



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

MCPB
Item #
5/27/10



MEMORANDUM

DATE: May 12, 2010

TO: Montgomery County Planning Board

VIA: Rose Krasnow, Chief, Development Review Division *RK*
Catherine Conlon, Subdivision Supervisor, Development Review Division *CC*

FROM: Erin Grayson, Senior Planner (301)-495-4598 *EG*

PROJECT NAME: Islamic Center of Maryland

CASE #: 12002041B

REVIEW BASIS: Chapter 50, Montgomery County Subdivision Regulations and Chapter 22A, Montgomery County Forest Conservation Law

SUBJECT: Reconsideration of items 2 and 5 of the Planning Board Resolution dated April 14, 2010.

APPLICANT: Islamic Center of Maryland

CONSULTANT: CDDI, Inc.

FILING DATE: January 12, 2010

HEARING DATE: March 11, 2010 and May 27, 2010

RECOMMENDATION

Staff recommends that conditions 2 and 5 of the Planning Board Resolution dated April 14, 2010 be upheld per the original Planning Board hearing held March 11, 2010.

BACKGROUND

On January 12, 2010, the Islamic Center of Maryland, the “Applicant”, filed a limited preliminary plan amendment to the approved preliminary plan and final forest conservation plan to remove a previously recorded 1.48-acre Category I forest conservation easement and replace it off-site. Staff recommended approval of the limited amendment and on March 11, 2010, the Board voted to approve the amendment with revised conditions. These conditions are included in the Resolution adopted by the Board on April 14, 2010 (Appendix A). On April 6, 2010, the applicant requested reconsideration of two of the adopted conditions. The Board considered that request on May 6, 2010 and voted in favor of reconsideration. Thus, the subject Preliminary Plan amendment is being brought back to the Board for further action.

DISCUSSION

The Applicant filed a reconsideration request so that conditions 2 and 5 of the April 14, 2010 resolution could be further debated and discussed in a subsequent public hearing. Because the reconsideration request was only for two specific conditions, the majority of the findings in the previous staff report (Appendix B) are still applicable. This memo only addresses the conditions that the Applicant seeks to change.

Condition #2

The Applicant must replace the existing Category I Forest Conservation Easement by providing 2.96 acres of off-site forest planting or equivalent credit in a forest mitigation bank.

Applicant’s Position

It is Staff’s understanding that the Applicant believes replacement of the easement should occur at a 1:1 ratio because County guidelines requiring replacement at a 2:1 ratio do not exist and no violations with respect to the easement have occurred.

Staff’s Position

The Preliminary Plan of Subdivision and the Preliminary Forest Conservation Plan were first approved by the Planning Board on December 12, 2002. The Planning Board approved a preliminary plan that showed a 1.48 acre Category I Forest Conservation Easement at the rear of the property in order to satisfy the requirements of the forest conservation plan. The easement has subsequently been recorded. The easement was never afforested because the Applicant had not started or completed construction of the proposed development.

Staff supports the proposed amendment to remove the onsite easement in favor of meeting the forest conservation requirements offsite, but continues to recommend that the easement be replaced at a 2:1 ratio. This replacement ratio is in keeping with the replacement ratio agreed upon by the Planning Board after a policy discussion of the issue that occurred on October 30, 2008.

Condition #5

As part of the previously required landscape and lighting plan, the Applicant must develop a plan for screening the eastern and southern property boundaries. The plan must include a minimum planting area 25 feet in width along the eastern and southern property boundaries and must be submitted for review to adjacent property owners, and review and approval by MNCPPC staff with the record plat application. The submittal to MNCPPC staff must include verification that the proposed plan was submitted to adjacent property owners.

Applicant's Position

It is Staff's understanding that the Applicant believes a minimum planting area 25 feet in width on the eastern and southern property boundaries is excessive and will restrict future parking and recreation facilities planned by the Islamic Center to accommodate future needs of the religious institution. The requirement for a planting area along the southern property boundary was added by the Board during the March 11, 2010 hearing because there are residential dwellings along this boundary as well.

Staff's Position

In order to minimize lighting and noise impacts to the residential uses abutting the Islamic Center site, 25 feet is an adequate width for tree planting and vegetation to grow and mature in a pattern that will provide proper screening. Furthermore, a landscape buffer will provide a setback from future parking facilities and/or recreational fields that could be constructed to the property line if such a buffer area is not required. Residents to the east and south the Subject Property will be affected by removal of the conservation easement; a landscape buffer is, therefore, appropriate along both boundaries of the Subject Property.

CONCLUSION

Staff continues to recommend approval of the limited amendment to the preliminary plan of subdivision to revise the forest conservation plan. The conditions of approval included in the Resolution adopted by the Planning Board on April 14, 2010 are consistent with the Board's policy and adequately address the concerns of adjacent and confronting property owners and will allow for harmonious development of the district.

APPENDICES

Appendix A – Planning Board Resolution dated April 14, 2010

Appendix B – Staff Report dated March 4, 2010

APPENDIX A



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

APR 14 2010

MCPB No. 10-33
Preliminary Plan No. 12002041B
Islamic Center of Maryland
Date of Hearing: March 11, 2010

MONTGOMERY COUNTY PLANNING BOARD

RESOLUTION

WHEREAS, pursuant to Montgomery County Code Chapter 50, the Montgomery County Planning Board ("Planning Board" or "Board") is vested with the authority to review amendments to approved preliminary plans; and

WHEREAS, on January 12, 2010, Islamic Center of Maryland ("Applicant"), filed an application for approval of a preliminary plan amendment to amend a previously approved preliminary plan¹ that created 1 lot on 13.05 acres of land in the RE-1 zone, located on the east side of Woodfield Road, approximately 500 feet north of Cypress Hill Drive ("Property" or "Subject Property"), in the Gaithersburg & Vicinity master plan area ("Master Plan"); and

WHEREAS, Applicant's preliminary plan amendment was designated Preliminary Plan No. 12002041B, Islamic Center of Maryland ("Amendment") and

WHEREAS, Planning Board staff ("Staff") issued a memorandum to the Planning Board, dated February 19, 2010, revised on March 4, 2010, setting forth its analysis, and recommendation for approval, of the Amendment subject to certain conditions ("Staff Report"); and

WHEREAS, following review and analysis of the Amendment by Staff and the staff of other governmental agencies, on March 11, 2010, the Planning Board held a public hearing on the Amendment (the "Hearing"); and

WHEREAS, at the Hearing, the Planning Board heard testimony and received evidence submitted for the record on the Amendment; and

¹ Preliminary Plan No. 120020410 was adopted by the Planning Board January 12, 2002, and mailed on January 30, 2003. Applicant later filed an amendment thereto as Preliminary Plan No. 12002041A, which was later withdrawn.

Approved as to
Legal Sufficiency:

8787 Georgia Avenue, N. CP&PC, Springfield, MD 21151 Chairman's Office: 301.495.4605 Fax: 301.495.1320

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

WHEREAS, on March 11, 2010, the Planning Board approved the Amendment subject to certain conditions, on motion of Commissioner Presley; seconded by Commissioner Wells-Harley; with a vote of 4-0, Commissioners Dreyfuss, Hanson, Presley and Wells-Harley voting in favor, Commissioner Alfandre being absent.

NOW, THEREFORE, BE IT RESOLVED, that, pursuant to the relevant provisions of Montgomery County Code Chapter 50, the Planning Board approved Preliminary Plan No. 12002041B that amends Preliminary Plan No. 120020410 that created 1 lot on 13.05 acres of land in the RE-1 zone, located on the east side of Woodfield Road, approximately 500 feet north of Cypress Hill Drive ("Property" or "Subject Property"), in the Gaithersburg & Vicinity master plan area ("Master Plan"), subject to the following conditions:

- 1) Deletion of condition #4 in the Opinion for Preliminary Plan No. 120020410 with the mailing date January 30, 2003 which states: Record plat to show delineation of a Category I conservation easement over the area of forest conservation.
- 2) The applicant must replace the existing Category I Forest Conservation Easement by providing 2.96 acres of off-site forest planting or equivalent credit in a forest mitigation bank.
- 3) The Applicant must submit a Final Forest Conservation Plan in accordance with Section 109-B of the Forest Conservation Regulations for MNCPPC staff approval within 30 days of the Planning Board's resolution approving the preliminary plan amendment.
- 4) The Applicant must submit an application to revise the existing record plat to remove the conservation easement within 6 months of the date of the Planning Board's resolution approving the preliminary plan amendment.
- 5) As part of the previously required landscape and lighting plan, the Applicant must develop a plan for screening the eastern and southern property boundaries. The plan must include a minimum planting area 25 feet in width along the eastern and southern property boundaries and must be submitted for review to adjacent property owners, and review and approval by MNCPPC staff with the record plat application. The submittal to MNCPPC staff must include verification that the proposed plan was submitted to adjacent property owners.
- 6) All other previous conditions of approval contained in Planning Board Opinion for Preliminary Plan No. 120020410 with the mailing date January 30, 2003 remain in full force and effect.

BE IT FURTHER RESOLVED, that having given full consideration to the recommendations and findings of its Staff 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 Montgomery County Planning Board FINDS, with the conditions of approval, that:

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

The Planning Board approved the Applicant's request to meet the forest planting requirements off-site and remove the Category I Forest Conservation Easement in which on-site planting was to occur from this Property for three reasons. First, the project site is bounded by an institutional use on one side and residential uses on the other three sides, which make the ecological usefulness of a small forest negligible. Second, there are no high-priority stream valleys or environmental buffers on this site that would require afforestation or reforestation. Third, the easement is a standalone easement not connected or adjacent to any larger contiguous forest, and given the proposed activities that the Islamic Center is suggesting for the area adjacent to the current easement, the Planning Board believes that this creates a high likelihood of future forest conservation violations. The Planning Board finds removing the easement from this property and requiring the Applicant to meet the forest conservation requirements either off-site or by purchasing credits in an MNCPPC approved forest bank is appropriate and creates a better opportunity to meet the goals of forest conservation in the County.

The Planning Board approved Preliminary Plan No. 120020410 based on a finding that the associated Forest Conservation Plan met the requirements of Chapter 22A of the Montgomery County Forest Conservation Law. As previously described, the Applicant now wants to change the way the plan meets those requirements by doing off-site, rather than on-site, forest planting. Loss of the easement triggers an off-site planting requirement of 1.48 acres to compensate for previous on-site planting. Furthermore, to compensate for the fact that the easement was previously recorded, the Planning Board finds that off-site planting on an additional 1.48 acres, which is the size of the existing easement, for a total of 2.96 acres of planting in an approved forest bank, will meet the requirements of Chapter 22A of the Montgomery County Forest Conservation Law.

BE IT FURTHER RESOLVED, that this Resolution incorporates by reference all evidence of record, including maps, drawings, memoranda, correspondence, and other information: and

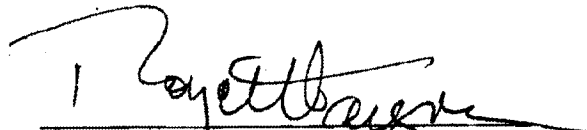
BE IT FURTHER RESOLVED, that the date of this Resolution is APR 14 2010 (which is the date that this Resolution is mailed to all parties of record); and

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 Dreyfuss, seconded by Commissioner Wells-Harley, with Commissioners Hanson, Wells-Harley, Alfandre, and Dreyfuss voting in favor of the motion, and with Commissioner Presley absent, at its regular meeting held on Thursday, April 8, 2010, in Silver Spring, Maryland.



Royce Hanson, Chairman
Montgomery County Planning Board

APPENDIX B



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

MCPB

Item #

3/11/10



MEMORANDUM

DATE: February 19, 2010

TO: Montgomery County Planning Board

VIA: Rose Krasnow, Chief, Development Review Division *RK*
Catherine Conlon, Subdivision Supervisor, Development Review Division

FROM: Erin Grayson, Senior Planner (301) 495-4598 *EG*

REVIEW TYPE: Preliminary Plan Limited Amendment Review

APPLYING FOR: Amendment to the approved preliminary plan and final forest conservation plan to remove a previously recorded 1.48-acre Category I forest conservation easement and replace it off-site.

PROJECT NAME: Islamic Center of Maryland

CASE #: 12002041B

REVIEW BASIS: Chapter 50, Montgomery County Subdivision Regulations and Chapter 22A, Montgomery County Forest Conservation Law

ZONE: RE-1

LOCATION: On the east side of Woodfield Road, approximately 500 feet north of Cypress Hill Drive

MASTER PLAN: Gaithersburg & Vicinity

APPLICANT: Islamic Center of Maryland

CONSULTANT: CDDI, Inc.

FILING DATE: January 12, 2010

HEARING DATE: March 11, 2010

RECOMMENDATION: Staff recommends that the Planning Board approve this limited amendment to the preliminary plan of subdivision to revise the forest conservation plan with the conditions specified below:

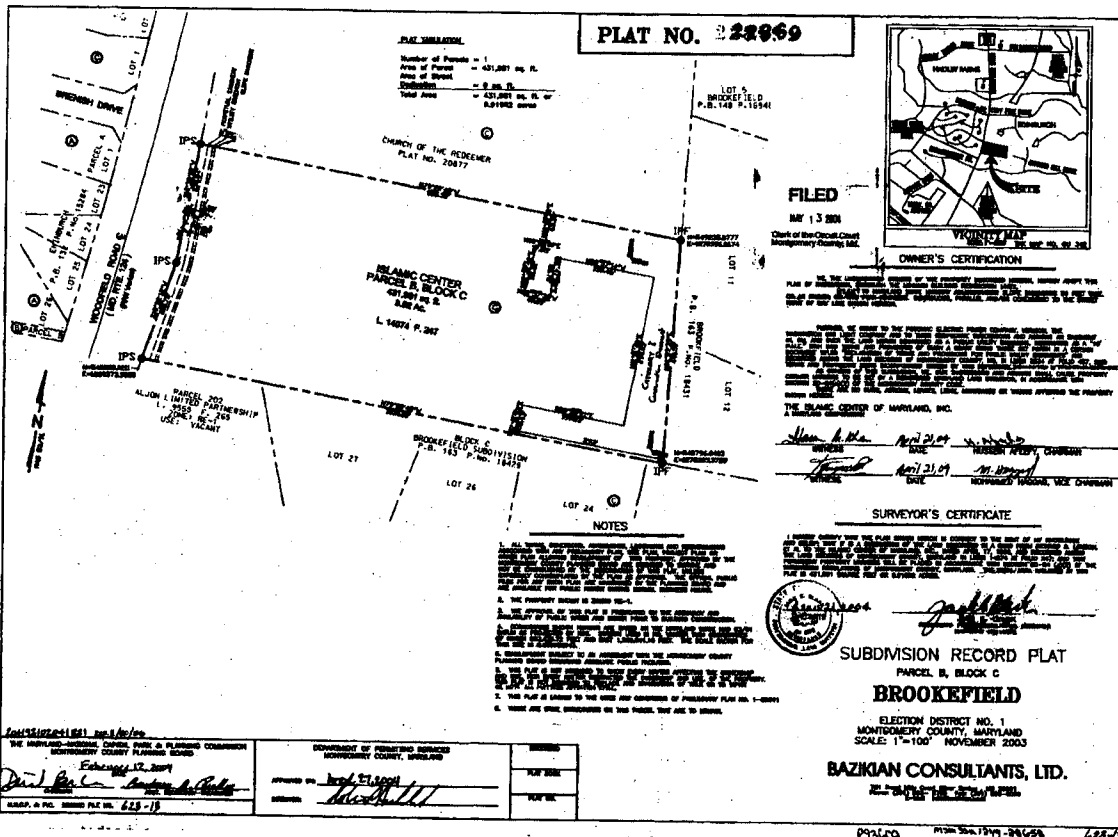
- 1) Deletion of condition #4 in the Opinion dated January 30, 2003 which states: Record plat to show delineation of a Category I conservation easement over the area of forest conservation.
- 2) The applicant must replace the existing Category I Forest Conservation Easement at twice the land rate of the current easement.
- 3) The Applicant must submit an application to revise the existing record plat to remove the conservation easement within 6 months of the date of the Planning Board's resolution approving the preliminary plan amendment.
- 4) The Applicant must develop a landscape plan for the eastern property boundary after consultation with adjacent property owners. The landscape plan must include a minimum planting area 25 feet in width along the eastern property boundary and must be submitted for review and approval by MNCPPC staff with the record plat application. The submittal must include verification that a meeting occurred.
- 5) All other previous conditions of approval contained in Planning Board Opinion dated January 30, 2003 remain in full force and effect.

SITE DESCRIPTION and BACKGROUND

The Subject Property, referred to as the Islamic Center of Maryland (ICM), is located on the east side of Woodfield Road (MD 124), approximately 500 feet north of Cypress Hill Drive. It is zoned RE-1 and contains 9.90 acres. Directly north of the site is a 13.05-acre site containing the Church of the Redeemer, across Woodfield Road to the west is a residential neighborhood zoned R-MH; a residential neighborhood zoned RE-1 is located to the east, and undeveloped State Highway Administration (SHA) right-of-way is located directly south of the site.

The site lies within the Upper Rock Creek Special Protection Area (SPA). The preliminary plan, however, was approved prior to November 15, 2004 and as such, the project site is exempt from the provisions of the Upper Rock Creek Overlay Zone per Section 59-C-18.242(b)(iv) of the Montgomery County Zoning Ordinance.

The original preliminary plan (#120020410, Attachment B) for ICM was approved by the Planning Board on December 12, 2002, with the conditions specified in the Planning Board Opinion dated January 30, 2003. As stated in the Opinion (Attachment A), approval of the plan allowed for a 650-seat sanctuary, an on-site Imam's residence, a weekday educational institution for a maximum of 53 students in grades K-12, and a weekday child daycare center for students attending the institution. The record plat for the property was recorded on May 13, 2004. This record plat, which is depicted on the following page, included a 1.48-acre on-site Category I forest conservation easement for forest retention and planting to the site's forest conservation requirements.



On December 27, 2007 ICM filed for an extension of the APF validity period established by the Opinion dated January 30, 2003, due to delays encountered by the Applicant with the Maryland State Highway Administration's final design for an alternative access road for ICM from Cypress Hill Drive to the southern boundary of the ICM site. This decision process left no time for ICM to complete their sediment control permit and get a building permit prior to the expiration of the project's adequate public facilities (APF) approval. Ultimately, the Applicant requested a waiver of Section 50-20(c)(5) of the Subdivision Regulations pursuant to Section 50-38, to permit a 3-year extension of the validity period for the adequate public facilities (APF) approval for Preliminary Plan No. 120020410, until February 28, 2011. Approval of the waiver and extension request was granted by the Planning Board on February 28, 2008.

PROJECT DESCRIPTION

In the final forest conservation plan (Attachment C), submitted by the Applicant on January 4, 2010, a future indoor pool, tennis court and stormwater management facilities are shown adjacent to the edge of the existing forest conservation easement. The consequence of the planned improvements is a desire to remove the easement. Removal of the existing forest conservation easement will provide additional buildable area for any improvements to the site planned in the future.

In order to remove the Category I forest conservation easement from the Property, the Applicant is seeking to amend the preliminary plan of subdivision and the final forest conservation plan. The easement will be replaced by purchasing acreage at an off-site location at a rate of 2 acres purchased for every 1 acre being replaced.

It is important to note that while the improvements proposed on the final forest conservation plan do not produce additional peak hour trips, any uses proposed in the future that do generate additional peak hour trips will require further Adequate Public Facilities review by MNCPPC.

ANALYSIS OF THE REQUESTED AMENDMENT

Staff supports meeting the forest planting requirements off-site and removing the Category I Forest Conservation Easement in which on-site planting was to occur from this Property for three reasons. First, the project site is bounded by an institutional use on one side and residential uses on the other three sides, which make the ecological usefulness of a small forest negligible. Second, there are no high-priority stream valleys or environmental buffers on this site that would require afforestation or reforestation. Third, the easement is a standalone easement not connected or adjacent to any larger contiguous forest. Given the proposed activities that the Islamic Center is suggesting for the area adjacent to the current easement, staff believes that this will result in future forest conservation violations if the easement is not removed. For these reasons, staff supports removing the easement from this property and requiring the Applicant to meet the forest conservation requirements by purchasing credits in an MNCPPC approved forest bank.

The Planning Board approved the previous plan based on a finding that the associated Forest Conservation Plan met the requirements of Chapter 22A of the Montgomery County Forest Conservation Law. As previously described, the Applicant now wants to change the way the plan meets those requirements by doing off-site, rather than on-site, forest planting. Loss of the easement triggers an off-site planting requirement of 1.24 acres to compensate for previous on-site planting. An off-site planting requirement of 0.48 acres is necessary to compensate for previous on-site forest retention. These two requirements total 1.73 acres of off-site planting (numbers are rounded upward). Furthermore, to compensate for the fact that the easement was previously recorded, staff is recommending that off-site planting occur on an additional 1.48 acres, which is the size of the existing easement, for a total of 3.2 acres of planting in an approved forest bank.

Citizen Correspondence and Issues

Staff has been contacted by Mr. Chris Abod, a resident of the residential neighborhood that abuts the Subject Property to the east. Mr. Abod expressed concerns that removal of the forest conservation easement and any subsequent development in this area will worsen drainage along the common property line and eliminate any noise and lighting screening barrier that currently exists. Mr. Abod also expressed concern that the Planning Board will approve removal of the forest conservation easement without knowing the full scope of the Applicant's planned improvements. Because a regulated buffer area between this religious institution and adjacent

residential development will be removed, staff has included condition #4 on page 2 of this report. A landscape plan submitted by the Applicant for review by staff will ensure that adequate screening is provided and maintained.

CONCLUSION

Staff recommends approval of the limited amendment to the preliminary plan of subdivision to revise the forest conservation plan. With conditions of approval specified on page 2 of this report, the preliminary plan continues to meet the requirements of Chapter 22A of the Montgomery County Forest Conservation Law. All remaining conditions of approval remain in full force and effect.

Attachments

Attachment A – Preliminary Plan Opinion dated January 30, 2003

Attachment B – Original Preliminary Plan

Attachment C – Final Forest Conservation Plan



Date Mailed: January 30, 2003

Action: Approved Staff Recommendation

**Motion of Comm. Bryant, seconded by
Comm. Perdue with a vote of 5-0;**

**Comms. Berlage, Bryant, Perdue,
Robinson and Wellington voting
in favor**

MONTGOMERY COUNTY PLANNING BOARD

OPINION

Preliminary Plan 1-02041

NAME OF PLAN: ISLAMIC CENTER OF MARYLAND

On 10/16/01, ISLAMIC CENTER OF MARYLAND submitted an application for the approval of a preliminary plan of subdivision of property in the RE-1 zone. The application proposed to create 1 lot on 9.90 acres of land. The application was designated Preliminary Plan 1-02041. On 12/12/02, Preliminary Plan 1-02041 was brought before the Montgomery County Planning Board for a public hearing. At the public hearing, the Montgomery County Planning Board heard testimony and received evidence submitted in the record on the application. Based upon the testimony and evidence presented by staff and on the information on the Preliminary Subdivision Plan Application Form, attached hereto and made a part hereof, the Montgomery County Planning Board finds Preliminary Plan 1-02041 to be in accordance with the purposes and requirements of the Subdivision Regulations (Chapter 50, Montgomery County Code, as amended) and approves Preliminary Plan 1-02041.

Approval, Subject to the Following Conditions:

- 1) Limit the preliminary plan approval to a house of worship with the following limitations:
 - A 650-seat sanctuary
 - An on-site Imam's residence
 - A weekday educational institution for a maximum of 53 students in kindergarten through 12th grade with a weekday child daycare center for those attending the educational institution. A weekday child daycare center with a maximum of 58 children would have the equivalent traffic impact
 - Any future increase in the maximum number of children for either the educational institution or child daycare center (as a Phase 2) will require further APF review

- 2) Coordinate with the Maryland State Highway Administration (SHA) regarding the following:
 - The two site accesses from Woodfield Road (MD 124)
A new access limited to right-turn-in and right-turn-out only south of Brenish Drive. Joint use of the existing access for the Church of Redeemer opposite Brenish Drive.

- SHA's Consolidated Transportation Program (CTP) Project to widen Woodfield Road along the western property line of the site which includes five-foot sidewalks on both sides and a Class I bikeway
- 3) Compliance with the conditions of approval for the preliminary forest conservation plan. The applicant must satisfy all conditions prior to recording of plat(s) or MCDPS issuance of sediment and erosion control permits
 - 4) Record plat to show delineation of a Category I conservation easement over the area of forest conservation
 - 5) Compliance with the conditions of MCDPS stormwater management approval dated, May 9, 2002
 - 6) Access and improvements as required to be approved by MDSHA prior to issuance of access permits
 - 7) Prior to recordation of plat, a final landscape, lighting and sidewalk circulation plan including a five-foot sidewalk leading-in from Woodfield Road to the site which are not shown on the current plans must be submitted for review and approval by MNCPPC technical staff
 - 8) This preliminary plan will remain valid for thirty-seven (37) months from the date of mailing of the Planning Board opinion. Prior to this date, a final record plat must be recorded for all property delineated on the approved preliminary plan, or a request for an extension must be filed
 - 9) 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 opinion
 - 10) Other necessary easements
-

(MD. RTE. 124)

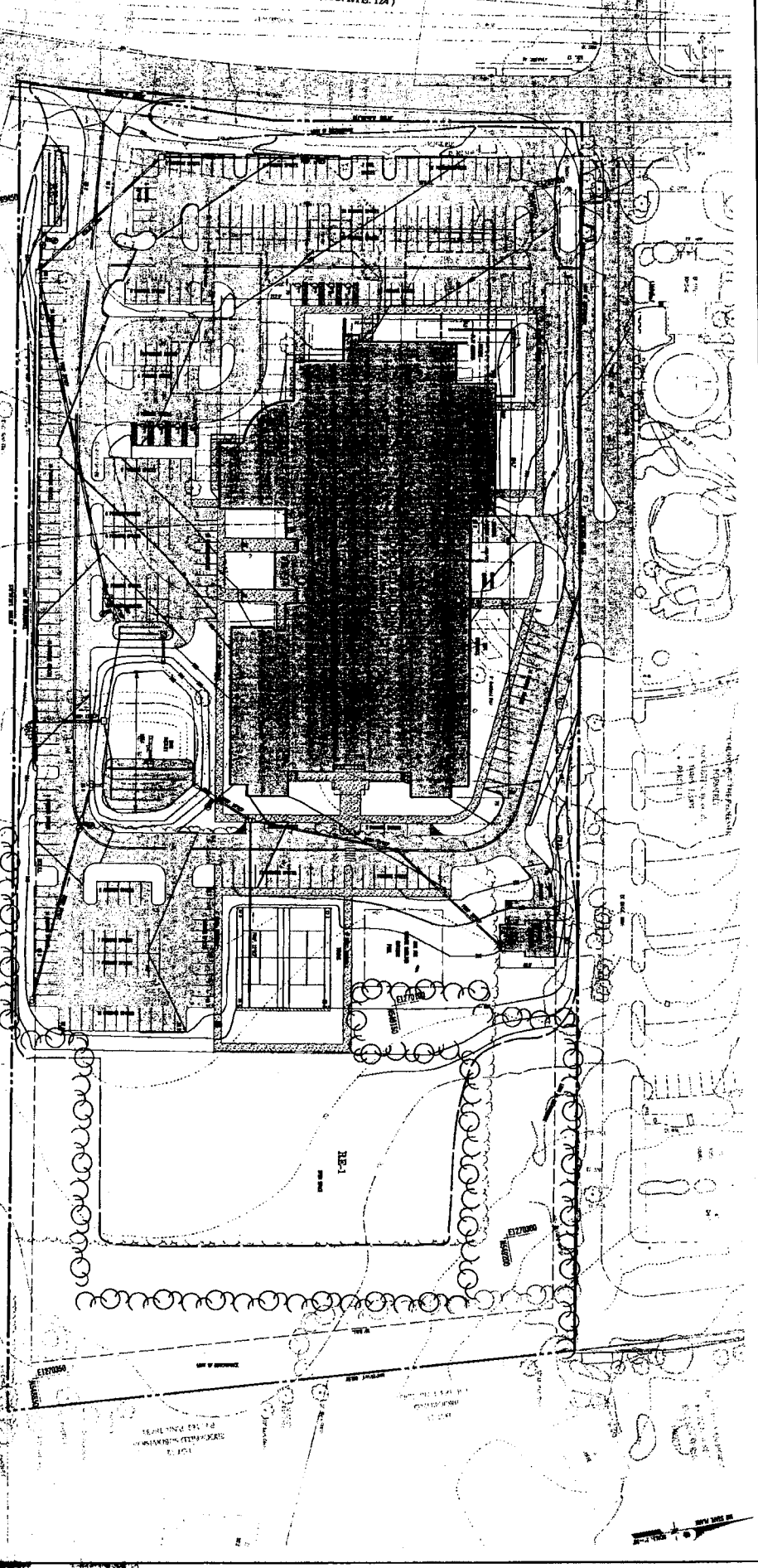
ISLAMIC CENTER OF MARYLAND
1801 EASTERN AVENUE
BETHESDA, MARYLAND 20814
TEL: 301-271-1111
FAX: 301-271-1112

Project: Islamic Center of Maryland
Architect: [Firm Name]
Date: [Date]
Scale: 1/4" = 1'-0"

Legend table with various symbols and corresponding architectural terms.



GENERAL NOTES
1. The building shall be constructed in accordance with the approved plans and specifications.
2. All work shall conform to the latest editions of the Building Code of Maryland and the International Building Code.



GENERAL CONTRACTOR: [Company Name]
ARCHITECT: [Company Name]

ISLAMIC CENTER OF MARYLAND
1801 EASTERN AVENUE
BETHESDA, MARYLAND 20814

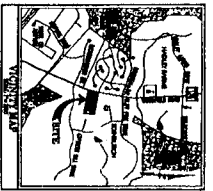


Table with project details: Project Name, Date, Scale, Sheet Number (1 of 1).

