



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

MCPB No. 16-082
Subdivision Regulations Waiver No. SRW201602
Washington Adventist University
Date of Hearing: July 14, 2016

AUG 23 2016

RESOLUTION

WHEREAS, under Montgomery County Code Section 50-20(a), The Department of Permitting Services must not approve a building permit for the construction of a dwelling or other structure unless the dwelling or structure would be located on a lot or parcel of land which is shown on a plat recorded in the County plat books; and

WHEREAS, under Montgomery County Code Section 50-35(a)(3)(b), consolidation involving a part of a lot may occur under the minor subdivision process only if the part of a lot was created by deed recorded prior to June 1, 1958; and

WHEREAS, on May 25, 2016, Washington Adventist University ("Applicant") filed an application for a waiver of the requirements of the Subdivision Regulations requiring recordation of a plat prior to issuance of a building permit under Section 50-02(a) and the limit for minor subdivision to a deed recorded prior to June 1, 1958, under 50-35(a)(3)(b), allowing the Applicant to plat a 13.14-acre part of a lot created in 2003, located on the south side of Flower Avenue between Maplewood Avenue and Carroll Avenue ("Subject Property") in the R-60 Zone and Takoma Park Master Plan ("Master Plan") area; and

WHEREAS, the Planning Board may grant a waiver of the requirements of the Subdivision Regulations under Section 50-38(a)(1) upon a determination that practical difficulties or unusual circumstances exist that prevent full compliance with the requirements from being achieved, and that the waiver is: 1) the minimum necessary to provide relief from the requirements, 2) not inconsistent with the purposes and objectives of the General Plan, and 3) not adverse to the public interest; and

WHEREAS, Applicant's request for a subdivision regulations waiver was designated Subdivision Regulations Waiver No. SRW201602, Washington Adventist University ("Waiver" or "Application"); and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and other governmental agencies, Staff issued a memorandum to the

Approved as to
Legal Sufficiency:

Christina Sonnet 7/20/16

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Planning Board dated July 1, 2016, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on July 15, 2016, the Planning Board held a public hearing on the Application at which it heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, at the hearing the Planning Board voted to approve the Application, subject to certain conditions, by the vote as certified below.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Subdivision Regulations Waiver No. SRW201602 and waives the requirements of Section 50-02(a) requiring recordation of a plat prior to issuance of a building permit and Section 50-35(a)(3)(b) limiting minor subdivision to a deed recorded prior to June 1, 1958, for the Subject Property, subject to the following conditions:¹

1. Montgomery County Department of Permitting Services may issue only demolition, excavation, sheeting/shoring, and/or foundation permits before plat recordation. All above-grade building permits must be withheld until the lot is platted.
2. The Applicant must complete improvements to the public sidewalk along the Maplewood Avenue frontage, as described in the City of Takoma Park's letter dated June 20, 2016, before final use and occupancy certificate.

BE IT FURTHER RESOLVED that having considered the recommendations and findings of its Staff as presented at the hearing and as set forth in the Staff Report, which the Board hereby adopts and incorporates by reference (except as modified herein), and upon consideration of the entire record, the Planning Board FINDS, with the conditions of approval, that:

1. *Practical difficulties or unusual circumstances exist that prevent full compliance with the requirements from being achieved.*

The Planning Board finds that the unusual circumstances and practical difficulties of this Application are warranted. The University has been a member of and a good neighbor to the Takoma Park community for over a century and reached out to the Planning Department early in the project. Unfortunately, the information presented to Planning Department Staff did not accurately convey that the originally platted lot had been subsequently split by deed into unplatted parts of a lot. Both the University and Staff thus made a determination about the applicability of Chapter 50 with incomplete information. The University then proceeded with

¹ For the purpose of these conditions, the term "Applicant" shall also mean the developer, the owner or any successor(s) in interest to the terms of this approval.

the development of the project, and the necessary financing and recruitment efforts to realize the school addition. Two years later, the University has secured financing, including a significant state grant, has been recruiting students, and has submitted building permit applications, all of which are in jeopardy without the waiver. With the waiver as conditioned, there is no additional public benefit that could be derived by taking this Property through a complete preliminary plan review.

2. *The Waiver is the minimum necessary to provide relief from the requirements, is not inconsistent with the purposes and objectives of the General Plan, and is not adverse to the public interest.*

As conditioned, the Planning Board finds that for this Property, the request to waive the requirements of Section 50-02(a) requiring recordation of a plat prior to issuance of a building permit and Section 50-35(a)(3)(b) limiting minor subdivision to a deed recorded prior to June 1, 1958, is the minimum necessary to provide relief from these requirements and will result in a building permit for a platted lot.

3. *Not inconsistent with the purposes and objectives of the General Plan*

The 2000 *Takoma Park Master Plan* makes specific recommendations for the Washington Adventist Hospital/Columbia Union College site (p. 64), including:

- Support campus improvements to meet needs of hospital, college, and church clients, while providing service and access to area residents.
- Maintain expansion within the bounds of current campus grounds...
- Provide improvements to area sidewalks serving the campus.

As conditioned, the timely construction of the school building addition that would be facilitated by the requested waivers supports the goals of the *General Plan*, as amended by the *Takoma Park Master Plan*.

4. *Not adverse to the public interest*

As conditioned, the waivers are not adverse to the public interest as there is no additional public benefit that would be obtained through the submission and review of a Preliminary Plan. The forthcoming platting of the Property, the improved public sidewalk, and the improved educational facility, are all in the public interest to assure conformity with the Subdivision Regulations.

BE IT FUTHER 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 this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is ~~_____ AUG 23 2016 _____~~ (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 Fani-González, seconded by Vice Chair Wells-Harley, with Chair Anderson, Vice Chair Wells-Harley, and Commissioner Fani-González voting in favor, Commissioner Cichy abstaining, and Commissioner Dreyfuss absent at its regular meeting held on Thursday, July 28, 2016, in Silver Spring, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board

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

MCPB No. 16-063

AUG 23 2016

Forest Conservation Plan No. 11996071A

21611 Ripplemead Drive, Laytonsville (a.k.a Fairhill Subdivision)

Date of Hearing: July 28, 2016

RESOLUTION

WHEREAS, under Montgomery County Code Chapter 22A, the Montgomery County Planning Board is authorized to review forest conservation plan applications; and

WHEREAS, by Opinion dated July 17, 1996, the Planning Board, approved Forest Conservation Plan No. 119960710 covering the 128 acres encompassed by Preliminary Plan No. 11974019R, which created 27 lots and 19 outlots in the RDT (AR) Zone, located at the intersection of Ripplemead Drive and Riggs Road, in the Olney Master Plan ("Master Plan") area; and

WHEREAS, on May 17, 2016, Marquis McClure ("Applicant"), filed an application for approval of an amendment to the previously approved forest conservation plan to remove a total of 2.484 acres of onsite Category I conservation easement from Lot 7, Block A, Fairhill known as 21611 Ripplemead Drive ("Subject Property"), one of the lots included in Forest Conservation Plan No. 119960710 and mitigate for such removal; and

WHEREAS, the application to amend the forest conservation plan was designated Forest Conservation Plan No. 11996071A, 21611 Ripplemead Drive (a.k.a Fairhill) ("Forest Conservation Plan", "Amendment" or "Application"); and

WHEREAS, following review and analysis of the Application, the Planning Board staff ("Staff") issued a memorandum to the Planning Board, dated July 15, 2016, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on July 28, 2016, the Planning Board held a public hearing on the Application, and at the hearing the Planning Board heard testimony and received evidence submitted for the record on the Application; and

Approved as to
 Legal Sufficiency

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WHEREAS, at the hearing, the Planning Board voted to approve the Application subject to certain conditions, by the vote as certified below.

NOW, THEREFORE, BE IT RESOLVED THAT, the Planning Board approves Forest Conservation Plan No. 11997071A to remove a total of 2.484 acres of Category I Conservation Easement from the Subject Property and mitigate by providing 4.97 acres for forest conservation mitigation bank credit at an M-NCPPC approved forest mitigation bank, subject to the following conditions:¹

1. The property owner must submit an executed Certificate of Compliance, approved by the M-NCPPC Office of General Counsel, to use an offsite forest mitigation bank within 30 days of the mailing date of the Planning Board's Resolution. The Certificate of Compliance must provide 4.97 acres of mitigation credit for the removal of 2.484 acres of Category I Conservation Easement.
2. The property owner must record in the Montgomery County Land Records a new Category I Conservation Easement that has been approved by the Planning Department to show the remaining Conservation Easement areas on the Property within 30 days of the mailing date of the Planning Board's Resolution.
3. The property owner must record in the Montgomery County Land Records an easement abandonment that has been approved by the Planning Department within 45 days of the mailing date of the Planning Board's Resolution. The Deed of Abandonment must be recorded after the new Conservation Easement is recorded in the Montgomery County Land Records.
4. The Property Owner must sign and post the remaining Category I Conservation Easement on the Subject Property within 45 days of the mailing date of the Planning Boards' Resolution.
5. The Applicant must maintain the existing screening, and prior to December 15, 2016, extend the current screening by planting a row of evergreen trees along the property line between the Subject Property and Lot 6. The intention is to retain a vegetative screen between the two properties.

BE IT FURTHER RESOLVED, that having considered the recommendations and findings for its Staff as presented at the hearing and 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 Planning Board FINDS, with the conditions of approval, that:

¹ For the purposes of these conditions, the term "Applicant" shall also mean the developer, the owner or any successors in interest to the terms of this approval.

1. Except as specifically set forth herein, this Amendment does not alter the intent, objectives, or requirements in the originally approved forest conservation plan, and all findings not specifically addressed remain in effect.
2. The Application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County, Chapter 22A.

The Applicant is removing 2.484 acres of conservation easement area from the Subject Property and will mitigate for the removal offsite in a forest mitigation bank. As a result, the property owner will need to acquire 4.97 acres of forest mitigation bank credits to mitigate for the off-site removal of conservation easement. The proposal is consistent with the Planning Board's policy of requiring 2 square feet of offsite forest planting for every 1 square foot of conservation easement released. This mitigation satisfies the Forest Conservation Law requirements.


BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is AUG 23 2016 (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 Cichy, seconded by Commissioner Fani-González, with Chair Anderson, Vice Chair Wells-Harley, and Commissioners Fani-González and Cichy voting in favor, and Commissioner Dreyfuss absent at its regular meeting held on Thursday, July 28, 2016, in Silver Spring, Maryland.



Casey Anderson, Chair
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MONTGOMERY COUNTY PLANNING BOARD
 THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB No. 16-079
 Preliminary Plan No. 12002018A
 PEPCO Darnestown Substation (Evangelical Formosan)
 Date of Hearing (Consent): July 28, 2016

AUG 23 2016

RESOLUTION

WHEREAS, under Montgomery County Code Chapter 50, the Montgomery County Planning Board is authorized to review preliminary plan applications; and


WHEREAS, on April 23, 2002, the Planning Board issued its Opinion and approved Preliminary Plan No. 120020180, creating one lot for a 23,800 square foot house of worship on 4.0 acres of land in the R-200 zone, located on the northwest corner of Darnestown Road and Riffle Ford Road ("Subject Property"), in the North Potomac Policy Area and 2002 Potomac Subregion *Master Plan*) area; and

WHEREAS, the Subject Property was never developed in accordance with Preliminary Plan No. 120020180, and on February 19, 2016, the Office of Zoning and Administrative Hearings, as authorized by Section 59-7.3.1 of the Montgomery County Code conditionally approved the Conditional Use of the Subject Property as a PEPCO power substation, which approval required an amendment to Preliminary Plan No. 120020180 to change the use from a house of worship to a PEPCO power substation; and

WHEREAS, on February 24, 2016, Potomac Electric Power Company ("Applicant") filed an application for approval of an amendment to Preliminary Plan No. 120020180 for the Subject Property to change the use from a house of worship to a PEPCO power substation; and

WHEREAS, Applicant's application to amend the preliminary plan was designated Preliminary Plan No. 12002018A, PEPCO Darnestown Substation (Evangelical Formosan) ("Preliminary Plan," "Amendment," or "Application"); and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and other governmental agencies, Staff issued a memorandum to the Planning Board, dated July 15, 2016, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

Approved as to
 Legal Sufficiency:  7/20/16
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WHEREAS, on July 28, 2016, Staff presented the Amendment to the Planning Board as a consent item for its review and action, at which time the Planning Board voted to approve the Amendment subject to certain conditions, by the vote certified below.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Preliminary Plan No. 12002018A to i) change the use of the Property associated with the Preliminary Plan, and ii) update the stormwater concept and storm drain analysis to account for the changing use, subject to the following conditions:¹

- 1.) Approval is limited to one (1) lot for an electric power substation.
- 2.) The Applicant must comply with the conditions of the approved Amended Final Forest Conservation Plan No. 12002018A.
- 3.) The Applicant must comply with conditions of Office of Zoning and Administrative Hearings in the Hearing Examiner's Report and Decision report approving Conditional Use CU 16-04.
- 4.) The Applicant must construct approximately 135 feet of the unbuilt portion of a 5-foot sidewalk on Darnestown Road across the Subject Property's frontage.
- 5.) The Planning Board accepts the recommendations of the Montgomery County Department of Transportation ("MCDOT") in its letter dated July 14, 2016, and hereby incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDOT provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 6.) The Planning Board accepts the recommendations of the Montgomery County Department of Permitting Service ("MCDPS") – Water Resources Section in its stormwater management concept letter dated September 24, 2015, and hereby incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDPS – Water Resources Section provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 7.) Prior to Certified Preliminary Plan, the Applicant shall revise the Preliminary Plan Amendment in accordance with MCDOT's letter date July 14, 2015.

¹ For the purpose of these conditions, the term "Applicant" shall also mean the developer, the owner or any successor(s) in interest to the terms of this approval.

BE IT FURTHER RESOLVED that, unless modified herein, all other preliminary plan conditions of approval for this project remain valid, unchanged and in full force and effect.

BE IT FURTHER RESOLVED that having considered 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 Planning Board FINDS, with the conditions of approval, that:

Unless specifically set forth herein, this Amendment does not alter the intent, objectives, or requirements in the originally approved preliminary plan, and all findings not specifically addressed remain in effect.

1.) The Preliminary Plan substantially conforms to the 2002 Potomac Subregion Master Plan.

The Master Plan provides guidelines for design and review of Conditional Use including:

- Examination of compatibility.
- Strategic location, landscaping and screening of parking to minimize commercial appearance.
- Enhanced screening and buffering of uses as viewed from abutting residential areas and major roadways.

With regard to addressing compatibility, minimizing the commercial appearance, and enhanced screening and buffering uses viewed from abutting areas, the Planning Board finds that the conditions of approval related to Conditional Use CU 16-04 conforms with the Master Plan. The Applicant will enhance the appearance of the Subject Property's northeast corner at the immediate intersection of Riffle Ford Road and Darnestown Road by removing all weedy vegetative overgrowth throughout the area and installing appropriate shrubs and groundcover. The Applicant revised the landscape plan which was adopted into the record of the Conditional Use approval to provide adequate screening and buffering of the facility and the two-space parking lot from adjoining properties and roads.

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

Because this is an unmanned substation with no peak hour vehicle trips, no Adequate Public Facilities findings are necessary.

- 3.) *The size, width, shape, and orientation of the approved lots are appropriate for the location of the subdivision, taking into account the recommendations include the applicable master plan, and for the type of development or use contemplated.*

The Planning Board finds the proposed lot size, width, shape and orientation are appropriate for the location of the subdivision within the Master Plan. The lot adequately accommodates proper access, stormwater management, and provides ample room within the required setbacks to locate the power substation. The Master Plan makes not specific recommendations for this use

The lot was reviewed for compliance with the dimensional requirements for the RE-1 zone as specified in the Zoning Ordinance. The lot as proposed will meet all the dimensional requirements for area, frontage, width, and open space, and the proposed structure can meet setbacks required in that zone.

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

The Application meets the requirements of Chapter 22A of the Montgomery County Forest Conservation Law. The Final Forest Conservation Plan was administratively approved by Staff on June 20, 2016.

- 5.) *All stormwater management requirements shall be met as provided in Montgomery County Code Chapter 19, Article II, titled "Storm Water Management," Sections 19-20 through 19-35.*

This finding is based in part upon the determination by MCDPS that the Stormwater Management Concept Plan meets applicable standards.

The MCDPS Stormwater Management Section approved the stormwater management concept on September 24, 2015.

BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is AUG 23 2016 (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 Vice Chair Wells-Harley, seconded by Commissioner Fani-González, with Chair Anderson, Vice Chair Wells-Harley, and Commissioners Fani-González and Cichy voting in favor, and Commissioner Dreyfuss absent at its regular meeting held on Thursday, July 28, 2016, in Silver Spring, Maryland.



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