



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

MCPB No. 12-150
Preliminary Plan No. 120120150
Goddard School - Olney
Date of Hearing: November 8, 2012

JAN 23 2013

RESOLUTION

WHEREAS, under Montgomery County Code Chapter 50, the Montgomery County Planning Board ("Planning Board" or "Board") is authorized to review preliminary plan applications; and

WHEREAS, on March 8, 2012, Morningwood Drive, L.L.C., ("Applicant"), filed an application for approval of a preliminary plan of subdivision of property that would create 2 lots on 1.15 acres of land in the Mixed Use Town Center zone, located approximately 500 feet west of Georgia Avenue on the north side of Morningwood Drive ("Subject Property"), in the Olney master plan ("Master Plan") area; and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120120150, Goddard School - Olney ("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 October 29, 2012, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on November 8, 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, on November 8, 2012, the Planning Board voted to approve the Application subject to certain conditions, on motion of Commissioner Dreyfuss, seconded by Commissioner Anderson, with a vote of 4-0; Commissioners Anderson, Carrier, Dreyfuss and Wells-Harley voting in favor with Commissioner Presley absent.

NOW, THEREFORE, BE IT RESOLVED THAT, the Planning Board approves Preliminary Plan No. 120120150 to create 2 lots on the Subject Property, subject to the

Approved as to
Legal Sufficiency


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following conditions:¹

- 1) This Preliminary Plan is limited to two lots for a 9,000 square foot child day care facility with a maximum of 156 day care children and 22 employees.
- 2) Prior to issuance of a building permit, the Applicant must make a lump sum payment of \$23,400.00 to the Montgomery County Department of Permitting Services to mitigate the 2 peak-hour trips as required by the Policy Area Mobility Review.
- 3) The Applicant must comply with the conditions of approval for the Preliminary Forest Conservation Plan No. 120120150, approved as part of this Preliminary Plan, subject to:
 - a) A certificate of compliance from a forest bank that meets off-site mitigation requirements must be recorded prior to the start of clearing and grading.
 - b) Inspection scheduling must be in accordance with Section 22A.00.01.10 of the forest conservation regulations.
 - c) A two-year maintenance and management agreement must be approved prior to acceptance of on-site planting.
- 4) The Planning Board has accepted the recommendations of the Montgomery County Department of Transportation ("MCDOT") in its letters dated August 1, 2012 and October 22, 2012, 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 MCDOT provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 5) Prior to recordation of plat(s), the Applicant must satisfy the provisions for access and improvements as required by MCDOT.
- 6) 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 February 12, 2012, and does hereby incorporate it as a condition 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 – Water Resources Section provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.

¹ 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.

- 7) The Applicant must dedicate and show on the record plat the following dedications:
 - Thirty Five (35) feet from the centerline of the existing right-of-way for North High Street along the Subject Property frontage.
- 8) The Applicant must construct all road improvements within the rights-of-way shown on the approved Preliminary Plan to the full width mandated by the master plan and/or to the design standards imposed by MCDOT.
- 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 site plan approval. 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) No clearing, grading or recording of plat(s) prior to certified site plan approval.
- 11) 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.

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 Olney Master Plan.*

The Subject Property is located within the Town Center as identified by the Master Plan and more specifically in the Southwest Quadrant of the Town Center. The established goal of the Town Center is as follows:

"Create an economically healthy, attractive, pedestrian-oriented, and well-connected Town Center to be the commercial and civic heart of the

community. Create a civic center in the Town Center through redevelopment of a major shopping center or a public-private partnership.”

The Master Plan recommends low scale retail for the Town Center in a variety of building types and sizes, with safe pedestrian connections, public spaces, and landscaping. Development is to be less dependent on vehicles for movement within and around the retail core which is to be located along the two major roads, Georgia Avenue and MD 108. Buildings are encouraged to be at the street or close to sidewalks; parking should be to the rear or off to the side of new development. Easy and convenient multiple pedestrian connections between shopping and adjoining residential areas are also part of the Town Center concept.

The Master Plan envisions that development at the edge of the Town Center should have residential buildings or uses compatible with the adjoining residential development and recommends up to a 0.35 floor area ratio (FAR) using a standard method of development, and 1.0 FAR using an optional method of development. The Master Plan also recommends lower building heights at the edges of the Town Center.

The Staff Report identified the specific Master Plan recommendations which apply to the Subject Property given its location with the Town Center and use as a day care facility. Those recommendations are:

- Provide easy and convenient multiple pedestrian connections between shopping centers and adjoining residential areas.
- Connect North High Street to Morningwood Drive.
- Allow on-street parking on all streets except Georgia Avenue and MD 108.
- Create pedestrian-oriented streetscape through landscaping, traffic calming measures and other design features.
- Limit the height of any building within the core area of the Town Center to 70 feet. Buildings along the edges of the Town Center should be 42 to 56 feet high to be compatible with the adjoining residential development. In no event should the height of buildings adjacent to existing residentially zoned land exceed 56 feet. Unoccupied features such as clock towers and spires may be higher than the maximum permitted building heights.

- Front building facades should be located along sidewalks and public open spaces. Ground floor of all buildings along major streets, and specifically along streets with recommended street facades, should have uses that generate pedestrian traffic, such as retail, restaurants, professional offices and services.
- Public open spaces on adjoining lots should be located and designed to function as one space to avoid fragmentation of these amenities.
- Pedestrian ingress, egress and interior walkways should be raised or separated from parking areas through change of materials, curbs, railings, grass panels or other design features.
- Provide benches, landscaping, light fixtures, trash receptacles, and other amenities in public spaces.
- Create visual breaks in larger parking lots through plantings and walkways.
- Stormwater management techniques should include measures to improve the efficiency of existing downstream facilities and protect remaining streams in the Town Center.
- Accommodate forest conservation requirement on-site, where possible, to assist in greening Town Center.

The Preliminary Plan shows new sidewalks along the Property's frontage on both North High Street and Morningwood Drive. On Morningwood Drive, the existing, mature street trees will be preserved in a green panel to provide separation from the street pavement. The street trees also provide immediate shade for the new sidewalk, and a green edge for the Property frontage thereby creating a pedestrian oriented streetscape. The Applicant will construct a 4,000 square foot public open space, with benches, a trash receptacle and landscaping on the west side of the day care building. The open space area will be connected with a sidewalk to the new sidewalk on Morningwood Drive.

The North High Street frontage will have new street trees planted to also separate the sidewalk from the street pavement. In addition, the Applicant will provide additional dedication for the existing 20 foot wide alley right-of-way that is within the Property boundaries and will be required to improve that alley to county standards. The alley will be lined with trees and a sidewalk will be built within the tree panel, separated from the pavement in the alley. The tree lined sidewalk also creates a visual break between the two parking areas along

Morningwood Drive. The trees assist in greening the Town Center. The alley will eventually connect North High Street and Morningwood Drive when property to the north redevelops. Ultimately, the alley will be extended by others to the north of North High Street and provide the pedestrian/bikeway/vehicular connection to the core of the Town Center as recommended by the Master Plan.

The maximum square footage allowed under the Adequate Public Facility review of this Preliminary Plan is 9,000 square feet. A 9,000 square foot building on the 1.15 acre Subject Property meets the 0.35 floor area ratio recommended in the Master Plan. The day care building is shown to front on to Morningwood Drive with an extension of the building that follows the curvature of the road's right-of-way. A lead-in sidewalk connects the new sidewalk along Morningwood Drive to an entrance to the day care building and helps generate pedestrian activity by providing convenient connections to the adjacent residential communities and businesses, although the primary entrance will be from the parking lot due to the nature of the use..

The spatial relation of the three separate parking areas tends to minimize the expanse of pavement as recommended by the Master Plan. The parking areas are interconnected with internal sidewalks. Landscaped islands further help provide visual breaks to the parking lots and also help with "greening" the Town Center.

On-street parking is not allowed by MCDOT signage on this section of Morningwood Drive because parked vehicles would conflict with a Ride-On bus stop at the Property frontage. On-street parking is also prohibited since parked vehicles along the curb would further reduce sight distances as vehicles round the curve on Morningwood Drive. North High Street will ultimately have 40 feet of pavement width as a business district street. On-street parking can eventually be accommodated; however, until additional dedication is provided by others on the north side of North High Street, the road cannot be completed to full county standards.

Forest conservation will be met off-site since there is no opportunity to create forest on this Property, due to the size of the property, but the landscape plan provides adequate tree and shrub plantings to shade and screen the parking areas. Trees planted to mitigate tree loss also complement the landscape trees. The trees and shrubs assist with the Master Plan recommendation to provide "greening" of the Town Center.

The Planning Board finds that the Preliminary Plan is in substantial conformance with the Olney Master Plan.

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

The intersection of MD 97 and Morningwood Drive/Spartan Road was identified as a critical intersection affected by the Application and was examined in a submitted traffic study to determine if it will meet the applicable congestion standard. The congestion standard for the Olney Policy Area is a Critical Lane Volume ("CLV") of 1,450. According to the traffic study, the Morningwood Drive/Georgia Avenue intersection is currently operating within an acceptable congestion standard and is expected to continue to operate at an acceptable level with the addition of background traffic and with the addition of traffic generated by the approved day care facility. The background development traffic condition includes the projected traffic from the expansion of the Safeway store located east of MD 97 on the north side of Spartan Road.

The Olney Policy Area had a 10% Policy Area Mobility Review (PAMR) trip mitigation requirement according to the County's Subdivision Staging Policy in effect at the time of submission of the Preliminary Plan Application. The Applicant is required to make a lump sum payment of \$23,400.00 to the Montgomery County Department of Permitting Services to mitigate 2 peak-hour trips, which represents 10% of the new trips generated by the Application, to meet the PAMR requirements. The Applicant is required to make this payment prior to issuance of any building permits.

The Property will be adequately served with access at two points; one from North High Street and the other from Morningwood Drive via the new alley. The alley from Morningwood Drive will be constructed within a 22-foot-wide right-of-way with 20 feet of pavement as recommended by the Olney Master Plan. The Applicant will build a 5 foot wide sidewalk along the Morningwood Drive frontage and a 5 foot wide lead-in sidewalk to the facility's main access door, with another five foot wide sidewalk to connect the public use area. A five foot wide sidewalk will be built along the property frontage of North High Street within the dedicated public-right-of-way to complete the public sidewalk system. Internally, a five foot wide lead-in sidewalk will connect the front door of the facility to the public sidewalk along Morningwood Drive and a four foot wide sidewalk will run adjacent to the public alley. Internal four and five foot wide sidewalks connect the northern parking lot to the facility, and other internal sidewalks are designed to allow safe movement of children and faculty to and from play areas and fire access doors. Crosswalks are shown on the Preliminary Plan to connect internal sidewalks across the alley and smaller parking lot in front of the facility. The access points and the internal traffic and pedestrian circulation system shown on the Preliminary Plan will be adequate.

All other public facilities and services are available and will be adequate to serve the Application. Public water and sewer is available to the Subject Property. Other services including natural gas, electric, and telecommunications are available to the Subject Property. The Application has been reviewed by the Montgomery County Fire and Rescue Service, who have determined that the Subject Property has appropriate access for fire and rescue vehicles. Other public facilities and services, such as schools, police stations, firehouses and health services, are currently operating within the standards set by the Subdivision Staging Policy currently in effect. The Application is not subject to a School Facilities Payment.

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

The Application complies with all applicable sections of Chapter 50, the Subdivision Regulations. The proposed lots' size, width, shape and orientation are appropriate for the location of the Subject Property and for the intended use as a daycare facility with associated parking.

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. All forest conservation requirements will be met off-site, in a forest conservation bank to be approved at the time of the final forest conservation plan.

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 eight Protected Trees as identified in the Staff Report. In accordance with Section 22A-21(a), the Applicant has requested a Variance and the Board agreed that the Applicant would suffer unwarranted hardship by being denied

reasonable and significant use of the Subject Property without the Variance.

The Board made the following findings necessary to grant the Variance:

1. *Granting the Variance will not confer on the Applicant a special privilege that would be denied to other applicants.*

The Subject Property is zoned MXTC, which is a moderately high density, mixed use zone that allows commercial/retail and residential uses with parking. As a property on the edge of the Town Center, the child day care use is consistent with the Master Plan and zone and is a reasonable transition from the residential uses just outside of the Town Center to the properties within the core of the Town Center. Granting a waiver does not confer upon the Applicant a special privilege that would be denied to others.

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

The Variance is not based on conditions or circumstances which are the result of actions of the Applicant. The Applicant has prepared and submitted plans which meet all applicable zoning and forest conservation requirements to develop the Property as a child day care facility. The Variance is based upon plans which meet all requirements, but result in the removal of seven specimen trees and impacts to one additional tree.

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

The Variance is a result of the approved development and not a result of land or building use on a neighboring property.

4. *Granting the Variance will not violate State water quality standards or cause measurable degradation in water quality.*

The Variance will not violate State water quality standards or cause measurable degradation in water quality. The specimen trees being removed are not within a stream buffer, wetland, or a special protection area. A Stormwater Management Concept Plan has been approved by the Montgomery County Department of Permitting Services.

C. Mitigation

The Board determined that the removal of three Protected Trees would require mitigation because they were not otherwise included in the forest conservation worksheet. Mitigation for the loss of Protected Trees should be at a rate that approximates the form and function of the trees removed. To mitigate the loss of the three Protected Trees which collectively total 118 caliper inches, the Board required replacement at a ratio of approximately 1" diameter at breast height ("DBH") for every 4" DBH removed, using trees that are 2.2" to 3" DBH in caliper. This results in a mitigation planting requirement of twelve (12) 2.5" DBH native canopy trees on the Property.

5. *All stormwater management requirements shall be met as provided in Chapter 19, article II, title "stormwater management", Section 19-20 through 19-35.*

This finding is based in part upon the determination by MCDPS that the approved Stormwater Management Concept Plan meets applicable standards. The concept consists of 3 micro-bioretention facilities, planter box bioretention and a bio-swale. The concept meets the requirements of Chapter 19 as required

BE IT FURTHER RESOLVED, that this Preliminary Plan will remain valid for 61 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 in 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 JAN 23 2013 (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 Presley, seconded by Vice Chair Wells-Harley, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Anderson and Dreyfuss, and Presley voting in favor at its regular meeting held on Thursday, November 8, 2012, in Silver Spring, Maryland.


Françoise M. Carrier, Chair
Montgomery County Planning Board