



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

MCPB No. 12-77
 Preliminary Plan No. 120100130
 ISG Building
 Date of Hearing: July 12, 2012

JUL 19 2012

RESOLUTION

WHEREAS, under Montgomery County Code Chapter 50, the Montgomery County Planning Board (“Planning Board” or “Board”) has authority to review preliminary plan applications; and

WHEREAS, on December 12, 2009, the Islamic Society of Germantown (“Applicant”) filed an application for approval of a preliminary plan of subdivision of property¹ that would create one lot for the construction of a religious institution with a capacity of 283 persons on 1.44 acres of land in the R-60 zone, located in the southeast corner of the intersection of Middlebrook Road and realigned Blunt Road (“Subject Property”), in the 2009 Germantown Employment Area Sector Plan (“Sector Plan”) area; and

WHEREAS, Applicant’s preliminary plan application was designated Preliminary Plan No. 120100130, ISG Building (“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 June 29, 2012, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and

WHEREAS, on July 12, 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:

[Handwritten Signature] 7/6/12

NOW, THEREFORE, BE IT RESOLVED THAT, the Planning Board approves Preliminary Plan No. 120090030 to create one lot on the Subject Property, subject to the following conditions:²

- 1) Approval under this Preliminary Plan is limited to one lot for a religious institutional use with no weekday daycare or private school.
- 2) The Applicant must comply with the following conditions of approval for the preliminary forest conservation plan No. 120100130:
 - a) Prior to approval of the final forest conservation plan the Applicant must submit an ISA certified arborist report and tree save plan for tree ST-1 (as identified on the preliminary forest conservation plan) with protection measures to be approved by Staff as part of the final forest conservation plan approval.
 - b) Prior to any clearing or grading of the Subject Property, Applicant must receive Staff approval of the certificate of compliance for 0.62 acres of planting credits in an offsite forest conservation mitigation bank
- 3) The Planning Board has accepted the recommendations of the Montgomery County Department of Transportation ("MCDOT") in its letters dated December 2, 2011 and April 28, 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 letters, which may be amended by MCDOT provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 4) Prior to recordation of plat, the Applicant must satisfy the provisions for access and improvements as required by MCDOT.
- 5) The Planning Board has accepted the recommendations of the Montgomery County Department of Permitting Service ("MCDPS") – Water Resources Section in its stormwater management concept letter dated September 20, 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 letter, which may be amended by MCDPS – Stormwater Section provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.

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.

- 6) The Applicant must construct all public road improvements as shown on the approved Preliminary Plan. Only those roads (or portions thereof) expressly designated on the Preliminary Plan, "To Be Constructed By _____" are excluded from this condition.
- 7) Prior to recordation of the plat, the Applicant must satisfy MCDPS requirements to ensure the construction of a 5-foot wide sidewalk along the Subject Property frontage on future Blunt Road, unless construction is waived by MCDPS.
- 8) Prior to issuance of building permits, a landscape and lighting plan must be submitted for review and approved by Staff. The plan must include preservation of the six-foot wood privacy fence along the perimeter adjacent to the residential community; evergreen plants between the fence and parking lot curb along the northern and eastern property lines for additional screening, and additional shade trees and ground cover in the parking lot planting areas.
- 9) 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."
- 10) The record plat must show necessary easements, including those for any utilities remaining in the abandoned Blunt Road right-of-way as required by the responsible utility provider.

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 Sector Plan.*

The Sector Plan places the Subject Property in the Fox Chapel District area. The Sector Plan confirms the R-60 zoning and specifically recommends that an institutional use is appropriate for the Subject Property. Further, the Sector Plan recommends that Blunt Road from MD 355 to Middlebrook Road be classified

as a two lane Business District street with a 60 foot wide right-of-way and that Blunt Road be connected to Middlebrook Road.

The Preliminary Plan is for an institutional use (religious facility). The Preliminary Plan establishes the eastern edge of a 60 foot wide area for future Blunt Road to be constructed. The Applicant will be required to construct temporary improvements within Blunt Road for initial access to the Property and will be required to participate in future improvements to Blunt Road as a Business District street under a separate agreement with MCDOT, which MCDOT will require as an access permit condition.

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

Roads and Transportation Facilities

Pursuant to Section 50-35(k)(6) a religious institution is exempt from the Adequate Public Facilities review requirements.

The Applicant is initially required to construct temporary improvements as identified on the Preliminary Plan and required by MCDOT. The temporary improvements, including twenty feet of pavement within Blunt Road and a sidewalk along the frontage to Middlebrook Road, will provide safe and adequate access to the Mosque for pedestrians and vehicles. The temporary improvements also provide adequate access for emergency apparatus. The sidewalk will be built at the final grade for future Blunt Road and provide local pedestrians, who currently use the old Blunt Road pavement, access from Middlebrook Road to the Mosque and the commercial uses on MD 355.

Other Public Facilities and Services

The Application was reviewed by all agencies that provide public facilities and services to the Subject Property. The Montgomery County Department of Fire and Rescue Services determined that the Application provides appropriate access for fire and rescue vehicles. The Washington Suburban Sanitary Commission determined that local transmission and treatment facilities are adequate to serve the proposed development with water and sewer service. Police stations, firehouses and health services are currently operating within the standards set by the Subdivision Staging Policies currently in effect. The use does not generate an impact to schools. Electricity, natural gas, and telecommunication providers can adequately serve the proposed use.

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

The Application meets all applicable sections of Chapter 50, the Montgomery County Subdivision Regulations, including the development standards under the R-60 zone. The proposed lot's size, width, shape and orientation is appropriate for the location of the subdivision taking into account the recommendations of the Sector Plan for an institutional use as approved. The lot is appropriately located on a Business District street that has access to MD 355.

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 preliminary forest conservation plan was submitted with the Application. The development will result in clearing all of the 0.46 acres of forest identified on the Natural Resource Inventory/ Forest Stand Delineation and the forest conservation worksheet. The cleared forest includes forest on the Property and within the Blunt Road right-of-way which must be removed for road construction and grading purposes. The Planning Board agreed that the 0.62 acres of planting requirements will be appropriately met by the Applicant in an off-site forest mitigation bank.

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 two Protected Trees 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:

The Sector Plan specifically recommends an institutional use for the Subject Property. Further, the Sector Plan recommends that Blunt Road be connected to Middlebrook Road. The Applicant has responded to the challenges of fitting this institutional use on a constrained site and addressing the road improvements recommended in the Sector Plan by designing a facility that works with all applicable zoning and regulatory requirements. If the Applicant was not allowed to impact or remove the Protected Trees, the Applicant would not be able to meet the Sector Plan goals for this site.

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

The Applicant has prepared and submitted plans for development for this constrained site with an institutional use while meeting all applicable development standards and requirements, including those recommended by the Sector Plan. .

- 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 adjacent properties that are zoned for residential and commercial uses are not a contributing factor for the Variance request.

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

The construction of the Mosque and associated parking areas has been designed to provide environmental site design (ESD) practices in accordance with the latest State and County requirements for stormwater management. State water quality standards will not be violated nor adversely impacted by the Variance.

The Planning Board does not require additional mitigation for the loss of Tree ST-3 (as identified in the preliminary forest conservation plan). The tree is within an existing forest stand and its loss will be compensated through the required off-site planting. Further, Tree ST-3 is located on an adjacent property that will likely require removal for development of that property. The Planning Board does not require mitigation for Tree ST-1 to be impacted but not removed. There will be no reduction in the impacted tree's overall function, and an ISA certified arborist report and tree save plan will be prepared for the tree to improve its long term survival potential. .

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.*

The Preliminary Plan meets all requirements of Chapter 19, Article II, Section 19-20 through 19-35. The MCDPS-Water Resource Section approved a stormwater management concept for the Application on November 13, 2009. The concept consists of on-site water quality control and recharge by using pervious pavement and bioswales.

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 JUL 19 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).

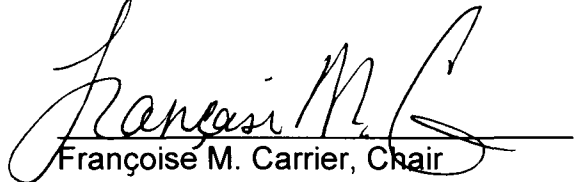
* * * * *

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

MCPB No. 12-77
Preliminary Plan No. 120100130
ISG Building
Page 8

Planning Commission on motion of Commissioner Anderson, seconded by Vice Chair Wells-Harley, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Anderson, Dreyfuss, and Presley voting in favor at its regular meeting held on Thursday, July 12, 2012, in Silver Spring, Maryland.



Françoise M. Carrier, Chair
Montgomery County Planning Board