



JUN 13 2012

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

MCPB No. 12-62
Preliminary Plan No. 120100280
Bradley Farms, Lot 34, Block 9
Date of Hearing: June 7, 2012

RESOLUTION

WHEREAS, under 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 November 23, 2010, Saint Andrew Romanian Orthodox Church ("Applicant"), filed an application for approval of a preliminary plan of subdivision of property that would create one lot on 3.1-acres of land in the RE-2 zone, located at 9111 River Road ("Property"), in the 2002 Potomac Subregion master plan ("Master Plan") area; and

WHEREAS, Applicant's preliminary plan application was designated preliminary plan No. 120100280, Bradley Farms Lot 34 Block 9 ("Preliminary Plan" or "Application"); and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and the staff of other governmental agencies, Staff issued a memorandum to the Planning Board, dated May 24, 2012, setting forth its analysis, and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on June 7, 2012, the Planning Board held a public hearing on the Application (the "Hearing"), 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 approved the Application subject to certain conditions, in accordance with the vote as certified below.

NOW, THEREFORE, BE IT RESOLVED THAT, pursuant to Montgomery County Code Chapter 50, the Planning Board approves Preliminary Plan No. 120100280, to create one lot on the Property, subject to the following conditions:

Approved as to
Legal Sufficiency:

8787 Georgia Avenue, Suite 200, Silver Spring, Maryland 20910 Chairman's Office: 301.495.4605 Fax: 301.495.1320

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

1. Approval under this Preliminary Plan is limited to one (1) lot for a religious institution with a sanctuary of no more than 100 seats and no weekday child daycare or weekday educational uses.
2. The Applicant must comply with the conditions of approval for the Forest Conservation Plan No. 120100280. Conditions are:
 - a. The following items must occur prior to any clearing or grading occurring on-site:
 - i. Submission of the fee-in-lieu payment for reforestation/afforestation requirement to the M-NCPPC.
 - ii. Required site inspections by the M-NCPPC staff per Section 22A.00.01.10 of the Forest Conservation Regulations.
 - b. Applicant must plant four (4) - 3" DBH native canopy trees on the site as mitigation for the removal a 41 inch DBH oak.
3. The Planning Board has accepted the recommendations of the Montgomery County Department of Transportation (MCDOT) in its letter dated March 29, 2011, and does hereby incorporate them as conditions of the Preliminary Plan approval. 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.
4. The Applicant must satisfy the provisions for access and improvements as required by MCDOT prior to recordation of plat(s).
5. The Planning Board has accepted the recommendations of the Maryland State Highway Administration (MDSHA) in its letter dated January 18, 2011, and does hereby incorporate them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MDSHA provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
6. The Applicant must satisfy the provisions for access and improvements as required by MDSHA prior to issuance of access permits.

7. The Planning Board has accepted the recommendations of the Montgomery County Department of Permitting Services (MCDPS) – Water Resources Section in its letter dated August 31, 2011, and does hereby incorporate them as conditions of the Preliminary Plan approval. 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.
8. The Planning Board has accepted the recommendations of the MCDPS – Well and Septic Section in its letter dated February 23, 2010, and does hereby incorporate them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDPS – Well and Septic Section, provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
9. The Applicant must dedicate and show on the record plat the dedication of 75 feet from the existing pavement centerline along the property frontage for River Road.
10. The Applicant must provide three (3) inverted-U bike racks within 50 feet of the main entrance.
11. The Applicant must substantially comply with the Landscape Plan dated March 9, 2012, and the Lighting Plan dated January 24, 2012, unless otherwise amended by MCDPS as part of the Parking Facilities Plan review.
12. The record plat must show necessary easements.
13. 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."

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.

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, 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 2002, Potomac Subregion Master Plan.*

The Potomac Subregion Master Plan does not specifically address the Subject Property but makes general recommendations for the area in which the Property is located. The Property will be developed in accordance with RE-2 zoning standards recommended by the Master Plan. The size of the lot is similar to other lots in the surrounding area. The Application appropriately addresses the dedication needed for River Road and the continued use of the off-road bike path. River Road will remain as a two lane road.

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

Roads and Transportation Facilities

The Application shows the required dedication for River Road 75 feet from the River Road centerline. No frontage improvements are required by MDSHA other than widening of the driveway opening. The sight distance for the existing driveway is acceptable per the Sight Distance Evaluations reviewed and approved by MDSHA.

The Application is limited to weekend activities only with no weekday daycare or private school. Since the Application generates no peak hour trips it is not subject to Local Area Transportation Review or Policy Area Mobility Review.

The Application shows 45 perpendicular parking spaces, including three handicapped spaces and there will be three inverted 'U' bike racks located near the entrance to the church. New internal sidewalks will connect to the existing 8.5 foot wide shared use path along River Road. Montgomery County Fire and Rescue Service (MCFRS) approved a fire access plan on April 24, 2012 after review of the driveway design and parking lot and finds it will provide adequate access for emergency apparatus.

The Application addresses the vehicular and pedestrian access needs for the subdivision and ensures it will be safe and adequate with the required improvements.

Other Public Facilities and Services

The Planning Board finds that all other public facilities and services are available and will be adequate to serve the lots. Other public facilities and services, such as schools, police stations, and health services are 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 proposed lot size, width, shape and orientation is appropriate for the location of the subdivision given the use proposed for the Property. Based on a review of the local area development map contained in the Staff Report, the lot is found to be comparable in size, width, shape and orientation to existing properties fronting onto River Road in the general area.

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

Natural Resources Inventory and Forest Stand Delineation (NRI/FSD) No. #420012320 was originally approved on February 6, 2001 and was recertified on October 8, 2009. The NRI/FSD identified the environmental constraints but did not show any forest resources on the Subject Property. There were three trees 30 inches and greater diameter at breast (DBH); however, two trees were subsequently removed as hazards. Additionally, there are nine trees between 24" and 30" DBH on the Property.

To meet the requirements of the Forest Conservation Law, the Forest Conservation Plan (FCP) proposes 0.43 acres of afforestation to meet the planting requirement. The Applicant proposes to meet the entire planting requirement through a Fee-In-Lieu payment.

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 one (1) Protected Tree 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 removal of the one Protected Tree is due to the development of the Property. The Protected Tree is within the developable area of the Property. Granting a variance request to allow land disturbance within the developable portion of a site is not unique to this applicant.

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

The Property is does not have feasible access to public sewer at this time. The approved on-site septic field is sized to accommodate the church facility and due to topography and soils conditions, must be located in the southern portion of the Property. This restricts the available developable area remaining for the building, parking and stormwater management and requires removal of the Protected 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 requested variance is a result of the proposed 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 requested variance will not violate State water quality standards or cause measurable degradation in water quality. The specimen tree being removed is not within a stream buffer, wetland, or a special protection area. A Stormwater Management Concept Plan has been approved by the MCDPS – Stormwater Management Section.

Forest Conservation Variance Mitigation

The Board approved mitigation for the loss of the Protected Tree at a rate that approximates the form and function of the tree being removed. For this Protected Tree, the Board recommends that the 41 inch caliper inches of tree loss be mitigated by planting four (4) - 3" DBH native canopy trees on the Property. While these trees will not be as large as the tree that is removed, the replacement trees will provide some immediate canopy cover that in time will fill in open areas where the Protected Tree was removed.

5. *The Application meets all applicable stormwater management requirements as provided in Chapter 19 of the Montgomery County Code.*

This finding is based on the conditionally approved stormwater management concept on August 31, 2011 by MCDPS - Water Resource Section. Environmental Site Design has been integrated on-site using techniques via two micro-bioretenion practice.

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 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 _____ (which is the date that this Resolution is mailed to all parties of record); and

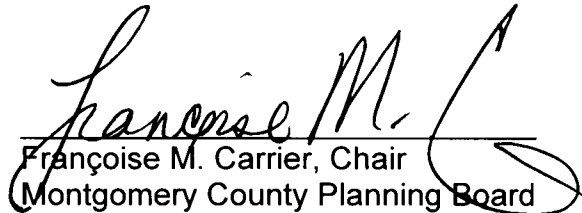
BE IT FURTHER RESOLVED, that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this

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 Presley, seconded by Vice Chair Wells-Harley, 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, June 7, 2012, in Silver Spring, Maryland.


Françoise M. Carrier, Chair
Montgomery County Planning Board