

MONTGOMERY COUNTY PLANNING BOARD

OPINION

reliminary Plan 1-87040
NAME OF PLAN: MOTHER OF GOD COMMUNITY

On 02-06-87, POTOMAC CHARISMATIC COMM. , submitted an application for the approval of a preliminary plan of subdivision of property in the R200 zone. The application proposed to create 1 lots on 10.34 ACRES of land. The application was designated Preliminary Plan 1-87040. On 06-25-87, Preliminary Plan 1-87040 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 1-87040 to be in accordance with the purposes and requirements of the Subdivision Regulations (Chapter 50, Montgomery County Code, as amended) and approves Preliminary Plan 1-87040, subject to the following conditions:

- . Agreement with Planning Board limiting operation to 9:30 AM to 3:30 PM and enrollment to 250 students with 20 staff.
- . Dedication along Goshen Road (120' right-of-way) and Warfield Road (per DOT requirements).
- . DOT requirements for access to Goshen Road and approval of driveway location.
- . Conditions of DEP stormwater management waiver.
- . Record plat to show 100 year floodplain and 25 foot building restriction line.
- . No access to Warfield Road until it is built to ultimate County standards.

AGREEMENT

THIS AGREEMENT, Made this 16 day of FEBRUARY, 1988, by and between Potomac Charismatic Community, Inc. (hereafter the PCC), and the MONTGOMERY COUNTY PLANNING BOARD of the MARYLAND NATIONAL CAPITAL PARK AND PLANNING COMMISSION (hereafter the "Planning Board"):

WHEREAS, PCC is the owner in fee simple of Parcel A, PCC, more particularly identified on Exhibit "A" attached hereto and made a part hereof, subject to easements, rights-of-way, covenants and restrictions of record; and,

WHEREAS, subdivision of the Property required a review by the Planning Board of the adequacy of the public facilities available to serve the property; and,

WHEREAS, in order to pass the adequate public facilities review, the size, use and operation of improvements to the property must be restricted; and,

WHEREAS, PCC and the Planning Board agreed that the Property could be subdivided provided the necessary restrictions were contained in an agreement which shall bind PCC, its heirs, successors and assigns and which shall be noted on the record plat for the Property; and,

WHEREAS, by the execution of this instrument, PCC intends to create restrictions on the Property necessary to meet the conditions of subdivision approval. The purposes of these restrictions are to limit the construction of structures on the Property and to limit the use of the Property so that persons and properties will not be harmed by overburdened public facilities. PCC intends that the restrictions created by this instrument shall be binding on itself, its successors, assigns and lessees

and on the land and improvements described herein in perpetuity or until released with the consent of the Planning Board.

NOW, THEREFORE, in consideration of the mutual promises and stipulations set forth herein, other goods and valuable consideration, receipt of which is hereby acknowledged, and in accordance with the covenants contained herein, the parties, their successors and assigns, hereby covenant and agree as follows:

1. The recitals set forth above are hereby incorporated herein by reference and made a part of hereof.

2. Hours of operation of the school shall be limited from 9:30 AM to 3:30 PM and the enrollment to not be more than 250 students with 20 staff members.

3. PCC must not expand beyond 250 students ^{with} 20 staff or alter the hours of operation of the school beyond the 9:30 am to 3:30 pm limitation without the successful completion of an adequate public facilities review by the Planning Board pursuant to Section 50-35 (k) Montgomery County Code.

4. PCC must notify the Planning Board of an application for a building permit for the Property. PCC must not seek a building permit or a use and occupancy permit for a structure or use on the Property that violates the restrictions created herein. In the event permits are sought which violate the restrictions created herein, neither the Planning Board or The Maryland National Capital Park and Planning Commission need recommend issuance of any such permit, and Montgomery County, Maryland may withhold issuance of any such permit.

5. Representatives or designees of the Planning Board may enter upon the Property from time to time for the purpose of inspection and

enforcement of the terms, conditions, and restrictions created herein. Wherever possible, a representative of PCC shall be present at an inspection. In the event that the representative or designee determines on the basis of the inspection that the restrictions created herein are being violated, the representative or designee must promptly advise PCC concerning the problem.

6. The Planning Board, The Maryland National Capital Park and Planning Commission, and Montgomery County, Maryland have the right to bring an action for any legal or equitable relief necessary to enforce the restrictions created herein.

7. Upon request of PCC, the Planning Board shall release the Property from these restrictions if it finds that public facilities are adequate pursuant to Section 50-35(k) of the Montgomery County Code for additional development of the Property. Such a review shall include the public facilities impact of any existing building or use to remain on the Property as well as that of the proposed additional development.

8. This Agreement shall bind and insure to PCC, its successors and assigns. Wherever this Agreement refers to the Montgomery County Planning Board, it shall also refer to any successor agency, if any, who will administer the "Adequate Public Facilities" Ordinances, Section 50-35(k), of the Montgomery County Code.

9. A notation of this Agreement must be made on any record plat from the Property.

10. This Agreement may only be modified in a writing signed by the parties hereto, their heirs, successors, or assigns.

IN WITNESS WHEREOF, This instrument has been executed by PCC and the Planning Board on the day and year hereinbefore written.

F. A. W. [Signature]
Witness

Joseph C. Difato
Joseph C. Difato
Vice President
POTOMAC CHARISMATIC COMMUNITY

By: _____

Barbara A. Peller
Witness

[Signature]
MONTGOMERY COUNTY PLANNING BOARD

APPROVED AS TO LEGAL SUFFICIENCY
RSV
M-NCPPC Legal Department
Date 1/29/88

ATTACH D

TRANSPORTATION

MEMORANDUM

July 13, 2004

Cathy Conlon
Acting Supervisor, Subdivision Regulation
Development Review Division
Maryland-National Capital Park & Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910

Re: Preliminary Plan Amendment for Mother of God School

Dear Cathy:

Enclosed herewith is an application for an Amendment to an Approved Preliminary Plan, 1-87040, for the Mother of God School (the "School"), a Parochial school located at the southeast quadrant of Goshen and Warfield Roads in Gaithersburg, Maryland. The property is known of record as Parcel A, Block W, Goshen Estates as recorded among the Land Records of Montgomery County at Plat No. 16846, and is owned by Potomac Charismatic Community, Inc., operators of the School.

Preliminary Plan 1-87040 was approved by the Montgomery County Planning Board on February 6, 1987, and created one (1) lot on 10.34 acres, subject to conditions. Since the policy area was then in a moratorium, one of those conditions was the requirement that the School enter into an agreement with the Planning Board limiting the hours of operation to between 9:30 a.m. and 3:30 p.m. The school entered into such an agreement on February 16, 1988. A copy of that agreement is enclosed for your review.

On March 25, 1999, the School filed an application for a Revision to an Approved Preliminary Plan seeking a modification to the Preliminary Plan Agreement restricting their hours of operation. At that time the Montgomery Village/Airpark Policy Area had a staging ceiling capacity of a **negative** 1,999 jobs, and the school was not allowed to proceed without mitigating all of its associated trips. That was cost-prohibitive at the time, so the School elected not to proceed with the preliminary plan revision, but asked that they remain in the queue for the policy area.

Sometime during the 2000-2001 academic year, the School changed its hours of operation in order to provide before- and after-school care to its students and to maintain a curriculum in accordance with the requirements set by the Archdiocese of Greater Washington, which mirrors the State of Maryland's educational standards, requiring 979 hours of classroom instruction per year. In order to comply with both the State of Maryland standard for classroom hours and the Preliminary Plan Agreement, the School would have to increase its school year by at least 23.5 days, something that is not feasible.

The School was cited by the Planning Commission in March of 2004 for violating the original Preliminary Plan Agreement, and, after numerous discussions with the Development Review Division and the Office of the General Counsel, agreed to pay the citation and file an application for a Preliminary Plan Amendment no later than July 15, 2004.

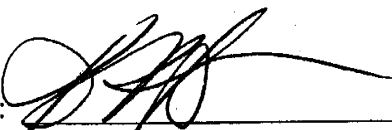
The School is *not* seeking any additional enrollment capacity, and will continue to serve a maximum of 250 students. The School is, however, seeking an increase in the number of staff on site. The Preliminary Plan Agreement allowed a maximum enrollment of 250 students with a maximum of 20 staff persons. Currently, the School operates with 27 staff members, and so we are, accordingly, seeking an increase in staff persons allowed on site. The before- and after-school care currently offered on site serves students of the Mother of God School only. No other changes are requested at this time, and no site improvements are proposed.

A traffic study has been conducted by Stephen G. Petersen, P.E., of Street Traffic Studies, Limited, and is also enclosed. As the new Annual Growth Policy did away with policy area staging ceiling capacities, no policy area review is required, and the surrounding area is no longer subject to a moratorium. Accordingly, Mr. Petersen has conducted a Local Area Review of surrounding intersections.

We believe that the enclosed Preliminary Plan Amendment complies with all applicable provisions of both the Subdivision Regulations and Zoning Ordinance, as well as with all of the applicable Guidelines enacted by the Park and Planning Commission. As such, we respectfully request that you place this application on the next available agenda of the Development Review Committee. If we may provide you with any additional information, please do not hesitate to call.

Very truly yours,

DUFOUR & ORENS, CHTD.

By: 
Kinley R. Dumas X150

Encl.

Cc: Hall Miller, Mother of God School
Steve Crumm, Macris, Hendricks & Glascock
Stephen G. Petersen, Street Traffic Studies LTD.
Stephen J. Orens, Esquire

January 5, 2005

MEMORANDUM

TO: Dolores Kinney, Planner
Development Review Division

VIA: Shahriar Etemadi, Supervisor
Transportation Planning

FROM: Ed Axler, Coordinator/Planner
Transportation Planning

SUBJECT: Preliminary Plan No. 1-87040-A
Mother of God Community
A Private Religious-Affiliated Educational Institute
Montgomery Village/Airpark Policy Area

This memorandum is Transportation Planning staff's adequate public facilities (APF) review of the subject preliminary plan amendment in the R-200 zone.

RECOMMENDATIONS

Transportation Planning staff recommends the following conditions related to the approval of the preliminary plan amendment, pursuant to Section 50 of the Subdivision Regulations and under the *FY 2005 Annual Growth Policy (AGP)*:

1. Limit the preliminary plan amendment to a private educational institute with an enrollment up to 250 students, staff persons up to 27 persons, and a child day care program for up to 63 students attending the educational institute.
2. Provide \$52,500 to fund the construction of a concrete, five-foot-wide sidewalk along the Goshen Road frontage including street trees (i.e., placed 50 foot from center) and handicapped ramps in accordance with the County standards for a master-planned major highway. Payment should be made to the beneficiary of the Montgomery County Department of Public Works and Transportation (DPWT) so they can transfer the funds into their Capital Improvements Program (CIP) Project No. 506747, Annual Sidewalk Program. The funds should be transferred to DPWT within 30 days after date of the Planning Board opinion.
3. Construct a concrete four-foot-wide lead-in sidewalk from Goshen Road into the site's parking lot opposite the school's drop-off/pick-up point within 120 days after the date of the Planning Board opinion.
4. Provide three bike racks to store six total bicycles with credit for equivalent bike facilities now on the site within 30 days after date of the Planning Board opinion.

Locate the bike racks within 50 feet of the entrance of buildings that provides for securing two bicycles each.

5. Prohibit access to Warfield Road until DPWT determines that Warfield Road is built to or satisfy their standards as previously required.

DISCUSSION

The Purpose for this Amendment

This preliminary plan amendment would resolve the Planning Board citation for violating part of the first condition of original preliminary plan approval by starting the classes before 9:30 a.m. and ending before 3:30 p.m. Refer to the attached Planning Board's opinion dated on July 2, 1987. Classes were required to start after 9:30 a.m. shifted the site-generated traffic after the weekday morning peak period to satisfy Policy Area Transportation Review (PATR) under the *FY 1987 AGP*. These required starting and ending times would result in no site-generated trips occurring during the morning and evening peak periods. Classes are anticipated to end before 3:30 p.m. in compliance with the other part of this first condition, but the child day care extends into the weekday evening peak period.

By amending this preliminary plan under the current *FY 2005 AGP*, the PATR component of APF review is no longer required and, therefore, the first original condition restricting class's starting and ending times is not needed and can be removed.

The recommended amended conditions reflect the school current and future enrollment, staff persons, and an added child day care program before and after classes. The child day care program does not need a special exception because the private school is located on land controlled by a religious institute, the Potomac Charismatic Community. Three other conditions were added to accommodate pedestrians and bicyclists that were not standard in 1987.

Site Location and Vehicular Access Point

The site, Parcel A, Block W, is located in the southeastern quadrant of the intersection of Goshen Road and Warfield Road. The vehicular access point into the parking lot is from the existing curb-cut on Goshen Road and opposite Saint John Newmann Catholic Church's driveway.

Pedestrian and Bicycle Facilities

As an existing school, the proposed preliminary plan amendment would not adversely affect the existing pedestrian and bicycle facilities, but would improve them as follows:

1. Sidewalk along Goshen Road Frontage: Recommendation No. 2 provides for construction funding of a 1,360-linear-foot sidewalk along the property Goshen Road frontage where none exist. If the sidewalk were constructed now, it would have to be reconstructed when construction funding is appropriated for what is now Phase II of DPWT Facility Planning Study, Goshen Road South, to widen Goshen Road from two to four lanes.

The recommended sidewalk cost of \$52,500 was based on actual 2004 unit cost to construct one square-foot of sidewalk and plant street trees from DPWT's Annual Sidewalk Program and other roadway projects. This cost was inflated to cover unexpected future contingencies, but does not include the costs to grade and relocate any utilities within the sidewalk path that is typically included DPWT roadway projects.

Because no active DPWT construction account now exists to widen Goshen Road, the applicant's sidewalk construction funds must be held in DPWT Annual Sidewalk Program between now and the next six years. In the sixth year, DPWT anticipates that construction funding would be appropriated for their Goshen Road widening project. Either under DPWT future Goshen Road widening project or their Annual Sidewalk Program in a FY 2007 PDF, a sidewalk would be constructed in six years along the frontage of Goshen Road.

2. Lead-in Sidewalk: Recommendation No. 3 provides for a four-foot-wide, lead-in sidewalk from Goshen Road into the site's existing parking lot.
3. Bikepath along Goshen Road: The current concept plans for Phase II of DPWT Facility Planning Study includes a master-planned Class I bikepath on the west side of Goshen Road opposite the school.
4. Bicycle Storage Facilities: Recommendation No. 4 provides for six bike parking spaces in accordance with the Country Zoning Ordinance Section 59-E.2.3 -- requiring one bicycle parking space per every 20 parking spaces.
5. Safe Access to Transit Service: Although transit service is not available along site's frontage of Goshen Road, Ride-On route 58 operates on Goshen Road south of East Village Avenue. With the planned sidewalk along Goshen Road in DPWT widening project, a pedestrian connection would become available from the site to the bus stop located approximately 1,500 feet to the south at East Village Avenue.

Relevant Transportation Project

DPWT's Facility Planning Study for Goshen Road South (Go Montgomery) has been noticed to start Phase II- 35% design plan. One of the concept design plans includes retaining full access at the site's current curb-cut at Goshen Road, while alternative plans would limit the site's curb-cut to right-turns-in and right-turns-out only or close/relocate

the curb-cut either further south along Goshen Road or along Warfield Road. These concept plans were developed to minimize the conflicting traffic movements from:

1. The school site's curb-cut
2. Saint John Newmann Catholic Church
3. The adjacent historic Black and White Inn site
4. The projected number of vehicles queued in the northbound intersection approach with Warfield Road

Based on the current DPWT alternative design plans, the applicant was concerned that the school would have to pay to modify or relocate the site's vehicular access point -- that would not occur because this cost would be included in the DPWT project cost.

Master-Planned Roadways and Bikeway

In accordance with the 1985 *Gaithersburg Vicinity Master Plan*, the master-planned roadways and bikeway are as follows:

1. Goshen Road is designated as a 4-to-6-lane major highway, M-25, with a 120-foot right-of-way, a recommended master-planned bike path on the west side and a five-foot sidewalk on the east side.
2. Warfield Road is designated as a primary residential street, P-1, with a 70-foot right-of-way and recommended future five-foot sidewalks.

The applicant has dedicated 120 feet of right-of-way along Goshen Road and 70 feet of right-of-way along Warfield Road as required in their original preliminary plan approval.

Prior APF History Leading this Preliminary plan Amendment

1. Original Preliminary Plan Approval: The Planning Board originally approved Preliminary Plan No. 1-87040 on June 25, 1987, for a weekday private educational institute. The conditions of approval limited the school's operation from 9:30 a.m. to 3:30 p.m., up to 250 students, up to 20 staff persons, and no child daycare program. Refer to the attached Planning Board's opinion.

The school's operating hours were restricted to satisfy PATR because the Montgomery Village/Airpark Policy Area was in a moratorium for non-residential development under the FY 1987 AGP. By restricting the operating hours, the site's vehicular traffic would not be on the road during the then two-hour weekday morning peak period (7:00 to 9:00 a.m.) and evening peak period (4:00 to 6:00 p.m.) Likewise, restricting the operating hours also satisfied Local Area Transportation Review (LATR).