MCPB No. 17-004 Preliminary Plan No. 120160090 **Snowdens Manor Enlarged** Date of Hearing: January 26, 2017

FEB 1 2017

RESOLUTION

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

WHEREAS, on November 12, 2015, Shri Mangal Mandir Religious Educational and Charitable Trust ("Applicant") filed an application for approval of a preliminary plan of subdivision of property that would create (1) one lot and (1) one outlot on 15.33 acres of land in the RE-2 zone, located at the northwest corner of New Hampshire Avenue/MD 650 and Ednor Road ("Subject Property"), in the Potomac Policy Area and 1998 Sandy Spring/Ashton Master Plan ("Master Plan") area; and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120160090, Snowdens Manor Enlarged ("Preliminary Plan" 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 January 13, 2017, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on January 26, 2017, 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. 120160090 to create (1) one lot and (1) one outlot on the Subject Property, subject to the following conditions:¹

Approved as to Legal Sufficiency

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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.

- 1) This approval is limited to one lot and one outlot for a religious assembly building with an assembly area of no greater than 12,750 square feet and with no weekday daycare or private educational institution
- 2) The Applicant must comply with the conditions of the approved Amended Final Forest Conservation Plan ("FFCP") No. 120160090, which supersedes the previously approved FCP No. 120060920 subject to the following:
 - a. The Applicant must extinguish the existing Category I Conservation Easements along New Hampshire Avenue/MD 650 and Ednor Roads with a deed of abandonment and record new Category I Conservation Easements in the locations shown on the approved amended FFCP (Forest Conservation Areas 3 and 4) prior to any demolition, clearing or grading on the Property.
 - b. Applicant must provide financial surety to the M-NCPPC Planning Department for the acreage of new forest planting prior to the start of any demolition, clearing or grading on the Property.
 - c. The Applicant must submit a two-year Maintenance and Management Agreement approved by the M-NCPPC Office of General Counsel prior to the start of any demolition, clearing or grading on the Property. The maintenance and management agreement is required for all forest planting areas credited toward meeting the requirements of the Forest Conservation Plan, including the reforestation of environmental buffers.
 - d. Afforestation plantings that are located outside the limits of disturbance must occur within the first planting season following release of the first Montgomery County Department of Permitting Services sediment control permit. Plantings within areas of future disturbance must occur in the first planting season following the stabilization of the applicable disturbed area.
 - e. The Applicant must install permanent Category I Conservation Easement signage along the perimeter of all standard conservation easements on the Property prior to the initial afforestation planting acceptance inspection.
 - f. The limits of disturbance ("LOD") shown on the Final Sediment Control Plan must be consistent with the final LOD shown on the approved FFCP.
 - g. The Applicant must comply with all required M-NCPPC site inspections as specified in section 22A.00.01.10 of the Forest Conservation Regulations ("FCR").
 - h. The Applicant must comply with all tree protection and tree save measures shown on the approved Final Forest Conservation Plan. Tree save measures not specified on the Final Forest Conservation Plan may be required by the M-NCPPC forest conservation inspector at the preconstruction meeting.

- The Planning Board accepts the recommendations of the Montgomery County Department of Transportation ("MCDOT") in its letter dated September 1, 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.
- 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 May 18, 2011, and reconfirmed on January 12, 2017 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.
- 5) The Applicant must dedicate and show on the record plat sixty (60) feet of dedication from the centerline of New Hampshire Avenue/MD 650 along the Subject Property's entire frontage.
- 6) The Applicant must dedicate and show on the record plat forty (40) feet of dedication from the centerline of Ednor Road along the Subject Property's entire frontage.
- 7) The Applicant must construct a 10-foot wide shared use path along the Property's frontage of New Hampshire Avenue/MD 650 except for approximately 16 feet at the northern edge of the Subject Property. The shared use path may be narrowed to 8-feet in width at specific points shown on the Certified Preliminary Plan to avoid utilities.
- 8) 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 footprints, building heights, on-site parking, site circulation, and sidewalks shown on the Preliminary Plan are illustrative. The final locations of buildings, structures and hardscape will be determined at the time of building permit approval. Please refer to the zoning data table for development standards such as setbacks, building restriction lines, building height, and lot coverage for each lot. Other limitations for site development may also be included in the conditions of the Planning Board's approval."

- 9) Record plat must show necessary easements.
- 10) Prior to issuance of any building permit, an updated landscape and lighting plan must be submitted for review and approval by M-NCPPC technical staff to include the building and any necessary landscaping and fencing to ensure screening from adjacent residential use as well as the lead-in sidewalk connection to New Hampshire Avenue/MD 650. The lighting plan must demonstrate compliance with the requirements of the Zoning Ordinance.

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. The Preliminary Plan substantially conforms to the Master Plan.

The Planning Board finds that the Preliminary Plan substantially conforms with the recommendations of the 1998 Sandy Spring/Ashton Master Plan.

The Property is at the southern edge of the Sandy Spring-Ashton Master Plan Area. The Master Plan includes the Subject Property in the New Hampshire Avenue/MD 650 area, but makes no specific land use recommendations for it. The Master Plan has as its objective for this area the maintenance of the existing rural character along New Hampshire Avenue/MD 650. The Master Plan provides a series of design guidelines for new development. In general, these guidelines are aimed at new residential development, but two are germane to the house of worship.

The Master Plan's Land Use and Transportation chapters recommend the maintenance of vegetated edges close to the road pavement and the placement of new trees in ways that echo traditional placement along rural roads. Previous approvals on this Property included the granting of Category I Conservation easements along the Hampshire Avenue/MD 650 to maintain its wooded nature, which met the Master Plan recommendations. Adjustments to the Category I Conservation easement as part of this Application remain in conformance with the Master Plan recommendations. The Application also includes the recommended shared use path, substantially conforming with the Master Plan recommendations.

The Land Use Plan also recommends a hiker/biker path along the west side of New Hampshire Avenue/MD 650. The shared use path will not be constructed across the entire New Hampshire Avenue/MD 650 frontage and instead will end approximately 16-feet short of the northern property boundary. This is due to an

existing drainage structure obstructing the alignment of the shared use path extension which will require major reconstruction of the drainage structure with retaining walls, which the Maryland State Highway Administration won't allow in their right-of-way. As a result, the engineering required to reconstruct and extend the drainage structure for this 16-foot portion of shared use path would require additional drainage easements and structures on the Subject Property as well as adjacent property, which, while owned by the Applicant, is not part of this Application. Completing this remaining 16-foot section of the shared use path along New Hampshire Avenue/MD 650 will likely need to occur via a capital improvement project in the future in order to systematically address this obstruction as well as other obstructions further to the north of the Shri Mangal Mandir Temple. Given the scope of this Application, the Planning Board agrees that completing the shared use path for this final 16 feet is better handled by a future capital improvement project or adjacent development.

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

Master-Planned Roadways and Bikeways

In accordance with the 1998 Sandy Spring Master Plan and the 2005 Countywide Bikeways Functional Master Plan, the master-planned roadways and bikeway are as follows:

- New Hampshire Avenue/MD 650 is designated as a two-lane major highway, M-12, with a recommended 120-foot wide right-of-way and an unbuilt Class I, PB-23, bikeway. The Countywide Bikeways Functional Master Plan recommends a shared-use path, SP-15, on the property/west side. The Application will grant 60 feet of right-of-way from the centerline of New Hampshire Avenue/MD 650.
- Ednor Road is designated as a two-lane arterial, A-50, with an 80-foot wide right-of-way and an existing Class I, PB-40, bikeway. The *Countywide Bikeways Functional Master Plan* recommends a shared-use path, SP-31, on the opposite/south side. The Application will grant 40 feet of right-of-way from the centerline of Ednor Road.

Local Area Transportation and Policy Area Review

As a religious assembly building associated with the existing house of worship on the adjacent property, (with no weekday daycare or private educational institution) the Application is exempt from the transportation components of the Adequate Public Facilities test.

Other Public Facilities and Services

The Subject Property received a sewer category change approval with conditions on July 24, 2012 by request No. 11A-CLO-01 and the Preliminary Plan proposes that the religious assembly structure will be served by public water and sewer. The Preliminary Plan has also been reviewed by the Montgomery County Fire and Rescue Services who have determined that the Application provides adequate access for fire and emergency vehicles.

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

The Planning Board find that the Preliminary Plan meets all applicable sections of the Subdivision Regulations. The lot size, width, shape and orientation for the building for religious assembly are appropriate for the location of the subdivision taking into account the design recommendations for forest conservation along Property frontages included in the Master Plan, and for the structure contemplated for the Property. The outlot will be fully encompassed by a Category I Forest Conservation Easement.

The lots were reviewed for compliance with the dimensional requirements for the RE-2 zone as specified in the Zoning Ordinance. The lots will meet all the dimensional requirements for area and frontage and can accommodate a building which can reasonably meet the width and setbacks requirements in that zone. The Applicant must submit a revised landscape and lighting plan prior to building permit addressing the area around the building footprint to increase screening and compatibility between existing residential uses to the extent possible.

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

A. Forest Conservation

The Planning Board finds that as conditioned, the Forest Conservation Plan complies with the requirements of the Forest Conservation Law.

A Preliminary Forest Conservation Plan ("PFCP") was submitted as part of the Application for the Ford Property, Preliminary Plan number 12006092, and was approved by the Planning Board on July 3, 2007. A FFCP, plan number SC2011021, was submitted on June 9, 2011 and approved at the Staff level on July 11, 2011 for the installation of a

parking lot and a storm water management pond on the Property. The FFCP also shows an Open/Play Area and a future Phase 2 building adjacent to the intersection of Ednor Road and New Hampshire Avenue/MD 650.

This Application requests an amendment to the approved FFCP. This current amendment shows the addition of the building within the previous Open/Play Area and the necessary sewer/water connections out to MD 650. The FFCP amendment shows the total net tract area to be 20.15 acres and is zoned RE-2, but the actual use is for a religious institution which is assigned a Land Use Category of Institutional Development Area (IDA) in the Land Use Table of the Environmental Guidelines. This gives the Property an afforestation requirement of 3.02 acres, 15% of the net tract; and a conservation threshold of 4.03 acres, 20% of the net tract.

The previously approved FFCP met the requirements of Chapter 22A of the Montgomery County Forest Conservation Law. The Property contains 16.01 acres of existing forest. As part of the existing approved FFCP, the Applicant removed 5.51 acres of forest and retained 10.50 acres This resulted in a total afforestation/reforestation requirement of 0.00 acres since the amount of retained forest was greater than the forest retention threshold of 6.43 acres for that Application. The retained forest, the stream, the wetland and their associated buffers were protected through both a standard Category I Conservation Easement and a Modified Category I Conservation Easement.

This Application amends the approved FFCP. This current amendment shows the addition of the building within the previous Open/Play Area and the necessary sewer/water connections out to New Hampshire Avenue/MD 650. The necessary Forest Conservation Easements ("FCE") were recorded in the County Land Records as part of the original FFCP. These FCEs met the reforestation requirements specified under section 22A-12 of the Forest Conservation Law and the FFCP worksheet. As part of that original approval, the basic FFCP requirements were met with the protection of the existing forest by FCEs. In addition to meeting the basic requirements, the Applicant also protected additional existing forest with Modified FCEs. These Modified FCEs allowed for the removal of these segments of forest without penalty, as long as the removal was documented by amending the FFCP and the forest removal numbers were adjusted in the FFCP worksheet.

The Applicant is showing the removal of a small segment of Modified FCE between the building and New Hampshire Avenue/MD 650. The removal

of 1,742.41 square feet (0.04 acres) of forest and Modified FCE is for the installation of the necessary sewer/water connection for the building. This removal has been accounted for in the amended FFCP worksheet and data tables. The necessary FFCP reforestation requirements are still being met with the preservation of the existing forest with the standard FCEs.

This amendment removes and replaces part of the existing standard FCE along New Hampshire Avenue/MD 650 and Ednor Road. This modification is necessary due to the development requirements to provide a public utility easement (PUE) along both roads immediately adjacent to the rights-of-way. The approved FFCP did not account for this addition of a PUE. The Applicant proposes to remove 10-feet of standard FCE along the outside edges of these easements and add 10-feet to the inside edge of the easements. The FCE will stay the same width, but will be shifted into the Subject Property by 10-feet. The Applicant will plant 20 1 ½" to 2" caliper Maryland native overstory trees within the new 10-foot wide segment of FCE.

B. Forest Conservation Variance

Section 22A-12(b)(3) of the Forest Conservation Law identifies certain individual trees as high priority for retention and protection ("Protected Trees"). Any impact to these Protected Trees, including removal or any disturbance within a Protected Tree's critical root zone ("CRZ"), requires a variance under Section 22A-12(b)(3) ("Variance"). Otherwise such resources must be left in an undisturbed condition.

This Application will require the removal or CRZ impact to (13) thirteen Protected Trees as identified in the Staff Report. In accordance with Section 22A-21(a), the Applicant requested a Variance, and the Board agrees that the Applicant would suffer unwarranted hardship by being denied reasonable and significant use of the Subject Property without the Variance.

The Board makes the following findings necessary to grant the Variance:

1. Granting the Variance will not confer on the Applicant a special privilege that would be denied to other applicants.

Granting the variance will not confer a special privilege on the Applicant as the impacts to the 13 trees is a result of necessary requirements to provide sewer and pedestrian access to the Subject

Property. Therefore, Staff believes that the granting of this variance is not a special privilege that would be denied to other applicants.

2. The need for the Variance is not based on conditions or circumstances which are the result of the actions by the Applicant.

The requested variance is not based on conditions or circumstances which are the result of actions by the Applicant. The requested variance is based upon the existing site conditions and necessary design requirements of this Application.

3. The need for the Variance is not based on a condition related to land or building use, either permitted or non-conforming, on a neighboring property.

The requested variance is a result of the existing conditions and not a result of land or building use on a neighboring property.

4. Granting the Variance will not violate State water quality standards or cause measurable degradation in water quality.

The variance will not violate State water quality standards or cause measurable degradation in water quality. The specimen trees being impacted are not located within a stream buffer. Therefore, Staff concurs that the Application will not violate State water quality standards or cause measurable degradation in water quality.

Mitigation for the Variance is only required if specimen trees are removed. In this case, no specimen trees are being removed, so mitigation will not be required.

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.

The Preliminary Plan received an approved stormwater concept plan from the Montgomery County Department of Permitting Services (DPS), Water Resources Section on May 18, 2011. The stormwater concept was reconfirmed by DPS, Water Resources Section on January 12, 2017. The Application will meet stormwater management goals through the installation of a submerged gravel wetland.

- 6. The Planning Board finds that the Preliminary Plan meets the conditions of the sewer category change set forth by the Montgomery County Council in WSCCR 11A-CLO-01 which are:
 - A maximum impervious level of 24 percent.
 - A low-pressure sewer main extension that follows New Hampshire Avenue south from the site to connect with the existing gravity sewer in front of Immanuel's Church (DEP will verify that this alignment satisfies the requirement of the PIF policy).
 - A wooded buffer, approximately 50 feet deep, screening on-site development from the street view along the property frontage of New Hampshire Avenue and Ednor Road, with an allowance for the needed sewer extension access to the site.
 - Sewer service will be limited to the use presented by the Applicant, a congregation meeting building; no other use may connect to public sewer service without subsequent consideration and approval by the County Council.

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)), 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 in the Montgomery County Land Records, 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 ______FEB __1 2017 __ (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 Fani-González, seconded by Commissioner Cichy, with Chair Anderson, Vice Chair Wells-Harley, and Commissioners Dreyfuss, Fani-González, and Cichy voting in favor at its regular meeting held on Thursday, January 26, 2017, in Silver Spring, Maryland.

Casey Anderson, Chair

Montgomery County Planning Board