number	Email	Organization & Address
1	Magdi Hassanein Patrick Perry Heshimat Eskander Applicants		Knudson Systems International, Inc. 1900 Brandermill Road Germantown, MD 20876 Benning & Associates, Inc. 8933 Shady Grove Court Gaithersburg, MD 20877 TES Consultants, LLC P O Box 10123 Silver Spring, MD 20914
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February 3rd, 2015

Statement of Justification

ISG is requesting a modification to the Planning Board condition which restricted the use of the Property to a one lot for religious institutional use with no weekday daycare or private school.

ISG requests to:

- Allow a daycare within the three existing classrooms inside the ISG building that would have no more than six staff only for children ages 3 and up.
- Allow the operation of a private school within the three existing classrooms inside the ISG building with no more than 38 students.

By State Code requirements for the daycare the number of children allowed to attend 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. The 78 parking spaces are more than sufficient to meet the parking requirements of a day care with six staff.

A handwritten signature in black ink, appearing to read "Ammar Najar", is written over a horizontal line.

Ammar Najar
Islamic Society of Germantown