



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

FEB 13 2009

MCPB No. 09-13
Preliminary Plan No. 120060660
South Glen Road – Verma Property
Hearing Dates: May 31, 2007 and July 10, 2008

MONTGOMERY COUNTY PLANNING BOARD

RESOLUTION¹

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 December 22, 2005, Divya Verma, M.D., (“Applicant”), filed an application for approval of a preliminary plan of subdivision of property that would create 2 lots on 4.22 acres of land located on the east side of South Glen Road, approximately 3,750 feet north of its intersection with Edison Road, (“Property” or “Subject Property”), in the Potomac Master Plan area (“Master Plan”); and

WHEREAS, Applicant’s preliminary plan application was designated Preliminary Plan No. 120060660, Verma – South Glen Road (“Preliminary Plan” or “Application”); and

WHEREAS, Planning Board staff (“Staff”) issued a memorandum to the Planning Board, dated May 18, 2007 (“Staff Report”), setting forth its analysis and recommendation for approval, of the Application subject to certain conditions; and

WHEREAS, following review and analysis of the Application by Staff and the staffs of other governmental agencies, on May 31, 2007, 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; and

¹ This Resolution constitutes the written opinion of the Board in this matter and satisfies any requirement under the Montgomery County Code for a written opinion.

Approved as to
Legal Sufficiency:

mal 1/23/09

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WHEREAS, at the Hearing, the Applicant requested deferral of Planning Board action on the Application to resolve, with the Board of Appeals and the Montgomery County Department of Permitting Services, certain site conditions involving special exception uses for a specific structure crossing the Property's lot line; and

WHEREAS on motion of Commissioner Wellington; seconded by Commissioner Perdue; with a vote of 3-0, Commissioners Hanson, Perdue, and Wellington voting in favor of the request for deferral, Commissioner Robinson temporarily absent, and Commissioner Bryant absent; and

WHEREAS, after further review of the Application, Staff issued a second memorandum to the Planning Board, dated June 27, 2008 ("Final Staff Report"), which superseded, in its entirety, the May 18, 2007, Staff Report and set forth its analysis and recommendation for approval of the Application, subject to certain conditions; and

WHEREAS, following further review and analysis of the Application by Staff and the staffs of other governmental agencies, the Planning Board, on July 10, 2008, continued the Hearing ("Continuation Hearing") on the Application; and

WHEREAS, at the Continuation Hearing, the Planning Board heard testimony and received evidence submitted for the record, including the Final Staff Report, on the Application; and

WHEREAS, on July 10, 2008, the Planning Board approved the Application subject to certain conditions, on motion of Commissioner Robinson; seconded by Commissioner Cryor; with a vote of 5-0, Commissioners Alfandre, Cryor, Hanson, Presley and Robinson voting in favor.

NOW, THEREFORE, BE IT RESOLVED THAT, pursuant to the relevant provisions of Montgomery County Code Chapter 50, the Planning Board approved Preliminary Plan No. 120060660 to create 2 lots on the Property, subject to the following conditions:

- 1) Approval under this Preliminary Plan is limited to a maximum of 2 lots for 2 one family detached residential dwelling units.
- 2) Should the existing house be removed prior to recordation of the plat, the record plat must show a straightened common lot line between the two proposed lots. Prior to acceptance of the plat application, Staff to review and approve said lot line.
- 3) The Applicant must comply with the conditions of the preliminary forest conservation plan. Conditions are as follows:

- a) A final forest conservation plan must be submitted consistent with Section 109.B. and approved by staff prior to any clearing or grading on the site.
 - b) A tree save plan must be developed for any tree impacted by widening of the two entranceways and be incorporated into the final forest conservation plan.
 - c) All retained forest and planting areas to be protected with a Category I easement.
 - d) Note on plat to state, "A revised forest conservation plan will be required prior to demolition of existing house on Lot 1."
 - e) Final Forest Conservation Plan to show directional boring for the 4 inch pressure sewer through the forest save area on proposed Lot 1 and for the proposed 8 inch sewer line extension along the eastern boundary of the Property within the forest save area as shown on the Preliminary Plan.
- 4) The Applicant must comply with the conditions of the Montgomery County Department of Permitting Services ("MCDPS") stormwater management concept approval dated January 4, 2007.
 - 5) The Applicant must comply with the conditions of the Montgomery County Department of Public Works and Transportation – now Montgomery County Department of Transportation ("MCDOT") – approval dated March 24, 2007, unless otherwise amended by MCDOT.
 - 6) The Applicant must dedicate road right-of-way for South Glen Road along the property frontage to the full width mandated by the Potomac Subregion Master Plan unless otherwise designated on the Preliminary Plan.
 - 7) The record plat must reflect an ingress/egress and utilities easement over the shared driveway.
 - 8) The Adequate Public Facility ("APF") review for the preliminary plan will remain valid for five (5) years or sixty (60) months from the date of mailing of the Planning Board opinion.
 - 9) Other necessary easements will be shown on the record plat.

BE IT FURTHER RESOLVED, that, having given full consideration to the recommendations and findings of Staff, which the Board hereby adopts and incorporates by reference, and upon consideration of the entire record, the Montgomery County Planning Board FINDS, with the conditions of approval, that:

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

The Potomac Master Plan does not make specific recommendations for development on the Subject Property other than to specify that it is suitable for RE-2 development at the density of 0.5 units per acre. The proposed subdivision complies with the recommendations adopted in the Master Plan in that it

proposes one-family detached housing consistent with the current density recommended in the Master Plan.

2. *Public facilities will be adequate to support and service the area of the proposed subdivision.*

The proposed lots do not generate 30 or more vehicle trips during the morning or evening peak-hours, and therefore; the Application is not subject to Local Area Transportation Review. A traffic statement verifying this fact was submitted and accepted by staff. Vehicle and pedestrian access and circulation will be safe and adequate.

Public facilities and services are available and will be adequate to serve the proposed units. Public sewer and water service are available to the Property. The Application has been reviewed by the Montgomery County Fire and Rescue Service who has determined that the Property has appropriate access for fire and rescue vehicles. Other public facilities and services, such as schools, police stations, firehouses and health services are currently operating within the standards set by the Growth Policy resolution currently in effect. All other local utilities such as, electrical and telecommunications services are also available to serve the Property.

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

The proposed lot size, width, shape and orientation are appropriate for the location of the subdivision. The lots were reviewed for compliance with the dimensional requirements for the RE-2 Zone as specified in the Zoning Ordinance. The lots as proposed will meet all the dimensional requirements for area, frontage, width, and setbacks in that zone. The Application has been reviewed by other applicable county agencies, all of whom have recommended approval of the plan. The proposed lots continue the existing development pattern for most properties fronting on South Glen Road and are appropriate for their location.

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

There are approximately 0.66 acres of forest on the site with no streams, wetlands, floodplain or other environmentally sensitive features. The Application includes long-term protection of a total of 1.14 acres of forest including protection of the existing forest, and proposed forest planting of 0.48 acres. Tree save

measures will be provided at the driveway entrances, as determined on the Final Forest Conservation Plan, to satisfy the Rustic Roads Program requirements. The Planning Board finds that the Application satisfies all the applicable requirements of the Forest Conservation Law.

5. *The Application meets all applicable stormwater management requirements and will provide adequate control of stormwater runoff from the site. This finding is based on the determination by MCDPS that the Stormwater Management Concept Plan meets MCDPS standards.*

The MCDPS Stormwater Management Section approved the stormwater management concept for the project on January 4, 2007. The stormwater management concept includes on-site water quality control and on-site recharge via nonstructural methods. Channel protection control is not required since post development discharge rates are less than 2.0 cubic feet per second.

6. *To the extent possible, the Application satisfies concerns raised by interested citizens.*

The Planning Board considered two items submitted to the record from adjacent property owners regarding development on the Property. The first was a concern raised as part of the initial Hearing on the Property from Mr. Kevin Kennedy, who was concerned about a structure on the Subject Property that crossed the existing lot line onto his Property. Staff and the Applicant confirmed during the Continuation Hearing that that particular structure had been removed from the site and, therefore, the Board finds this structure is no longer an issue.

In a more recent letter dated July 7, 2008, Mr. Kennedy questioned whether grinder pumps were the most maintenance free and ecologically friendly option available for sewer extensions in the "Glen." With regard to the ecological impacts of the proposed sewer, the Board heard testimony from staff and the Applicant that any sewer line that would impact the forest save areas, as shown on the preliminary forest conservation plan, would be directionally bored through forest save areas so that trees are protected to the extent possible. The Board accepted this method of addressing the issue, and made it a condition (3(e)) as a requirement of the Final Forest Conservation Plan.

Mr. Joel Kimel, another adjacent property owner to the east, also expressed concerns about tree save along his common property line with the Subject Property but was satisfied that with the addition of condition 3(e), as discussed above, his concern about tree save was addressed. Mr. Kimel also raised a concern about a property line dispute concerning the common property

line he shares with the Subject Property, which has yet to be resolved. This concern was addressed by the Applicant, who assured the Planning Board that, at the time of final Property survey in preparation of the record plats, he would contact Mr. Kimel to discuss solutions to his concerns.

BE IT FURTHER RESOLVED, that this Preliminary Plan will remain valid for 36 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 Montgomery County Land Records or a request for an extension must be filed; and

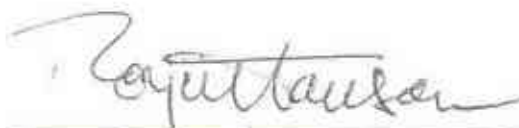
BE IT FURTHER RESOLVED, that the date of this Resolution is FEB 13 2009 (which is the date that this Resolution is mailed to all parties of record); and

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 Presley, seconded by Commissioner Robinson, with Commissioners Hanson, Robinson, Alfandre, Cryor, and Presley voting in favor of the motion, at its regular meeting held on Thursday, January 29, 2009, in Silver Spring, Maryland.



Royce Hanson, Chairman
Montgomery County Planning Board