



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

8787 Georgia Avenue • Silver Spring, Maryland 20910-3760

MCPB
Item # 1
7/22/04

MEMORANDUM



DATE: July 16, 2004

TO: Montgomery County Planning Board

VIA: Richard Hawthorne, ^{RH} Acting Chief
Development Review Division

FROM: Catherine Conlon, ^{CC} Acting Supervisor

REVIEW TYPE: Preliminary Plan Application

PROJECT NAME: Armenian Youth Center

CASE #: 1-00009

REVIEW BASIS: Chapter 50, Montgomery County Subdivision Regulations

ZONE: Rural Cluster

LOCATION: Northwest Side of Darnestown Road Approximately 2000 feet
North of Seneca Road

VICINITY: Darnestown

APPLICANTS: Armenian Youth Center of Washington ("AYC")
Indian Run Homeowners Association ("HOA")

ATTORNEY: Knopf & Brown for Indian Run Homeowners Association

ENGINEER: Benning & Associates, Inc.

HEARING DATE: July 22, 2004

STAFF RECOMMENDATION: Approval, Subject to the Following Conditions:

- 1) Approval under this Preliminary Plan is limited to a house of worship with 300 sanctuary seats, with no weekday child day-care program and/or weekday private school, and associated open space and park dedication.

- 2) Prior to the recordation of plat, applicant Armenian Youth Center ("AYC") and applicant the Indian Run Homeowners Association ("HOA"), shall enter into an agreement to rescind the Leasing and Management Agreement, dated January 15, 1998.
- 3) All transfer deeds, including the proposed park parcel, shall be signed by AYC and HOA at the time AYC and HOA sign the record plat. These deeds shall be held in escrow by MNCPPC until the plat recording reference is available and is inserted on the deeds.
- 4) AYC shall comply with the Landscape Plan dated June 2, 2004 (approval date June 4, 2004), and Lighting Plan, dated February 10, 2004 (approval date June 4, 2004).
- 5) AYC shall comply with the conditions of approval for the final forest conservation plan. AYC must satisfy all conditions prior to recording of plat(s) or MCDPS issuance of sediment and erosion control permits.
- 6) AYC shall provide a financial security instrument in the amount of \$35,360.00 to cover the costs of on-site reforestation (including tree planting and a subsequent maintenance period of two years) required by the Preliminary Forest Conservation Plan dated May 19, 2004.
- 7) Within six months of final approval of the septic system construction, AYC shall commence planting of landscape buffer and fence construction along the boundary separating the AYC and HOA properties, as shown on the Landscape Plan dated June 2, 2004 (approval date June 4, 2004). In no event, however, shall AYC commence such planting and fence construction later than twelve months following the start of excavation of either the building site or the septic system. AYC must complete planting the buffer and constructing the fence within 90 days of commencement of such planting or fence construction. AYC shall provide a financial security instrument in the amount of \$33,279.00 to cover the costs of planting and fence construction that are the subject of this condition.
- 8) Record plat to reflect a Category I easement over all forest conservation areas.
- 9) Record plat to reflect all areas under Homeowners Association ownership and stormwater management areas.
- 10) Dedication of 1.7413 acres adjacent to Darnestown Local Park, as shown on the preliminary plan, to MNCPPC for park purposes.
- 11) Compliance with the conditions of approval of the MCDPS stormwater management approval dated June 24, 2004.
- 12) Compliance with conditions of MCDPS (Health Dept.) septic approval letter dated November 24, 2000.

- 13) Final access and improvements, as required to be approved by MDSHA prior to issuance of building permit.
- 14) All road right-of-way shown on the approved preliminary plan shall be dedicated by the applicant, to the full width mandated by the Potomac Subregion Master Plan, unless otherwise designated on the preliminary plan.
- 15) This preliminary plan will remain valid for thirty-seven (37) months from the date of mailing of the Planning Board opinion. Prior to that date a final record plat must be recorded for all the property delineated on the approved preliminary plan, or a request for an extension must be filed.
- 16) Other necessary easements

BACKGROUND

Prior Preliminary Plan Submission and Public Hearings

On February 27, 1987, the Armenian Youth Center of Greater Washington submitted an application for the approval of a preliminary plan of subdivision for a forty-four (44) acre parcel of property on the north side of Darnestown Road (MD 28) west of Seneca Road. The property is located in the Rural Cluster zone. The application proposed to create seven (7) lots, six (6) lots for single family dwelling units and one (1) lot for a house of worship.

The Planning Board has held three hearings on this application; the first on July 27, 1989, the second on July 27, 1995, and the third on September 26, 2002.

The preliminary plan application, when initially filed in March of 1987, requested approval of six residential lots and two outlots. The outlots were proposed to be the subject of a future application requesting a lot for a church and a lot for elderly housing. This application was first presented to the Board on July 27, 1989. At the public hearing, several important issues were identified and discussed by staff, Board members, and adjacent property owners.

The first issue concerned whether a development plan for the entire site should be presented as one to consider in their entirety such issues as adequacy of the open space and the relationship between the proposed uses and the adjacent low density residential development. The second issue concerned the applicant's proposal to utilize the required cluster open space (then proposed to be shared by the church and six residences), for recreational uses associated with the proposed church. A third issue raised concern whether the residential open space could be used by the applicant for septic area associated with the church.

Staff expressed concern with the use of the open space associated with the proposed residential component of the subdivision for either church recreational uses or septic fields. Staff felt such uses would undermine the requirements set forth in

the Zoning Ordinance, specifically, that open space associated with the cluster development should benefit the residents and not be overtaken by church uses.

The Board was opposed to the applicant's piecemeal approach to development of this site, and determined that it was unable to make the findings necessary to grant or deny approval of a cluster proposal without being presented with a proposal for the property in total. The applicant requested the Planning Board defer action on the application to provide additional time to adequately address the problems identified at that hearing.

On July 27, 1995 the preliminary plan application was brought back to the Planning Board for public hearing. The revised plan included the church, required stormwater management facilities, six residential lots, and proposed open space area adjacent to the residential lots. The plan also included dedication of approximately 2 acres of land to M-NCPPC immediately adjoining the adjacent local park, for future parking lot expansion.

In response to Planning Board and community concerns, the open space area was designated for homeowners association ownership, and the septic fields for the proposed church were located on the church lot. After reviewing the modified plan and receiving testimony from staff, the applicant and interested parties, the Planning Board approved the preliminary plan application.

The residential portion of the approved subdivision, including the six (6) lots and an open space parcel was recorded by plat in May 1997. The applicant failed to record a plat for the portion of the site that was to accommodate construction of the house of worship and the park dedication. In January 1999, the validity period for that portion of the preliminary plan expired.

A new preliminary plan application was submitted in September 1999. The application reflected refinement of the sewage disposal system with MCDPS and increase in the size of the church parking lot. Staff considered the modifications to the septic reserve area to be minor and necessary. Staff determined that a traffic study was not needed if the church was limited to no weekday day-care program or private school, and that the increase in parking area was acceptable.

Concerns were raised during the review process for this plan over the disposition of the open space previously represented as Homeowner's Association (HOA) property. The applicant had transferred the property to the HOA but retained final authority and control of the uses allowed on the site through a leasing and management agreement. This control was in conflict with the Planning Board's previous approval.

The new preliminary plan was brought before the Planning Board for public hearing on September 26, 2002. Staff proposed to address the issue concerning disposition of the HOA open space, with a condition requiring revision to the recorded covenants transferring all rights and control of the open space to the HOA. Adjacent property owners testimony regarding continued concerns over rescission of the lease agreement and allocation of the open space led to the applicant requesting the

Planning Board defer action on the application to provide additional time to adequately address the concerns.

DISCUSSION OF THE CURRENT PROPOSAL

The preliminary plan consists of three parcels. The church parcel contains 14.952 acres and 8.2466 acres of open space. The house of worship and associated parking and septic fields are located on this parcel. The residential open space parcel contains 16.2587 acres. The final parcel includes 1.7413 acres of land being dedicated to M-NCPPC for park purposes. The plan provides a total of 26.2466 acres of open space area, which meets the 60% open space requirement in the RC zone.

Staff has been meeting with the applicant, and the HOA and its attorneys, to address concerns with this preliminary plan. Based on the negotiations agreed to as a result of these discussions, the plan has been revised as follows:

- The Armenian Youth Center will transfer 1.4 acres of additional open space (proposed Parcel G) to the HOA to create an additional 100' buffer (for a total of 150 feet) between the residential lots and the church parcel.
- The HOA will transfer 0.7 acres of existing open space Parcel F to the Armenian Youth Center to be incorporated into the church parcel for septic reserve and to be part of the church's required designated open space. All septic reserves for the church will be included in the church parcel.
- Landscape buffer planting and fencing will be provided on the HOA buffer area and the church parcel by the Armenian Youth Center in accordance with an approved Landscape and Lighting Plan.
- Failed reforestation planting on existing open space Parcel F will be replanted by the Armenian Youth Center in accordance with the approved Final Forest Conservation Plan.
- A revised dedication area of 1.7413 acres (as agreed to by Park staff) will be dedicated to M-NCPPC for adjacent Darnestown Local Park.

The Armenian Youth Center will rescind the Leasing and Management Agreement on Parcel F, and transfer all rights and control of the parcel to the HOA. The other features of the preliminary plan remain consistent with previous review and prior approvals.

One letter from Mr. Steven Murray, an adjacent property owner located northwest of the property has been received expressing continued concern with some aspects of the preliminary plan. These concerns include impact of parking lot lighting on adjacent homes, and adequacy of stormwater management. A Landscape and Lighting Plan has been reviewed and approved by technical Staff which includes reducing the height of lights and shielding. The lights used will be specifically designed to limit glare beyond the boundary of the parking lot. The stormwater management plan has been approved by MCDPS and meets existing standards and requirements.

Staff finds the plan to be in accordance with the purposes and requirements of Chapter 50, the Subdivision Regulations and Chapter 59, the Zoning Ordinance and recommends approval.

Attachments

Attachment A – Site Vicinity Map

Attachment B – Preliminary Plan

Attachment C – Prior Planning Board Opinion Dated 12/20/95

Attachment D – Correspondence