



FEB 19 2012

MONTGOMERY COUNTY PLANNING BOARD

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

**MCPB No. 11-76
Preliminary Plan No. 120100250
First Baptist Church of Wheaton
Date of Hearing: September 8, 2011**

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 3, 2010, First Baptist Church of Wheaton ("Applicant") filed an application for approval of a preliminary plan of subdivision of property that would create one lot on 14.4 acres of land in the RNC zone, located at 3110 Emory Church Road ("Property" or "Subject Property"), in the Olney Master Plan area ("Master Plan"); and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No.120100250, First Baptist Church of Wheaton ("Preliminary Plan" or "Application"); and

WHEREAS, Planning Board staff ("Staff") issued a memorandum to the Planning Board, dated August 25, 2011, 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 September 8, 2011, 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 September 8, 2011, the Planning Board approved the Application subject to certain conditions, on motion of Commissioner Anderson; seconded by Commissioner Presley; with a vote of 5-0, Commissioners Anderson, Carrier, Dreyfuss, Presley, and Wells-Harley voting in favor.

Approved as to
Legal Sufficiency:

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

MNCPPC Legal Department
www.MCParkandPlanning.org E-Mail: mcp-chairman@mncppc.org

NOW, THEREFORE, BE IT RESOLVED, that, pursuant to the relevant provisions of Montgomery County Code Chapter 50, the Planning Board approved Preliminary Plan No. 120100250 to create one lot on 14.4 acres of land in the RNC zone, located at 3110 Emory Church Road, in the Olney Master Plan area, subject to the following conditions:

- 1) Approval under this Preliminary Plan is limited to one lot for a 788-seat church. The Subject Property is not approved for any weekday educational or daycare uses that will generate peak-hour trips.
- 2) The Applicant must comply with the conditions of approval for the Final Forest Conservation Plan, dated July 12, 2011. The Applicant must satisfy all conditions prior to recording of plat(s) or Montgomery County Department of Permitting Services (MCDPS) issuance of sediment and erosion control permits, as applicable.
- 3) The final sediment control plan must be consistent with final limits of disturbance as shown on the Final Forest Conservation Plan dated July 12, 2011 and as approved by the M-NCPPC Staff.
- 4) The record plat must reflect a Category I easement over all forest retention and forest planting areas that are located outside of the limits of disturbance and the entire stream valley buffer area.
- 5) Forest retention and forest planting areas must not be designated as a forest mitigation bank to be used by other development projects to satisfy their forest conservation requirements.
- 6) The Applicant must install permanent Category I Forest Conservation Easement signage along the perimeter of the conservation easement.
- 7) The Final Forest Conservation Plan must show the approximate location of the in-stream concrete structure and yard waste and proposed methods of removal from the environmental buffer that will minimize disturbance to the stream and other resources.
- 8) Impervious surfaces on the site, including required offsite improvements to Emory Church Road, must not exceed 17.1 percent.
- 9) The Applicant must dedicate and the record plat must show dedication of 30 feet of right-of-way, as measured from the centerline, along the Property frontage for Emory Church Road.
- 10) The Applicant must provide and the Record Plat must show a public improvement easement (PIE) along the Property frontage of Emory Church Road.
- 11) The Applicant must construct frontage improvements along Emory Church Road as required by Montgomery County Department of Transportation (MCDOT) in its letter of June 28, 2011. The improvements must be under permit and bond prior to the approval of the record plat by MCDPS.

- 12) The Applicant must satisfy MCDPS requirements prior to recordation of the plat to ensure the construction of a five-foot-wide sidewalk along the Property frontage on Emory Church Road, unless construction is waived by MCDPS.
- 13) Prior to recordation of the plat, the Applicant must grant to the M-NCPPC a rural open space easement over no less than 65% of the net lot area of the Subject Property as shown on the Preliminary Plan and record the easement, in a form approved by the Office of General Counsel, in the Montgomery County Land Records. Reference to the recorded easement must be noted on the record plat(s).
- 14) The Applicant must comply with the conditions of the MCDPS stormwater management approval dated December 14, 2009. These conditions may be amended by MCDPS, provided the amendments do not conflict with other conditions of the Preliminary Plan.
- 15) The Applicant must comply with the conditions of the MCDOT letter dated June 28, 2011. These conditions may be amended by MCDOT, provided the amendments do not conflict with other conditions of the Preliminary Plan.
- 16) The Applicant must satisfy provisions for access and improvements as required by MCDOT prior to recordation of plat(s).
- 17) No clearing, grading or recording of plats prior to certified Site Plan approval.
- 18) Final approval of the number and location of buildings, on-site parking, site circulation, and sidewalks will be determined at Site Plan.
- 19) Site Plan #820100080 must be approved by the Planning Board and the certified plan signed by Staff prior to the approval of the record plat.
- 20) The record plat must show necessary easements.
- 21) 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 Site Plan review. 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."
- 22) The Applicant must hire a professional traffic engineer to monitor the traffic flow along the entire length of Emory Church Road. Such monitoring should take place for four consecutive weeks before and after church on Sundays and should begin six months after the Use and Occupancy permit has been issued, although the timing may be extended to ensure that the monitoring does not occur in the summer. The Applicant will then be required to present the findings to the Planning Board, which may require the Applicant to hire a traffic official to control the traffic flow or take other reasonable actions.
- 23) Upon issuance of the building permit, the Applicant must send a notification of construction letter to each residential household on Emory Church Road, Norbert

Drive, and Ascot Lane. The letter should include the phone number and email address of a point of contact at the church, who will be available to answer questions and resolve issues.

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

1. *The Preliminary Plan substantially conforms to the Master Plan, except to the extent that the recommendations of the Master Plan are no longer appropriate.*

Under Section 50-35(l) of the subdivision regulations, in order to approve a preliminary plan the Planning Board must find that it substantially conforms to the applicable master plan, "unless the Planning Board finds that events have occurred to render the relevant master plan ... recommendation no longer appropriate." The Olney Master Plan provides general recommendations for the Southeast Quadrant of Olney, and specific recommendations for more than a dozen properties or groups. The Application substantially conforms to the recommendations in the Olney Master Plan, except with regard to the extension of sewer service. However, as described below, the Planning Board finds that the Master Plan's recommendations regarding sewer service are no longer appropriate.

Land Use and Zoning - The Master Plan, followed by the Sectional Map Amendment, established the Rural Neighborhood Cluster (RNC) zone for the Property. The Master Plan did not recommend sewer service for the Property. The maximum residential density for the Property is 0.2 units per acre. In addition to residential development, the RNC zone allows libraries, museums, and houses of worship as permitted uses. The RNC zone also allows, by special exception, a limited number of institutional activities.

In 2007, the Applicant sought approval from the County Council to extend public sewer service to the Subject Property. In 2008, the Council, acting under its Private Institutional Facility (PIF) policy, conditionally approved extending sewer to the site subject to the Planning Board approving a preliminary plan application that conforms to the intent of the Olney Master Plan.

It is undisputed in this case that the Master Plan recommends against extending sewer service to the Subject Property. Therefore, the proposal to develop the subject property on public sewer does not substantially conform to every recommendation of the Master Plan. However, in light of the County

Council's decision to conditionally allow an extension of sewer service to the site under the PIF policy, the Board finds that events have occurred that render the Master Plan's recommendation against extending public sewer to the subject property no longer appropriate. The Board interprets the Council's decision to allow an extension of public sewer if the Board approved a preliminary plan that meets the intent of the Master Plan as superseding the Master Plan's sewer recommendation for the subject property.¹

The nature of the PIF policy supports the Planning Board's conclusion that the Council's conditional approval of a sewer category change superseded the Master Plan's recommendation against extending sewer to the Subject Property. The PIF policy exists to allow the Council to make exceptions for properties that are not recommended for sewer or water service. If the Master Plan had recommended sewer for the site, there would have been no need for the Applicant to seek the Council's approval of a sewer extension under the PIF policy. In that case, the Property would simply be entitled to sewer service. Because the purpose of the PIF policy is to allow the extension of sewer service outside of the recommended sewer service envelope, it would make little sense for the Board to deny the subdivision based on nonconformance with the Master Plan's sewer recommendations.

Some opponents of the proposed development have argued that the Council's conditional approval of the sewer extension was inconsistent with the requirements of the PIF policy itself. Those arguments exceed the scope of what the Planning Board is authorized to consider. The decision to approve or deny a sewer extension under the PIF Policy is for the Council alone to make. The Planning Board does not sit in review of Council actions with respect to sewer extensions, or any other Council actions.

Rural Open Space – The Master Plan's general recommendations for the Southeast Quadrant foster the protection of the existing rural and low density residential character of the area by proposing a zone that requires significant amounts of rural open space, which could preserve existing forest and provide

¹ In finding that the Application substantially conforms to the Master Plan – except with respect to the Master Plan's sewer recommendation, which the Planning Board finds is no longer appropriate – the Board is making the requisite finding for approval of the proposed subdivision under Section 50-35(l) of the subdivision regulations. The Board is of course aware that the Council's approval of a sewer category change for the subject property was conditioned upon the Board approving a preliminary plan that is consistent with the intent of the Master Plan. The Board does not have to decide here whether its findings satisfy the condition of approval established by the Council for a sewer category change, and does not have an opinion on that question.

opportunities to restore forest and wetlands in the sensitive Batchelors Forest tributary of the Northwest Branch. The preliminary plan provides over 65 percent of the Property to be maintained as rural open space with forest cover.

Habitat Protection – For habitat protection, the Master Plan recommends the protection of forest areas on developable properties to prevent fragmentation of upland forest and to preserve stream valley buffers, page 72. The Preliminary Plan protects the buffer areas as an extension of the existing stream valleys to prevent forest fragmentation. These areas will remain in forest.

Environmentally Sensitive Development Techniques – The Master Plan encourages new developments to use environmentally sensitive development techniques that integrate BMPs (best management practices) that maximize stormwater treatment and infiltration, page 75. The Preliminary Plan includes pervious paving for parking areas, the use of dry wells to store rainwater from roof areas, two bio-filters, a sand filter, and two enhanced stormwater management ponds. These environmental features will help to preserve the water quality of the tributaries in the Southeast Quadrant. The Applicant has also reduced the on-site impervious level during the review process from 17 to approximately 16 percent. This impervious level is higher than the level expected in residential development (approximately 9 percent), but the proposed 16 percent imperviousness is significantly less than the impervious levels in other houses of worship and institutional uses. The Master Plan does not provide an impervious cap, however the Planning Board's direction at the time of the sewer category change was to minimize impervious surfaces, which the Applicant has done.

Forest Preservation and Restoration - The Master Plan recommends the maximum forest retention, and new forest planting in the adjacent environmental buffer areas through conservation easements as part of the development process, page 79. The Preliminary Plan retains the forest in all of the stream buffer areas. In addition, the Preliminary Plan will retain forest and provide new planting adjacent to the environmental buffer in addition to the minimum requirements of the Forest Conservation Law.

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

The proposed place of worship is exempt from adequate public facilities review requirements, per Section 50-35(k)(6) of the Subdivision Regulations. Because this Resolution includes a condition that prohibits any weekday educational or daycare uses that will generate peak-hour trips, the potential adverse effects of such uses were not analyzed in approving the Preliminary

Plan. Any establishment of weekday uses in the future would require an amendment to this Preliminary Plan and an adequate public facilities review.

Although this project is exempt from LATR requirements, the Planning Board is concerned about possible traffic flow issues on Emory Church Road, and therefore has required the Applicant to monitor traffic conditions during certain time periods, and to report back to the Board about those conditions to assess the need for traffic control or other mitigation.

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 Application meets all applicable sections. The proposed size, width, shape and orientation of the proposed lot are consistent with the surrounding areas, and therefore appropriate for the location of the subdivision.

Moreover, the lot was reviewed for compliance with the dimensional requirements for the RNC zone as specified in the Zoning Ordinance, and will meet all the dimensional requirements for area, frontage, width, and setbacks in that zone. The Application has been reviewed by other applicable county agencies, and they have recommended approval of the plan.

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

A. Forest Conservation

As required by the County Forest Conservation Law (Section 22A of the County code), a final forest conservation Plan ("FFCP") for the project dated July 12, 2011, was submitted with the preliminary subdivision and Site Plans.

Applicant's FFCP Proposal - The FFCP submitted by the Applicant for approval by the Planning Board proposes to retain 6.15 acres and clear 1.9 acres of existing on-site forest. Approximately 1.05 acres of the 1.9 acres of designated forest clearing is outside of the proposed limits of disturbance, but is counted as forest cleared because the plan does not propose to protect this forest in a Category I conservation easement. The Applicant proposed a Category II conservation easement for 0.93 acres of the 1.05 acres of forest. There is no reforestation requirement. The Applicant proposed to provide 1.20 acres of forest planting within the unforested portions of the environmental buffer. The planting was consistent with both the 2005 Olney Master Plan, and the Countywide

Stream Protection Strategy, which recommends increased forest buffer requirements for areas designated as watershed protection areas.

The entire 1.20 acres of forest and the reduced imperviousness on the Property meets the Master Plan recommendations.

FFCP Proposal Based on Conditions of Approval – The conditions of approval for the FFCP result in the removal of 0.97 acres of forest and the retention of 7.08 acres of forest outside of the proposed LOD. The amount of forest planting would remain unchanged, and will continue to yield 1.20 acres of forest planting in the environmental buffer, of which 0.24 acres of planting will serve to mitigate for the proposed environmental buffer encroachment. The conditions of approval will not result in the remaining 0.96 acres of forest planting being designated as a forest mitigation bank for other development projects, because a minimum of 1.00 acre is required in Section 22A-13b of the Forest Conservation Law.

Table 1: Final Forest Conservation Plan

	Forest Clearing	Forest Retention	Forest Planting
Applicant's Submitted FFCP	1.9 acres – includes 0.12 ac. forest not cleared but not protected in any conservation easement and 0.93 ac. forest not cleared but not protected in <u>Category I</u> conservation easement (Applicant proposes Category II easement)	6.15 acres	1.20 acres, comprised of: <ul style="list-style-type: none"> • 0.24 ac. mitigation for environmental buffer encroachment • 0.96 ac. available as forest bank for other development projects
FFCP with Conditions of Approval	0.97 acres	7.08 acres – all forest not cleared to be protected with a Category I conservation easement	1.20 acres, comprised of: <ul style="list-style-type: none"> • 0.24 ac. mitigation for environ. buffer encroachment • 0.96 ac. To meet Master Plan recommendation and to mitigate for the removal of specimen trees as identified in the variance request

“Forest conservation begins with the preservation of existing trees and forest wherever possible, and ends with planting additional trees to compensate for unavoidable loss” (Trees Approved Technical Manual 1992). To meet this goal of the County Forest Conservation Law on this project, a condition of this approval is that the entire area of forest retention and proposed forest planting that is located outside of the limits of disturbance (LOD) must be protected in a Category I conservation easement. This includes 0.12 acres of existing, high priority forest, which the FFCP shows as “Area of forest outside of LOD to be counted as removed not to be cleared as part of this Application”, and not protected in any easement, and 0.93 acres of existing, high priority forest, which the FFCP shows to be protected in a Category II conservation easement. The FFCP does not show these two areas of forest (1.05 acres) to be protected in a Category I conservation easement, so they must be counted as forest cleared. The Olney Master Plan includes recommendations to protect forest areas on developable properties to prevent fragmentation of upland forests, to preserve priority forests intact, and to maximize forest retention and new forest planting in and adjacent to environmental buffer areas through conservation easements as part of the development process. In addition, Section 22A-12(b) of the County Forest Conservation Law states that the primary objective of the FCP should be to retain existing forest and trees and avoid reforestation. Additionally, the Property is zoned RNC, and is in an agricultural and resource area. For such an area, there are special provisions outlined in Section 22A-12(f)(2), which states that *“Forest retention should be maximized where possible....”* Section 22A.00.01.08(B) of the County Forest Conservation Regulations states that if existing forest cannot be retained, the Applicant must show how techniques for retention have been exhausted and why priority forests are not being retained. The FFCP does not demonstrate why these areas of high priority forest cannot be retained and protected in a Category I conservation easement. Therefore, the Applicant’s proposal of not protecting the 1.05-acre high priority forest with a Category I conservation easement does not comply with either the provisions of the County Law and Regulations or the recommendations of the Master Plan. Therefore, the Board conditions the approval of the FFCP and preliminary plan on the Applicant placing all retained and planted forest outside of the limits of disturbance in a Category I easement, and reflecting this easement on the plat.

Development in an Agricultural and Resource Area (Sections 22A-12(f)) - The Property, zoned RNC, is in an agricultural and resource area and therefore a minimum amount of forest must be retained onsite. Section 22A-12(f) of the County Forest Conservation Law states:

(1) General. Any site developed in an agricultural and resource area, any planned unit development, any site developed under a cluster or other optional method of development in a one-family residential zone, and any waiver from a

zoning requirement for environmental reasons, must include a minimum amount of forest on-site as part of meeting its total forest conservation requirement.

(2) Retention, reforestation and afforestation. Forest retention must be maximized where possible on each site listed in this subsection. At a minimum, on-site forest retention, and in some cases reforestation and afforestation, must be required as follows:[...]

(A) In an agricultural and resource area, on-site forest retention must equal 25% of the net tract area.

For this site, 25% of the net tract area is 3.7 acres. The Applicant proposes to retain 6.15 acres of forest, and is therefore in compliance with this provision of the County Forest Conservation Law. The additional forest planting is required to meet the recommendations in the Olney Master Plan to enhance the forest and provide additional tree canopy, and to mitigate for the loss of individual specimen trees.

With the conditions of approval, the Application meets the County Forest Conservation Law's requirement to maximize forest retention (Section 22A-12(f)(2)) and also meets the minimum onsite forest requirement for a property located in an agricultural and resource area (Section 22A-12(f)(2)(A)).

B. Forest Conservation Variance

Section 5-1607(c) of the Natural Resources Article, MD Ann. Code 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) of the County Code. Otherwise such resources must be left in an undisturbed condition.

As more specifically identified in the Staff Report, this project will require 14 Protected Trees, 30 inches and greater DBH to be removed. Further, the project will impact seven Protected Trees. Therefore, a variance is required. Although the Applicant proposed tree preservation measures to help ensure the Protected Trees with anticipated impacts survive construction, the variance is required simply due to the impact.

The Planning Board made the following findings necessary to grant the Forest Conservation Variance:

- i. Granting the Forest Conservation 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 and removal of the specified trees are due to the development of the site. The trees and their critical root zones lie within the developable area of the site. The proposed development activities that result in the removal and impacts to trees subject to the variance requirement are concentrated in the most developable area of the site, given the environmental constraints. With the exception of impacts deemed necessary for infrastructure and to meet requirements of outside agencies, the majority of the impacts are to trees located outside of the environmental buffers and high priority, contiguous forest. The removal and impacts to the trees subject to the variance requirement cannot be avoided. Therefore, the granting of this variance is not a special privilege that would be denied to other Applicants.

- ii. *The need for the Forest Conservation 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 actions by the Applicant. The requested variance is based upon existing site conditions, required site development and stormwater management best management practices as well as required widening of an existing driveway and offsite roadway that are necessary to achieve an adequate development per existing regulations and requirements.

- iii. *The need for the Forest Conservation Variance is not based on a condition relating to land or building use, either permitted or non-conforming, on a neighboring property.*

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

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

The Department of Permitting Services has found the stormwater management concept to be acceptable and conditionally approved it on December 14, 2009. The Applicant has proposed additional BMP's including porous pavement and additional dry wells. These measures go beyond the minimum requirements of their approved concept. In addition, the granting of this variance request will not result in the removal of any trees located within the environmental buffers and the impacts to the critical root zones are

minimal. Therefore, the project will not violate State water quality standards or cause measurable degradation in water quality.

C. Forest Conservation Variance mitigation

There are 14 trees proposed for removal in this variance request. There will also be some disturbance within the CRZ of another seven trees, but they are good candidates for retention. The forest planting within the environmental buffers that the Applicant has proposed will mitigate for the loss of these trees and no further mitigation is required. The trees subject to this variance to be impacted but retained are good candidates for safe retention and will receive adequate tree protection measures. No mitigation is recommended for trees impacted but retained.

The Planning Board finds that with the conditions imposed by this Resolution the Preliminary Forest Conservation Plan complies with the requirements of Chapter 22A, the Montgomery County 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's standards.*

The storm water management concept approved by MCDPS on December 14, 2009, and reconfirmed on June 3, 2010, consists of on-site channel protection measures via construction of two detention ponds; on-site water quality control and onsite recharge via construction of a Montgomery County Sand Filter, two Bio Filters, a Dry Well Trench, and other non-structural measures.

6. *The Preliminary Plan provides an appropriate percentage of impervious surface.*

There are numerous recommendations in the Olney Master Plan referring to the minimization of impervious surfaces:

- "Management strategies recommended for watershed protection areas in the Countywide Stream Protection Strategy (CSPS) and employed in this Master Plan include: expanded stream valley park acquisition or dedication, increased forested buffer requirements, expanded protection for wetland recharge and hydrology, and impervious surface reduction strategies." (page 73)

- “The majority of the potential residential development is in the Southeast Quadrant, which contains the headwaters of the Northwest Branch. One of the goals of this Master Plan is to control water quality impacts of new development by adopting land use and zoning recommendations that result in imperviousness levels compatible with the existing water quality in each subwatershed.” (page 75)
- “Recommendations: 1. Encourage new developments to use environmentally sensitive development techniques that integrate BMP’s that maximize stormwater treatment and infiltration, such as: a. Minimization of impervious surfaces; b. Disconnection of runoff, sheet flow to buffers, grass channels; and c. Bioretention.” (page 76)

The Planning Board provided some direction to the Applicant regarding imperviousness for this project at the February 2008 hearing for the water and sewer category change request. The Applicant has provided an informal sketch, dated July 13, 2011, that documents the proposed level of imperviousness for the project. The Applicant was required to demonstrate efforts to avoid and minimize the level of imperviousness. Per a March 8, 2011 letter provided by the Applicant’s engineer, Macris, Hendricks and Glascock (“MHG”), the initial plan prepared for the water and sewer category change hearing had a layout that resulted in 26.4% imperviousness. In response to concerns raised during the water and sewer category change application review, a plan with a revised layout that resulted in 18.9% imperviousness was presented at the February 21, 2008 Planning Board hearing.

The Planning Board indicated that the 9% impervious limitation that Staff at the water and sewer category change hearing had suggested (based on imperviousness levels typically associated with RNC development) should be used as a goal for the Applicant, but also recognized that an institutional use may not be able to fully meet the 9% limitation. The Applicant subsequently received conditional approval for the water and sewer category change from the County Council.

The March 8, 2008 letter from MHG further states that the pre-application plan for the Property was submitted on January 15, 2009 and based on comments, the plans were further revised to reflect an impervious level of 18.0% and then 17.0%.

The letter by Reverend D. Edward Williams, Senior Pastor of the First Baptist Church of Wheaton outlines investigations into alternative means of further reducing imperviousness onsite that include onsite, structured parking, or the use of an existing offsite parking lot with a shuttle service to the church. The

Applicant determined that structured parking was cost prohibitive, and they also felt that it would be contrary to the desires expressed by the community and the County Council to maintain a "low profile". The pastor noted that the church had contact with a representative from a nearby religious institution located across Georgia Avenue regarding the option of offsite parking and shuttle service for overflow needs, but that neither their facility nor their parking is complete so they are not able to commit to that scenario at this time.

A revision to the parking lot layout that is reflected on the Final FCP further reduced the amount of impervious area on the site to 16.0%. An additional 11,446 square feet of impervious surface will be constructed as part of the required improvements to Emory Church Road, resulting in an overall impervious area of 17.1% for the project. Per the Environmental Guidelines (M-NCPPC January 2000), impervious surfaces of public improvements as required by other agencies along the project's frontage are included in the calculation of impervious areas. A condition of approval is included in this Resolution that limits the level of imperviousness on the site to 17.1%. This limitation is based on the calculations included on the informal sketch entitled "Impervious Area Exhibit", as prepared by MHG on July 13, 2011.

Based on the recommendations and discussions of the Montgomery County Council and the Montgomery County Planning Board, as well as the language in the Olney Master Plan (2005), the Applicant has achieved a reduced level of imperviousness that includes, among other things, a redesign from a one-story to a two-story building and a revised parking lot layout. Additional measures have also been provided such as forest retention, reforestation of environmental buffers, and infiltration of stormwater beyond what is required by the MCDPS-approved stormwater management concept plan that would help to preserve the existing high water quality and the broader, high quality environmental resources (e.g., forest) in the watershed.

The Planning Board finds that the recommended imperviousness, forest retention and protection in a Category I conservation easement, additional forest planting areas within the environmental buffer, and the additional stormwater management features provide the appropriate measures to protect the sensitive environmental resources in the southeast quadrant of Olney, as recommended in the Olney Master Plan. The forestation of the stream buffers, and the protection of all retained and planted forest in a Category I conservation easement, maximize the benefits provided by these natural areas.

BE IT FURTHER RESOLVED, that 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; and

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

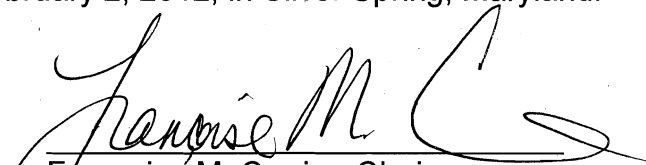
BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is FEB 9 2012 (which is the date that this Resolution is mailed to all parties of record); and

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 Commissioner Anderson, seconded by Commissioner Dreyfuss, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Anderson, Dreyfuss, and Presley voting in favor of the motion, at its regular meeting held on Thursday, February 2, 2012, in Silver Spring, Maryland.


Françoise M. Carrier, Chair
Montgomery County Planning Board