



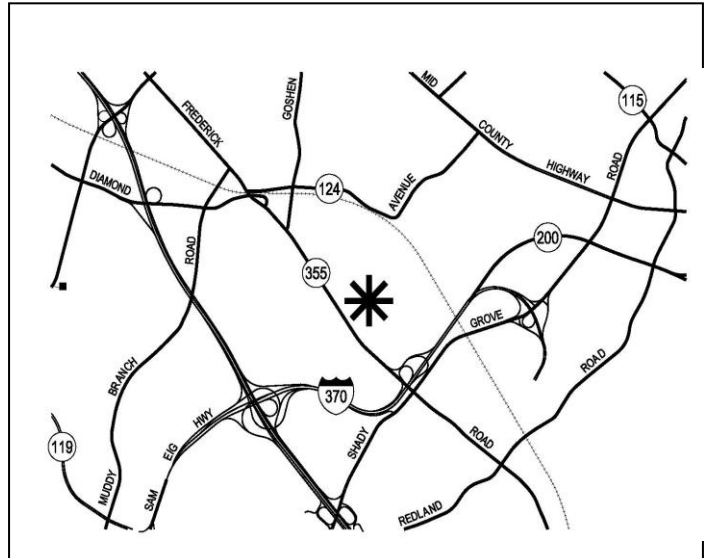
Rockville Evangelical Mission Church, Preliminary Plan, 120130210

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Staff Report Date: 06/26/15

Description

- Request to construct a 22,000-square-foot house of worship with a 600-seat sanctuary, surface parking and related site improvements;
- Request for a waiver to the Subdivision Regulations and a variance to the County Forest Conservation Law;
- On 5.02 gross acres in the R-200 Zone, Great Seneca Science Corridor Master Plan area;
- Location: 110 Central Avenue, approximately 1,000 feet east of Frederick Avenue (MD 355);
- Applicant: Rockville Evangelical Mission Church;
- Submitted: 11/4/13.



Summary

- Staff recommends approval of Preliminary Plan 120130120 and the Final Forest Conservation Plan, with conditions.
- Applicant proposes standard method of development; Site Plan review is not required in the R-200 Zone.
- Applicant requests a waiver to the County Subdivision Regulations regarding new sidewalk improvements on the Cyrus Street frontage. Staff supports the request.
- The Final Forest Conservation Plan includes a variance to allow impact to eight trees considered high priority for retention.

PRELIMINARY PLAN RECOMMENDATION AND CONDITIONS

Staff recommends approval of Preliminary Plan 120130210 subject to the following conditions:

1. Approval is limited to construction of a 22,000-square-foot church with a 600-seat sanctuary, administrative offices and common areas to accommodate church-related activities that do not generate more than de minimis peak hour vehicle trips. There must be no school or day care uses without amendment of the preliminary plan.
2. The Applicant must dedicate and the record plat must show five additional feet of right-of-way along the Central Avenue frontage for a total of 70 feet from the opposite right-of-way line.
3. Prior to the issuance of the Use and Occupancy Certificate, the Applicant must install a gate at the Cyrus Street access point to allow exit only by church patrons and two-way access for emergency vehicles, to prevent non-church related motorists from using it for “cut through” to travel between Central Avenue and North Westland Drive via Cyrus Street. The use of the one-way exit is exclusively for large-scale worship services or events during the year, which include weekend services, Christmas, Easter, weddings/receptions and funerals. The Cyrus Street access and curb cut must be designed to permit egress only for passenger vehicles, with mountable curbs to allow two-way movement of emergency vehicles.
4. The driveway access at Cyrus Street must not be used for construction vehicles to and from the Subject Property, except for the installation of public utilities at this area of the site.
5. The Applicant must provide traffic control measures (including off-duty, uniformed Montgomery County police officers directing traffic) during large-scale events and worship services at the Cyrus Street/North Westland Drive intersection and the intersections of Central Avenue and North Westland Drive with Frederick Avenue (MD 355).
6. Prior to the issuance of the Use and Occupancy Certificate, the Applicant must install four inverted-U bike racks to store eight bicycles near the main entrance of the church.
7. No clearing, grading or recording of plats prior to Certified Preliminary Plan approval.
8. The Applicant must comply with the conditions of approval of the Final Forest Conservation Plan (FFCP) No. 120130210 approved as part of this Preliminary Plan, including the following:
 - a. A Category I Conservation Easement approved by the M-NCPPC Office of the General Counsel must be recorded in the Montgomery County Land Records by deed before demolition, clearing, or grading, and the Liber Folio for the easement must be referenced on the record plat.
 - b. Prior to any land disturbing activities occurring on-site, a financial security agreement reviewed and approved by the M-NCPPC Associate General Counsel’s Office must be obtained for the planting requirements and invasive management work specified on the FFCP.
 - c. The Applicant must comply with all tree protection and tree save measures shown on the approved FFCP. Tree save measures not specified on the FFCP may be required by the M-NCPPC forest conservation inspector at the pre-construction meeting.

- d. The Applicant must plant 14 three-inch caliper trees, or larger caliper trees totaling at least 42 inches, as mitigation of variance trees removed. The trees must be planted at the same time the forest planting in the conservation easement occurs, or within one year after final stabilization, whichever occurs first. Mitigation trees must be native, canopy species.
 - e. The Sediment and Erosion Control Plan and Stormwater Management Plan must be consistent with the limits of disturbance and the associated tree/forest preservation measures of the FFCP.
9. The Planning Board has accepted the recommendations of the Montgomery County Department of Permitting Services (MCDPS) – Water Resources Section in its stormwater management concept letters dated October 31, 2014, and revised on April 13, 2015, and hereby incorporates them as conditions of approval. Therefore, the Applicant must comply with each of the recommendations as set forth in the letters, which may be amended by MCDPS – Water Resources Section provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
 10. The Planning Board has accepted the recommendations of the Montgomery County Department of Permitting Services (MCDPS) – Water Resources Section in its letter dated February 9, 2015, for its 100-year Floodplain study review, and hereby incorporates them as conditions of approval. Therefore, the Applicant must comply with the recommendations as set forth in the letter, which may be amended by MCDPS – Water Resources Section provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
 11. The Planning Board has accepted the recommendations of the Montgomery County Department of Transportation (MCDOT) in its letters dated December 30, 2014, and April 6, 2015 (except conditions #7., 8., and 11.A. and B. of the December 30, 2014 letter), and hereby incorporates them as conditions of approval. Therefore, the Applicant must comply with each of the recommendations as set forth in the letters, which may be amended by MCDOT provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
 12. The Certified Preliminary Plan must contain the following note: “Unless specifically noted on this plan drawing or in the Planning Board conditions of approval, the building footprint, building height, on-site parking, site circulation, and sidewalks shown on the Preliminary Plan are illustrative. The final location of the building, structures and hardscape will be determined at the time of the building permit review. Please refer to the zoning data table for development standards such as setbacks, building restriction lines, building height, and lot coverage. Other limitations for site development may also be included in the conditions of the Planning Board’s approval.”
 13. Prior to Certified Preliminary Plan approval, the Applicant must submit a revised Landscape and Lighting Plan for inclusion of the plan set and in compliance with the Planning Board’s conditions of approval. Provide a note on the Lighting Plan to state: “The lighting distribution and photometric plan with tabulations must conform to IESNA standards for adjacent residential development.”
 14. The Landscape Plan must include street lamps on Central Avenue, internal sidewalks, benches, trash receptacles, the trash dumpster and its enclosure, and bike racks. These elements must be installed prior to the issuance of the Use and Occupancy Certificate; street tree planting on Central Avenue may wait until the next growing season.

15. Prior to the issuance of the building permit, the Applicant must enter into a Landscape Surety and Maintenance Agreement with the Planning Board in a form approved by the Office of the General Counsel that outlines the responsibilities of the Applicant. The Agreement must include a performance bond(s) or other form of surety in accordance with the following provisions:
 - a) A cost estimate of the materials and facilities, including the gate at Cyrus Street, which, upon Staff approval, will establish the initial surety amount.
 - b) The cost estimate must include applicable landscape elements, including, but not limited to plant materials, on-site lighting, recreational facilities, site furniture, trash enclosures, retaining walls, fences, paths and associated improvements of development.
 - c) The bond/surety shall be tied to the construction sequence and completion of all improvements covered by the surety for the one phase development and will be followed by inspection and reduction of the surety.

16. The Applicant is responsible for maintaining all publicly accessible amenities including, but not limited to: all internal sidewalks, benches, landscaping, bike racks, entrance signage, outdoor lighting, trash receptacles, and the trash dumpster and its enclosure, the gate at Cyrus Street and all hardscape items.

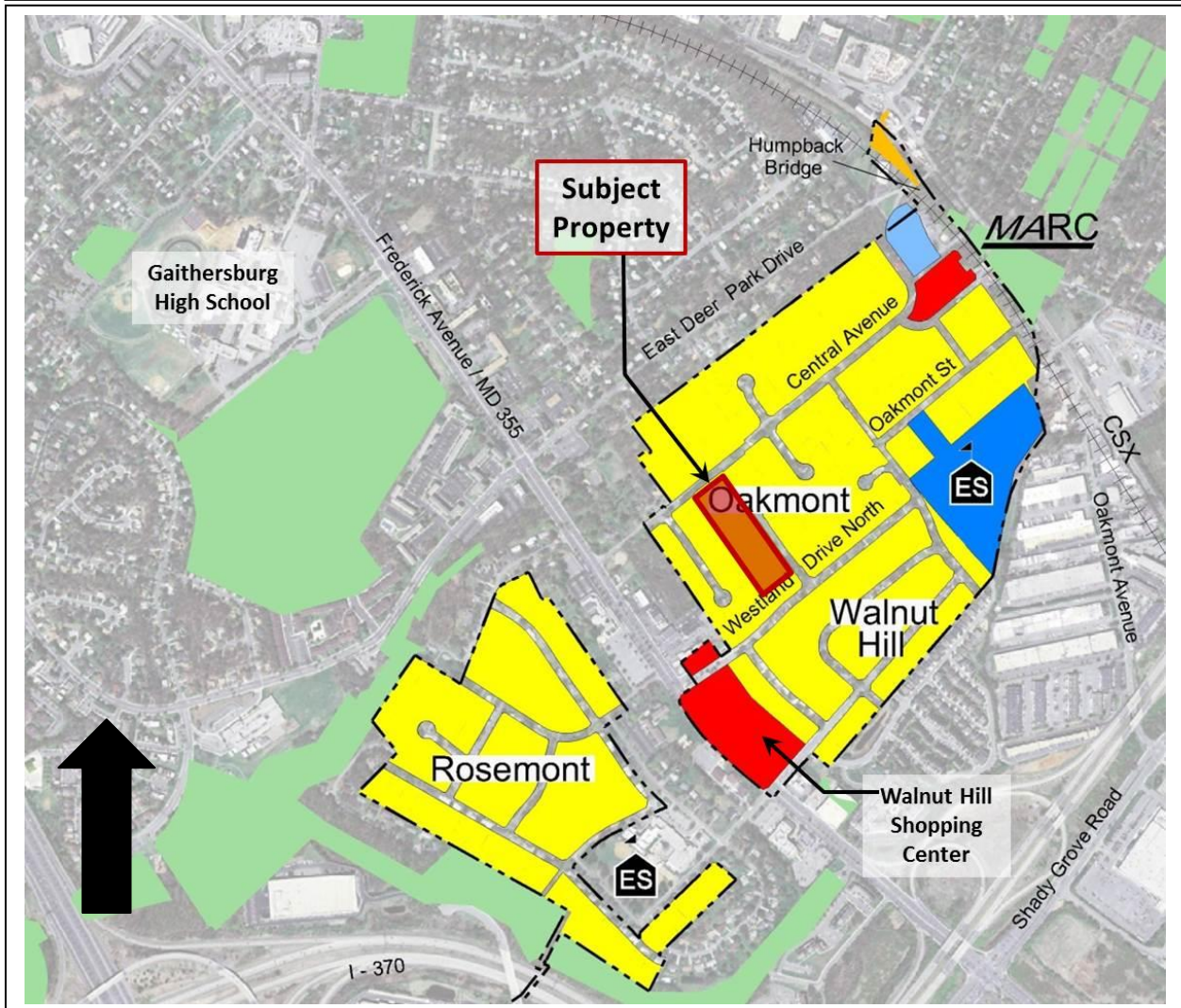
SECTION 1: CONTEXT AND PROPOSAL

SITE DESCRIPTION

Site Vicinity

The Subject Property is located in the Oakmont community. In the vicinity of the Subject Property are: the Walnut Hill Shopping Center in the southeast quadrant of the Frederick Avenue/North Westland Drive intersection; Washington Grove Elementary School to the east; and the Washington Grove MARC Station to the northeast.

Figure 1 Vicinity Map



The Subject Property is surrounded on three sides by existing single-family detached houses. The Unity of Gaithersburg Church is to the north across Central Avenue, zoned R-200; the Walnut Hill subdivision to the northeast and southeast, and the Oakmont Manor subdivision, zoned R-90 to the west.

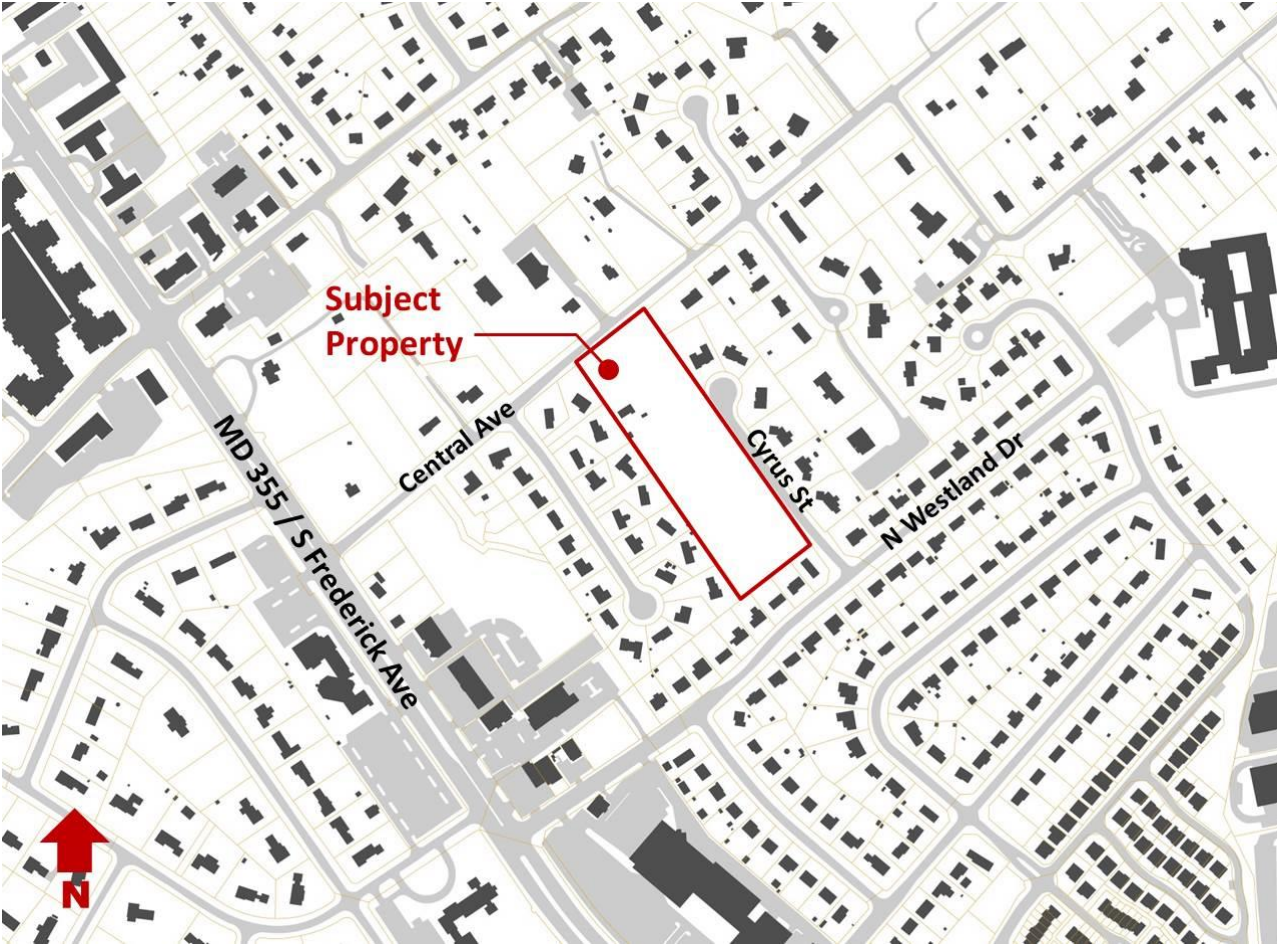


Figure 2 Site Vicinity Map

Property Description

The Subject Property is located on the south side of Central Avenue, approximately 1,000 feet east of the Frederick Avenue (MD 355) intersection, with access to both Central Avenue and Cyrus Street. It contains 5.02 acres and has a long and relatively narrow shape crossed by streams at the front and back. It is mostly an open field with an existing unoccupied, two-story, single-family detached house with a gravel driveway and several accessory structures (Figure 3).



Figure 3- Aerial Photo of the Subject Property

The Subject Property is located in the Muddy Branch watershed. Most of the site drains to the northwest; however, a small portion drains to a stream on the southeast side. Existing on-site forest area is located on the southeast side; most of which is within the stream valley buffer.

PROJECT DESCRIPTION

The Applicant proposes construction of a 22,000-square-foot house of worship with a sanctuary for 600 people in a two-story structure of up to 30 feet high (Attachment 1). Sundays will be the main hours of use at the church for worship services and church-related activities occurring from 10:00 a.m. to 2:00 p.m. The building will have a multi-purpose room for church-related activities. Two full-time and one part-time administrative employees (not including clergy) will work weekday office hours. An off-street

parking lot for 151 spaces will wrap around the three sides of the proposed building. Primary vehicular access will be from the existing driveway on Central Avenue. An entrance sign is proposed at this location. The Applicant also proposes a two-way (egress/ingress) access point on Cyrus Street; however, Staff is recommending a revised design for egress only for church patrons and a mountable curb for two-way movement of emergency vehicles. The existing house and accessory structures will be demolished. The building's architecture is shown in Attachment 2.

The Applicant is requesting a waiver to the County Subdivision Regulations Section 50-24(a) Required Public Improvements (Attachment 3), in order to not construct a sidewalk on the Cyrus Street frontage.

The Landscape Plan addresses required screening of adjacent uses and shows the required setbacks, including the 40-foot front yard building restriction line (BRL) along. The Lighting Plan includes general lighting on the parking lot and security lighting around the building.

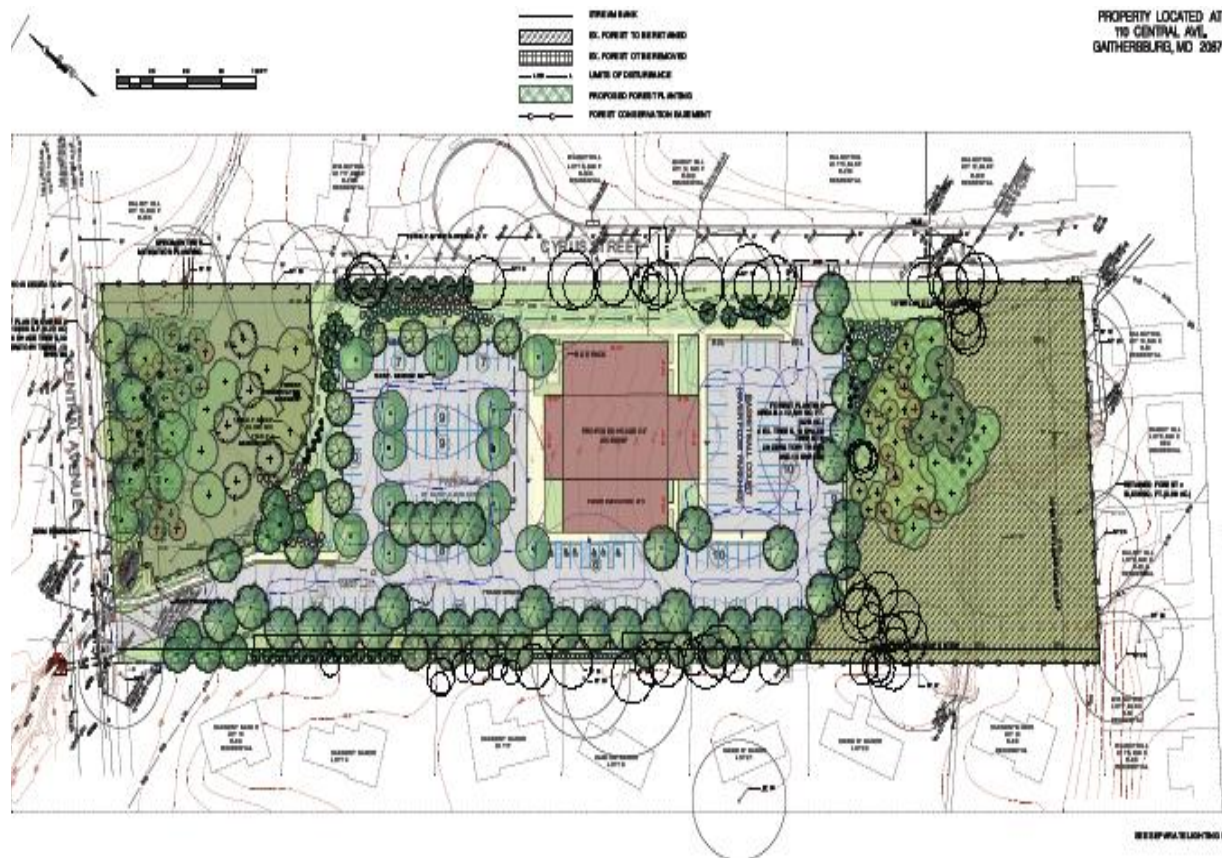


Figure 4 Landscape Plan

ANALYSIS AND FINDINGS

Master Plan Findings and Conformance

The Subject Property is located within the Great Seneca Science Corridor (GSSC) Master Plan in Oakmont, one of five enclave community areas identified in the Plan. Oakmont is characterized in the Master Plan as, for the most part, a built-out, stable, mature residential neighborhood. The Master Plan does not have site-specific land use recommendations for the Subject Property. However, it includes

several specific recommendations for other features/facilities in the Oakmont community (such as when the Walnut Hill Shopping Center site redevelops, improved stormwater management techniques should be included in the design). The Subject Property’s stormwater management concept plan addresses the use of Environmentally-Sensitive Design (ESD) to current MCDPS standards for improved water quality. A key goal of the Master Plan is to provide for improved circulation and connectivity for pedestrians and bicyclists. A new sidewalk was installed on Central Avenue in the County’s CIP and the Applicant’s proposal will include a lead-in sidewalk from Central Avenue to the proposed church. Based on this analysis, Staff finds the proposed Preliminary Plan is in substantial conformance with the GSSC Master Plan.

DEVELOPMENT STANDARDS

Pursuant to Section 7.7.1.B.1., of the current Zoning Ordinance, an application in progress before October 30, 2014 must be reviewed under the standards and procedures of the Zoning Ordinance in effect on October 29, 2014. This application was submitted on November 4, 2013; therefore, the proposal was reviewed under the former Zoning Ordinance, R-200 development standards, as shown in Table 1 below. The R-200 Zone does not require site plan review.

Table 1: Preliminary Plan Data Table – R-200 Standard Method of Development

DEVELOPMENT STANDARD	Required	Proposed
Minimum Lot Area	20,000 sq. ft.	217,343 sq. ft.
Minimum Lot Width at front of building	100 ft.	256 ft.
Minimum Lot Frontage	25 ft.	256 ft.
Minimum Building Setbacks:		
Front	40 ft.	415 ft. ¹
Side	12 ft.	40 ft.
Rear	30 ft.	263 ft.
Maximum Building Height	50 ft.	30 ft.
Minimum Parking spaces	150	151
Maximum Building Coverage	25%	9.7%

¹At Central Avenue and the second front yard area at Cyrus Street also has a 40-foot front yard setback.

ADEQUATE PUBLIC FACILITIES

Transportation

Transportation Adequate Public Facilities (APF) Review

The Applicant was not required to submit a traffic study to satisfy the Local Area Transportation Review (LATR) test or the Transportation Policy Area Review (TPAR) test and, a transportation tax payment is not required because the County Subdivision Regulations Section 50-35(k) Adequate public facilities (6) does not apply to any place of worship, residence for religious staff, parish hall, or addition to a school associated with a place of worship.

Since the proposal does not include weekday child or senior day care or educational facility provisions, the only regular weekday trips generated will be the two full-time employees and one part-time employee, who may not necessarily arrive and depart within the weekday peak periods of 6:30 – 9:30 a.m., and 4:00 – 7:00 p.m.

Because the proposed land use generates three or fewer new peak-hour trips during the weekday morning and evening peak periods (considered de minimis), the Applicant is exempt from the TPAR test.

Vehicular Access Points

The primary access to the site is from Central Avenue where an existing driveway curb cut is located. The Applicant originally proposed a second access from Cyrus Street with a gate to allow two-way ingress and egress by church patrons and two-way movement of emergency vehicles. In consideration of the concerns expressed by local residents regarding the second entrance/exit on Cyrus Street, and the traffic it will put on North Westland Drive, Staff asked the Applicant to revise the Cyrus Street access to be exit only for church patrons and two-way for emergency vehicles. Staff is recommending conditions #3 and #4 on page 2 of the Staff Report for this access to be limited with a gate and mountable curbs for two-way emergency vehicles movement. The gate at the access driveway must be closed during weekdays and open only for large-scale events and worship services that are held during the year and for weekend worship services and church-related activities.

Weekend Traffic Circulation

The Applicant submitted a traffic circulation study, which shows that the vehicular trips generated by the Subject Property on Sundays do not adversely impact the adjacent street (Central Avenue) and the nearby unsignalized intersections with Frederick Avenue. The traffic impact from the Subject Property on Cyrus Street should be limited by design with a one-way exit gate at this secondary vehicular access point.

Local residents have expressed concerns regarding increased traffic on Cyrus Street and North Westland Drive; especially on the existing narrow width of North Westland Drive, and the absence of sidewalks on both sides of this street. Residents walk in the street because there are no sidewalks and vehicles are typically parked along the pavement edges. During a site visit by Staff, both sides of North Westland Drive were observed as heavily used for on-street parking.

The Subject Property's existing curb cut on Central Avenue is approximately 145 feet southwest of the existing driveway for the 200-space parking lot for the Unity of Gaithersburg Church across the street. If these two churches conclude Sunday worship services at the same time, it could create congested traffic conditions on Central Avenue. To address these concerns, Staff recommends the Applicant provide traffic control measures during large-scale worship services and other high-attendance, church-related events with authorized person(s) to manage and direct traffic to and from the Subject Property at three locations: the Cyrus Street/North Westland Drive intersection and the Central Avenue and North Westland Drive intersections at Frederick Avenue (MD 355).

The Applicant's transportation consultant was asked to analyze the relative traffic impact on Central Avenue and availability of time gaps in Frederick Avenue through-traffic for vehicles to turn left from Central Avenue onto southbound Frederick Avenue. The analysis showed that there should be enough safe gaps on Sundays because the daily Sunday traffic along this segment of Frederick Avenue is 16% less on Sundays compared to the typical weekday traffic volume.

Master-Planned Roadways, Bikeways and Transit

In accordance with the 2010 *Great Seneca Science Corridor Master Plan*, 2005 *Countywide Bikeways Functional Master Plan*, and 2013 *Countywide Transit Corridors Functional Master Plan*, the master-planned designated roadways, bikeways and transitway in vicinity of the Subject Property are as follows:

1. Central Avenue is designated as a two-lane primary residential street, P-9, with a 70-foot wide right-of-way and no bikeway.
2. Frederick Avenue is designated as a six-lane major highway, M-6, with a 120-foot right-of-way. The Master Plan and the 2005 *Countywide Bikeways Functional Master Plan* recommend a shared use path, SP-64, along Frederick Avenue. The *Countywide Transit Corridors Functional Master Plan* recommends Bus Rapid Transit (BRT) Corridor No. 3 – MD 355 North, approximately 1,000 feet west of the Subject Property and within the City of Gaithersburg. The County facility planning of the BRT's Corridor No. 3 is funded at this time. The nearest BRT station is recommended to be located at the intersection at MD 355 and Shady Grove Road.

Cyrus Street is not listed in the Master Plan. It is a tertiary residential street with a 50-foot wide right-of-way, no bikeway, and a four-foot wide sidewalk on the opposite side.

Transportation Demand Management

The Applicant is not required to enter into a Traffic Mitigation Agreement because the Subject Property is located outside the boundary of the Greater Shady Grove Transportation Management District.

Public Transit Service

Ride On route 55 operates along Frederick Avenue (MD 355) between the Rockville Metrorail Station and the Germantown Transit Center. Ride On 59, also operates on Frederick Avenue between the Rockville Metrorail Station and the Montgomery Village Center. Both bus routes operate with 20-minute headways on weekdays and weekends.

Pedestrian and Bicycle Facilities

An existing five-foot wide sidewalk along the Subject Property's frontage was constructed on Central Avenue between Frederick Avenue and Oakmont Street by MCDOT as a Capital Improvements Program (CIP) project in 2010. A lead-in sidewalk is proposed from this existing sidewalk on Central Avenue to the main entrance of the church. Bike racks for bicycles parking nearby the building are shown on the Landscape Plan.

Subdivision Waiver

The Applicant's waiver to the Subdivision Regulations, Section 50-24(a) is a request to not install a required public improvement, a sidewalk, on the Cyrus Street frontage from the proposed access driveway's southern edge to the south property line. The Applicant's waiver request is in accordance with Section 50-38 Waiver from this chapter. In Staff's analysis of the request, the following factors were considered:

- Cyrus Street is a cul-de-sac with six single-family detached houses located on the east side, with an existing four-foot wide sidewalk and a six-foot wide green panel on the opposite side of the street. Pedestrians use the existing sidewalk to walk to North Westland Drive. This existing sidewalk diminishes the need for another sidewalk along the Subject Property's frontage.
- If a sidewalk was required on this segment of Cyrus Street, where a row of mature trees is located, some of which may be specimens, these trees will likely be negatively impacted.
- A new sidewalk at this location will expand the project's proposed limits-of-disturbance, and will increase the Subject Property's forest conservation requirement. Additional clearing and grading at this location, may impact other environmental resources, including stream valley buffer and a proposed Category I forest conservation easement.
- Without a new sidewalk along the Subject Property's frontage along Cyrus Street, it will be safe to cross the street to the existing sidewalk on the other side and walk to North Westland Drive.
- Installation of a sidewalk on the Applicant's side of Cyrus Street will add additional impervious surface, which is not necessary and can be avoided without impacting the safety of pedestrians.

MCDOT, in its approval letter dated December 30, 2014, recommended condition #7 requiring installation of this new sidewalk. However, after discussing with Planning Department Staff the existing conditions on Cyrus Street and the potential environmental impacts of this sidewalk requirement, including expanded limits-of-disturbance and its impact on other parts of the project, DOT withdrew its requirement for construction of this sidewalk, and recommended that:

“Since Cyrus Street is a tertiary residential street, we will not oppose your staff recommendation to waive the construction of the recommended sidewalk”
(Attachment 6).

The Planning Board's procedure for granting waivers in Section 50-38(c) [the] Board may require special conditions which reads:

In granting a variation [waiver], the Board may require such conditions in lieu of full compliance as will, in its judgement, secure substantially the objectives of the requirements so modified and protect the public interest.

Waiver Finding

The proposed lead-in sidewalk from Central Avenue to the church building will contribute to increased safety thereby providing for pedestrian and bicycle facilities that are adequate, safe and efficient. Installation of the required sidewalk on the Subject Property's Cyrus Street frontage is not critical for adequate, safe and efficient pedestrian and bicycle access and circulation. The sidewalk on the Cyrus Street frontage is not necessary because of the existing sidewalk on the east side of this street. Because Cyrus Street is a cul-de-sac, pedestrians and bicyclists from the proposed gated access will be able to safely cross the street to the existing sidewalk on the east side. Staff recommends the Planning Board grant the waiver in accordance with Section 50-38, to not install the required sidewalk on the west side of Cyrus Street because; it's not a critical public improvement in the neighborhood and the public interest will be better protected by waiving the installation of the sidewalk.

ENVIRONMENT

Environmental Guidelines

Staff approved a Natural Resources Inventory/Forest Stand Delineation (NRI/FSD) in No. 420120740 on June 8, 2012. The NRI/FSD identifies 1.99 acres of stream buffers, 1.05 acres of 100-year floodplain, and 1.24 acres of forest on the 5.02-acre tract of land. The proposed development respects the established stream buffers, with the exception of the existing driveway entrance off of Central Avenue, which crosses the stream buffer. The neighborhood was established many years ago, and the stream and its buffer parallel Central Avenue through the neighborhood, with the result that many of the existing driveway entrances, as well as the road itself, are within the stream buffer. The Subject Property's existing driveway is the logical main entrance to the site. The amount of additional grading and paving has been limited to what is needed to bring the entrance into compliance with access requirements for the Subject Property.

The *Environmental Guidelines* state that:

“small amounts of clearing and grading for other purposes within the stream buffer (such as paving for bikeways) may be recommended by Staff on a case-by-case basis so long as the modification is consistent with a comprehensive approach to protecting areas that are critical to preserving or enhancing streams, and their ecosystems.”

In this case, the stream buffer on the front of the Subject Property along Central Avenue is completely unforested. The proposed planting will enhance the forest coverage in the stream buffer on the rear of the site, and will establish forest cover that does not exist in the stream buffer on the front of the property. The proposed planting exceeds the requirement in Chapter 22A, Forest Conservation. The fact that this is an existing entrance, coupled with the establishment of a forested buffer along most of the stream where no tree cover currently exists, is “consistent with a comprehensive approach to protecting areas that are critical to preserving or enhancing streams, wetlands, and their ecosystems.” The new

development has received approval of its stormwater management concept. The stormwater facilities are outside of the established stream buffers. Given these conditions, Staff finds that the Applicant's proposal substantially conforms to the *Environmental Guidelines*.

Forest Conservation

Of the 1.24 acres of forest existing on the Subject Property, 0.35 acres are to be cleared and 0.89 acres are to be preserved. The clearing results in a reforestation requirement of 0.29 acres. The Applicant proposes forest planting in both stream buffer areas, with 0.29 acres planted within a forest gap in the future conservation easement at the southern portion of the site and 0.23 acres of forest planting in the stream buffer along Central Avenue, for a total planting area of 0.52 acres. The Final Forest Conservation Plan (FFCP) (Attachment 4) includes an invasive species management plan to ensure the successful establishment of the new plantings.

Variance

Section 22A-12(b) (3) of the Montgomery County Forest Conservation Law provides criteria that identify certain individual trees as high priority for retention and protection. Any impact to these trees, including removal of the subject tree or disturbance within the tree's critical root zone (CRZ) requires a variance. An Applicant for a variance must provide certain written information in support of the required findings in accordance with Section 22A-21 of the County Forest Conservation Law. The law requires no impact to trees that: measure 30-inches or greater diameter at breast height (DBH); are part of a historic site or designated with a historic structure; are designated as national, State, or County champion trees; are at least 75 percent of the diameter of the current State champion tree of that species; or trees, shrubs, or plants that are designated as Federal or State rare, threatened, or endangered species. The Applicant submitted a variance request on March 9, 2015, to remove five trees and to impact the Critical Root Zone of three additional trees that are considered high priority for retention under Section 22A-12(b) (3) of the County Forest Conservation Law (Attachment 4).

Unwarranted Hardship

Although this is a more intensive land use than the surrounding residential neighborhood, religious institutions are permitted by right in all zones. The Subject Property is severely constrained by the presence of stream buffers at the front and rear, as well as by the narrow lot configuration and required building setbacks. This compresses the buildable area of the Subject Property into a relatively compact development envelope. Several of the specimen trees are in the center of the buildable area of the Subject Property. Based on these site constraints and the size (footprint) of the proposed church, plus required parking and stormwater management, it would be impossible to construct this project if all specimen trees were retained. For these reasons, staff concurs that the Applicant has a sufficient unwarranted hardship to consider a variance request.

Section 22A-21 of the County Forest Conservation Law sets forth the findings that must be made by the Planning Board or Planning Director, as appropriate, in order for a variance to be granted. Staff has made the following determinations in the review of the variance request and the proposed forest conservation plan:

Variance Findings

Staff has made the following determination based on the required findings that granting of the requested variance:

1. *Will not confer on the applicant a special privilege that would be denied to other applicants.*

As noted above, the Applicant's proposed design has attempted to balance all of the competing factors that constrain the site. It's Staff's opinion that granting the variance will not confer a special privilege to the applicant.

2. *Is not based on conditions or circumstances which are the result of the actions by the applicant.*

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

3. *Is not based on a condition relating to land or building use, either permitted or non-conforming, on a neighboring property.*

The requested variance is a result of the proposed site design and constraints on the Subject Property and not as a result of land or building use on a neighboring property.

4. *Will not violate State water quality standards or cause measurable degradation in water quality.*

The five variance trees removed will be mitigated with the planting of new canopy trees to replace the lost water benefit functions of the trees being removed. These trees will be planted in the stream buffer. The three variance trees being preserved will continue to provide water quality benefits as before. In addition, the Montgomery County Department of Permitting Services (MCDPS) has approved a stormwater management concept, dated April 13, 2015 (Attachment 6). Therefore, Staff concurs that the Applicant's project will not violate State water quality standards or cause measurable degradation in water quality.

Mitigation for Trees Subject to the Variance Provisions

Removal of the five variance trees will result in the loss of total of 165-caliper inches of mature trees. Planning Department policy requires replacement of variance trees at a rate of one-inch replaced for every four-inches removed, using replacement trees of no less than three-inches caliper, to replace lost environmental functions performed by the trees removed. Based on this formula, the Applicant is required to plant 41.25-caliper inches of variance mitigation trees. The Applicant proposes to plant fourteen (14) three-inch caliper trees in mitigation, resulting in a total replacement of 42-caliper inches. These trees will be added to the plantings in the stream buffer at the northern portion of the site along Central Avenue, to enhance the forest in that buffer.

County Arborist's Recommendation on the Variance

In accordance with Montgomery County Code Section 22A-21(c), the Planning Department is required to refer a copy of the variance request to the County Arborist in the Montgomery County Department of Environmental Protection for a recommendation prior to acting on the request. The request was forwarded to the County Arborist on March 11, 2015. The County Arborist provided her

recommendations on the variance request under 22A-21(c) and recommended the variance be approved with mitigation (Attachment 4).

Variance Recommendation

Based on the above analysis of the eight variance trees and the Applicant's proposal to mitigate by planting 14, three-inch caliper trees in the stream buffer, Staff finds the Applicant's mitigation is consistent with the Planning Department's policy and its tree replacement formula and therefore, recommends the Planning Board grant the variance.

COMMUNITY OUTREACH

The Applicant has complied with all submittal and noticing requirements. One local resident submitted a written comment (Attachment 5) as of the date of this report. Planning Staff has had regular discussions with local residents, including the Walnut Hill Civic Association (WHCA) President. Two meetings between the Applicant's team and the WHCA have been held since late 2013; the most recent meeting of the two parties was on June 11, 2015. The latter meeting resulted in an agreement to have a Memorandum of Understanding (MOU) to include formation of a Liaison Committee for periodic meetings to discuss concerns from local residents at post-development in an effort for the two parties to be good neighbors. Members from the WHCA will attend the Planning Board's public hearing and present the WHCA's position on the Applicant's proposal, including concerns about construction vehicles using Cyrus Street and North Westland Drive. To address this latter concern, Staff recommended condition #4 to prohibit construction vehicles from using Cyrus Street.

CONCLUSION

Based on the review by Staff and other relevant agencies (Attachment 6), and the analysis contained in this report, Staff finds the proposed Preliminary Plan meets the requirements and standards of all applicable sections of Chapter 50 of the Montgomery County Code, the Subdivision Code and Zoning Ordinance standards. Access and public facilities will be adequate to support the Subject Property, density and proposed use. The proposed Preliminary Plan does not change the existing lot size, shape, and width, and it will further the GSSC Master Plan goals. Staff recommends approval subject to the conditions stated at the beginning of this report. In addition, Staff recommends the Board grant the Applicant's waiver to the Subdivision Regulations to not require installation of a sidewalk on the Subject Property's Cyrus Street frontage.

Attachments:

- Attachment 1 – Proposed Preliminary Plan
- Attachment 2 – Architecture
- Attachment 3 – Subdivision Waiver request
- Attachment 4 – Final Forest Conservation Plan
- Attachment 5 – Resident's correspondence
- Attachment 6 – Agency Approval letters