



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

MCPB No. 12-69
Preliminary Plan No. 120090050
First Baptist Church of Damascus
Date of Hearing: June 14, 2012

JUN 21 2012

RESOLUTION

WHEREAS, under Montgomery County Code Chapter 5C, the Montgomery County Planning Board ("Planning Board" or "Board") has authority to review preliminary plan applications; and

WHEREAS, on December 15, 2008, First Baptist Church of Damascus ("Applicant") filed an application for approval of a preliminary plan of subdivision of property¹ that would create one lot for the construction of a 26,115 square foot addition to a religious institution on 17.88 acres of land in the RC zone, located on the south side of Damascus Road (MD 108), across from Cornor Drive, east of Stanley Hills Way ("Property"), in the 2006 Damascus master plan ("Master Plan") area and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120090050, First Baptist Church of Damascus ("Preliminary Plan" or "Application"); and

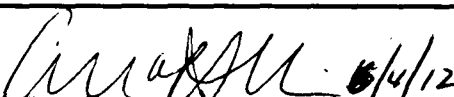
WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and other governmental agencies, Staff issued a memorandum to the Planning Board, dated May 31, 2012, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on June 14, 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:

 6/4/12

8787 Georgia Avenue, Silver Spring, Maryland 20910 Chairman's Office: 301.495.4605 Fax: 301.495.1320

www.MCParkandPlanning.org E-Mail: mcp-chairman@mncpc.org

NOW, THEREFORE, BE IT RESOLVED THAT, the Planning Board approves Preliminary Plan No. 120090050 to create one lot on the Subject Property, subject to the following conditions:²

- 1) Approval under this Preliminary Plan is limited to one (1) lot for a religious institutional use, with no regular weekday child daycare service or weekday private school.
- 2) The Applicant must comply with the conditions of approval for the final forest conservation plan no. 120090050, approved together with this Application. Conditions of the final forest conservation plan include:
 - a. The Applicant must obtain Staff approval of a certificate of compliance for use of an approved offsite forest mitigation bank to satisfy the forest mitigation planting requirements, prior to any clearing or grading on the property.
 - b. Mitigation for the loss of one specimen tree (Tree #15 as identified on the Natural Resources Inventory/Forest Stand Delineation "NRI/FSD" No. 420080230) to be provided by planting four 3-inch caliper native canopy trees on site. Mitigation is not required if this tree is able to be retained as determined by the field inspector. Trees must be planted prior to issuance of building permit.
 - c. Inspections must occur consistent with Section 22A.01.01.10 of the Forest Conservation Law.
 - d. The final sediment control plan must be consistent with the final limits of disturbance as approved by Staff.
 - e. The Applicant must comply with all tree protection measures shown on the approved forest conservation plan.
 - f. Tree save measures not specified on the forest conservation plan may be required by the M-NCPPC forest conservation inspector.
- 3) The Planning Board has accepted the recommendations of the Montgomery County Department of Transportation ("MCDOT") in its letter dated February 11, 2009, and does hereby incorporate them as conditions of the Preliminary

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.

Plan approval. Therefore, the Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDOT provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.

- 4) The Applicant must satisfy the provisions for access and improvements as required by MCDOT prior to recordation of plat(s).
- 5) The Planning Board has accepted the recommendations of the Maryland State Highway Administration ("SHA") in its letter dated January 26, 2009, 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 SHA letter, which may be amended by SHA provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 6) The Applicant must satisfy the provisions for access and improvements as required by SHA prior to issuance of access permits.
- 7) The Planning Board has accepted the recommendations of the Montgomery County Department of Permitting Service ("MCDPS") - Water Resources Section in its letter dated April 25, 2006, 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 MCDPS letter, which may be amended by MCDPS - Water Resources Section provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 8) The Planning Board has accepted the recommendations of MCDPS - Well and Septic Section in its letter dated February 1, 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 MCDPS letter, which may be amended by MCDPS - Well and Septic Section provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 9) The Applicant must dedicate and show on the record plat a dedication of sixty (60) feet from the existing pavement centerline along the property frontage for Damascus Road (MD 108) (0.98 acres).
- 10) Prior to recordation of the plat the Applicant must satisfy MCDPS requirements to ensure the construction of a five (5) foot wide sidewalk along the property frontage on Damascus Road (MD 108), unless construction is waived by MCDPS.

- 11) 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.”

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 Master Plan.*

The Property is identified as a Rural Transition Area in the Proposed Land Use section of the Master Plan. The Rural Transition Area recommends a mix of low-density residential and agricultural uses and encourages limiting impervious surfaces to protect drinking water supplies. The expansion of this existing religious institution and associated parking substantially conform to the recommendations of the Rural Transition Area because the impervious levels are not excessive for the intended use of the Property and a religious institution is allowed in the Property’s RC Zone.

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

The vehicle and pedestrian access for the Property will be safe and adequate under the Preliminary Plan. Because the Application is for expansion of an existing religious institution, Chapter 50-35(k) (6) of the Montgomery County Code exempts places of worship from the transportation provisions of adequate public facilities as long as the proposed use does not generate peak hour trips. The Applicant submitted a Traffic Statement demonstrating that no uses were proposed that would generate more than 30 peak hour trips. Therefore this Preliminary Plan is not subject to the Local Area Transportation Review or Policy Area Mobility Review requirements. The facility will have occasional weekday

activities during the day, with provided child care only for parents needing such services that were attending these mid-day events. This occasional mid-day use will not generate trips during normal peak hours.

The Property is located in water and sewer categories W1, S6, and the Planning Board agrees with the applicable public agencies that the Preliminary Plan provides adequate water and sewer services. All other utilities including telecommunications and electric have adequate service available to the Subject Property. Other public facilities and services, such as police stations, firehouses and health services are currently operating within the standards set by the Subdivision Staging Polices currently in effect.

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

The Application was reviewed for compliance with the Montgomery County Code, Chapter 50, Subdivision Regulations. The Preliminary Plan meets all applicable sections of the Chapter. The Preliminary Plan was reviewed for compliance with the dimensional requirements for the RC zone as specified in the Zoning Ordinance. The lot will meet all the dimensional requirements for area, frontage, width, and setbacks in that zone.

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 final forest conservation plan was submitted with the Preliminary Plan application. There is an existing 0.46 acres of forest on the property in the southeastern corner but it must be counted as cleared because it does not meet the required dimensions of a forest, and the adjoining off-site forest is not protected. The Application generated a 3.03 acre planting requirement, and the Applicant will provide a 2:1 (6.06 acre) off-site mitigation in a conservation bank protected in a Category 1 forest conservation easement.

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 three Protected Trees as 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:

Granting the variance will not confer a special privilege on the Applicant as disturbance to the Protected Trees is due to the configuration of the site, and the desire to limit impervious surfaces while providing both water protection measures and septic fields downslope from the building. Although the Property encompasses 17 acres of land, the L-shaped configuration coupled with the desire to incorporate the expansion into the existing development onsite is limiting. The Protected Trees and their critical root zones lie within the limited developable area of the site. Granting a variance request to allow land disturbance within the developable portion of the site is not unique to this Applicant.

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

The requested variance is not based on conditions or circumstances outside the norm of a development application allowed under the applicable zoning and associated regulations. The variance is based upon the proposed site layout that incorporates the location of the existing church and parking lot into an expansion in order to limit the impervious impact to the site.

- 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 variance is a result of the existing and proposed site design and layout on the Subject Property.

- iv. Granting the Tree Variance will not violate State water quality standards or cause measurable degradation in water quality.

The Protected Trees being removed or disturbed are not within a stream buffer, wetland, or a special protection area. A Stormwater Management Concept Plan was approved On April 25, 2006, by MCDPS and administratively amended on May 21, 2012. Therefore, the water quality standards should not be adversely impacted.

Two of three Protected Trees that are approved for removal are classified as invasive species and their removal is often encouraged. Therefore, mitigation for the removal of Tree #5 and Tree #14 as shown on the final forest conservation plan is not necessary. The third tree (Tree #15) is likely to be saved, but a determination will be made in the field during construction. If this tree is removed, mitigation should be at a rate that approximates the form and function of the tree. Therefore, The Planning Board requires that replacement occur at a ratio of approximately 1" Diameter at Breast Height ("DBH") for every 4" DBH removed, using trees that are a minimum of 3" DBH. Therefore, for the 38 caliper inches of tree removed, the Applicant will mitigate with four (4) native canopy trees with a minimum size of 3" DBH on the site. If the tree remains, no mitigation will be required.

- 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.*

MCDPS conditionally approved a stormwater management concept for the project on April 25, 2006, which was administratively amended on May 21, 2012. The approved concept consists of a dry pond to provide on-site channel protection measures and 2 & 10 year storage due to future downstream development. Water quality control will be provided via a surface sand filter with

a hydrodynamic device for pretreatment. A grass swale will also provide water quality for the proposed ball field. Recharge will be provided by multiple methods including dry wells, infiltration, and the grass swale.

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

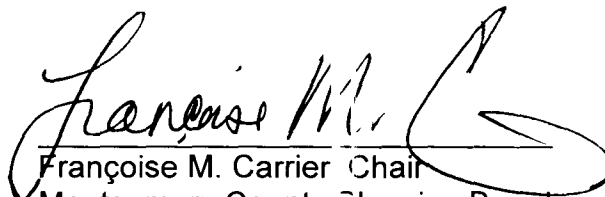
BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is JUN 21 2012 (which is the date that this Resolution is mailed to all parties of record); and

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).

* * * * *

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 Planning Commission on motion of Vice Chair Wells-Harley, seconded by Commissioner Presley, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Dreyfuss and Presley voting in favor of the motion, and with Commissioner Anderson absent, at its regular meeting held on Thursday, June 14, 2012, in Silver Spring, Maryland.


Françoise M. Carrier Chair
Montgomery County Planning Board