



## MONTGOMERY COUNTY PLANNING DEPARTMENT

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

### **Supplemental Memorandum: Reconsideration Request for Site Plan 820050330, Strathmore at Bel Pre, Lot 44**

ITEM #: \_\_\_\_\_

MCPB HEARING DATE: July 30, 2009

REPORT DATE: July 17, 2009

TO: Montgomery County Planning Board

VIA: Rose Krasnow, Chief *RK*  
Development Review Division

FROM: Robert A. Kronenberg, Supervisor *RAK*  
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#### **APPLICATION DESCRIPTION:**

Reconsideration request for the Site Plan for a private institutional use (modular unit classroom), in the R-90 Zone; located on Layhill Road west of the intersection with Middlevale Lane within the Aspen Hill Master Plan.

**APPLICANT:** Faith Arts Academy Inc.

**FILING DATE:** April 13, 2005  
Reconsideration Granted by the Planning Board on July 9, 2009

**RECOMMENDATION:** Approval of the Site Plan as Previously Granted

#### **EXECUTIVE SUMMARY:**

The Planning Board considered this site plan for private institutional use on one lot in the R-90 Zone on December 4, 2008. The Board voted unanimously to approve the application, which was heard concurrently with the Preliminary Plan, based upon the original information provided in the staff report (Attachment A) and after listening to testimony from a community representative. On July 9, 2009 the Board granted a reconsideration of the site plan resolution (dated May 15, 2009) on the grounds that staff did not conduct an adequate review of the site plan with respect to location of the building, adequate screening and parking associated with the proposed use and adjacent trail head for the Matthew Henson Trail. Staff reaffirms the position of approval and strengthens the findings associated with the original approval.



## **Background and Previous Approvals**

The Preliminary and Site Plans were approved concurrently by the Planning Board on December 4, 2008 (Resolutions dated May 15, 2009) for one lot to include a private institutional use. A reconsideration request (Attachment B) for both plans was filed by Mr. Richard Kauffunger for issues related to transportation, circulation, compatibility, location of the proposed building and landscaping. The Board did not grant a reconsideration of the Preliminary Plan and adopted that Resolution on July 9, 2009. The Board voted to grant a reconsideration of the Site Plan for the issues described in the analysis section.

The site analysis, site description, proposal, development standards, findings and recommendations are provided in the previous staff report (Attachment A). The images below portray current existing views of the site and assist in supporting the original recommendation by Staff.



**Panoramic view looking north from the proposed parking area for the school and to the parking for the trail head in the background. The shared access to the east is from Layhill Road opposite Middlevale Lane.**



**Panoramic view looking southwest along Layhill Road into the site at the intersection opposite Middlevale Lane.**





**View of the trail head parking lot and landscaping on the side adjacent to the proposed school. Existing landscaping initiates a separation on the southern and western boundary of the park property. The northern corner of the proposed building is in the grassy foreground of the image.**



**View looking north taken from the proposed location of the school (foreground) with the parking area for the trail head in the background. The property contains a gradual elevation change from Layhill Road for the proposed 15 foot-tall building.**

## PROJECT ANALYSIS

Reconsideration of the Site Plan is based upon the following issues raised by Mr. Kauffunger (Attachment B):

➤ **Review and Analysis of the Site Plan was not adequately performed by Staff**

Mr. Kauffunger argues that planning staff “did not perform the rigorous review and analysis” of the proposed site plan that was envisioned by House Bill 399-2003 requiring a site plan prior to the issuance of a sediment control permit for the property.

The site plan was submitted in April of 2005 and was reviewed by various staff from M-NCPPC and other agencies in accordance with Division 59-D-3 (Site Plan) in a sufficiently rigorous manner to allow staff to make all of the necessary findings including conformance to zoning standards, location of buildings and structures, open space, landscaping, lighting, recreation, compatibility, forest conservation and water resources. Comments and approval letters were received during the course of the review from the Montgomery County Department of Transportation, the Montgomery County Department of Permitting Services, State Highway Administration, Fire and Rescue and the internal departments within M-NCPPC. The letters were appended to the initial staff report (Attachment A).

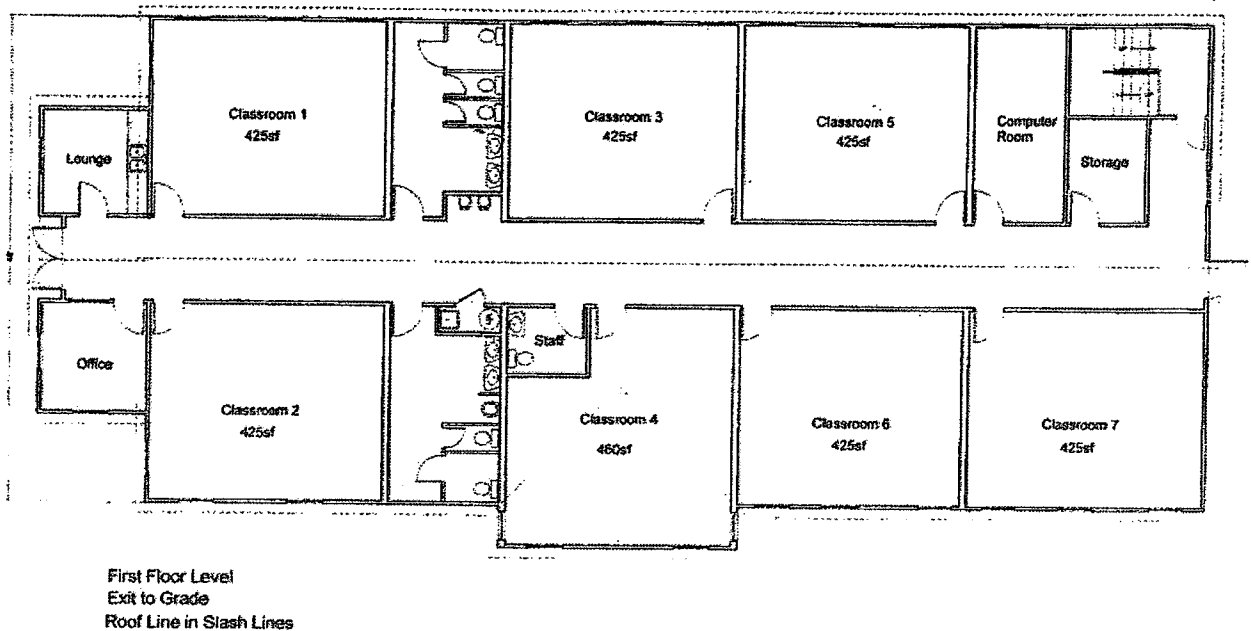
Staff does not believe there were any errors or oversights in the review of the site plan, nor has any new evidence been presented that would alter the findings that were made originally. Staff still believes that the site plan should be approved with the findings, recommendations and conditions originally accepted by the Board.

➤ **Location of the Proposed School Building**

Mr. Kauffunger argues that the Board should take a closer look at the location of the school building and whether the building as designed is larger than necessary for a school.

The proposed structure, which was analyzed in detail in the original staff report, called for the construction of an approximate “10,854 square foot modular unit building with a basement for classroom activities associated with the church”. The original staff report provided additional information indicating that the height of the proposed building would be 15 feet, which is relatively low in scale compared to the surrounding buildings and existing Church. This also addresses the issue of compatibility of the proposed building to the surrounding properties. The building is rectangular and is sited approximately 48 feet from Layhill Road. It fits well within the building envelope of this residual parcel, which was previously envisioned for acquisition by the State. Parking for patrons of the building is located in front with the primary office entrance on the south side. Locating the parking here puts it closer to the Church building and parking and furthest away from the parking for the trail head. A secondary access point into the proposed classroom is from the north side.

Mr. Kauffunger expressed concerns about the number of classrooms. The Applicant explained that the classrooms were needed to accommodate the current and proposed enrollment of 30 students, who are now being served in limited space in the existing Church facility. They pointed out that the proposed structure will also provide office space and storage. The basement will be used as a multi-purpose recreational room for the students as well as a lunch room.



➤ **Tree Clearing and Landscaping Mitigation & Screening between the Matthew Henson Trail parking area and the proposed school**

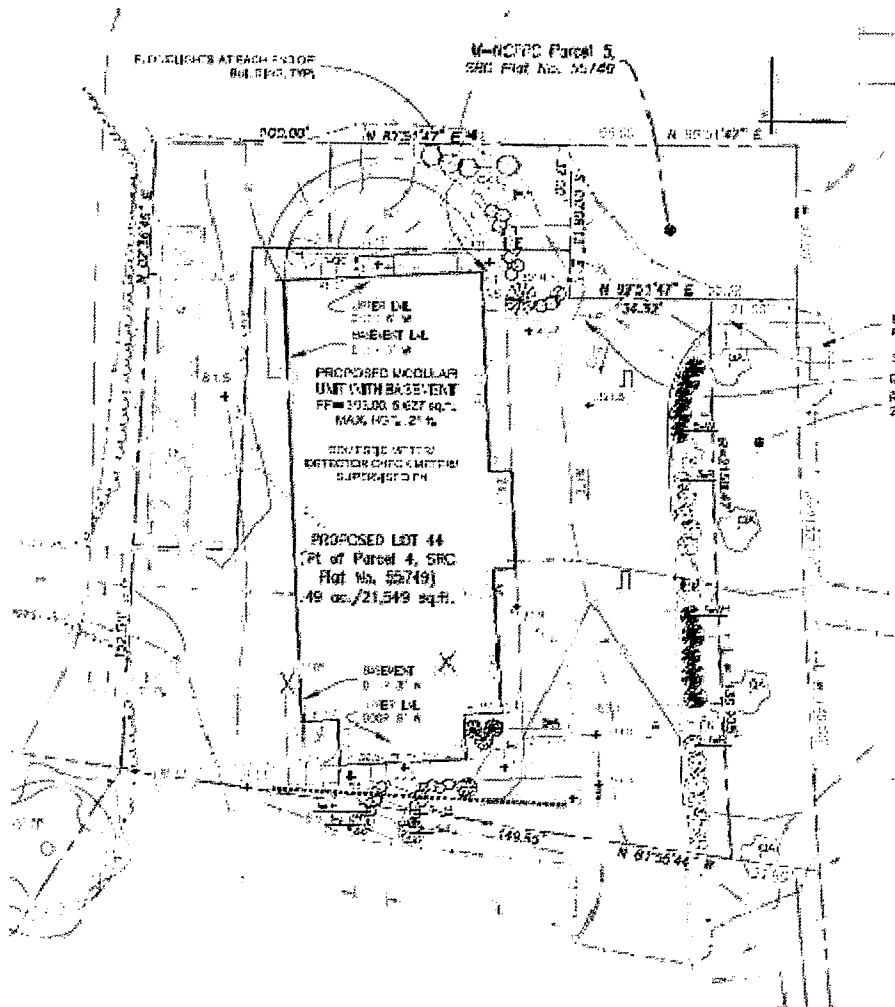
Mr. Kauffunger argues that tree clearing occurred on the property prematurely, and that the applicant should be required to perform tree planting that would screen the school from the adjacent Matthew Henson trail as a penalty.

The Maryland Department of Natural Resources (DNR) granted an exemption from the forest conservation requirements to allow minor clearing in August of 2001 (FCA-File#CO2-04), and the Department of Permitting Services granted approval of a sediment control permit (SC permit 203877). After the preliminary and site plans were filed in 2005, the Applicant was required to submit a forest conservation plan addressing the forest conservation requirements and account for the forest clearing with the applications.

The conditions of approval for the site plan and forest conservation plan require the applicant to obtain these approvals prior to any clearing and grading on the property. As conditioned in the original staff report, the applicant is responsible for mitigating any clearing associated with the proposed development. The staff report states, "...these impacts will be mitigated by either off-site reforestation or payment of a fee-in-lieu" (p.7).



The plan below is the submittal for the certified site plan indicating the additional foundation planting on the south side and buffer planting on the north side adjacent to the parking for the trail head. This planting is supplemental to the existing plant material installed by the Parks Department and will provide adequate screening.



- **Parking intended for Matthew Henson trail users will be used by people visiting the school.**

Mr. Kauffunger argues that the school building should be reoriented and that the entrance to the basement should be moved so as to discourage school visitors from using the trail parking.

This concern by Mr. Kauffunger was addressed, in part, at the public hearing for the site plan. The Board requested that our Parks Department place a sign at the trail parking lot restricting its use to trail users only and identifying the hours of operation for the public, in the hopes of further discouraging any parking by the patrons of the school. Since the proposed parking for the building provides an ample number of spaces to accommodate both pick-up and drop off of students as well as parking for the approximately 12 staff, many of whom currently carpool, staff still does not believe that the trailhead parking will be adversely affected.

The modular building fits soundly within the envelope of the lot and satisfies the building restriction lines as proposed. The proposed building would not be able to rotate lengthwise on the lot and meet development standards unless the access from the church parking lot to the shared access to Layhill Road was eliminated.

As previously discussed, the primary connection to the proposed building is from the south side and church parking lot, which emphasizes the location of the proposed office space and relationship with the church, not with the parking for the trail head.

## **CONCLUSION**

Staff carefully considered the concerns raised by Mr. Kauffunger. Staff believes that most of the concerns were adequately addressed in the original staff report, and that any others were resolved during the original hearing and in the proposed resolution. Staff finds that the proposed size of the building, its location, and the parking and landscaping that are being provided will not create any negative impacts for the trailhead or the surrounding community. Therefore, staff recommends that the Board's original approval of site plan 820050330A, Strathmore at Bel Pre, should stand and the attached resolution 08-162 should be adopted.

## **ATTACHMENTS**

- A. Previous Staff Report dated November 24, 2008
- B. Reconsideration Request Memorandum

## **Attachment A**





**MONTGOMERY COUNTY PLANNING DEPARTMENT**  
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

JAY/JC  
E/O

**Staff Report:**            **Preliminary Plan 120050870: Strathmore at Bel Pre, Lot 44**  
                                 **Site Plan 820050330: Strathmore at Bel Pre, Lot 44**

**ITEM #:** \_\_\_\_\_

**MCPB HEARING DATE:** December 4, 2008

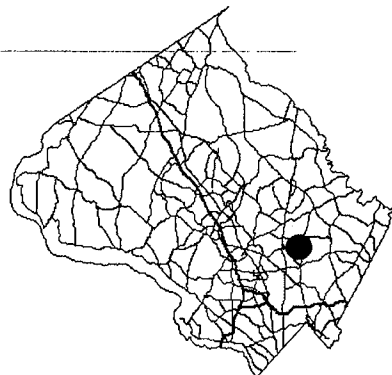
**REPORT DATE:** November 24, 2008

**TO:** Montgomery County Planning Board

**VIA:** Rose Krasnow, Chief  
Cathy Conlon, Supervisor  
Robert Kronenberg, Supervisor  
Development Review Division

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**APPLICATION**

**DESCRIPTION:** Proposal for a Preliminary Plan and Site Plan to create one 24,457 square foot (0.561 acres) lot for a private institutional use (modular unit classroom), in the R-90 Zone; located on Layhill Road west of the intersection with Middlevale Lane within the Aspen Hill Master Plan.

**APPLICANT:** Faith Arts Academy Inc.

**FILING DATE:** Preliminary Plan: April 13, 2005  
Site Plan: April 13, 2005

**RECOMMENDATION:** Approval with conditions

**EXECUTIVE**

**SUMMARY:** The proposed development would consist of one lot (lot 44) for the purpose of constructing a modular unit classroom for the Faith Arts Academy for a maximum of 30 students. The adjacent Faith Community Baptist Church has been using the subject parcel to accommodate overflow parking since 1999 on previously owned State Highway property. As a condition of the property acquisition, House Bill 399-2003 requires the Applicant to submit a preliminary plan and site plan for approval by MNCPPC regarding any proposed development on the subject property prior to issuance of a sediment control permit for new construction by Montgomery County.

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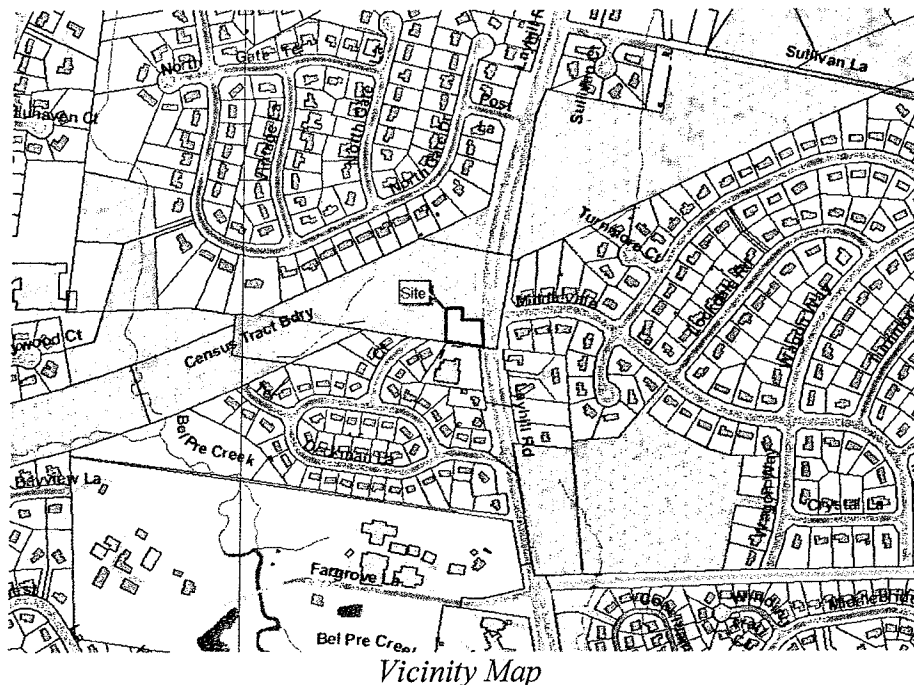
## SECTION 1: CONTEXT AND PROPOSAL

### BACKGROUND

In 2001, the Faith Community Baptist Church (the Church) entered into a Vacant Land Lease Agreement with the State Highway Administration (SHA) on behalf of the State of Maryland. The Lease allowed the Church to use 0.5 acres (Subject Property) of the SHA Parcel to accommodate overflow parking for the abutting property (Part of Lot 30, Block 39, of Strathmore at Bel-Pre), which is owned by the Church. Initially, the Church used the 0.5 acres for overflow and bus parking. The SHA originally acquired the lead for the construction of the Rockville Freeway. The Rockville Freeway project was eventually abandoned, and House Bill 399-2003 (Appendix A) authorized the conveyance of land from the State of Maryland to the M-NCPPC, except for the 0.5 acres of land (Subject Property), which was to be conveyed to the Church. House Bill 399-2003 specifically stated that "Montgomery County may not issue a sediment control permit for new construction within any portion of the conveyed land that was subject to a Lease Agreement prior to June 5, 2002, unless the Montgomery County Planning Board approves a preliminary plan and site plan for the proposed use on the subject property." In May, 2005, the SHA land was conveyed to the M-NCPPC (Liber 31761 Folio 458) to be used for the Mathew Hansen Trail, except for the 0.5 acres of land (Subject Property) that was conveyed to the Church in April, 2006 (Liber 32176 Folio 326). Both deeds reference SHA Plat 55749 (Appendix B) as the legal document depicting the newly established legal boundaries of the properties conveyed.

### SITE DESCRIPTION

The subject property, shown below, consists of one parcel totaling 24,457 square feet (0.561 acres) per SHA Plat 55749. The property is zoned R-90, and is located west of the intersection of Layhill Road and Middlevale Lane in the Aspen Hill Master Plan Area. The Subject Property abuts the Mathew Henson State Park mainly on the north and west property lines. The main trail access to the park and access to the Subject Property consists of an existing shared driveway from Layhill Road.





Properties to the immediate south and west of the subject property are zoned R-90, while properties east of Layhill Road are zoned R-200. The properties north of the site are zoned RE-2 and R-200. The Middlevale Neighborhood Park is located approximately 500 feet south of the subject property with frontage along the east side of Layhill Road. The site is in a neighborhood that is primarily comprised of one-family residences, and other religious and institutional uses including the Faith Community Baptist Church, the Barrie School, and the Thai Wat Buddhist Community Center. The site is located within the Northwest Branch watershed. The site has been cleared and has a driveway running parallel to Layhill Road and providing access to the adjacent church. The site remains otherwise undeveloped.



*Aerial Photo*

## PROJECT DESCRIPTION

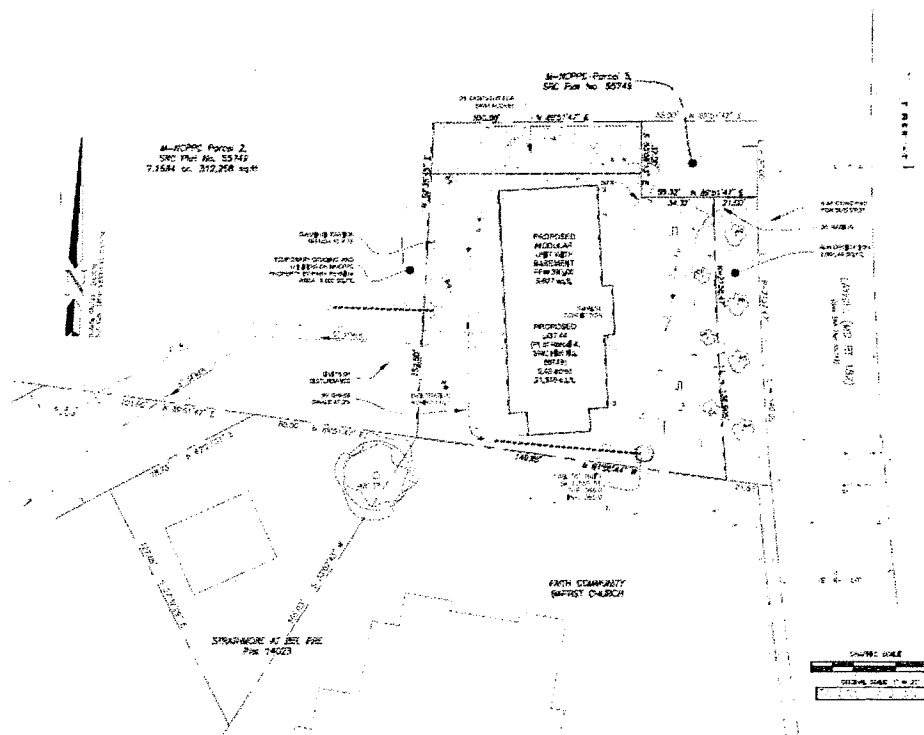
### Proposal

The application proposes to create one lot from the parcel that was previously leased from the SHA by the Faith Arts Academy of Faith Baptist Church and to construct a 10,854 square foot modular unit building with a basement for classroom activities associated with the Church. The Applicant has stated that the expected enrollment is about 30 children. The building is rectangular and is set back approximately 48 feet from Layhill Road. Access to the site is from Layhill Road directly across from the intersection with Middlevale Road and from the adjoining Faith Baptist Church parking lot. Twelve parking spaces are provided in front of the proposed building.

This project is adjacent to parkland where the master-planned Matthew Henson Trail has been constructed. Associated with the trail is trailhead parking from the shared access off of Layhill Road. This entrance, located on M-NCPPC property, will be used to access trail parking as well as the Church and proposed modular classroom. A public access easement is required for the Church for access across the M-NCPPC park property, specifically across Parcel 5 as identified by SHA Plat 55749, subject to the M-NCPPC Parks Department approval.

The Applicant will be clearing a limited area of forest for the construction of water and sewer connections to Deckman Court, and for the construction of a storm water management infiltration trench. A park permit and utility easement will be required for the clearing and construction of these utilities and storm water management trench, subject to the M-NCPPC Parks Department approval.

Street trees are provided along the Layhill Road frontage. Additional landscaping will need to be provided to buffer the proposed parking as well as foundation planting for the proposed classroom.



## COMMUNITY OUTREACH

The Applicant complied with all submission and noticing requirements at the time this project was submitted. One citizen submitted comments (Appendix C), dated June 16, 2005. The commenter raised a concern about the increased traffic entering and leaving Layhill Road directly across from the entrance to Middlevale Lane. The commenter also requested consideration of the installation of pedestrian signals at the intersection of Middlevale and Layhill Road.

The applicant is required to obtain an access permit from SHA prior to approval of a record plat. SHA will determine whether or not acceleration/deceleration lanes are required for this proposal, and SHA will also determine what improvements to the intersection are necessary to accommodate the expected traffic generated by the proposed use. The applicant will be responsible for all improvements necessary.

## SECTION 2: PRELIMINARY PLAN REVIEW

### ANALYSIS AND FINDINGS

#### Master Plan Compliance

The subject site is located within the 1994 Aspen Hill Master Plan area. The property is part of the right-of-way for the former Rockville Freeway, a transportation corridor which is no longer part of the County's street and highway plan and is now the Matthew Henson State Park. This property is part of the eastern segment of the park identified in the master plan as Parcel 13 (page 59). The master plan has general guidance regarding a future hiker/biker trail and park facilities within this park property. In staff's opinion, as long as this proposal does not interfere with the future use of this park as a countywide trail network, it is consistent with the general goals and objectives of the Master Plan. The proposed encroachment for water, sewer, and stormwater management to serve the school will not interfere with the use of the park due to the proposed location of these facilities as far from the trail as possible. Likewise, the shared access for the church/school and trailhead is not in conflict, because the church/school traffic is limited to ingress only at the shared access driveway. Therefore, staff finds the proposed subdivision complies with the Aspen Hill Master Plan.

#### Adequate Public Facilities Review

Places of worship and existing religious schools are not subject to Adequate Public Facilities (APF) review according to the provisions in the Montgomery County Code, Section 50-35(k)(7) "Exemptions." According to a traffic statement submitted on September 14, 2004 by the engineer for the applicant, this proposal qualifies for this exemption since the proposed use would accommodate students already attending the Faith Arts Academy, and no increase in enrollment is anticipated. The traffic statement was submitted for enrollment of 30 children.

#### Roads and Transportation Facilities

Adequate vehicular access to the school is limited to ingress only via the shared access driveway across the M-NCPPC property from Layhill Road. Vehicular traffic for the school will be one-way, and will continue onto the church property to the south, which contains a right-in-right-out curb cut on Layhill Road south of Middlevale Lane. The vehicular traffic generated by the school will exit via



the existing church access on Layhill Road. Adequate vehicular ingress and egress will be provided for the M-NCPPC trail parking lot via a full movement driveway at the intersection of Layhill Road and Middle Vale Lane. Pedestrian access is provided via a striped crosswalk driveway connecting the site to the existing house of worship and driveways connecting the site to the sidewalk on Layhill Road. Local Area Transportation and Policy Area Mobility Reviews are not required for this exempt use.

### **Other Public Facilities**

Public facilities and services are available and will be adequate to serve the proposed development. The property will be served by public water and sewer systems. The application has been reviewed by the Montgomery County Fire and Rescue Service who have determined that the Property has appropriate access for fire and rescue vehicles. Electrical, gas, and telecommunications services are also available to serve the Property.

### **Environment**

The applicant submitted a Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) for the subject site, which indicates there is 0.26 acres of forest on-site but no other environmental features.

A preliminary forest conservation plan was submitted with the preliminary and site plans. The proposed development will remove all forest existing on-site and will impact approximately 0.20 acres of MNCPPC park property. The off-site disturbance accommodates grading and an outfall for stormwater management, and the off-site water and sewer connections. Per the requirements of the Preliminary Forest Conservation Plan, these impacts will be mitigated by either off-site reforestation or payment of a fee-in-lieu.

### **Compliance with the Subdivision Regulations and Zoning Ordinance**

This application has been reviewed for compliance with the Montgomery County Code, Chapter 50, the Subdivision Regulations. The application meets all applicable sections. Access and public facilities will be adequate to support the proposed lot and use. The proposed lot size, width, shape and orientation are appropriate for the location of the subdivision.

The lot was reviewed for compliance with the dimensional requirements for the R-90 zone as specified in the Zoning Ordinance. The proposed lot will meet all the dimensional requirements for area, frontage, width, and setbacks in that zone. The application has been reviewed by other applicable county agencies, all of whom have recommended approval of the plan (Appendix D).

### **PRELIMINARY PLAN RECOMMENDATION AND CONDITIONS**

The proposed lot meets all requirements established in the Subdivision Regulations and the Zoning Ordinance and complies with the recommendations of the Aspen Hill Master Plan. Access and public facilities will be adequate to serve the proposed lots, and the application has been reviewed by other applicable county agencies, all of whom have recommended approval of the plan. Therefore, approval of the Preliminary Plan is recommended subject to the following conditions:

- 1) Approval under this preliminary plan is limited to one lot for a 10,854 square foot modular building for a private institutional use to accommodate a maximum of 30 children for the entire Faith Arts Academy School. Any increase in enrollment above 30 students will require APF review and a traffic study, which may result in additional improvements and requirements.
- 2) The record plat must provide for dedication of approximately 2,907 square feet of right-of-way along the property frontage to create a right-of-way for Layhill Road (MD Route 182) that is 75 feet wide as measured from the centerline ~~per the Aspen Hill Master Plan.~~
- 3) The proposed development is subject to Stormwater Management Concept approval conditions dated November 6, 2008, unless amended and approved by the Montgomery County Department of Permitting Services.
- 4) Any proposed church access through the M-NCPPC owned or managed property off of Layhill Road must be approved by the M-NCPPC Parks Department prior to its construction. Engineering details must be prepared by Applicant and submitted to the M-NCPPC Parks Department for approval prior to proceeding with construction. A park permit is required for construction of any church related access or grading on the park property.
- 5) The Applicant must enter into an Access Easement Agreement with the M-NCPPC that allows access to the church and related facilities through the entrance located on the M-NCPPC land. A draft Agreement must be submitted to the M-NCPPC staff for approval and execution prior to recordation of the plat.
- 6) The record plat must include a reference to the shared ingress easement over adjacent parkland.
- 7) The proposed development must comply with the conditions of the preliminary and final forest conservation plan. The applicant must satisfy all conditions prior to certification of site plan, recording of plat(s), or Montgomery County Department of Permitting Services (MCDPS) issuance of sediment and erosion control permits, as appropriate.
- 8) The Applicant must submit detailed engineering documents regarding alignment and construction of any proposed sewer and water lines and stormwater outfall proposed on parkland for M-NCPPC approval prior to construction. A park permit is required for construction of these lines and outfall.
- 9) Any necessary acceleration/deceleration lanes required by the State Highway Administration on Layhill Road when the Applicant constructs its access to the park/church entrance will be the sole responsibility of the Applicant.
- 10) The Applicant must comply with the conditions of the Montgomery County Department of Transportation (MCDOT) letter dated March 29, 2006, unless otherwise amended.
- 11) The Applicant must comply with the Maryland State Highway Administration (MDSHA) letter dated July 3, 2006.
- 12) The Applicant must satisfy provisions for access and improvements as required by MDSHA prior to issuance of access permits.
- 13) The record plat must show necessary easements.
- 14) The Adequate Public Facility (APF) review for the preliminary plan will remain valid for sixty-one (61) months from the date of mailing of the Planning Board resolution.

## Development Standards

The purposes of the R-90 Zone include: encourage social and community interaction and activity; provide a broad range of housing types; preserve and take the greatest possible aesthetic advantage of trees; provide for open space for the general benefit of the community; encourage pedestrian circulation networks; and assure compatibility and coordination of each development with existing and proposed surrounding land uses. Despite being located along the well-trafficked Bel Pre Road, development in this area has created an attractive neighborhood with one-family attached and detached homes, a variety of public open space, and a pedestrian network connecting these streets with surrounding and future developments. The plan includes a sizeable tree-save area and a new re-forestation area along Homecrest Road.

The following data table indicates the proposed development's compliance with the Zoning Ordinance.

*Project Data Table for the R-90 Zone*

Development Standard	Permitted/Required	Proposed for Approval
<b>Lot Area (square feet)</b>	9,000	26,136
<b>Max. Density</b>	N/A <sup>1</sup>	10,854 <sup>2</sup>
<b>Min. MPDUs (% of total du)</b>	Not Applicable	Not Applicable

<b>Min. Building Setbacks (ft.)</b>		
<i>From Street</i>	25	48
<i>Rear</i>	25	63
<i>Side</i>	8/25	12/44
<i>Min. lot width at BRL</i>	75	168
<i>Min. lot width at Street</i>	25	138
<b>Max. Building Height (ft.)</b>	35	15
<b>Max. Building Coverage (%)</b>	30	22
<b>Min. Lot Width (ft.)</b>	Not Specified	16
<b>Max. Parking Spaces</b>	Not Specified	12

<sup>1</sup> Density is limited by lot coverage for this use.

<sup>2</sup> Approximate footprint of the building is 5,427 square feet.



## FINDINGS

1. *The site plan conforms to all non-illustrative elements of a development plan or diagrammatic plan, and all binding elements of a schematic development plan, certified by the Hearing Examiner under Section 59-D-1.64, or is consistent with an approved project plan for the optional method of development, if required, unless the Planning Board expressly modifies any element of the project plan.*

The proposed development is not subject to a Development Plan, Diagrammatic Plan or Project Plan.

2. *The Site Plan meets all of the requirements of the zone in which it is located, and where applicable conforms to an urban renewal plan approved under Chapter 56.*

The Site Plan meets all of the requirements of the R-90 zone as demonstrated in the project Data Table on page 9.

3. *The locations of buildings and structures, open spaces, landscaping, recreation facilities, and pedestrian and vehicular circulation systems are adequate, safe, and efficient.*

- a. Locations of buildings and structures

The proposed modular classroom is sited an adequate distance from Layhill Road and proportionally on the site to accommodate the parking needs of the classroom and adjacent church activities. The location of the modular building is adequate, safe, and efficient.

- b. Open Spaces

The plan proposes approximately 22 percent building coverage, which is under the maximum allowed by 8 percent. The site has no green space requirement within the zone. The site has ample open space around the perimeter of the building, and the access to the adjacent park and church is adequate, safe, and efficient.

- c. Landscaping and Lighting

The proposed landscaping on the site consists of a double row of trees along Layhill Road. The application will need to provide additional planting in the parking lot areas and foundation planting around the proposed classroom. As amended, landscaping will provide for adequate, safe, and efficient site buffering and planting.

The lighting plan consists of wall-mounted fixtures on the building façade to provide for illumination and safety for church patrons of the classroom and parking areas. All site lighting will provide adequate, safe, and efficient site illumination.

- d. Recreation Facilities

The application is not subject to the Recreation Guidelines as this is not considered a residential project.

- e. Pedestrian and Vehicular Circulation Systems

Vehicular access to the school is limited to ingress only via the shared access driveway across the M-NCPPC property from Layhill Road for the school directly across from Middlevale Lane. The one-way access drive continues to the adjacent church property toward the south, which contains a right-in-right-out at Layhill Road. Pedestrian access is provided via a striped crosswalk driveway connecting the site to the existing church and driveways connecting the site to the sidewalk on Layhill Road. Local Area Transportation and Policy Area Mobility Reviews are not required for this exempt use.

Vehicular and pedestrian circulation is adequate, safe and efficient.

4. *Each structure and use is compatible with other uses and other site plans and with existing and proposed adjacent development.*

The proposed classroom is buffered adequately from properties to the north and creates an appropriate front onto Layhill Road. The development provides an extension of the adjacent church facility and is compatible with the other existing and proposed residential and institutional uses surrounding the site. The proposed buildings adequately transition to the existing church on the adjacent lot to the south.

5. *The Site Plan meets all applicable requirements of Chapter 22A regarding forest conservation, Chapter 19 regarding water resource protection, and any other applicable law.*

The subject site plan is in compliance with the development's approved Forest Conservation Plan.

The proposed storm water management concept approved on June 4, 2007, includes on-site channel protection measures via a dry pond and flow dispersion; on-site water quality control via sand filters, bio-filters, a proprietary filter with structural pretreatment, and non-structural methods; and on-site recharge via non-structural methods including dry wells and recharge trenches.

## **RECOMMENDATION AND CONDITIONS**

Approval of a 10,854 square foot classroom for church related functions to accommodate 30 students, on 0.50 acres. All site development elements as shown on the site, landscape, and lighting plans stamped by the M-NCPPC on September 5, 2008 are required except as modified by the following conditions:

1. Preliminary Plan Conformance

The proposed development must comply with the conditions of the approved Resolution for preliminary plan 120050870.

2. Site Plan

Approval under this preliminary plan is limited to one lot for a 10,854 square foot modular building for a private institutional use to accommodate a maximum of 30 children for the entire Faith Arts Academy School. Any increase in enrollment above 30 students will require APF review and a traffic study, which may result in additional improvements and requirements.

3. Park Planning and Stewardship

The Applicant shall comply with the following conditions as outlined in the Staff memorandum date September 15, 2008 from Park Planning and Stewardship:

- a. Any proposed church access through M-NCPPC owned or managed property off of Layhill Road must be approved by M-NCPPC staff prior to its construction. Engineering details must be prepared by Applicant and submitted to M-NCPPC staff for approval prior to proceeding with construction. A park permit is required for construction of any church related access or grading on the park property.
- b. Applicant to prepare an Access Easement Agreement that allows Church users to access the church and related facilities through the entrance located on M-NCPPC land. This proposed Agreement to be submitted to M-NCPPC staff for approval and execution prior to any construction by Applicant of a connection to the park entrance.
- c. Applicant to submit detailed engineering documents regarding alignment and construction of any proposed sewer and water lines and stormwater outfall proposed on parkland for M-NCPPC approval prior to construction. A park permit is required for construction of these lines and outfall.
- d. Any necessary acceleration/deceleration lanes required on Layhill Road when the Applicant constructs its access to the park/church entrance will be the sole responsibility of the Applicant.

4. Lighting

- a. On-site street and parking lot downlighting fixtures must be full cut-off fixtures;
- b. Deflectors must be installed on all up-lighting fixtures causing potential glare or excess illumination;
- c. Illumination levels, excluding streetscape light fixtures, shall not exceed 0.5 footcandles (fc) at any property line abutting county roads or adjacent residential properties.

5. Landscaping & Environment

- a. Provide a more common variety of street tree along Layhill Road.
- b. Provide additional foundation planting in the front of the proposed building.

6. Forest Conservation

The proposed development shall comply with the conditions of the preliminary forest conservation plan. The applicant shall satisfy all conditions prior to recording of plat(s) or Montgomery County Department of Permitting Services (MCDPS) issuance of sediment and erosion control permits:

- a. Approval of final forest conservation plan consistent with the approved preliminary forest conservation plan prior to any clearing, grading or demolition on the site.
- b. The final forest conservation plan must reflect all requirements found in Section 109.B of the Forest Conservation Regulations (COMCOR 18-01AM). The includes:
  - i. A method of meeting this plan's planting requirements
  - ii. If off-site reforestation/afforestation is chosen, a reforestation/afforestation plan with full planting plan, location and maintenance plan must be included as part of the submission.
- c. A certified arborist must be present at the pre-construction meeting, during construction, and after construction to implement specific tree protection measures as identified on the forest conservation plan.
- d. All financial security must be submitted to M-NCPPC prior to any demolition, clearing, or



grading on the subject property.

7. Stormwater Management

The proposed development is subject to Stormwater Management Concept approval conditions dated June 4, 2007, unless amended and approved by the Montgomery County Department of Permitting Services.

8. Development Program

The Applicant must construct the proposed development in accordance with the Development Program. A Development Program shall be reviewed and approved by M-NCPPC staff prior to approval of the Certified Site Plan. The Development Program shall include a phasing schedule as follows:

- a. Offsite easements/agreements must be executed prior to clearing and grading;
- b. Final paving and striping must be completed within six months of the occupancy of the classroom;
- c. Landscaping, including the street trees and foundation planting, and the on-site lighting must be completed within six months of the occupancy of the proposed building;
- d. Specify phasing of pre-construction meetings, dedications, sediment/erosion control, or other features.

9. Clearing and Grading

Applicant must ensure that there is no clearing or grading of the subject site prior to M-NCPPC approval of the Certified Site Plan.

10. Certified Site Plan

Prior to Certified Site Plan approval the following revisions shall be included and/or information provided, subject to staff review and approval:

- a. Minor corrections and clarifications to site details and labeling;
- b. Minor corrections to the data table for parking;
- c. Additional foundation planting and changes to the plant list;
- d. Development Program, Inspection Schedule, and Site Plan Resolution.

## **APPENDICES**

- A. House Bill 399-2003
- B. SHA Plat 55749
- C. Citizen Correspondence
- D. Reviewing Agency Approvals

## **APPENDIX A: House Bill 399-2003**

## HOUSE BILL 399

L2

3lr0502

By: **Montgomery County Delegation**

Introduced and read first time: February 5, 2003

Assigned to: Environmental Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 20, 2003

### CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Montgomery County - Matthew Henson State Park - Expansion**

3 **MC 305-03**

4 **FOR the purpose of expanding the boundaries of Matthew Henson State Park**  
5 **excepting a certain parcel of land from inclusion in Matthew Henson State Park**  
6 **directing a transfer of certain parcels of land from the State Highway**  
7 **Administration of the Maryland Department of Transportation to the**  
8 **Maryland-National Capital Park and Planning Commission; requiring the**  
9 **consent of the Maryland-National Capital Park and Planning Commission for a**  
10 **certain transfer of land; prohibiting Montgomery County from issuing a**  
11 **sediment control permit for certain land unless certain conditions are met**  
12 **expanding the jurisdiction of the park police of the Maryland-National Capital**  
13 **Park and Planning Commission within Matthew Henson State Park; making**  
14 **certain technical corrections; and generally relating to the Matthew Henson**  
15 **State Park.**

16 BY repealing and reenacting, with amendments,

17 Article - Natural Resources

18 Section 5-1004

19 Annotated Code of Maryland

20 (2000 Replacement Volume and 2002 Supplement)

21 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
22 MARYLAND, That the Laws of Maryland read as follows:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



## Article - Natural Resources

2 5-1004.

3 (a) (1) The lands between Viers Mill Road and Georgia Avenue described in  
4 the 1980 Highway Needs Inventory as the right-of-way reserved for the Rockville  
5 facility in Montgomery County, being owned by the State, shall be:

6 (i) Designated as the Matthew Henson State Park; and

7 (ii) Held by the State as a State park under the protection and  
8 administration of the Department.

9 (2) MATTHEW HENSON STATE PARK SHALL ALSO INCLUDE:

10 ~~(I) THE LAND IDENTIFIED IN THE ASPEN HILL MASTER PLAN AS~~  
11 ~~SIGNIFICANT PARCEL 13, WITH THE EXCEPTION OF ANY LAND THAT WAS THE~~  
12 ~~SUBJECT OF A LEASE BETWEEN ANY PERSON AND AN AGENCY OF THE STATE~~  
13 ~~GOVERNMENT AS OF ON OR BEFORE JUNE 5, 2002; AND~~

14 (II) THE STATE-OWNED LAND BORDERING ON THE NORTHEAST  
15 PORTION OF SIGNIFICANT PARCEL 13 IN THE ASPEN HILL MASTER PLAN.

16 (3) Except as provided in subsection (c) of this section, the Department  
17 shall exercise the same power of adopting regulations and managing Matthew  
18 Henson State Park as is done for any other State park.

19 (b) (1) Any land acquired under subsection (a) of this section is subject to all  
20 of the public general laws enacted by the General Assembly that are not inconsistent  
21 with this section. However, the provisions of this section prevail over any other State  
22 law enacted before July 1, 1989.

23 (2) If specifically authorized by an act of the General Assembly, a part of  
24 the Matthew Henson State Park may be used for transportation purposes.

25 (c) (1) Subject to the availability of local, State, or federal funds, including  
26 any necessary matching funds, and subject to the provisions of paragraph (2) of this  
27 subsection:

28 (i) A hiker/biker or other recreational trail may be constructed  
29 within Matthew Henson State Park[, ~~provided that, with the exception of property~~  
30 ~~purchased with advanced land acquisition revolving funds, the publicly owned portion~~  
31 ~~of the property identified as Significant Parcel No. 13 in the Aspen Hill Master Plan~~  
32 ~~is permanently made a part of Matthew Henson State Park]; and~~

33 (ii) A public pavilion, named in honor of Senator Idamae Garrett,  
34 may be constructed within Matthew Henson State Park.

1 (2) Prior to the construction of a hiker/biker or other recreational trail or  
2 pavilion in Matthew Henson State Park, the Department of Natural Resources or  
3 other appropriate governmental agency shall:

4 (i) Review all studies concerning the environmental impact and  
5 trail alignment options prepared for the Montgomery County [Parks Commission]  
6 PLANNING BOARD;

7 (ii) Determine that construction, including the location and method  
8 of construction, is consistent with the environmentally sensitive nature of the Park  
9 and is in the public interest; and

10 (iii) Obtain the approval of the Montgomery County [Parks  
11 Commission] PLANNING BOARD, the Montgomery County Council, and the County  
12 Executive.

13 SECTION 2. AND BE IT FURTHER ENACTED, That, in furtherance of the  
14 construction of a hiker/biker trail in Matthew Henson State Park, ownership of the  
15 following parcels shall be transferred ~~at no cost~~ from the State Highway  
16 Administration of the Maryland Department of Transportation to the  
17 Maryland-National Capital Park and Planning Commission before December 31,  
18 2003:

19 (1) N42, MDAT, Tax Map for Mont. Co. No. HR 561, Grid HR 51,  
20 consisting of 5.00 acres, more or less, unimproved;

21 (2) N596, MDAT, Tax Map for Mont. Co. No. JR 122, Grid JR 12,  
22 consisting of 2.20 acres, more or less, unimproved;

23 (3) N134, MDAT, Tax Map for Mont. Co. No. JR 122, Grid JR 22,  
24 consisting of 8.26 acres, more or less, unimproved;

25 (4) N106, MDAT, Tax Map for Mont. Co. No. JR 342, Grid JR 32,  
26 consisting of 3.15 acres, more or less, unimproved;

27 (5) N223, MDAT, Tax Map for Mont. Co. No. JR 342, Grid JR 32,  
28 consisting of 9.97 acres, more or less, unimproved;

29 (6) Parcel 2, SHA Plat No. 55749 (issued Sept. 24, 2001), consisting of  
30 7.83 acres, more or less, unimproved, except that portion of Parcel 2 that was the  
31 subject of a lease between any person, group, organization, or entity and an agency of  
32 State government ~~as of~~ on or before June 5, 2002; and

33 (7) Parcel 3, SHA Plat No. 55749 (issued Sept. 24, 2001), consisting of  
34 0.96 acres, more or less, unimproved.

35 ~~Any conveyance by the State Highway Administration of the portion of Parcel 2~~  
36 ~~that was the subject of a lease between any person, group, organization, or entity and~~  
37 ~~an agency of State government as of on or before June 5, 2002 shall require the~~  
38 ~~consent of the Maryland-National Capital Park and Planning Commission.~~



## HOUSE BILL 399

1 Montgomery County may not issue a sediment control permit for new  
2 construction within any portion of Parcel 2 that was the subject of a lease agreement  
3 between any person, group, organization, or entity and an agency of State  
4 government on or before June 5, 2002 unless the Montgomery County Planning Board  
5 approves;

6 (1) a preliminary plan under Chapter 50 of the Montgomery County  
7 Code; and

8 (2) a site plan under Chapter 59 of the Montgomery County Code.

9 SECTION 3. AND BE IT FURTHER ENACTED, That the Department of  
10 Natural Resources shall enter into an agreement with the Maryland-National  
11 Capital Park and Planning Commission to allow park police officers of the  
12 Commission to exercise police jurisdiction within Matthew Henson State Park, as the  
13 Park is described in § 5-1004(a) of the Natural Resources Article.

14 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect  
15 October 1, 2003.

Approved:

\_\_\_\_\_  
Governor.

\_\_\_\_\_  
Speaker of the House of Delegates.

\_\_\_\_\_  
President of the Senate.

## **APPENDIX B: SHA PLAT 55749**

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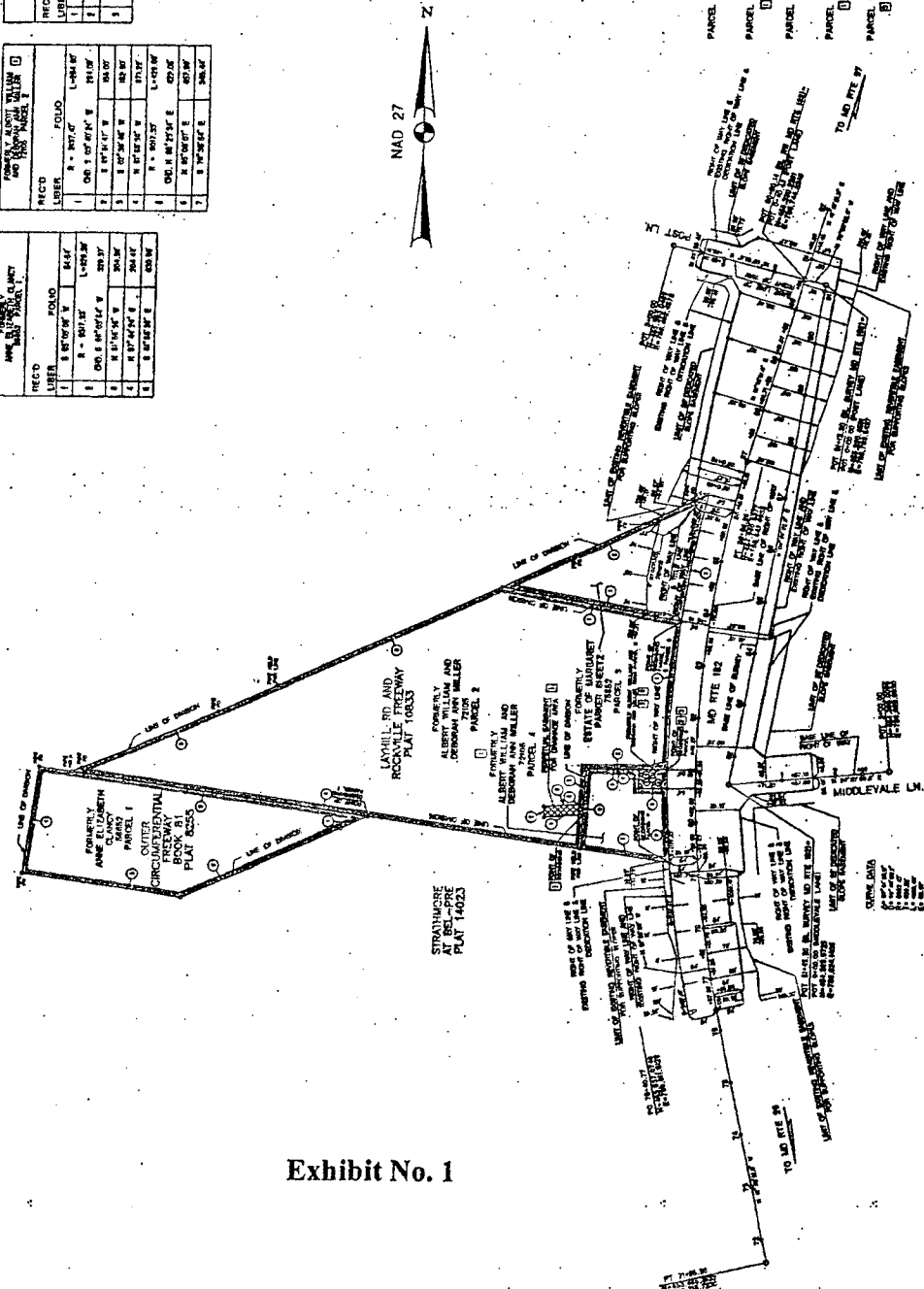
PREVIOUSLY KNOWN WILLIAM AND JANE WILSON 71005 PARCEL 2		1 2 3 4		LIBER 1 2 3 4	FOLIO 1 2 3 4	70-46 70-47 70-48 70-49	PERPETUAL EASEMENT AREA LOW 80 FT ON 6000 ACRES, SHOWN THUS:
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	LIBER		
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	2	CHD. 8 000.3714 E	33.307
	3	W 000' 147' W	32.000
	4	W 000' 000' 13 E	32.000
	5	W 000' 00' 47' E	32.000

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LIBER			
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3	2078.47	204.00	
4	2075.50	182.00	
5	2075.50	271.00	
6	2077.37	L-209.00	
7	2077.37	429.00	
8	2077.37	407.00	
9	2075.50	304.00	

REC'D		FOLIO	
LIBR			
1	8 85' 00" W	84.5'	
2	8 80' 30" W	84.25'	
3	8 80' 00" W	84.0'	
4	8 77' 45" W	83.75'	
5	8 77' 15" W	83.5'	



**Exhibit No. 1**

PANEL 1:	A	AREA CONVERTED ON TO BE COMPLETED BY THE STATE HIGHWAY ADMINISTRATION - STATE ROADS COORDINATES	SHOWS THIS:
		8	
		SOFT ON 7.96H	ACRES
		34.6N	
		SOFT ON 7.96H	ACRES
		34.6N	
PANEL 2:	B	AREA CONVERTED ON TO BE COMPLETED BY THE STATE HIGHWAY ADMINISTRATION - STATE ROADS COORDINATES	SHOWS THIS:
		8	
		SOFT ON 7.96H	ACRES
		34.6N	
		SOFT ON 7.96H	ACRES
		34.6N	
PANEL 3:	C	AREA CONVERTED ON TO BE COMPLETED BY THE STATE HIGHWAY ADMINISTRATION - STATE ROADS COORDINATES	SHOWS THIS:
		8	
		SOFT ON 7.96H	ACRES
		34.6N	
		SOFT ON 7.96H	ACRES
		34.6N	
PANEL 4:	D	AREA CONVERTED ON TO BE COMPLETED BY THE STATE HIGHWAY ADMINISTRATION - STATE ROADS COORDINATES	SHOWS THIS:
		8	
		SOFT ON 7.96H	ACRES
		34.6N	
		SOFT ON 7.96H	ACRES
		34.6N	

STATE OF MARYLAND  
DEPARTMENT OF TRANSPORTATION  
STATE HIGHWAY ADMINISTRATION  
STATE ROADS COMMISSION

PORT OF WAY PROJECT  
PRINT OF WAY PROJECT NO. 100  
SERIAL AND PROJECT NO. 100-55749

SCALE 1" = 100'

PLAT NO. 55749

UNITED IN	MONTGOMERY	COUNTY
APPROVED BY	PLANT AND NURSERY DIVISION	
CONSTRUCTION PROJECT:	160 PTE. 113 LAYWELL RD	ISSUED FOR AWARD DRAWING NO. 100-000
CONSTRUCTION PROJECT NO.	BRIDGES RD TO LAYWELL RD	MSB-590-71

NAME	REVISED	DATE OF FILING
5142	06/07/03	4828
5271	06/06/04	4842
5285	06/06/04	4847
5381	06/06/04	4852
57064	06/06/04	4857

[illegible][illegible][illegible]

## APPENDIX C: Citizen Correspondence

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DK.

**SPRING RIDGE ESTATES HOMEOWNERS ASSOCIATION, INC.**  
c/o Kent Kester, MD, 1422 Squaw Hill Lane, Silver Spring, MD 20906  
301-603-0616

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June 16, 2005

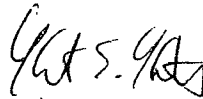
Development Review Division  
Montgomery County Department of Park and Planning  
8787 Georgia Avenue  
Silver Spring, MD 20910

Ref: File # 1-05087 and 8-05033

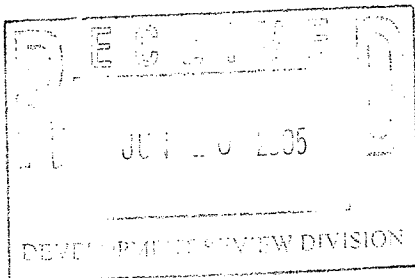
To Whom It May Concern:

In reviewing the plans for this proposed development, there is concern that the construction and use of the new structure will result in increased traffic entering and leaving Layhill Road directly across from the entrance to Middlevale Lane. Accordingly, it is suggested that the current three-way traffic signal be upgraded to a four-way traffic signal. In addition, given that there are likely to be larger numbers of pedestrians present, it is also requested that consideration be given to the installation of pedestrian signals at the intersection of Middlevale and Layhill (and the new driveway in the proposed development) to facilitate the timely changing of the traffic signals when pedestrians are waiting to cross the Layhill Road.

Sincerely,



KENT E. KESTER, MD  
President, Spring Ridge Homeowners Association, Inc.





## **APPENDIX D: MEMORANDA FROM AGENCIES**



DEPARTMENT OF PUBLIC WORKS  
AND TRANSPORTATION

Douglas M. Duncan  
*County Executive*

Arthur Holmes, Jr.  
*Director*

March 29, 2006

Ms. Catherine Conlon, Subdivision Supervisor  
Development Review Division  
The Maryland-National Capital  
Park & Planning Commission  
8787 Georgia Avenue  
Silver Spring, Maryland 20910-3760

RE: Preliminary Plan # 1-05087  
Strathmore at Bel Pre

Dear Ms. Conlon:

We have completed our review of the preliminary plan dated April 13, 2005. This plan was reviewed by the Development Review Committee at its meeting on May 23, 2005. We recommend approval of the plan subject to the following comments:

All Planning Board Opinions relating to this plan or any subsequent revision, project plans or site plans should be submitted to DPS in the package for record plats, storm drain, grading or paving plans, or application for access permit. Include this letter and all other correspondence from this department.

1. Show all existing planimetric and topographic details (paving, storm drainage, driveways adjacent and opposite the site, sidewalks and/or bikeways, bus stops, utilities, etc.) as well as existing rights of way and easements on the preliminary plan.
2. Prior to approval of the record plat by DPS, submit storm drain and/or flood plain studies, with computations, for DPS's review and approval. Analyze the capacity of the existing downstream public storm drain system and the impact of the post-development ten (10) year storm runoff on same. If the proposed subdivision drains to an existing closed section street, include spread computations in the impact analysis.

The limits of the floodplain and the building restriction lines are to be shown on the plan where applicable. The floodplain is to be dimensioned from the property line.



Office of the Director


101 Monroe Street, 10th Floor • Rockville, Maryland 20850-2540 • 240/777-7170, FAX 240/777-7178  
*Located one block west of the Rockville Metro Station*

3. Dedicate right-of-way and easements along MD 182 if required by MSHA.
  4. Provide on-site handicap access facilities, parking spaces, ramps, etc. in accordance with the Americans with Disabilities Act.
  5. Access and improvements along Layhill Road (MD 182) as required by the Maryland State Highway Administration.
  6. Relocation of utilities along existing roads to accommodate the required roadway improvements shall be the responsibility of the applicant.
  7. Permit and bond will be required as a prerequisite to DPS approval of the record plat. The permit will include, but not necessarily be limited to, the following improvements:
    - A. If the aforementioned storm drain study indicates the need to improve the existing storm drainage system, provide enclosed storm drainage and/or engineered channel (in accordance with the DPWT Storm Drain Design Criteria) within the County rights-of-way and all drainage easements, as appropriate.
    - B. Permanent monuments and property line markers, as required by Section 50-24(e) of the Subdivision Regulations.
    - C. Erosion and sediment control measures as required by Section 50-35(j) and on-site stormwater management where applicable shall be provided by the Developer (at no cost to the County) at such locations deemed necessary by the Department of Permitting Services (DPS) and will comply with their specifications. Erosion and sediment control measures are to be built prior to construction of streets, houses and/or site grading and are to remain in operation (including maintenance) as long as deemed necessary by the DPS.
    - D. Coordinate with Jeff Dunckel, Division of Transit Services about upgrading the existing bus stop location to include a 5'x8' clear concrete ADA Landing area on southbound Layhill Road on the far side of Middlevale Road at Bus Stop No. 3572
-

Ms. Catherine Conlon  
Preliminary Plan No. 1-05087 Strathmore at Bel Pre  
Page 3

Thank you for the opportunity to review this preliminary plan. If you have any questions or comments regarding this letter, please contact me at [greg.leck@montgomerycountymd.gov](mailto:greg.leck@montgomerycountymd.gov) or (240) 777-2197.

Sincerely,



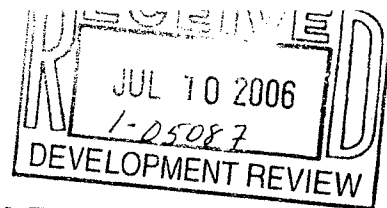
Gregory M. Leck, Manager  
Traffic Safety Investigations and Planning Team  
Traffic Engineering and Operations Section

M:/subd/DCA/1-05087 Strathmore at Bel Pre 1/30

Enclosure (1)

cc: Joseph Y. Cheung; MCDPS Subdivision Development  
Christina Contreras; MCDPS Subdivision Development  
Dominique Harris, Faith Community Baptist  
Walter J. Petzold, Oyster, Imus, & Petzold, Inc.  
Shahriar Etemadi, MNCPPC Transportation Planning  
Ray Burns, MSHA

# COPY



Robert L. Ehrlich, Jr., *Governor*  
Michael S. Steele, *Lt. Governor*

Robert L. Flanagan, *Secretary*  
Neil J. Pedersen, *Administrator*

MARYLAND DEPARTMENT OF TRANSPORTATION

July 3, 2006

Mr. Walter J. Petzold, P.E.  
Oyster, Imus & Petzold, Inc.  
11230-B Grandview Avenue  
Wheaton, Maryland 20902

Re: Montgomery County  
Strathmore @ Bel Pre, Lot 44  
Site Plan # 8-05033  
MD 182 @ Middlevale Lane  
Mile Post: 1.55

Dear Mr. Petzold:

The State Highway Administration (SHA) received your preliminary plan, site plan and June 5, 2006 letter to the Montgomery County Department of Public Works and Transportation (DPWT) on June 12, 2005. We offer the following comments:

- The proposed MD 182 entrance is located at the same location for the proposed Matthew Henson Hiker/Biker Trail. See the attached June 9, 2006 letter to the M-NCCPC regarding this proposed trail entrance. SHA supports a shared entrance for the proposed Faith Arts Academy and Matthew Henson Trail parking lot. Please coordinate with M-NCCPC and determine who will be constructing this proposed entrance. The plans should be revised to show who will construct this entrance and who will construct a spur off the new driveway/entrance.
- Comment #5 in your June 5<sup>th</sup> letter to DPWT states "The proposed entrance exceeds normal SHA standards". SHA's minimum commercial entrance standard requires a 25' width with 30' turning radii. Please revise the proposed entrance accordingly. We neglected to mention this in our June 9<sup>th</sup> letter to M-NCCPC. The inbound turning radius is constrained by the MD 182 crosswalk and need for proper alignment with Middlevale Avenue. The proposed 15' inbound radius is acceptable. Please revise the outbound radius to 30'.
- The proposed trail parking lot alone does not warrant the construction of acceleration or deceleration lanes. The combination of the trail parking lot and proposed 26,136 square foot modular building may warrant turn lanes. Please submit a traffic statement and/or trip generation and distribution numbers to this office and we will determine if acceleration and/or deceleration lanes are required.
- Right-of-way dedications need to be in accordance with the Master Plan of Highways. SHA will require that right-of-way dedications be platted to SHA standards. These plats must be submitted in hard copy format for review and final issuance. Please contact Mr. Daniel Andrews of the Plats and Surveys Division at 410-545-8860 or [dandrews@sha.state.md.us](mailto:dandrews@sha.state.md.us) for additional information.

My telephone number/toll-free number is \_\_\_\_\_

Maryland Relay Service for Impaired Hearing or Speech: 1.800.735.2258 Statewide Toll Free

Street Address: 707 North Calvert Street • Baltimore, Maryland 21202 • Phone: 410.545.0300 • [www.marylandroads.com](http://www.marylandroads.com)





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## FIRE MARSHAL COMMENTS

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DATE: 11-17-06  
TO: PLANNING BOARD, MONTGOMERY COUNTY  
VIA:  
FROM: JOHN FEISSNER 240 777 2436  
RE: STRATHMORE AT BEL PRE #1-05087 & 4-05088

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### 1. PLAN APPROVED.

- a. Review based only upon information contained on the plan submitted 11-17-06. Review and approval does not cover unsatisfactory installation resulting from errors, omissions, or failure to clearly indicate conditions on this plan
- b. Correction of unsatisfactory installation will be required upon inspection and service of notice of violation to a party responsible for the property.

Note: Alternatives to achieve compliance were provided.

cc: Department of Permitting Services

## **Attachment B**

OFFICE OF  
THE GENERAL COUNSEL(301) 495-4646  
FAX (301) 495-2173

July 6, 2009

**REQUEST FOR RECONSIDERATION****MEMORANDUM**

TO: Montgomery County Planning Board

FROM: David B. Lieb, Associate General Counsel *DBL*  
301.495.4646

RE: Reconsideration Request for Strathmore at Bel Pre,  
Preliminary Plan No. 120050870 and Site Plan No. 820050330

With this memorandum we forward for the Board's review a request for reconsideration of the Strathmore at Bel Pre preliminary and site plan approvals filed by Richard Kauffunger.

**I. BACKGROUND**

At its December 4, 2008 meeting, the Board approved the Strathmore at Bel Pre preliminary and site plans by a 5-0 vote, on motion of Commissioner Alfandre, seconded by Commissioner Cryor. The resolutions memorializing the Board's approval were mailed on April 24, 2009.

The Board approved the Strathmore at Bel Pre preliminary and site plans to create a single lot for use by the Faith Arts Academy, a school affiliated with the Faith Community Baptist Church. The preliminary plan approval limits enrollment at the school to 30 students.

Mr. Kauffunger filed a request for reconsideration of the preliminary plan resolution on May 3, 2009, and of the site plan resolution on May 15, 2009.<sup>1</sup>

<sup>1</sup> Under the Board's Rules of Procedure, a petition for reconsideration must be filed within 10 days of the date of mailing of the Board's resolution. Mr. Kauffunger's request

Mr. Kauffunger cites several grounds for his reconsideration request, which we will discuss below.

## **II. APPLICABLE RULES**

A reconsideration request must "specify any alleged errors of fact or law and state fully all grounds for reconsideration because of mistake, inadvertence, surprise, fraud, or other good cause." The Board is responsible for determining if the grounds stated in support of the reconsideration request are sufficient to merit reconsideration.

Only a Board member who voted in the majority of the decision that is the subject of the request for reconsideration can move to reconsider the decision. In this case, all Board members are eligible to move for reconsideration. If there is no motion for reconsideration, the request for reconsideration is denied. Any motion to reconsider must be supported by a majority of the Board members present who either participated in the previous decision or read the record on which it was based.

## **III. RECONSIDERATION REQUESTS**

### **A. The Preliminary Plan**

Mr. Kauffunger requests that the Board reconsider its approval of the preliminary plan on two principle grounds.

First, he argues that there is a question about the identity of the applicant. The preliminary plan resolution lists Faith Community Baptist Church as the applicant, but Faith Arts Academy, Inc. is the legal owner of the property. Mr. Kauffunger argues that this discrepancy is significant, because it raises questions about whether the school will be used for church activities. In this case, we understand Faith Community Baptist Church to be acting as the agent of Faith Arts Academy, as allowed by 50-34 of the subdivision regulations.<sup>2</sup>

Second, he argues that the preliminary plan should not be approved because no site plan had been approved for the property, as required by state law. Mr. Kauffunger's belief that no site plan had been approved for the property derived from the fact that at the time he filed his request for reconsideration of the preliminary plan he had not received the site plan resolution. But even if no site plan had been yet been approved for the property, it would still not be a reason for the Board to reconsider its approval of

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for reconsideration of the site plan resolution was not filed within this deadline. But because the preliminary and site plan resolutions were not timely mailed to Mr. Kauffunger, we recommend that the Board treat his reconsideration requests as though they had been timely filed.

<sup>2</sup> Section 50-34(b) provides that "[t]he subdivider or his agent shall file the preliminary subdivision plan...." Section 50-34(c) provides that "[w]ritten application by the owner or agent must be filed with each preliminary plan...."

the preliminary plan. The state law that applies to this property restricts the issuance of a sediment control permit for the property until the Board has approved preliminary and site plans. It does not tie the approval of a preliminary plan to the approval of a site plan.

~~Based on these alleged defects in the preliminary plan approval, Mr. Kauffunger~~ requests that the Board grant reconsideration to:

- (a) Identify the owner/applicant.
- (b) Identify the activities and programs to be conducted in the proposed building on the subject site by the respective owner/applicant.
- (c) Identify any trailers or out buildings to be located on the subject site to support activities/programs.
- (d) Identify the traffic implications of having a wider range of activities/programs if the church occupies the subject site.
- (e) Insure that there is sufficient storm water/sediment control and landscaping to protect the surrounding parkland from expanded activities and programs.
- (f) Insure that the facilities and activities are compatible and harmonious with the adjacent public parkland and surrounding neighborhoods.

## **B. The Site Plan**

In his request for reconsideration of the site plan resolution, Mr. Kauffunger incorporates the arguments contained in his request for reconsideration of the preliminary plan, and makes several others.

First, Mr. Kauffunger argues that planning staff "did not perform the vigorous review and analysis" of the proposed site plan that was envisioned by the state legislators who made site plan approval a condition of the issuance of a sediment control permit for this property. See Attachment 5. But the state law requiring site plan approval for this property did not establish more rigorous site plan review standards than normally apply at site plan. The planning staff's and the Planning Board's review of the site plan was based on the same standards that apply to any other site plan.

Second, Mr. Kauffunger argues that the Board should reconsider its approval of the preliminary plan to take a closer look at the manner in which the school building, which is to be located on the newly created lot, will be used. Specifically, he argues that the school building is designed to be larger than necessary for a school, and that the Board should conduct an inquiry into how the excess space will be used.

Third, Mr. Kauffunger argues that tree clearing has been performed on the property prematurely, and that the applicant should be required to perform tree planting that would screen the school from the adjacent Matthew Henson trailhead as a penalty. We note that in reviewing the certified site plan for the school, planning staff are working

to ensure that the screening between the Matthew Henson parking area and the school will be adequate.

Fourth, Mr. Kauffunger argues that parking intended for Matthew Henson trail users will be used by people visiting the school. He argues that the school building should be reoriented and that the entrance to the school basement should be moved so as to discourage school visitors to use the trail parking.

#### **IV. RECOMMENDATION**

We do not believe there is any legal deficiency in the Planning Board's action approving either the preliminary or site plan for Strathmore at Bel Pre that requires reconsideration. Both plans were thoroughly considered by the Board at its December 4, 2008 hearing. However, if the Board determines that the reconsideration request demonstrates that there was a mistake, inadvertence, surprise, fraud in its earlier decision, or that Mr. Kauffunger has shown other good cause for reconsideration, the Board may grant the request.

#### **IV. ATTACHMENTS**

Attachment 1 -- Preliminary plan reconsideration request

Attachment 2 -- Site plan reconsideration request

Attachment 3 -- Preliminary plan resolution

Attachment 4 -- Site plan resolution

Attachment 5 -- Maryland House Bill 399 (2003)