



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

MCPB No. 19-046  
Preliminary Plan No. 12006124A  
Centro Cristiano Internacional Church  
Date of Hearing: April 25, 2019

**MAY 02 2019**

**RESOLUTION**

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

WHEREAS, on January 23, 2008, the Planning Board, by Resolution MCPB No. 08-13, approved Preliminary Plan No. 120061240, creating one lot on 8.36 acres of land in the RC zone, located on the north side of Norbeck Road (MD 28), approximately 200 feet west of the intersection with Layhill Road (MD 182) ("Subject Property"), in the 2005 Olney Master Plan ("Master Plan") area; and

WHEREAS, on February 4, 2019, Nelson Mendelez, on behalf of Centro Cristiano Internacional Church, ("Applicant") filed an application for approval of an amendment to the previously approved preliminary plan to extend the validity period by one year (12 months) for the Subject Property; and

WHEREAS, Applicant's application to amend the Preliminary Plan was designated Preliminary Plan No. 12006124A, Centro Cristiano Internacional Church ("Amendment") 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 April 10, 2019, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on April 25, 2019 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 certified below.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Preliminary Plan No. 12006124A to extend the validity period of the Preliminary Plan

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Approved as to  
Legal Sufficiency:

MNCPPC Legal Department  
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by one year (12 months) by adding the following condition:<sup>1</sup>

- 1) The Preliminary Plan Amendment will remain valid for 12 months from the mailing of the Planning Board opinion.

BE IT FURTHER RESOLVED that 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 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:

*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.*

#### *Preliminary Plan Validity – Section 50.4.2.H*

##### *1. Extension Requests*

- a. *Only the Board is authorized to extend the validity period. The applicant must submit a request to extend the validity period of an approved preliminary plan in writing before the previously established validity period expires.*

The Applicant submitted a plan validity request to the Planning Board. The request was received on February 4, 2019, before the validity expired on February 23, 2019.

- b. *The Director may approve a request to amend the validity period phasing schedule of an approved preliminary plan if the length of the total validity period of the preliminary plan is not extended. The applicant must submit the request in writing before the previously established validity period of the phase expires.*

This finding is not applicable because this project does not have a phasing schedule.

- c. *The written request must detail all reasons to support the extension request and include the anticipated date by which the plan will be validated. The*

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<sup>1</sup> 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.

*applicant must certify that the requested extension is the minimum additional time required to record all plats for the preliminary plan.*

The Applicant has provided a justification statement for the requested extension to the plan validity (Attachment A). The current validity expired on February 23, 2019. The request for 12 months of extended validity will allow the Applicant to finish the plating process, which has been put on hold until the plan validity is extended. The Applicant has demonstrated that their request is the minimum additional time required to complete recordation of the outstanding plat.

2. *Effect of failure to submit a timely extension request.*

The request was received in a timely manner therefore the sub-sections herein do not apply.

3. *Grounds for extension.*

a. *The Board may only grant a request to extend the validity period of a preliminary plan if the Board finds that:*

- i. *delays by the government or some other party after the plan approval have prevented the applicant from meeting terms or conditions of the plan approval and validating the plan, provided such delays are not caused by the applicant; or*
- ii. *the occurrence of significant, unusual and unanticipated events, beyond the applicant's control and not caused by the applicant, have substantially impaired the applicant's ability to validate the plan, and exceptional or undue hardship (as evidenced, in part, by the efforts undertaken by the applicant to implement the terms and conditions of the plan approval in order to validate the plan) would result to the applicant if the plan were not extended.*

The Applicant's validity extension request states that compliance with the October 2, 2018 County Council change to the 2018-2027 Comprehensive Water Supply and Sewerage Plan and compliance with MCDEP's PIF Concept Plan Change Verification Letter (Attachment D) have resulted in unforeseen delays that have prevented completion of plat recordation. These delays were not a direct result of actions by the Applicant and the Applicant has demonstrated a good faith effort in trying to resolve these issues in a timely manner. Additionally, the Applicant's validity extension justification states that these significant, unusual and unanticipated events, beyond their control and not caused by the Applicant, have impacted their ability to validate the plan, and that an undue hardship would result to the Applicant if the validity period were not extended. If

the validity were not extended, the Applicant would not be able to complete the record plat process which has already been initiated.

- b. *The applicant bears the burden of establishing the grounds in support of the requested extension.*

The Applicant provided the Board with a justification statement (Attachment A) outlining the validity extension request and the necessary justifications.

4. *Planning Board considerations for extension.*

- a. *The Board may condition the grant of an extension on a requirement that the applicant revise the plan to conform with changes to the requirements of this Chapter since the plan was approved.*

The Board shall not require the Applicant to conform to any changes that have occurred in Chapter 50 since the initial approval date.

- b. *The Board may deny the extension request if it finds that the project, as approved and conditioned, is no longer viable. The Board must consider whether the project is capable of being financed, constructed, and marketed within a reasonable time frame. The Applicant must demonstrate the project's viability upon request by the Board or the Director.*

The Applicant has confirmed in their extension justification that the Preliminary Plan is still viable from a financial, construction and market standpoint. The Applicant has already submitted their plat application and is currently in the process of being reviewed.

5. *Planning Board action.*

- a. *After a duly noticed public hearing, the Board must determine whether it should grant a request for an extension. The requirements for noticing and conducting a public hearing must follow the requirements for a preliminary plan.*

The Preliminary Plan Amendment was noticed as other amendments pursuant to the requirements of Chapter 50 and the Development Manual and is scheduled for a public hearing before the Board as required.

- b. *If voting to approve an extension, the Planning Board must only grant the minimum time it deems necessary for the applicant to validate the plan.*

The Applicant has requested a 12-month extension to the Preliminary Plan and states this is the minimum necessary to complete the validation. The Board supports the Applicant's request.

- c. *The Board may only grant an extension to a preliminary plan within the plan's APFO validity period, unless a further extension is allowed by law.*

The requested plan validity extension period falls within the Preliminary Plan's existing APFO validity period, which is not set to expire until February 23, 2021.

- d. *An applicant may request, and the Board may approve, more than one extension.*

This is the first request for a plan validity extension made for the current Preliminary Plan approval.

- e. *Once a phasing schedule is approved by the Board as part of a preliminary plan approval, the Board must treat any revision or alteration to the schedule other than an amendment approved under Section 4.3.J.7 as a minor amendment to the preliminary plan. Board approval of a revised phasing schedule is required to extend the total length of the validity period.*

This finding is not applicable because this project does not have a phasing schedule.

BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is ~~MAY 02 2019~~ (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 Patterson, seconded by Commissioner Cichy, with Chair Anderson, Vice Chair Dreyfuss, and Commissioners Fani-González, Cichy, and Patterson voting in favor at its regular meeting held on Thursday, April 25, 2019, in Silver Spring, Maryland.

  
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Casey Anderson, Chair  
Montgomery County Planning Board