



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

AUG 10 2015

MCPB No. 15-73
Preliminary Plan No. 120130210
Rockville Evangelical Mission Church
Date of Hearing: July 9, 2015

RESOLUTION

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

WHEREAS, on November 4, 2013, Rockville Evangelical Mission Church ("Applicant"), filed an application for approval of a preliminary plan of subdivision to create one lot on 5.02 acres of land in the R-200 Zone, to allow the construction of up to a 22,000-square-foot house of worship with a 600-seat sanctuary, surface parking lot and related site improvements, located at 110 Central Avenue, approximately 1,000 feet east of the Frederick Avenue (MD 355) intersection ("Subject Property"), in the Great Seneca Science Master Plan ("Master Plan") area; and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120130210, Rockville Evangelical Mission Church ("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 26, 2015, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on July 9, 2015, 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 July 9, 2015, the Planning Board voted to approve the Application subject to certain conditions, on motion of Commissioner Wells-Harley, seconded by Commissioner Fani-Gonzalez, with a vote of 3-0; Chair Anderson voting in favor and Commissioners Dreyfuss and Presley absent.

NOW, THEREFORE, BE IT RESOLVED THAT, the Planning Board approves Preliminary Plan No. 120130210 to create one lot on the Subject Property, subject to

Approved as to
Legal Sufficiency:

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the following conditions:¹

1. Approval is limited to one lot for a maximum of 22,000 square feet of religious institution use with a 600-seat sanctuary, administrative offices and common areas that do not generate more than de minimis peak hour vehicle trips. There must be no school or day care uses without amendment of the Preliminary Plan.
2. The Applicant must dedicate, and the record plat must show, five additional feet of right-of-way along the Central Avenue frontage for a total of 70 feet from the opposite right-of-way line.
3. Prior to the issuance of the Use and Occupancy Certificate, the Applicant must install a gate at the Cyrus Street access point to allow exit only by church patrons and two-way access for emergency vehicles, to prevent non-church related motorists from using it for "cut through" to travel between Central Avenue and North Westland Drive via Cyrus Street. The use of the one-way exit is exclusively for large-scale worship services or events during the year, which include weekend services, Christmas, Easter, weddings/receptions and funerals. The Cyrus Street curb cut must be designed to permit egress only for passenger vehicles with mountable curbs to allow two-way movement of emergency vehicles.
4. The driveway access at Cyrus Street must not be used for construction vehicles to and from the Subject Property, except for the installation of sidewalk and public utilities at this area of the site.
5. The Applicant must provide traffic control measures (such as off-duty, uniformed Montgomery County police officers directing traffic) during large-scale worship services or events during the year, which include weekend services, Christmas, Easter, weddings/receptions and funerals, at the Cyrus Street/North Westland Drive intersection.
6. Prior to the issuance of the Use and Occupancy Certificate, the Applicant must install four inverted-U bike racks to store eight bicycles near the main entrance of the church.
7. No clearing, grading or recording of plats can occur prior to Certified 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.

8. The Applicant must comply with the conditions of approval of the Final Forest Conservation Plan (FFCP) No. 120130210 approved as part of this Preliminary Plan, including the following:
 - a. A Category I Conservation Easement approved by the M-NCPPC Office of the General Counsel must be recorded in the Montgomery County Land Records by deed before demolition, clearing, or grading, and the Liber Folio for the easement must be referenced on the record plat.
 - b. Prior to any land disturbing activities occurring on-site, a financial security agreement reviewed and approved by the M-NCPPC Associate General Counsel's Office must be obtained for the planting requirements and invasive management work specified on the FFCP.
 - c. The Applicant must comply with all tree protection and tree save measures shown on the approved FFCP. Tree save measures not specified on the FFCP may be required by the M-NCPPC forest conservation inspector at the pre-construction meeting.
 - d. The Applicant must plant 14, three-inch caliper trees, or larger caliper trees totaling at least 42-inches, as mitigation of variance trees removed. The trees must be planted at the same time the forest planting in the conservation easement occurs, or within one year after final stabilization, whichever occurs first. Mitigation trees must be native, canopy species.
 - e. The Sediment and Erosion Control Plan and Stormwater Management Plan must be consistent with the limits of disturbance and the associated tree/forest preservation measures of the FFCP.
 - f. Prior to Certified Preliminary Plan, the Applicant must obtain Staff's approval of a modified Final Forest Conservation Plan to reflect the addition of the sidewalk, and all related improvements, along Cyrus Street from the new curb cut to North Westland Street.
9. The Planning Board accepts the recommendations of the Montgomery County Department of Permitting Services (MCDPS) – Water Resources Section in its stormwater management concept letters

dated October 31, 2014, and revised on April 13, 2015, and hereby incorporates them as conditions of approval. Therefore, the Applicant must comply with each of the recommendations as set forth in the letters, which may be amended by MCDPS – Water Resources Section provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.

10. The Planning Board accepts the recommendations of the Montgomery County Department of Permitting Services (MCDPS) – Water Resources Section in its letter dated February 9, 2015, for its 100-year Floodplain study review, and hereby incorporates them as conditions of approval. Therefore, the Applicant must comply with 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.
11. The Planning Board accepts the recommendations of the Montgomery County Department of Transportation (MCDOT) in its letters dated December 30, 2014, and April 6, 2015, and hereby incorporates them as conditions of 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. Construction of the sidewalk must be completed before the issuance of the Use and Occupancy permit.
12. 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 footprint, building height, on-site parking, site circulation, and sidewalks shown on the Preliminary Plan are illustrative. The final location of the building, structures and hardscape will be determined at the time of the building permit review. Please refer to the zoning data table for development standards such as setbacks, building restriction lines, building height, and lot coverage. Other limitations for site development may also be included in the conditions of the Planning Board’s approval.”
13. Prior to Certified Preliminary Plan approval, the Applicant must submit a revised Landscape and Lighting Plan for inclusion of the plan set and in accordance with the Planning Board’s conditions of approval. Provide a note on the Lighting Plan to state: “The Lighting distribution and photometric plan with tabulations must conform to IESNA standards for adjacent residential development.”

14. The Landscape Plan must include street lamps on Central Avenue, internal sidewalks, benches, trash receptacles, the trash dumpster and its enclosure, and bike racks. These elements must be installed prior to the issuance of the Use and Occupancy Certificate; street tree planting on Central Avenue may wait until the next growing season.
15. Prior to the issuance of the building permit, the Applicant must enter into a Landscape Surety and Maintenance Agreement with the Planning Board in a form approved by the Office of the General Counsel that outlines the responsibilities of the Applicant. The Agreement must include a performance bond(s) or other form of surety in accordance with the following provisions:
 - a. A cost estimate of the materials and facilities, including the gate at Cyrus Street, which, upon Staff approval, will establish the initial surety amount.
 - b. The cost estimate must include applicable landscape elements, including, but not limited to plant materials, on-site lighting, recreational facilities, site furniture, trash enclosures, retaining walls, fences, sidewalk and paths and associated improvements of development.
 - c. The bond/surety shall be tied to the construction and completion of all improvements covered by the surety for the one phase development and will be followed by inspection and reduction of the surety.

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 Master Plan.*

The Subject Property is located in Oakmont, one of five enclave community areas within the Great Seneca Science Corridor (GSSC) Master Plan. Oakmont, for the most part, is characterized as a built-out, stable, mature residential neighborhood. The Master Plan does not have specific land use recommendations for the Subject Property; however, the Master Plan has specific recommendations for other features/facilities in the Oakmont community, including use of improved stormwater management techniques if the Walnut Hill Shopping Center site redevelops. The Applicant's stormwater management concept plan includes the use of Environmentally-Sensitive Design (ESD) to current Montgomery County Department of Permitting Services (MCDPS) standards for improved water quality. A key goal of the Master Plan is to provide for improved

circulation and connectivity for pedestrians and bicyclists. A new sidewalk was installed on the Subject Property's Central Avenue frontage through the County's CIP, and the Applicant's proposal will include a lead-in sidewalk from Central Avenue to the church. As part of the approval of this Application, the Board also required installation of a sidewalk along Cyrus Street. Based on these improvements, the Planning Board finds the proposed Preliminary Plan is in substantial conformance with the GSSC Master Plan.

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

Local Area Transportation Review

The Applicant was not required to submit a traffic study to satisfy the Local Area Transportation Review (LATR) test or the Transportation Policy Area Review (TPAR) test. The proposed use (place of worship) is not subject to a transportation impact tax payment. In addition, because the proposed use will generate fewer than three new peak-hour trips during the weekday morning and evening peak periods (considered de minimis), the Applicant is exempt from the TPAR test.

Vehicular Access Points

The primary vehicular access to the Subject Property is from Central Avenue where an existing driveway curb cut is located. This driveway was used by the previous owner(s) of the single-family house with a detached garage and other accessory use structures. The Applicant originally proposed a second vehicular access point from Cyrus Street with a gate to allow two-way ingress/egress by church patrons and emergency vehicles. In consideration of the concerns expressed by local residents regarding the second access entrance/exit on Cyrus Street, and the traffic it will put on North Westland Drive, the Planning Board agreed with the Staff recommendation that this access should be for exit only by church patrons and for two-way emergency vehicle movement on mountable curbs, as stated in Conditions #3 and #4 of this Resolution.

Weekend Traffic Circulation

The Applicant's traffic circulation study demonstrated that the vehicular trips generated by the Subject Property on Sundays do not adversely impact the adjacent street (Central Avenue) and the two closest unsignalized intersections with Frederick Avenue. Any potential impact on North Westland Drive will be reduced because the Cyrus Street curb cut will be limited to a one-way exit only controlled by a gate.

The Subject Property's existing curb cut on Central Avenue is approximately 145 feet southwest of the existing driveway for the 200-space parking lot for the Unity of Gaithersburg Church across the street. If these two churches conclude Sunday worship

services at the same time, it could create congested traffic conditions on Central Avenue. Therefore, the Applicant must provide traffic control measures during large-scale worship services and other high-attendance, church-related events with authorized person(s) to manage and direct traffic to and from the Subject Property at the intersection of Cyrus Street and North Westland Drive.

The Applicant's traffic analysis demonstrated that there will be enough gaps in Frederick Avenue through-traffic to allow the church-related vehicles to turn left from Central Avenue onto southbound Frederick Avenue, especially on Sundays when the traffic along this segment of Frederick Avenue is 16% less than the typical weekday traffic volume.

Public Transit Service

Ride On routes 55 and 59 operate along Frederick Avenue with 20-minute headways on weekdays and weekends.

Pedestrian and Bicycle Facilities

These facilities will be adequate because existing sidewalks on Frederick Avenue and Central Avenue will connect to the Subject Property. The Applicant will construct a lead-in sidewalk from Central Avenue to the entrance of the church and another from the Cyrus Street exit to North Westland Drive. Bike racks will be installed at the main entrance of the church for bicycle parking.

3. *The size, width, shape, and orientation of the approved lots are appropriate for the location of the subdivision, taking into account the recommendations included in the applicable master plan, and for the type of development or use contemplated.*

The size, width, shape and orientation of the lot are appropriate to allow a 22,000-square foot church with a 600-seat sanctuary, multi-purpose room, administrative offices and common areas, and an off-street, surface parking. The location of the project is also consistent with the recommendations of the Master Plan.

This Application was submitted on November 4, 2013; therefore, it was reviewed under the development standards of the Zoning Ordinance in effect on October 29, 2014, as allowed under Section 7.7.1.B.1., of the current Zoning Ordinance.

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

A. Forest Conservation

The Forest Conservation Plan, as conditioned, complies with the requirements of the Forest Conservation Law. A total of 1.24-acres of forest exists on the Subject Property; of which, 0.35-acres are to be cleared and 0.89-acres are to be preserved. Proposed clearing at the Subject Property results in a reforestation requirement of 0.29-acres. The Applicant proposes forest planting in both stream buffer areas, with 0.29-acres planted within a forest gap in the future conservation easement at the southern portion of the site and 0.23-acres of forest planting in the stream buffer along Central Avenue, for a total planting area of 0.52-acres. The Final Forest Conservation Plan includes an invasive species management plan to ensure the successful establishment of the new plantings. The Final Forest Conservation Plan will be amended at a Staff level to address the change in the limits of disturbance for the sidewalk and related improvements along Cyrus Street per condition 8.f.

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 of five specimen trees and CRZ impacts to three 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 if 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.*

Granting the Variance will not confer on the Applicant a special privilege as disturbance of the specified trees is a result of the need to accommodate the project's layout within the constraints of the site. The Applicant's proposed design will balance all of the competing factors that constrain the site.

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

The requested variance is based on the constraints of the site and the intensity of the use, rather than on conditions or circumstances which are the result of the actions by the Applicant.

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 requested variance is a result of the proposed site design and constraints of the Subject Property and not as 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 five variance trees removed will be mitigated with the planting of new canopy trees to replace the lost water benefit functions of the trees being removed. These trees will be planted in the stream buffer. The three variance trees being preserved will continue to provide the same water quality benefits as before development of the Subject Property. In addition, the Montgomery County Department of Permitting Services (MCDPS) accepted the Applicant's stormwater management concept plan, in a letter dated April 13, 2015. Therefore, the Applicant's project will not violate State water quality standards or cause measurable degradation in water quality.

Mitigation for Trees Subject to the Variance Provisions

Mitigation for the Variance is at a rate that approximates the form and function of the Protected Trees removed. The Applicant must provide replacement of Protected Trees at a ratio of approximately 14 three-inch caliper trees, or larger caliper trees totaling at least 42 inches, as mitigation of variance trees removed. No mitigation is required for Protected Trees impacted but retained.

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

The Applicant obtained stormwater management concept approval by the MCDPS that includes a design to meet current water quality requirements in compliance with Environmentally-Sensitive Design (ESD) standards.

Waiver of Sidewalks § 50-38

The Applicant submitted a waiver request to the County's Subdivision Regulations, Section 50-24(a), to not install a sidewalk on the Subject Property's Cyrus Street frontage. The Planning Board disagreed with the Applicant's request and the Staff's recommendation that the Applicant not be required to install the required sidewalk. Although this sidewalk improvement may impact trees and other environmental resources, the Board believes that a sidewalk is needed not only for the church patrons choosing to walk to the Church facilities, but also to provide a safe pedestrian path for the community in the vicinity of the Subject Site. This is a fully

developed area where sidewalks are a basic element of a safe circulation system and pedestrian accommodation is a high priority. Therefore, this waiver request is denied and the Applicant must build the sidewalk as recommended by the MCDOT.

BE IT FURTHER RESOLVED, that this Preliminary Plan will remain valid for 85 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 AUG 10 2015 (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, Presley, and Fani-González voting in favor at its regular meeting held on Thursday, July 30, 2015, in Silver Spring, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board