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June 22, 2004

Montgomery County Planning Board
8787 Georgia Avenue
Silver Spring, MD 20910Re: Sandy Spring Friends School
Request for Amendment to Preliminary Plan Approval
1-03092

Dear Chairman Berlage and Members of the Planning Board:

I am writing to you on behalf of my client, Sandy Spring Friends School, to request an amendment to the above-referenced preliminary plan approval in order to eliminate Condition No. 4 in the Board's Opinion dated May 12, 2004 (attached). Condition No. 4 relates to intersection improvements that were required in order to satisfy Local Area Review. It has now been determined that the School should have been exempt from the requirements of Local Area Review as part of the subdivision process in accordance with Section 50-35(k)(7) of the Subdivision Regulations which exempts "additions to schools associated with places of worship".

When this preliminary plan was initially reviewed by the Transportation Planning Staff, the Applicant was advised that a traffic study was required in accordance with the Local Area Transportation Review (LATR) Guidelines because the School was estimated to generate more than 50 total peak-hour trips during weekday morning and evening peak-periods. A traffic consultant was retained by the School to perform the required traffic study which concluded that the CLV values at the study intersections were either below the congestion standard or, with applicant-funded intersection improvements, would not exceed the CLVs. Transportation Planning Staff reviewed the analysis and concluded that the preliminary plan would satisfy Local Area Review if a right turn lane was constructed by the Applicant at the intersection of westbound Ednor Road/northbound Norwood Road. Accordingly, this proposed intersection improvement was incorporated into the Staff's recommendation for approval.

At the time of the public hearing, there was discussion about the nature of the proposed intersection improvement and, while the Applicant made no objection to making the improvement which it had been advised was required, there was discussion whether a contribution to another roadway improvement might be more beneficial to the community. The Planning Board requested that Staff prepare a draft opinion drafting a condition that would enable the Applicant to satisfy LATR either with the roadway improvement recommended by Staff or by an equivalent contribution to help fund another road improvement. The Planning Board reconvened on April 15, 2004 and approved the preliminary plan with a condition that provided as follows:

- “4. *In coordination with SHA, DPWT, and the Parks Department of the M-NCPPC, at the applicant’s expense, design and construct at-grade improvements at the Norwood Road/Layhill Road/Ednor Road intersection to provide a westbound Ednor Road to northbound Norwood Road right turn lane. The Applicant may, in the alternative, make a contribution in an amount equivalent to that which would be required to fund the right turn lane off of westbound Ednor Road in order to provide a left turn lane from southbound Norwood Road to eastbound Ednor Road, provided further review of this issue indicates that this provides the best long term transportation solution for the community as a whole and it can be accomplished within the regulatory framework.*”

The Applicant, understanding at that time that it was required to satisfy LATR as a condition of its approval, supported the language of Condition No. 4, as drafted.

However, it has recently come to the attention of the Applicant that this preliminary plan should have been exempt from the requirements of Local Area Review, pursuant to Section 50-35(k)(7) of the Subdivision Regulations, insofar as it is a school associated with a place of worship. The Friends School and the property on which it is located is owned by Sandy Spring Friends School, Inc. (the “Corporation”), a corporate embodiment of the Quaker religious denomination. As evidenced by its Articles of Incorporation, the purpose of the Corporation is to further the Quaker faith by providing meeting places and facilities for Quaker worship and togetherness. The School’s campus contains facilities for the holding of regular meetings for religious worship in the manner of the Religious Society of Friends as well as facilities used for the education of the children of members of the Baltimore Yearly Meeting of Friends and others.

The Friends School is exempt from the requirement that it obtain a special exception in light of its religious affiliation. It should likewise fall within the exemption contained in Section 50-35(k)(7) of the Subdivision Regulations which provides as follows:

- “(7) *Exemptions. Places of worship and residences for staff, parish halls, and additions to schools associated with places of worship, are not subject to the provisions of section 50-35(k), “Adequate Public Facilities”. (emphasis added)*

The simple explanation for the oversight is the fact that the law, as originally codified, contained a mistake. Under that version of the regulation, the School appeared not to be exempt from the provisions of section 50-35(k), “Adequate Public Facilities” because the campus was not comprised of an “unrecorded parcel which has not changed in size or shape since June 1, 1958”. However, this language was not in the legislation and should never have been included in section 50-35(k)(7) when codified. The error was corrected in the fall of 2003 and the text has now been amended. Unfortunately, neither the Staff nor the Applicant were aware that this correction in the Subdivision Regulations had been made and that the School should have been exempt from APF review, including Local Area Review.

Accordingly, we are requesting that the Board amend the approved preliminary plan in order to delete Condition No. 4 of that approval. We further request a waiver of the fee associated with the filing of this requested amendment insofar as it has now been determined that the Applicant should have been exempted from Local Area Review requirements.

Thank you for your attention to this matter.

Very truly yours,

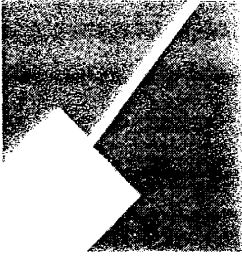
MILLER, MILLER & CANBY


Susan W. Carter

Attachment

cc: Howard Zuses
Alan Wright, Esq.
Rich Weaver
Cathy Conlan
Debra Daniel, Esq.
Cherian Eapen
Pete Stone
Don Bohrer

M-NCPPC



MONTGOMERY COUNTY DEPARTMENT OF PARK & PLANNING

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

8787 Georgia Avenue
Silver Spring, Maryland 20910-3760

Date of Mailing: May 12, 2004

MONTGOMERY COUNTY PLANNING BOARD OPINION

Preliminary Plan Review No. 1-03092
Name of Plan: Sandy Spring Friends School
Date of Hearing: January 22, 2004

Action: APPROVAL, SUBJECT TO CONDITIONS. *(Motion to approve was made by Commissioner Robinson; duly seconded by Commissioner Wellington; with a vote of 3-0, Commissioners Robinson, Wellington and Bryant voting in favor of the motion. Commissioners Berlage and Perdue were necessarily absent.)*

INTRODUCTION

On April 17, 2003, Sandy Spring Friends School (the "Applicant") submitted Preliminary Plan Application No. 1-03092 for approval of a subdivision that would consolidate the 140.52-acre campus of the Sandy Spring Friends School into a single lot ("Subject Property"). The Subject Property is located to the east of Norwood Road in Sandy Spring, Maryland, directly abutting the County-owned Woodlawn Conference Center property.

On January 12, 2004, an official notice of the public hearing scheduled for January 22, 2004 was sent to the adjoining and confronting property owners, local community associations, and other organizations that requested notice. Notice of the hearing was also posted on the Planning Board's website. On January 22, 2004, the Planning Board held a public hearing on the Preliminary Plan in accordance with the requirements of Art. 28, Md. Ann. Code ("Regional District Act"), Montgomery County Code, Chapter 50 ("Subdivision Regulations"), Montgomery County Code, Chapter 59 ("Zoning Ordinance"), and the Planning Board's Rules of Procedure.

At the public hearing, the Planning Board considered the Preliminary Plan and heard testimony from its expert technical staff ("Staff"), Howard Zuses, Director of Operations, Facilities and Planning for the Sandy Spring Friends School, and Fran Hayward on behalf of the Bentley Road Civic Association, testifying in support of the Applicant. During the hearing, the Planning Board also accepted a letter written on behalf of the Sandy Spring Civic Association and signed by Carolyn N. Snowden, President.

THE SUBJECT PROPERTY

The Subject Property is located in Sandy Spring, Maryland, east of Norwood Road (Md. Rt. 182), approximately 3,200 feet north of the intersection of Norwood Road, Ednor Road and Layhill Road (Md. Rt. 182), and immediately north of the Woodlawn Conference Center property owned by Montgomery County. The Subject Property consists of approximately 140.52 acres and is fairly well buffered to the east and south with heavy forest cover. The campus for the Friends House Retirement Community abuts the Subject Property to the north. The land directly across Norwood Road to the west is developed with single-family residences in the "Plainfield Orchards" subdivision. The roadway leading off of Norwood Road serving this single-family subdivision to the west is Excaliber Lane. The Subject Property, which is currently improved with school-related facilities, is zoned RE-2 and is located within the Patuxent (Rural) Transportation Policy Area. The proposal is to consolidate the existing 11 parcels into a single lot in order to implement the School's planned facilities and to increase the student enrollment by approximately 180 students for a total enrollment of 700 students.

The Subject Property is exempt from the special exception requirements for a private educational institute in accordance with 59-G-2.19(3) because the land is owned and the school is operated by a tax-exempt religious organization.

THE PRELIMINARY PLAN

An application for subdivision requires the Planning Board to undertake its legislatively delegated authority under the Regional District Act and the Subdivision Regulations. In order to gain approval, the application must meet the requirements of the Subdivision Regulations and the Zoning Ordinance, which are applicable to the Application.

Section 50-35 of the Subdivision Regulations provides the approval procedure for preliminary subdivision plans. Section 50-35 provides that after presentation to the Planning Board, the Planning Board must act to approve the plan, disapprove the plan, or approve the plan subject to conditions and/or modifications necessary to bring the plan into accordance with the Montgomery County Code and all other applicable regulations.

The general provisions for lot design for a subdivision are set forth in Section 50-29 of the Subdivision Regulations. Lot size, width, shape and orientation must be appropriate for the location of the subdivision and for the type of use contemplated in order to be approved by the Planning Board. A preliminary plan must substantially conform to the applicable master plan. Lots must also abut a dedicated street or public road. Additionally, Section 50-35(k) of the Subdivision Regulations ("Adequate Public Facilities Ordinance" or "APFO") directs the Planning Board to approve preliminary plans of subdivision only after finding that public facilities, including the transportation system, will be adequate to serve the subdivision.

DISCUSSION

At the public hearing, Staff recommended approval of the Preliminary Plan, subject to conditions.

Staff indicated that there had been written testimony received from the community concerning the recommended realignment of the Sandy Spring Friends School driveway entrance with Excaliber Lane to the west of the Subject Property. Staff also addressed the issue of stormwater management, noting that the stormwater management concept for the Subject Property had been found acceptable by the Department of Permitting Services and noted that the project would be served by local public sewer. As part of the Local Area Transportation Review ("LATR"), Staff noted that the Applicant would be required to improve the Norwood Road/Ednor Road/Layhill Road intersection by providing a right-turn lane off of westbound Ednor Road to northbound Norwood Road.

The Planning Board heard testimony from Howard Zuses, representing the Applicant, concerning several issues. Mr. Zuses testified that the Applicant was concerned that the bike path along Norwood Road that it was being asked to construct would not connect to any existing bike path and that there are no present plans for the Woodlawn Conference Center that would create the need for the bike path. Mr. Zuses testified that while the School is dedicating an easement sixty (60') feet from the centerline for the future bike path and is willing to build the path, it would make better sense to defer construction of that bike path until it would connect with a pathway to the north or south.

With respect to the roadway intersection improvement, Mr. Zuses testified that while the Applicant had no objection to making the required intersection improvement, the Applicant agreed with the community that a contribution toward an eventual improvement to southbound Norwood Road to facilitate left-turn movements onto eastbound Ednor Road would be more beneficial. Mr. Zuses testified that the Applicant was not in a position to contribute more funds to the intersection improvement than required in order to satisfy LATR, but that if the funds could be better spent toward a road improvement that would better address community concerns, the Applicant would

be willing to make its fair contribution and allow others to determine the best use of those funds.

Fran Hayward, representing the Bentley Road Civic Association appeared in support of the Sandy Spring Friends School application and brought with her a letter from the Sandy Spring Civic Association, their "sister" organization, which she testified covered the same points. Ms. Hayward asked the Board to modify or delete three proposed conditions. First, she testified that the Applicant should not be required to construct a bikeway that does not connect to an existing bikeway. Second, she testified that the County should be required to pay the costs associated with the realignment of the Applicant's existing entranceway with Excaliber Lane since the entranceway into the Sandy Spring Friends School campus preceded the construction of Excaliber Lane. Third, she testified that requiring the Applicant to fund the construction of a left-turn lane from Norwood Road to Ednor Road would be a more optimal solution to the problems experienced at this particular intersection than the construction of a right-turn lane off of Ednor Road.

At the request of the Planning Board, Staff responded to the issues raised by the Applicant and the representative of the community association. Staff testified that the addition of a left-turn lane from southbound Norwood Road to eastbound Ednor Road would not fully address the School's obligation under LATR because it would mitigate only 41 of the required critical lane movements, which was an insufficient number based on the traffic study and the requirements of LATR. Moreover, any additional lane on Norwood Road would require relocation of the existing Red Door Store located at that intersection. Staff also testified that for purposes of LATR, a contribution is not allowed unless there is already a programmed improvement at a particular intersection, which would allow for participation. In response to the Planning Board's frustration over the seeming inability to provide a mechanism for contribution to a roadway improvement, rather than actual construction of a roadway improvement, Staff suggested that a condition be approved which would provide for either alternative; either the roadway improvement recommended by Staff would be done or a contribution, in an equivalent amount, would be made by the Applicant and Staff would explore whether there was any upcoming project involving a Road Club that would allow for this alternative to addressing LATR.

The Planning Board spent considerable time discussing the manner in which the Applicant could best satisfy LATR and address the community's concerns within the regulatory framework. There was also discussion about the realignment of the School's driveway with Excaliber Drive as well as the construction of the bike path.

FINDINGS

After review and consideration of the evidence of record, including testimony given at the public hearing, the Planning Board adopts Staff's recommendation with modification to certain conditions and further finds that:

1. with the modified conditions, the Preliminary Plan meets all applicable provisions of the Subdivision Regulations including provisions related to the configuration and compatibility standards required for approval;
2. the size, width, shape and orientation of the proposed lot are appropriate for the location of the subdivision and for the proposed use;
3. the lot abuts public streets or roads;
4. the Preliminary Plan substantially conforms to the 1998 Approved and Adopted Sandy Spring/Ashton Master Plan;
5. the site is adequately served by public facilities under the standards imposed by the Annual Growth Policy;
6. the Preliminary Plan meets all applicable provisions of the Zoning Ordinance;
7. this type of use, given that it is a private religious education institution, does not require the filing of a special exception application;
8. that the Planning Board recognizes SHA's authority to require the realignment of the Applicant's current entrance access, however, the Planning Board will send a letter to SHA setting forth the Planning Board's opinion that the realignment is neither equitable nor needed;
9. the Preliminary Plan complies with all applicable environmental regulations and the proposed use is compatible with the surrounding uses; and
10. the traffic analysis and traffic mitigation techniques proposed meet the requirements of the Annual Growth Policy and APFO.

CONCLUSION

Based on the testimony, evidence, and exhibits presented as well as the contents of the Preliminary Plan file, the Planning Board finds Preliminary Plan No. 1-03092 to be in accordance with the Subdivision Regulations and the Zoning Ordinance of the Montgomery County Code and the provisions of the Regional District Act.

Therefore, the Planning Board approves Preliminary Plan No. 1-03092 in accordance with the Subdivision Regulations, subject to the following conditions:

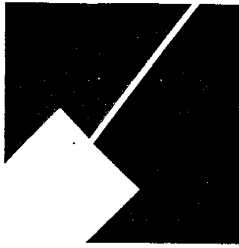
- 1) Limit the increase in student enrollment at Sandy Spring Friends School to 182 students (for a total of 700 students).
- 2) Consistent with the Approved and Adopted Sandy Spring/Ashton Master Plan, dedicate adequate right-of-way along the school frontage of Norwood Road (MD 182) to provide 60 feet of right-of-way from the centerline.
- 3) In coordination with the Maryland State Highway Administration (SHA), and the Montgomery County Department of Public Works and Transportation (DPWT), construct a Class I bikeway along the east side of Norwood Road, along the school frontage. Construction of this bikeway may be deferred until such time as a connecting bikeway on either adjacent property is constructed but it is a binding obligation enforceable through specific performance and through the dedication of an easement.
- 4) In coordination with SHA, DPWT, and the Parks Department of the M-NCPPC, at the applicant's expense, design and construct at-grade improvements at the Norwood Road/Layhill Road/Ednor Road intersection to provide a westbound Ednor Road to northbound Norwood Road right turn lane. The Applicant may, in the alternative, make a contribution in an amount equivalent to that which would be required to fund the right turn lane off of westbound Ednor Road in order to provide a left turn lane from southbound Norwood Road to eastbound Ednor Road, provided further review of this issue indicates that this provides the best long term transportation solution for the community as a whole and it can be accomplished within the regulatory framework.
- 5) If SHA requires the relocation of the main school access to align with Excaliber Lane, then the Applicant, in coordination with SHA and DPWT, shall relocate the existing main school access (to Norwood Road) to the south to align with Excaliber Lane, and provide access improvements at the main school driveway as required by SHA.
- 6) Access to this property is subject to the "Rules and Regulations" of SHA with a permit issued by the office for property frontage improvements along MD 182, which include, but are not limited to: acceleration, deceleration and by-pass lanes, storm drain construction, sidewalk and landscaping.
- 7) Compliance with the conditions of approval of the MCDPS stormwater management approval dated September 5, 2003.

- 8) Record plat to reflect the delineation of a conservation easement over areas of forest retention and stream valley buffers.
- 9) The Adequate Public Facility (APF) review for the preliminary plan will remain valid for sixty-one (61) months from the date of mailing of the Planning Board Opinion.
- 10) This preliminary plan will remain valid for thirty-seven (37) months from the date of mailing of the Planning Board Opinion. Prior to this date, a final record plat must be recorded for all property delineated on the approved preliminary plan, or a request for an extension must be filed.
- 11) Other necessary easements.

DYD:cmd

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M-NCPPC



MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

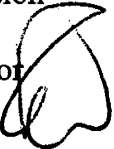
THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION


8787 Georgia Avenue
Silver Spring, Maryland 20910-3760
301-495-4500, www.mncppc.org

July 22, 2004

MEMORANDUM

TO: Catherine Conlon, Supervisor
Development Review Division

VIA: Ronald C. Welke, Supervisor
Transportation Planning 

FROM: Cherian Eapen, Planner/Coordinator
Transportation Planning 
301-495-4525

SUBJECT: Preliminary Plan No. 1-03092-A
Request for Amendment to Preliminary Plan Approval/Planning Board Opinion
Sandy Spring Friends School
Norwood Road, Sandy Spring
Patuxent (Rural) Policy Area

This memorandum presents discussion and recommendation on the subject request on behalf of Sandy Spring Friends School to amend the conditions of approval associated with the preliminary plan for the expansion of existing Sandy Spring Friends School in Sandy Spring to accommodate an enrollment increase of approximately 180 students (for a total of 700 students), and to consolidate the existing 11 parcels belonging to the school into one lot. Specifically, the amendment requests that condition No. 4 in the Planning Board opinion on the Preliminary Plan dated May 12, 2004, be eliminated. It has been determined that, per Section 50-35(k)(7) of the Subdivision Regulations, the school being associated with an existing place of worship, is exempt from the requirements of meeting Adequate Public Facilities (APF).

RECOMMENDATION

Transportation Planning staff recommends that the amendment requested by the applicant per letter from Susan W. Carter of Miller, Miller and Canby on behalf of the applicant dated June 22, 2004, be granted based on the finding that Subdivision Regulations Section 50-35(k)(7) exempts "additions to schools associated with places of worship" from APF review.

CE:gw

cc: Mary Goodman
Bill Gries
Jeff Riese
Greg Cooke
Pete Stone
Stephen G. Petersen, P.E.
Bob Simpson
Susan W. Carter

mno to conlon re SSFS 1-03092A