



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

DEC 22 2010

MCPB No. 10-133
Preliminary Plan No. 12002041B
Islamic Center of Maryland
Date of Hearing: June 3, 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 amendments to approved preliminary plans; and

WHEREAS, on January 12, 2010, Islamic Center of Maryland (“Applicant”), filed an application for approval of a preliminary plan amendment to amend a previously approved preliminary plan¹ that created 1 lot on 13.05 acres of land in the RE-1 zone, located on the east side of Woodfield Road, approximately 500 feet north of Cypress Hill Drive (“Property” or “Subject Property”), in the Gaithersburg & Vicinity master plan area (“Master Plan”); and

WHEREAS, Applicant’s preliminary plan amendment was designated Preliminary Plan No. 12002041B, Islamic Center of Maryland (“Amendment”) and

WHEREAS, Planning Board staff (“Staff”) issued a memorandum to the Planning Board, dated February 19, 2010, revised on March 4, 2010, setting forth its analysis, and recommendation for approval, of the Amendment subject to certain conditions; and

WHEREAS, following review and analysis of the Amendment by Staff and the staff of other governmental agencies, on March 11, 2010, the Planning Board held a public hearing on the Amendment (the “March Hearing”); and

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

¹ Preliminary Plan No. 120020410 was adopted by the Planning Board January 12, 2002, and mailed on January 30, 2003. Applicant later filed an amendment thereto as Preliminary Plan No. 12002041A, which was later withdrawn.

WHEREAS, on March 11, 2010, the Planning Board approved the Amendment subject to certain conditions, on motion of Commissioner Presley; seconded by Commissioner Wells-Harley; with a vote of 4-0, Commissioners Dreyfuss, Hanson, Presley and Wells-Harley voting in favor, Commissioner Alfandre being absent.

WHEREAS, MCPB Resolution No. 10-33 was adopted by the Planning Board and mailed on April 14, 2010; and

WHEREAS, on April 5, 2010, Applicant filed a request for reconsideration of MCPB Resolution No. 10-33², and at the June Hearing clarified that it was requesting i) to be permitted to plant trees off-site at a 1:1 ratio instead of the 2:1 ratio as required under Condition No. 2, and ii) to have reduced landscape buffer requirements as required under Condition No. 5; and

WHEREAS, on May 6, 2010, the Planning Board found in accordance with Planning Board Rule of Procedure 4.12.1, that there was good cause and voted in favor of the request to reconsider Resolution No. 10-33, on motion of Commissioner Presley; seconded by Commissioner Wells-Harley; with a vote of 3-0, Commissioners Hanson, Presley and Wells-Harley voting in favor, Commissioner Dreyfuss abstained, and Commissioner Alfandre was absent; and

WHEREAS, a public hearing was set for the Board to reconsider the Amendment; and

WHEREAS, on May 12, 2010, Staff issued another memorandum to the Planning Board setting forth its analysis, and recommendation that all previous conditions of approval be upheld ("Staff Report"); and

WHEREAS, on June 3, 2010, the Planning Board held a public hearing to reconsider the Application ("June Hearing"), and considered new testimony and received evidence submitted for the record solely with regards to Conditions No. 2 and 5; and

WHEREAS, on June 3, 2010, the Planning Board, on motion of Commissioner Wells-Harley; seconded by Commissioner Alfandre, with a vote of 3-0, Commissioners Alfandre, Hanson and Wells-Harley voting in favor, Commissioners Dreyfuss and Presley being absent, approved the Amendment subject to certain conditions.

² Applicant filed its request for reconsideration after being advised by staff of the conditions imposed by the Board but prior to the mailing of Resolution No. 10-33. The Chairman accepted the early filing because due to confusion in the scheduling of the March Hearing, Applicant was not present.

NOW, THEREFORE, BE IT RESOLVED THAT, pursuant to the relevant provisions of Montgomery County Code Chapter 50, the Planning Board approved Preliminary Plan Amendment No. 12002041B, subject to the following conditions³:

- 1) Deletion of condition #4 in the Opinion for Preliminary Plan No. 120020410 with the mailing date January 30, 2003 which states: Record plat to show delineation of a Category I conservation easement over the area of forest conservation.
- 2) The applicant must replace the existing Category I Forest Conservation Easement by providing 2.96 acres of off-site forest planting or equivalent credit in a forest mitigation bank.
- 3) The Applicant must submit a Final Forest Conservation Plan in accordance with Section 109-B of the Forest Conservation Regulations for MNCPPC staff approval within 30 days of the Planning Board's resolution approving the preliminary plan amendment.
- 4) The Applicant must submit an application to revise the existing record plat to remove the conservation easement within 6 months of the date of the Planning Board's resolution approving the preliminary plan amendment.
- 5) As part of the previously required landscape and lighting plan, the Applicant must develop a plan for screening the eastern and southern property boundaries that border residential lots. The plan must include a planting area approximately, but not to exceed 25 feet in width along the required portions of the eastern and southern property boundaries and must be submitted for review to adjacent property owners, and review and approval by MNCPPC staff with the record plat application. The submittal to MNCPPC staff must include verification that the proposed plan was submitted to adjacent property owners.
- 6) All other previous conditions of approval contained in Planning Board Opinion for Preliminary Plan No. 120020410 with the mailing date of January 30, 2003 remain in full force and effect.

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:

³ In accordance with the Rules of Procedure of the Planning Board adopted March 2007, if the Board votes to reconsider a matter, the reconsidered Resolution is void (Rule 4.12.2). Therefore, this Resolution must restate all the findings and conditions of MCPB Resolution No. 10-33, whether or not part of the reconsideration.

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

The Planning Board approved the Applicant's request to meet the forest planting requirements off-site and remove the Category I Forest Conservation Easement in which on-site planting was to occur from this Property for three reasons. First, the project site is bounded by an institutional use on one side and residential uses on the other three sides, which make the ecological usefulness of a small forest negligible. Second, there are no high-priority stream valleys or environmental buffers on this site that would require afforestation or reforestation. Third, the easement is a standalone easement not connected or adjacent to any larger contiguous forest, and given the proposed activities that the Islamic Center is suggesting for the area adjacent to the current easement, the Planning Board believes that this creates a high likelihood of future forest conservation violations. The Planning Board finds removing the easement from this property and requiring the Applicant to meet the forest conservation requirements either off-site or by purchasing credits in an MNCPPC approved forest bank is appropriate and creates a better opportunity to meet the goals of forest conservation in the County.

The Planning Board approved Preliminary Plan No. 120020410 based on a finding that the associated Forest Conservation Plan met the requirements of Chapter 22A of the Montgomery County Forest Conservation Law. As previously described, the Applicant now wants to change the way the plan meets those requirements by doing off-site, rather than on-site, forest planting. Loss of the easement triggers an off-site planting requirement of 1.48 acres to compensate for previous on-site planting. Furthermore, to compensate for the fact that the easement was previously recorded, the Planning Board finds that off-site planting on an additional 1.48 acres, which is the size of the existing easement, for a total of 2.96 acres of planting in an approved forest bank, will meet the requirements of Chapter 22A of the Montgomery County Forest Conservation Law.

BE IT FURTHER RESOLVED, that this Resolution incorporates by reference all evidence of record, including maps, drawings, memoranda, correspondence, and other information: and

DEC 22 2010 BE IT FURTHER RESOLVED, that the date of this Resolution is _____ (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 Commissioner Presley, seconded by Vice Chair Wells-Harley, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Alfandre, Dreyfuss, and Presley voting in favor of the motion, at its regular meeting held on Thursday, December 16, 2010, in Silver Spring, Maryland.


Marye Wells-Harley, Vice Chair
Montgomery County Planning Board