



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

OCT 6 2014

MCPB No. 14-88
Preliminary Plan No. 12002082A
Our Lady of Good Counsel High School
Date of Hearing: October 2, 2014

RESOLUTION

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

WHEREAS, by opinion originally dated May 28, 2003, amended on December 1, 2003, and corrected on February 4, 2004, the Planning Board approved Preliminary Plan No. 120020820, creating one lot on approximately 50 acres of land in the RC zone, located on the south side of Olney-Sandy Spring Road and Doctor Bird Road and the west side of Batchellors Forest Road ("Subject Property"), in the Olney Policy Area, Olney master plan ("Master Plan") area; and

WHEREAS, on March 31, 2014, Paul Barker ("Applicant") filed an application for approval of an amendment to the previously approved preliminary plan to increase the total permitted gross floor area by 17,000 square feet, increase the student capacity by 100, increase the number of lit outdoor events by 15, revise the Transportation Management and Community Liaison Agreement, and remove an area of Category II Conservation Easement and establish a new area of Category I Conservation Easement on the Subject Property; and

WHEREAS, Applicant's application to amend the preliminary plan was designated Preliminary Plan No. 12002082A, Our Lady of Good Counsel High School ("Preliminary Plan", "Amendment," 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 September 19, 2014, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on October 2, 2014, 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

Approved as to
Legal Sufficiency:

 10/3/14

WHEREAS, at the hearing, the Planning Board voted to approve the Application subject to certain conditions, by the vote as certified below.

NOW, THEREFORE, BE IT RESOLVED THAT, the Planning Board approves Preliminary Plan No. 12002082A to increase the gross floor area to 227,000 square feet, increase the total student capacity to 1,300, increase the number of lighted events to 50, revise the Traffic Mitigation and Community Liaison Agreement, abandon an area of Category II Conservation Easement, and create a new area of Category I Conservation Easement, and the Board amends the previous conditions of approval as follows:¹

1. Limit the total school enrollment to no more than 1,300 students and the size of the building to three stories and 227,000 square feet of gross floor area.
14. Prior to the release of any new use and occupancy certificates, the Applicant must satisfy Local Area Transportation Review ("LATR") requirements by amending the Transportation Management and Community Liaison Agreement ("TMCLA") with the Montgomery County Planning Board in a form approved by the M-NCPPC Office of General Counsel. The amended TMCLA must be recorded in the Montgomery County Land Records, will supersede the existing TMCLA dated July 6, 2005, and must include at a minimum the following provisions:
 - a. Expand the options for mitigating single-occupancy vehicular trips to/from the school during the weekday AM peak-hour beyond student busing;
 - b. Increase the number of trips mitigated during the AM peak-hour from 245 to a minimum of 253 to satisfy the LATR test;
 - c. Add a reference that the trip mitigation is to mitigate AM weekday peak-hour trips (within the 6:30-9:30 a.m. peak period);
 - d. Have a Transportation Coordinator on the school staff who will oversee implementation of the TMCLA;
 - e. Include new incentives to promote bus ridership;
 - f. Develop a carpool system for students and for faculty including possible designated carpool parking spaces;
 - g. Promote the use of existing and future public transit options including Ride-On;
 - h. Establish additional mitigation provisions to be implemented if the school fails to mitigate at least 253 trips, including a free shuttle for students from local Park & Ride lots to the school property;

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.

- i. Provide traffic control measures that prohibit vehicles from exiting the Subject Property and traveling south on Old Vic Boulevard to Batchellors Forest Road; and
 - j. Increase the number of special events per year to a total of 25, and define a special event as any event attracting 750 or more people to the Subject Property.
21. The Applicant must comply with the conditions of approval of the MCDPS stormwater management approval as amended by the recommendations of the MCDPS – Water Resources Section in its stormwater management concept letter dated May 12, 2014, hereby incorporated as conditions of the Preliminary Plan approval. The recommendations may be further amended by MCDPS provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
27. The school athletic stadium, school buildings, parking lots and internal roadway network will be the only facilities with outdoor lighting. The Applicant shall restrict lighted use of the school athletic stadium to a maximum of 50 events in any calendar year. Event lighting must be off by 11 p.m. A Preliminary Plan amendment will be required for any modification to the lighted areas or the number of lighted events
29. The Subject Property is located in the Olney Policy Area and the Applicant must make a Transportation Policy Area Review (“TPAR”) Mitigation Payment for the new 17,000 square feet, equal to 25 percent of the General District Transportation Impact Tax, pursuant to the 2012-2016 Subdivision Staging Policy. The timing and amount of the payment will be in accordance with Chapter 52 of the Montgomery County Code.
30. The Applicant must comply with the following conditions of the amended Final Forest Conservation Plan (“FCP”):
 - a. Prior to any clearing, grading, or demolition on the Subject Property, the Applicant must submit financial surety for the 0.15 acres of new forest planting in Reforestation Areas #1, #2, #3 and #4 and 0.15 acres of tree replacement planting in Category II Conservation Easement Tree Replacement Planting Area #3B.
 - b. Prior to any clearing, grading, or demolition on the Subject Property, the Applicant must enter into a Maintenance and Management Agreement with the Planning Board in a form approved by the Office of General Counsel for the 0.15 acres of new forest planting in Reforestation Areas #1, #2, #3 and #4 and

0.15 acres of tree replacement planting in Category II Conservation Easement Tree Replacement Planting Area #3B.

- c. Prior to any clearing, grading, or demolition on the Subject Property, the Applicant must record a Category I conservation easement approved by the M-NCPPC Office of the General Counsel over all new areas of forest retention and forest planting, as specified on the approved Final FCP. The Category I conservation easement must be recorded by deed in the Montgomery County Land Records, and the easement's liber and folio numbers and boundaries must be shown on the record plat(s).
- d. Abandonment of the Category II conservation easement area as specified on the approved Final FCP must occur at the time of plat recordation.
- e. Prior to the recordation of plats, the Applicant must install permanent Category I and Category II Forest Conservation Easement signage along the perimeter of all forest conservation easement areas. Signs must be installed a maximum of 100 feet apart with additional signs installed where the easement area boundary changes direction.
- f. The Final Sediment Control Plan must be consistent with the final limits of disturbance as approved by the M-NCPPC Staff.
- g. The Applicant must comply with all tree protection and tree save measures shown on the approved Final FCP. Tree save measures not specified on the Final FCP may be required by the M-NCPPC forest conservation inspector.

BE IT FURTHER RESOLVED, that all other preliminary plan conditions of approval for this project remain valid, unchanged and in full force and effect.

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:

Unless specifically set forth herein, this Amendment does not alter the intent, objectives, or requirements in the originally approved preliminary plan, and all findings not specifically addressed remain in effect.

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

The Application substantially conforms to the recommendations set forth in the 2005 Olney Master Plan ("Master Plan"). The Subject Property is located in the Southeast Rural Quadrant of the Master Plan and is mentioned as a side note as an existing Private School that was recently approved under the zoning allowed in the older 1980 Olney Master Plan. This Amendment does not dramatically change the scope

of the previous preliminary plan approval described in the Master Plan, and it meets the requirements of the retained RC Zone.

The Master Plan identifies four Master Plan rights-of-way for roads and shared use paths adjoining the Subject Property. These include MD 108 as a Major Highway, with a planned right-of-way of 120 feet for a four lane divided highway and dual shared use paths, Doctor Bird Road (MD 182) as a Major Highway with a recommended 120 foot right-of-way with two travel lanes and a shared use path, Old Vic Boulevard as a Primary Residential street with a 70 foot right-of-way with two travel lanes and a shared use path, and Batchellors Forest Road as a Rustic Road with a 70 foot right-of-way and a signed shared road bikeway.

Under the original preliminary plan approval, the Applicant fully dedicated the Old Vic Boulevard right-of-way and constructed the road and shared use path, in addition to dedicating its portion of Doctor Bird Road and Batchellors Forest Road. The Applicant also dedicated 60 feet from centerline for MD 108 to meet the 120 foot right-of-way specified in the 1980 Olney Master Plan. Although the 2005 Master Plan increased the dedication requested for MD 108 to 150 feet (75 feet from centerline), MD 108 is already built to the full Master Plan cross-section, including a shared use path, and requiring the Applicant to dedicate additional land would impact the boundary of existing Category I Conservation Easements and a ball field on the Subject Property. Accordingly, and due to the limited nature of this Amendment, no additional dedication is required at this time.

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

Transportation - Access & Circulation

Access to and circulation on the Subject Property will be adequate to meet the transportation demands of this Amendment. The Subject Property currently offers adequate means of access for vehicles, pedestrians, and bicyclists, and it is served by existing limited transit service. This Amendment, through the amendment of the Transportation Management and Community Liaison Agreement, will improve on-site vehicle queuing by implementing a double row for student drop-off and directing the two rows to their own points of exit.

Transportation – LATR & TPAR

This Amendment increases the school capacity by 100 students for a total enrollment of 1,300. The increase in enrollment generates 43 new weekday AM peak hour trips (6:30 to 9:30 a.m.) and 13 new weekday PM peak hour trips (4:00 to 7:00 p.m.). Because the total number of additional peak hour is over 30, a traffic study analyzing the Critical Lane Volume (“CLV”) impact of the new trips upon surrounding intersections was required to satisfy the LATR tests.

The traffic study indicated that the additional trips would add 1 new a.m. peak hour CLV to the intersection at Old Baltimore Road and Georgia Avenue. Under the *LATR/TPAR Guidelines*, because the intersection is currently failing during the weekday a.m. peak hours, the Applicant must mitigate 150% of the new site-generated trips to satisfy the LATR test, resulting in a total trip mitigation requirement of 8 trips. Under this Amendment, the Applicant will meet this requirement by amending the existing Transportation Management and Community Liaison Agreement ("TMCLA") to increase the number of required mitigated trips from 245 to 253.

The Subject Property is located within the Olney Policy Area for purposes of Transportation Policy Area Review ("TPAR"). The TPAR test shows the roadway test for the Olney Policy Area as adequate, and the transit test as inadequate. Therefore, the Applicant must make a TPAR mitigation payment equal to 25 percent of the General District Transportation Impact Tax, pursuant to the 2012-2016 Subdivision Staging Policy. The timing and amount of the payment will be in accordance with that set in Chapter 52 of the Montgomery County Code.

Transportation - Transportation Management and Community Liaison Agreement

In addition to amending the TMCLA to increase the number of mitigated trips from 245 to 253 to meet this Amendment's LATR requirements, the Applicant seeks to incorporate new trip mitigation practices, allow for additional school events generating 750 or more attendees, improve on-site vehicular circulation, and make minor administrative changes to the TMCLA. These additional revisions will help improve transportation access to and circulation on the Subject Property and allow the Applicant to make full use of its new performing arts center. Accordingly, the Board permits Staff and the Applicant to revise the TMCLA in accordance with this approval. The amended TMCLA must be in a form acceptable to the M-NCPPC Office of General Counsel and must be executed prior to release of any new use and occupancy certificates. The amended TMCLA must, at a minimum, include the following provisions:

- a. Expand the options for mitigating single-occupancy vehicular trips to/from the school during the weekday AM peak-hour beyond student busing;
- b. Increase the number of trips mitigated during the AM peak-hour from 245 to a minimum of 253 to satisfy the LATR test;
- c. Add a reference that the trip mitigation is to mitigate AM weekday peak-hour trips (within the 6:30-9:30 a.m. peak period);
- d. Have a Transportation Coordinator on the school staff who will oversee implementation of the TMCLA;
- e. Include new incentives to promote bus ridership;

- f. Develop a carpool system for students and for faculty including possible designated carpool parking spaces;
- g. Promote the use of existing and future public transit options including Ride-On;
- h. Establish additional mitigation provisions to be implemented if the school fails to mitigate at least 253 trips, including a free shuttle for students from local Park & Ride lots to the school property;
- i. Provide traffic control measures that prohibit vehicles from exiting the Subject Property and traveling south on Old Vic Boulevard to Batchellors Forest Road; and
- j. Increase the number of special events per year to a total of 25, and define a special event as any event attracting 750 or more people to the Subject Property.

Limit on Lighted School Events

In addition to increasing the number of special events (those with attendance over 750) to a maximum of 25 a year through amendment of the TMCLA, the Applicant seeks to increase the maximum number of lighted events on the Subject Property to 50 a year. The original preliminary plan condition of approval 27 limited the Applicant to 35 lighted events a year and was required at the Board's initiative to give the community assurances about the number of such events it could expect. The Applicant's request to increase the limit to 50 lighted events would give the Applicant greater flexibility in scheduling the use of its facilities, including by community groups. Increasing the number of lighted events on the Subject Property will not conflict with the preliminary plan findings, and this Amendment increases the number of lighted events permitted on the Subject Property to 50 a year, with the additional restriction that event lighting be off by 11 p.m.

Other Public Facilities and Services

All other public facilities and services are available and will be adequate to serve the approved use. Public water and sewer is available to the Subject Property and can accommodate the expansion. Other services including natural gas, electricity, and telecommunications are available to the Subject Property. The Application has been reviewed by the Montgomery County Fire and Rescue Service, which has determined that the submitted Fire Access Plans adequately provide fire and emergency access to the expansion.

- 4. The Application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code Chapter 22A, Chapter 19 regarding water resource protection, and any other applicable law.*

Forest Conservation Law

This Application includes an amendment to the Final Forest Conservation Plan ("FCP") to abandon 0.26 acres of an existing Category II Conservation Easement for a 160 feet by 150 feet practice field in the southeast corner of the Subject Property. The 0.26-acre Category II Conservation Easement to be abandoned is not located in a stream valley buffer and will be mitigated by providing 0.52 acres of additional on-site Category I Conservation Easement area and 0.15 acres of supplemental planting within a portion of Category II Conservation Easement area that will remain. The new 0.52 acre Category I Conservation Easement areas will include 0.37 acres of currently unprotected existing forest that was previously counted as removed on the approved FCP and 0.15 acres of new forest planting. The new Category I Conservation Easement areas are located in the southwest corner of the Property, east and west of recently-constructed Old Vic Boulevard. These easement areas are contiguous with existing on- and off-site conservation easements. The 0.15 acres of supplemental planting for the Category II Conservation Easement is in the area remaining in easement along the southern and eastern perimeters of the practice field, identified as "Tree Replacement Planting Area #3B" on the FCP. Financial surety and maintenance and management agreements are required for all new planting areas. As approved by this resolution, these changes will provide for increased protection of environmental resources on the Subject Property.

This Amendment also completes the separation of the Final FCP for the Good Counsel Property from the Final FCP for the Stanmore property, which the Planning Board previously approved as part of a Site Plan amendment 82006039A. Each of the properties has its own preliminary plan, and the Stanmore property has its own site plan. With the exception of the revisions that are part of this Application and the recently approved Stanmore amendment, all of the forest conservation requirements for the two properties have been met.

All other activities approved as part of this Application comply with the previously approved FCP, including the limits of disturbance. The Final FCP meets all applicable requirements of Chapter 22A of the County Code.

Stormwater Management

The stormwater management concept for the yet to be built performing arts center will meet stormwater management goals through micro-bioretenion facilities as an addition to the overall stormwater management system previously approved and installed that provides quantity and quality control.

BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is OCT 6 2014 (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 Anderson, Vice Chair Wells-Harley, and Commissioners Dreyfuss and Presley voting in favor of the motion at its regular meeting held on Thursday, October 2, 2014, in Silver Spring, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board