



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

MCPB No. 10-123
Preliminary Plan No. 120100240
Saints Constantine & Helen Greek Orthodox Church
Date of Hearing: July 29, 2010

OCT - 4 2010

MONTGOMERY COUNTY PLANNING BOARD

RESOLUTION

WHEREAS, pursuant to Montgomery County Code Chapter 50, the Montgomery County Planning Board ("Planning Board" or "Board") is vested with the authority to review preliminary plan applications; and

WHEREAS, on March 25, 2010, Saints Constantine & Helen Greek Orthodox Church ("Applicant"), filed an application for approval of a preliminary plan of subdivision of property that would create 1 lot and 1 parcel to be recorded and dedicated for parkland on 17.72 acres of land as phase I on a 47.70 acre parcel in the RE-2C and RE-2 zones, located at 601 Norwood Road ("Property" or "Subject Property"), in the Cloverly master plan area ("Master Plan"); and

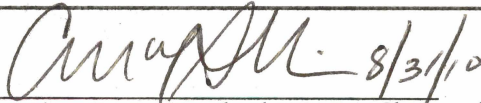
WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120100240, Saints Constantine & Helen Greek Orthodox Church ("Preliminary Plan" or "Application"); and

WHEREAS, Planning Board staff ("Staff") issued a memorandum to the Planning Board, dated July 16, 2010, setting forth its analysis, and recommendation for approval, of the Application subject to certain conditions ("Staff Report"); and

WHEREAS, following review and analysis of the Application by Staff and the staff of other governmental agencies, on July 29, 2010, the Planning Board held a public hearing on the Application (the "Hearing"); and

WHEREAS, at the Hearing, the Planning Board heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, on July 29, 2010, the Planning Board approved the Application subject to certain conditions, on motion of Commissioner Dreyfuss; seconded by Commissioner Alfandre; with a vote of 5-0, Commissioners Alfandre, Carrier, Dreyfuss, Presley, and Wells-Harley voting in favor.

Approved as to
Legal Sufficiency:  8/31/10

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NOW, THEREFORE, BE IT RESOLVED, that, pursuant to the relevant provisions of Montgomery County Code Chapter 50, the Planning Board approved Preliminary Plan No. 120100240 to create 1 lot on the Property in the Cloverly master plan area ("Master Plan"), subject to the following conditions:

- 1) Approval under this Preliminary Plan is limited to 1 lot for a 35,930 square-foot church (or a place of worship) with a maximum 600 seat sanctuary, and 1 parcel that will be recorded and dedicated for parkland. The approval of the church lot includes an after-school, afternoon/evening Greek language program at the church, generally operating between 4:00 p.m. and 6:30 p.m. for up to 70 students with 7 staff members. No regular classes related to the school program may be scheduled on weekday mornings between 6:30 a.m. and 9:30 a.m.
- 2) The Applicant must provide a Public Improvement Easement (PIE) and construct frontage improvements along Norwood Road as shown on the Preliminary Plan and as required by the Montgomery County Department of Transportation (MCDOT). The improvements must be under permit and bond prior to the approval of the record plat by the Montgomery County Department of Permitting Services (MCDPS).
- 3) The Applicant must construct an 8-foot wide shared-use path (substituting for the Master Plan recommended bike lanes) along the entire Norwood Road Property frontage (including the section between the proposed northern site access driveway and the northern property line) and extend the shared-use path off-site to the south to connect to the existing shared-use path along Norbeck Road Extended. This path must be shown on the certified preliminary plan.
- 4) The Applicant must locate the lead-in sidewalk proposed on the site between the shared-use path and the church sanctuary (along the northern site access driveway and an interior stormwater facility) away from the edge of the driveway curb to provide a minimum 5-foot buffer between the curb and the sidewalk, where feasible. The lead-in sidewalk must have a clear and distinct orientation to the church sanctuary from the shared-use path. The sidewalks and the shared-use path proposed as part of this development must meet ADA best practices. The final location of this sidewalk must be shown on the certified preliminary plan.
- 5) The Applicant must comply with the conditions of approval of the Preliminary Forest Conservation Plan (PFCP). The Applicant must satisfy all conditions and requirements prior to recording of plat(s) or MCDPS issuance of sediment and erosion control permit(s), as applicable. Conditions include:
 - a. Approval of final forest conservation plan consistent with the preliminary forest conservation plan and the FCP regulatory requirements of Section 109B – *Forest Conservation Regulations* (COMCOR 22A.00.01.09B) prior

to any clearing, grading or demolition on the site.

- b. Forest preservation and environmental buffer areas for the proposed lot and parcel as shown on the PFCP, must be within the park dedication area for purposes of permanent protection.
- 6) The Applicant must comply with the conditions of the MCDPS stormwater management approval dated March 31, 2010. These conditions may be amended by MCDPS, provided the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 7) The Applicant must comply with the conditions of the MCDOT letter dated June 4, 2010. These conditions may be amended by MCDOT, provided the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 8) The Applicant must satisfy provisions for access and improvements as required by MCDOT prior to recordation of plat(s).
- 9) The Applicant must submit a final landscape and lighting plan that must be reviewed and approved by MNCPPC Site Plan Review staff prior to approval of the record plat(s).
- 10) The Applicant must dedicate and convey to M-NCPPC in fee simple the 10.63 acre portion of land located along the eastern side of the Subject Property. This portion must be conveyed in fee simple by deed in a form acceptable to M-NCPPC staff, and conveyed at time of record plat. Dedication area park boundaries must be straight and easy to delineate in the field as acceptable to M-NCPPC Department of Parks staff. Trash, unnatural debris and any structures located on dedicated areas must be removed by the Applicant prior to land transfer.
- 11) The Applicant must provide a natural surface trail connection from the Norbeck Road trail tunnel where it enters the Subject Property to the sidewalk/trail that currently exists along the west side of Norbeck Road. This connection must be made provided M-NCPPC acquires or controls the land adjacent to the Applicant's property that is necessary to accommodate the trail's construction. Trail must be adequately signed and constructed in a manner acceptable to M-NCPPC Department of Parks staff.
- 12) The Adequate Public Facility (APF) review for the preliminary plan will remain valid for eighty-five (85) months from the date of mailing of the Planning Board resolution.
- 13) Other necessary easements must be shown on the record plat.

BE IT FURTHER RESOLVED, that having given full consideration to the recommendations and findings of its Staff 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 Montgomery County Planning Board FINDS, with the conditions of approval, that:

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

The RE-2C zone permits the land included in this Application to develop either as a cluster or non-cluster subdivision. The Cloverly Master Plan recommends the use of cluster to protect environmentally sensitive areas:

“Encourage clustering of development to provide open space that protects natural resources, provides recreation, and contributes to the rural and residential atmosphere. Cluster subdivisions should be configured to protect environmentally sensitive areas, provide forested stream buffers and forested open space along arterial and major highways, provide access and views of parkland and open space and provide a transition to similar lot sizes of adjacent subdivisions. However, there may be individual properties where cluster development does not adequately address environmental or compatibility issues and would be inappropriate.” (Cloverly Master Plan, pages 31-32)

The RE-2C portion of the site received a water and sewer category change (application no. WSCCR 03A-CLO-13) through a MCDEP Administrative Delegation Approval Action on August 25, 2004. The MCDEP action approved W-3 and S-3 with an advisory note: “The applicant is encouraged, but not required, to seek Planning Board approval of the RE-2C cluster development option for this site.” Subsequent to this action, the Planning Board approved a 6-lot residential cluster subdivision on this property (Preliminary Plan 120040920, Patton Property). That subdivision was never recorded, and the current Applicant is now the contract purchaser of the land. The proposed church, while not a residential subdivision, has been configured such that its total limit of disturbance does not exceed that of the previously approved cluster plan. Therefore, the Planning Board finds this development meets the Master Plan goals for clustering. Accordingly, it is also eligible to be served by public water and sewer under the previously granted water and sewer category change.

In addition, the Cloverly Master Plan recommends retaining the existing zoning for properties zoned RE-2 and RE-2C in the residential wedge section in which this Property is located. The Master Plan states that this area is identified in the Environmental Resources Chapter as a Regular Protection Area, and that a combination of low-density zoning, park acquisition, and standard environmental requirements to mitigate effects of new development is to be used to protect water quality. More specifically, the Master Plan recommends acquisition of parkland within this Property that generally includes the floodplain and environmental buffers of Northwest Branch and enough land to “permit trail construction outside the stream buffer” (pg. 66). The proposed parkland on this Property is part of the Rachel Carson Greenway Corridor that stretches from the Prince Georges County boundary

to Sandy Spring. The Master Plan also emphasizes that the ultimate watershed imperviousness for the upper Northwest Branch should remain in the 10 to 15 percent range and development with high site-imperviousness should be discouraged. There is, however, no regulatory impervious limit in this watershed.

The dedication of 10.63 acres to MNCPPC will ensure permanent protection of environmentally sensitive resources in the Northwest Branch watershed. It also provides an opportunity for MNCPPC to extend, in the future, a natural surface trail connection north along the stream valley in the dedicated parcel. Development for the church includes 15.5% imperviousness over the 17.72 acres that is considered the gross tract area. While this half of the larger property will exceed 15% imperviousness, the remaining acres will be developed under septic limitations and will likely include much less impervious development. Thus, the average imperviousness for the entire site is not likely to exceed the Cloverly Master Plan goal for the ultimate limit in the Northwest Branch watershed. The Planning Board finds the Preliminary Plan substantially conforms to the Master Plan goals for environmental resources and site-imperviousness.

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

Roads and Transportation Facilities

Master Plan Roadways and Pedestrian/Bikeway Facilities

The Approved and Adopted 1997 *Cloverly Master Plan* includes the following nearby master-planned roadway, bikeway, pedestrian and trail facilities:

- 1) Norbeck Road Extended, as an east-west four-lane divided major highway (M-18) with a minimum recommended right-of-way width of 150 feet between Layhill Road to the west and New Hampshire Avenue (MD 650) to the east, with a proposed rural streetscape and a Class I bikeway (PB-33; also as dual bikeway DB-21 [shared use path and bike lane] in the Approved and Adopted March 2005 *Countywide Bikeways Functional Master Plan*). The roadway connects Norbeck Road (MD 28) with Spencerville Road (MD 198).
- 2) Norwood Road, as a northwest-southeast four-lane arterial (A-51) with a minimum recommended right-of-way width of 80 feet between Ednor Road/Layhill Road to the northwest and New Hampshire Avenue to the southeast, with a proposed rural streetscape and bike lanes (PB-38; also BL-21 in the *Countywide Bikeways Functional Master Plan*).

The Applicant is providing a shared-use path along the entire Norwood Road Property frontage in place of the bike lanes recommended in the Master Plan, which the Board finds is appropriate for the rural streetscape recommended for Norwood Road. The proposed shared-use path will also enhance the regional off-road bicycle/pedestrian/hiker experience through connections to the Rachel Carson Greenway Trail (which traverse through the subject site), the existing shared-use path along Norbeck Road Extended (which connects to the shared-use path along Layhill Road and to Matthew Hensen Trail), and the Underground Railroad/Trail at Woodlawn Cultural Special Park. There is no existing transit service in the vicinity of the Property.

Adequate Public Facilities Review of Traffic Impacts

This Application, as a religious institution or a place of worship, does not require an APF test. However, this Application includes a Greek language afterschool program that will operate twice weekly between 4:00 p.m. and 6:30 p.m. It is anticipated that total enrollment in the Greek language program will be approximately 70 students. The program is anticipated to have 7 staff members as well. The Applicant indicates that, typically, parents bring children to the classes and remain on the Property until the classes are over to avoid multiple trips. Due to the after-school Greek language program proposed at the church, an APF traffic test was required. The program is anticipated to generate 30 or more peak-hour trips during the typical weekday evening (4:00 p.m. – 7:00 p.m.) peak period. A traffic study was, therefore, required for the subject application according to the *Local Area Transportation Review (LATR)/Policy Area Mobility Review (PAMR) Guidelines*. The development did not require analysis of traffic conditions during the morning peak period because the church is exempt from APF and, on a typical day, will not open prior to 9:30 a.m. In addition, the after-school Greek language program will only operate in the afternoon/evening.

Applicant submitted a traffic study (dated June 24, 2010) that determined traffic-related impacts of the proposed development on nearby roadway intersections during weekday morning and evening peak periods. The peak-hour trip generation estimate for this application was based on trip generation rates/recommendations included in the *LATR/PAMR Guidelines* and the Institute of Transportation Engineers (ITE) *Trip Generation*. The proposed development was estimated to generate approximately 50 total trips during the weekday evening peak-hour.

A summary of the capacity analysis/Critical Lane Volume (CLV) analysis results for the intersections included in the traffic study for the weekday morning and evening peak-hours concluded the Norwood Road intersections with Norbeck Road Extended and with the Northern Site Access Driveway are projected to operate below the Cloverly Policy Area congestion standard (1,450 CLV) under Total (i.e., Build) traffic

conditions. However, the intersection of Norwood Road and Layhill Road/Ednor Road is projected to exceed the congestion standard during the weekday morning peak-hour. Although the intersection is operating above the Cloverly Policy Area congestion standard, the proposed development will not adversely impact this intersection during the morning peak-hour because, on a typical day, the church will not open prior to 9:30 a.m. and the after-care program will not commence until 4:00 p.m. Based on the analysis presented in the traffic study, the Board finds that the Preliminary Plan satisfies the LATR requirements of the APF test.

As part of APF review, arterial roads and transit must be analyzed in a wider geographic area, or a policy area. The Subject Property lies within the Cloverly Policy Area, and the Cloverly Policy Area is currently operating under "acceptable" conditions for PAMR and does not require mitigation of any "new" site-generated peak-hour trips. As a result, the Board finds that the Preliminary Plan satisfies the PAMR requirements for APF review.

Other Public Facilities and Services

The application has been reviewed by the Montgomery County Fire and Rescue Service who have determined that the Property has appropriate access for fire and rescue vehicles. Other public facilities and services, such as police stations, firehouses and health services, are operating within the standards set by the Growth Policy Resolution currently in effect. The Property will be served by public water and sewer, and gas, electric, and telecommunications facilities are also available to serve the site.

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

This Application has been reviewed for compliance with the Montgomery County Code, Chapter 50, the Subdivision Regulations. The Planning Board finds the application meets all applicable sections. The proposed lot size, width, shape and orientation are appropriate for the location of the subdivision. Review and approval of the submitted landscape and lighting plan are required prior to record plat approval. Due to the potential light and noise impacts to the residentially zoned and developed properties west of the Subject Property, the Planning Board requires significant buffering along this shared property line to ensure harmonious development. Preservation of the rural character of the area will also be taken into account in review of the landscape and lighting plan.

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

The 29.86 acres of existing forest covers the entire Property with the exception of the western corner along Norwood Road, where the church development is proposed. An additional 3.53 acres of forest located on the smaller portion of the Property, on the south side of Norbeck Road, is included on the forest conservation worksheet for future Phase II because this forest was previously cleared without authorization. This area of unauthorized forest clearing has been included in the forest conservation worksheet for future Phase II.

The remaining forest encompasses the streams and environmental buffers on the Property. Approximately 0.06 acres of forest clearing is proposed as part of this Application to allow for the connection of a sewer line from the proposed church to the existing sewer on the site. There is no forest planting requirement as part of this Application. The 8.0 acres of retained forest within the 17.72 acres portion of the site included in this Application will be protected through dedication to the M-NCPPC Parks Department.

Section 1607(c) of the Natural Resources Article, MD Ann. Code, identifies certain individual trees as high priority for retention and protection. Any impact to these trees, including removal of or disturbance within a tree's critical root zone (CRZ), requires a variance. An Applicant for a variance must provide certain written information in support of the required findings in accordance with Section 22A-21 of the Montgomery County Code. The law requires the retention and protection to the greatest extent possible of all trees that measure 30 inches Diameter at Breast Height (DBH) or greater; any tree designated as the county champion tree; trees with a DBH 75% or greater than the diameter of the current State champion for that species; any trees that are part of an historic site or associated with an historic structure, and any plant identified on the U.S. Fish and Wildlife Service or the Maryland Department of Natural Resources list of rare, threatened and endangered species. Since this project did not obtain approval of a Preliminary Forest Conservation Plan prior to October 1, 2009, and the Applicant is proposing to remove seven trees and impact the critical root zone of one tree greater than 30 inches DBH, a variance is required. The Applicant has requested a variance to remove the following eight trees as shown on the preliminary forest conservation plan:

- Tree #2 - 37" DBH pin oak (*Quercus palustris*) – fair condition
- Tree #3 – 36" DBH pin oak (*Quercus palustris*) – very poor condition
- Tree #4 – 37" DBH silver maple (*Acer saccharinum*) – good condition
- Tree #11 – 30" DBH hemlock (*Tsuga Canadensis*) – good condition
- Tree #12 – 43" DBH sweet cherry (*Prunus avium*) – fair condition
- Tree #13 – 33" DBH silver maple (*Acer saccharinum*) – good condition
- Tree #17 – 39" DBH silver maple (*Acer saccharinum*) – good condition
- Tree #18 – 59" DBH silver maple (*Acer saccharinum*) – fair condition

The Applicant proposed to save Tree #4, but a determination must be made in the field by the MNCPPC forest conservation inspector as to whether or not this tree can in fact be saved. If the tree must be removed, it is accounted for in the mitigation proposed by the Applicant.

In accordance with Section 22A-21(e), the Planning Board finds the following:

- 1) The variance will not *confer on the Applicant a special privilege that would be denied to other Applicants.*

All of the affected trees are located within the buildable area on the Property. They are located in the only part of the Property that is outside of forest and environmentally sensitive areas, and in the area that contains existing improvements (i.e., structures, parking lot).

- 2) The variance is not *based on conditions or circumstances which are the result of the actions by the Applicant.*

The requested variance is not based on conditions or circumstances which are the result of specific actions by the Applicant outside the norm of a development application allowed under the applicable zoning and associated regulations. The variance is based on the proposed site layout that is utilizing the only area that is not existing forest or located within other environmentally sensitive areas (i.e., environmental buffer).

- 3) The variance does not arise *from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property.*

The requested variance is a result of the proposed site design and layout on the Subject Property in accord with zoning and subdivision requirements and not as a result of land or building use on a neighboring property.

- 4) The variance will not *violate State water quality standards or cause measurable degradation in water quality.*

Under Section 22A-16(d) of the County code, "*The Board or Director may treat any forest clearing in a stream buffer, wetland or special protection area as creating a rebuttable presumption that the clearing had an adverse impact on water quality.*" In this case, the large trees proposed to be removed and/or impacted are not within a stream buffer, wetland or a special protection area and as such it is presumed that the removal of these individual trees would not cause

degradation to water quality. The Montgomery County Department of Permitting Services water resources section has approved the stormwater management concept.

The Planning Board grants the Applicant's request for a variance from the County Forest Conservation Law to remove or otherwise impact specimen (and/or certain other specified) trees on-site. As requested by the County Arborist in her letter dated July 6, 2010, mitigation for the removal/impact will be provided by the planting of 64 canopy trees on the site. These trees are indicated on the Landscape and Lighting Plan and will provide mitigation for the loss of seven trees and the impact (and possible removal) to one other individual tree outside of forests that are subject to the variance provision of the Forest Conservation Law.

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 the Montgomery County Department of Permitting Services ("MCDPS") that the Stormwater Management Concept Plan meets MCDPS' standards.*

The MCDPS Stormwater Management Section approved the stormwater management concept for the project on March 31, 2010. The approved concept employs the use of environmental site design credits and includes the use of micro bioretention, landscape infiltration, and rooftop disconnection.

BE IT FURTHER RESOLVED, that this Preliminary Plan will remain valid for 60 months from its Initiation Date (as defined in Montgomery County Code Section 50-35(h), as amended) 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 Land Records of Montgomery County, Maryland 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 ~~2010~~ **OCT 4 2010** (which is the date that this Resolution is mailed to all parties of record); and

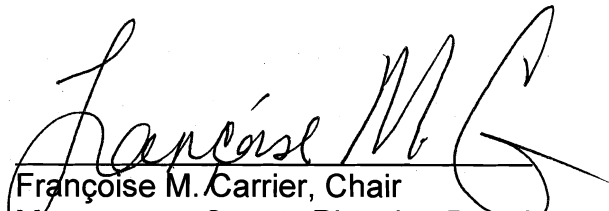
BE IT FURTHER RESOLVED, that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this

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 Planning Commission on motion of Commissioner Alfandre, seconded by Vice Chair Wells-Harley, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Alfandre and Dreyfuss present and voting in favor of the motion, and Commissioner Presley absent at its regular meeting held on Thursday, September 16, 2010, in Silver Spring, Maryland.


Françoise M. Carrier, Chair
Montgomery County Planning Board