



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

MCPB No. 10-13
Preliminary Plan No. 120080290
Miracle Temple Assembly of God
Date of Hearing: February 18, 2010

MAR - 8 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 Preliminary Plan applications; and

WHEREAS, on July 22, 2008, the Miracle Temple Assembly of God ("Applicant"), filed an application for approval of a Preliminary Plan of subdivision of property that would create one lot on 2.22 acres of land in the R-200 zone, and later submitted a revised application to create two lots on the same 2.22 acres of land, located in the southwest corner of the intersection of Woodwell Road and Alderton Road ("Property" or "Subject Property"), in the Aspen Hill Master Plan area ("Master Plan"); and

WHEREAS, Applicant's Preliminary Plan application was designated Preliminary Plan No. 120080290, Miracle Temple Assembly of God ("Preliminary Plan" or "Application"); and

WHEREAS, Planning Board staff ("Staff") issued a memorandum to the Planning Board, dated January 9, 2009, setting forth its analysis, and recommendation for approval of a Preliminary Plan for one lot, subject to certain conditions ("Staff Report"); and

WHEREAS, following review and analysis of the Application by Staff and the staff of other governmental agencies, on January 22, 2009, the Planning Board held a public hearing on the Application (the "Hearing"); and

WHEREAS, at the Hearing, the Planning Board heard testimony and received evidence submitted for the record on the Application. However, based upon the direction in which the discussion was going,

Approved as to
 Legal Sufficiency:

[Handwritten Signature] 2/26/10

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the Planning Board accepted a request by the Applicant to defer a decision on the Application so that it could revise its Application; and

WHEREAS, Staff issued a revised Staff Report to the Planning Board, dated February 6, 2009, setting forth its analysis, and recommendation for approval of a Preliminary Plan for two lots, including a waiver of certain resubdivision criteria, subject to certain conditions; and

WHEREAS, following review and analysis of the Application by Staff and the staff of other governmental agencies, on February 19, 2009, the Planning Board continued the Hearing on the Application. However, based upon the direction in which the discussion was going, the Planning Board accepted a request by the Applicant to defer a decision on the Application so that it could, again revise its Application; and

WHEREAS, Staff issued a revised Staff Report to the Planning Board, dated January 29, 2010, setting forth its analysis, and recommendation for approval of a Preliminary Plan for two lots and one recorded parcel, subject to certain conditions; and

WHEREAS, following review and analysis of the Application by Staff and the staff of other governmental agencies, the Planning Board scheduled a continuation of the Hearing on February 11, 2010, which was rescheduled and held on February 18, 2010; and

WHEREAS, on February 18, 2010, the Planning Board approved the Application subject to certain conditions, on motion of Commissioner Alfandre; seconded by Commissioner Presley with a vote of 3-0 Commissioners Alfandre, Hanson, Presley voting in favor. Commissioner Wells-Harley was 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. 120080290 to create 2 lots and one recorded parcel on 2.22 acres of land in the R-200 zone, located in the southwest corner of the intersection of Woodwell Road and Alderton Road, in the Aspen Hill Master Plan area, including granting a variance pursuant to Chapter 22A to permit clearing of a specimen tree, subject to the following conditions:

- 1) Approval under this Preliminary Plan is limited to two lots for one house of worship with a maximum of 360 seats and associated parking with no weekday education facilities or weekday daycare, and one recorded parcel for the storm water management facility and access from Alderton Road.
- 2) The proposed development must comply with the conditions of the Preliminary Forest Conservation Plan. The applicant must satisfy all conditions prior to recording of plat(s) or Montgomery County Department of

- Permitting Services (MCDPS) issuance of sediment and erosion control permits.
- 3) The Applicant must comply with the Landscape Plan revised on March 17, 2009, and must further modify the plan to include a lighting plan for staff approval, prior to issuance of building permits.
 - 4) Prior to recordation of the plat, the Applicant must meet all MCDPS requirements to ensure the final construction, as part of this development, of an 8 ft. wide shared use path within the public street right-of-way along the property frontage of Alderton Road, as recommended by the draft ICC Functional Master Plan. The certified Preliminary Plan must be correctly reflect this trail.
 - 5) The Applicant must comply with the conditions of the Montgomery County Department of Permitting Services (MCDPS) stormwater management approval dated August 29, 2007. These conditions may be amended by MCDPS provided the amendments do not conflict with other conditions of the Preliminary Plan approval.
 - 6) The Applicant must comply with the conditions of the Montgomery County Department of Transportation (MCDOT) letter dated December 16, 2008. These conditions may be amended by MCDOT provided the amendments do not conflict with other conditions of the Preliminary Plan.
 - 7) The Adequate Public Facility (APF) review for the Preliminary Plan will remain valid for eighty-five (85) months from the date of mailing of the Planning Board resolution.
 - 8) Other necessary easements must be shown on the plat.
 - 9) The Certified Preliminary Plan must show the drive aisle from the Alderton Road access point located entirely out of the 30 foot rear yard setback along the southern boundary line.

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 with revised conditions as set forth herein and incorporates by reference, and upon consideration of the entire record, the Montgomery County Planning Board FINDS, with the conditions of approval, that:

- *The Preliminary Plan substantially conforms to the master plan.*

The Aspen Hill Master Plan does not specifically make recommendations for this site. The Plan supports continuation of the current R-200 zoning. The proposed use is consistent with the Master Plan land use objectives of protection, enhancement and continuation of the current land use pattern. Religious institutions are permitted within the R-200 zone; therefore, the use is in conformance with the Master Plan.

The public facilities will be adequate to support and service the area of the proposed subdivision.

The proposed use is exempt from the Adequate Public Facilities traffic test because it is a place of worship that will not generate 30 or more vehicle trips during the weekday morning or evening peak-hours.

Alderton Road is a master planned primary residential street with a 70 foot wide right-of-way with 36 feet of pavement width that can accommodate two through-lanes, parking on both sides of the street and sidewalks. It is designed to carry high amounts of residential traffic and to provide safe pedestrian access. The vehicle and pedestrian access for the subdivision will be safe and adequate with the public improvements proposed by this plan, namely sidewalks, widening of Woodwell Road and the access driveways.

The Application has been reviewed by all local utility agencies (gas, electric, and telecommunications) who have recommended approval of the plan with a finding that their respective utility can adequately serve the development. Other public facilities and services, such as schools, police stations, firehouses and health services, are operating within the standards set by the Growth Policy Resolution currently in effect. The Property is not subject to payment of a School Facilities Payment since this is not a residential use.

The size, width, shape, and orientation of the proposed lots are appropriate for the location of the subdivision.

This application was reviewed for compliance with the Montgomery County Code, Chapter 50, the Subdivision Regulations. The application meets all applicable sections regarding the appropriateness of the proposed lots. The lot sizes, widths, shapes and orientations are appropriate for the location of the subdivision.

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

A Preliminary Forest Conservation Plan was submitted with the Preliminary Plan. There is a planting requirement of 0.41 acres. All forest conservation requirements are being met off-site since there are no priority-save areas on site. No off-site specimen or large trees will be affected by this development.

There are five specimen trees ($\geq 30''$) and two large trees ($\geq 24''$) onsite which all will be removed to accommodate the structure and associated parking. In accordance with Maryland law, the applicant requested, and

the Planning Board granted a variance based on the following required findings:

- A. The variance will not confer on the Applicant a special privilege that would be denied to other applicants. The circumstances related to this variance are neither unique nor avoidable, except by denying the proposed development.
 - B. The variance is not based on conditions or circumstances which are the result of the actions by the Applicant. The need to remove the trees is based on site layout and design for a religious institution of this size. An alternate site layout would not alter the need for the removal of these five trees.
 - C. The need for the variance does not arise from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property. The need to remove the trees is a result of the proposed site design and layout on the Subject Property and does not arise from a condition on a neighboring property.
 - D. The removal of the trees will not violate State water quality standards or cause measurable degradation in water quality. In this case, the specimen trees proposed to be removed are not within a stream buffer, wetland or a special protection area, and as such it is presumed that the removal of these individual trees would not cause degradation to water quality.
- *The Application meets all applicable stormwater management requirements and will provide adequate control of stormwater runoff from the site.*

The application has an approved stormwater management concept dated August 29, 2007. Because the building and parking were shifted slightly to achieve proper setbacks with the two lot plan, a revised stormwater management concept was submitted and approved by MCDPS on July 31, 2009. The concept consists of on-site infiltration via sand filters and trenches, and channel protection measures via on-site detention using a shallow pond. The application meets the requirements of Chapter 50-24(j) for stormwater management.

- *The proposed lots are of the same character as to street frontage, alignment, size, shape, width, area and suitability for residential use as other lots within the existing neighborhood (as delineated by Staff in the Staff Report) ("Neighborhood"), as analyzed below.*

Size: Lot sizes range from 20,133 square feet to 69,982 square feet. The proposed lots will be 35,992 square feet in size and 46,609 square feet in size, respectively for Lots 25 and 26. While proposed Lot 26 is one of the largest lots

in the Neighborhood with respect to size, 4 of the 14 lots have larger sizes. Both proposed lots are within the range for all lot sizes in the Neighborhood.

Width: Lot widths for existing lots range from 100 feet to 178 feet. The proposed lots will have lot widths at the building line of 135 feet and 172 feet, respectively for Lots 25 and 26. Lot 26 will be the second widest at the building line but it is important to note that there are a grouping of 5 lots with widths of 140 feet or more. Because of this grouping of wider lots, Lot 26 will be very similar to them and not out of character with the Neighborhood. Both proposed lots will have widths within the range of lot widths for all lots in the Neighborhood.

Frontage The lot frontages in the Neighborhood range from 100 feet to 203 feet. The proposed lots will have frontages of 135 feet and 172 feet, respectively, for Lots 25 and 26. While proposed Lot 26 is one of the widest with respect to frontage, there are still 3 lots with wider frontages in the Neighborhood. The frontage measurements for both proposed lots are within the range for lot frontages for all lots in the analysis Neighborhood.

Area: The buildable areas for the lots in the Neighborhood range from 10,140 square feet to 29,997 square feet. The proposed lots will have buildable areas of 18,700 square feet and 23,925 square feet, respectively, for Lots 25 and 26. Lot 26 will have the second largest buildable area of all lots in the Neighborhood. The board noted that 6 of the 14 existing lots have buildable areas greater than 21,000 square feet and that Lot 26 will not differ significantly from these lots. The buildable areas for the proposed lots are within the range for all lot areas within the Neighborhood.

Alignment: All lots, both existing and proposed, are perpendicular to the street.

Shape: Lots in the Neighborhood are described as generally rectangular; irregular or generally trapezoidal. The proposed lots will be rectangular in shape; a shape that is fairly common in the Neighborhood.

Suitability for Residential Use: Although a non-residential use is proposed, the proposed lots are suitable for residential use.

BE IT FURTHER RESOLVED, that this Preliminary Plan will remain valid for 60 months from its Initiation Date (as defined in Montgomery County Code Section 50-35(h), as amended) and that prior to the expiration of this validity period, a final record plat for all property delineated on the approved Preliminary Plan must be recorded among the Land Records of Montgomery County, Maryland or a request for an extension must be filed; and

BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is MAR 28 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).

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CERTIFICATION

This is to certify that the foregoing is a true and correct copy of a resolution adopted by The Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission on motion of Commissioner Alfandre, seconded by Vice Chair Wells-Harley, with Chairman Hanson, Vice Chair Wells-Harley, and Commissioners Alfandre and Dreyfuss present and voting in favor of the motion, and Commissioner Presley, absent at its regular meeting held on Thursday, March 4, 2010, in Silver Spring, Maryland.



Royce Hanson, Chairman
Montgomery County Planning Board