



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

MCPB No. 19-070  
Preliminary Plan No. 120190120  
Potter Glen  
Date of Hearing: June 20, 2019

**JUN 27 2019**

**RESOLUTION**

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

WHEREAS, on December 18, 2018, Terrier Glen Road, LLC (“Applicant”) filed an application for approval of a preliminary plan of subdivision of property that would create six lots on 13.32 acres of land in the RE-2 zone, located in the NE quadrant of the intersection of Glen Road and Query Mill Road (“Subject Property”), in the Rural West Policy Area, 2002 *Potomac Subregion Master Plan* (“Master Plan”) area; and

WHEREAS, Applicant’s preliminary plan application was designated Preliminary Plan No. 120190120, Potter Glen (“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 June 10, 2019, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and

WHEREAS, on June 20, 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. 120190120 to create five lots on the Subject Property, subject to the following conditions:<sup>1</sup>

<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.

Approved as to  
Legal Sufficiency:

*Christina Sora* 6/13/19

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MNCPPC Legal Department  
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### **General Approval**

1. This Preliminary Plan is limited to five lots for five one-family detached dwelling units.

### **Adequate Public Facilities and Outside Agencies**

2. The Adequate Public Facility (“APF”) review for the Preliminary Plan will remain valid for sixty-one (61) months from the date of mailing of this Planning Board Resolution.

### Outside Agencies

3. The Planning Board accepts the recommendations of the Montgomery County Department of Transportation (“MCDOT”) in its letter dated June 7, 2019 and 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 the MCDOT if the amendment does not conflict with any other conditions of the Preliminary Plan approval.
4. Before recording a plat for the Subject Property, the Applicant must satisfy the MCDOT’s requirements for access and improvements.
5. The Planning Board accepts the recommendations of the Montgomery County Department of Permitting Services (“MCDPS”) – Water Resources Section in its stormwater management concept letter dated April 24, 2019 and 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 the MCDPS – Water Resources Section if the amendment does not conflict with any other conditions of the Preliminary Plan approval.
6. The Planning Board accepts the recommendations of the Montgomery County Department of Permitting Services – Well and Septic Section in its letter dated June 7, 2019 and 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 the MCDPS – Well and Septic Section if the amendment does not conflict with any other conditions of the Preliminary Plan approval.
7. The Planning Board accepts the recommendations of the Montgomery County Department of Permitting Services, Fire Department Access and Water Supply Section in its letter dated March 21, 2019 and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set

forth in the letter, which the MCDPS may amend if the amendment does not conflict with other conditions of Preliminary Plan approval.

## **Environment and Noise**

### **Forest Conservation**

8. The Applicant must comply with the conditions of approval for the Preliminary/Final Forest Conservation Plan ("FFCP"), No. 120190120, approved as part of this Preliminary Plan, including:
  - a. Prior to the start of any demolition, clearing, grading or construction on the Subject Property, the Applicant must record a Category I Conservation Easement over the 3.62 acres of retained forest as specified on the approved FFCP. The Category I Conservation Easement approved by the M-NCPPC Office of the General Counsel must be recorded in the Montgomery County Land Records by deed and the Book/Page for the easement must be referenced on the record plat.
  - b. Prior to the start of any demolition, clearing, grading or construction on the Subject Property, the Applicant must record a Category II Conservation Easement over the 0.50 acres of retained forest as specified on the approved FFCP. The Category II Conservation Easement approved by the M-NCPPC Office of the General Counsel must be recorded in the Montgomery County Land Records by deed and the Book/Page for the easement must be referenced on the record plat.
  - c. Prior to any clearing, grading or construction on the project site, the Applicant must record an M-NCPPC approved Certificate of Compliance to use an M-NCPPC approved off-site forest bank to satisfy the reforestation requirement for a total of 1.18 acres of mitigation credit.
  - d. The Applicant must install permanent Conservation Easement signage along the perimeter of the Category I and Category II Conservation Easements as shown on the approved FFCP. Signs must be installed a maximum of 100 feet apart with additional signs installed where the easement changes direction, or at the discretion of the M-NCPPC forest conservation inspector.
  - e. The Final Sediment Control Plan must be consistent with the final limits of disturbance shown on the approved FFCP.
  - f. The Applicant must comply with all tree protection and tree save measures shown on the approved FFCP. Tree save measures not specified on the FFCP may be required by the M-NCPPC forest conservation inspector at the pre-construction meeting.

## **Transportation**

### Existing Frontage Improvements

9. The Applicant must provide the following dedications and show them on the record plat(s) for the following existing roads:
  - a. All land necessary to accommodate 35 feet of right-of-way from the centerline along the Subject Property for Query Mill Road, as shown on the Certified Preliminary Plan.
  - b. All land necessary to accommodate 35 feet of right-of-way from the centerline along the Subject Property for Glen Road, as shown on the Certified Preliminary Plan.
10. The driveways for lots 1-5 must be located at the same locations shown on the Certified Preliminary Plan.

### **Record Plats**

11. There shall be no clearing or grading of the site prior to recordation of plat(s).

### Easements

12. The record plat must show necessary easements.

### **Certified Preliminary Plan**

13. The Applicant must include the stormwater management concept approval letter and Preliminary Plan Resolution on the approval or cover sheet(s).
14. 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 issuance of building permit(s). Please refer to the zoning data table for development standards such as setbacks, building restriction lines, building height, and lot coverage for each lot.*

**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 layout of the subdivision, including size, width, shape, orientation and density of lots, and location and design of roads is appropriate for the subdivision given its location and the type of development or use contemplated and the applicable requirements of Chapter 59.*

a. *The block design is appropriate for the development or use contemplated*

The block design is appropriate for the development of 5 residential lots. Considering that all of the land surrounding the Subject Property has been subdivided or dedicated as right-of-way, and in the process established the basic block design shown on the Preliminary Plan.

b. *The lot design is appropriate for the development or use contemplated*

The size, width, shape and orientation of the proposed lots are appropriate for the location of the subdivision, taking into account the recommendations included in the Master Plan. Based on the RE-2 zoning, the maximum density permitted is 6 dwelling units, however, after completing percolation tests, the Preliminary Plan was revised to show only 5 dwelling units. The average lot size is 2.48 acres, ranging in size from 2.0 acres to 3.3 acres which is generally consistent with existing development patterns in the surrounding area. Each lot has frontage on a public road. As shown on the Certified Preliminary Plan, each lot can adequately accommodate the proposed one-family detached house, driveway, stormwater management facilities, conservation easements, septic systems, and public utility easements.

There are no recreation requirements for this Application, but there are recreational opportunities in the surrounding area. The Property is close to both Muddy Branch Stream Valley Park and Greenbrier Local Park, providing a range of passive and active recreational amenities for the future residents.

c. *The Lot(s) and Use comply with the basic requirements of Chapter 59*

The lots were reviewed for compliance with the dimensional requirements for the RE-2 zone as specified in the Zoning Ordinance. The lots as approved will meet all the dimensional requirements for area, frontage, width, and setbacks in that zone.

2. *The Preliminary Plan substantially conforms to the Master Plan.*

The Preliminary Plan substantially conforms to the Master Plan. The Subject Property is in the Travilah area of the Master Plan, which is described as follows:

*“This central and southern portion of the Potomac Subregion is a low-density area that acts as a transition from the higher densities of Potomac and North Potomac to lower densities in Darnestown and the natural environment of the Potomac River. This community is under intense development pressure and contains natural features of County and State significance.... Like Darnestown, Travilah is a more rural portion of the Subregion, and the area’s dependence on septic systems has ensured low-density residential neighborhoods...The area is dominated by low-density, single-family detached residential development in the R-200, RE-1, RE-2, and RE-2C Zones, (p. 80)”.*

### Land Use

There are no site-specific recommendations for the Subject Property. The Preliminary Plan conforms to the Master Plan in that it proposes single-family detached dwelling units, utilizing well and septic. The density of 5 units is below the maximum 6 units permitted based on the size of the Property and RE-2 zoning, which is consistent with the Master Plan’s vision of low-density development in this area.

### Transportation

The Preliminary Plan also conforms to the recommendation in the 1996 *Rustic Roads Functional Master Plan*. The Rustic Roads Advisory Committee has reviewed the Application for compliance with the *Rustic Roads Functional Master Plan* given that the Property has frontage on two rustic roads, Glen Road and Query Mill Road.

In its letter dated March 11, 2019, the RRAC stated their support for the new single driveways accessing the Rustic Roads because this option would be the least impactful on the rustic character of the roads. As proposed, Lot 1 will access Glen Road via a new driveway. Lots 2, 3, 4, and 5 will access Query Mill road with individual driveways. The new driveways will be curved in a way that will limit visibility of the new houses from the rustic roads. Existing forest is being retained and protected with a Category II Conservation Easement along the frontage of lot 1, 2 and 3 to protect the forest-lined view from the roads. In addition, the forest at the intersection of Query Mill Road and Glen Road will be placed in a Category I Conservation Easement, preserving the natural character of the intersection. The Preliminary Plan is consistent with recommendations in the 2002 *Potomac Subregion Master Plan* and 1996 *Rustic Road Functional Master Plan*.

- 3. Public facilities will be adequate to support and service the area of the subdivision.*

#### Roads and Other Transportation Facilities

Transportation access is adequate to serve the proposed development by this Preliminary Plan.

The Subject Property is located in the Rural West Policy Area and has frontage on three public roads, Query Mill Road, Glen Road and Moran Court.

Moran Court is a non-master planned 60-foot-wide tertiary road, which is dedicated but unbuilt and unmaintained terminating in a cul-de-sac (“paper street”). Moran Court was dedicated in 1960 when the original two lots were created (Lot 1, Polo Club Estates, 13111 Moran Court, and Lot 2, Polo Club Estates, 13112 Moran Court), but for unknown reasons, the public road was never constructed when those two homes were built in 1964 and 1965 (Record Plat 5815). Currently, there is a 10 to 12-foot-wide gravel driveway that was built in the right-of-way that serves as the sole access to two existing houses at the terminus of Moran Court. While most of the driveway is located in the public right-of-way, approximately 2,000 square feet were constructed on the Subject Property.

The Application proposes to grant 35 feet of right-of-way from the centerline of Query Mill Road to accommodate the Master Plan required right-of-way dedication. The Applicant is also dedicating 35 feet of right-of-way from the centerline of Glen Road to accommodate the Master Plan required right-of-way dedication of 70 feet.

Under Section 49-33(e)(1)(B) of the County code, “If a lot or lots front on a public road, the permittee must install sidewalks, master-planned bikeways, ramps, curbs, and gutters, except any sidewalk: .....(B) on any roadway classified as exceptional rustic, rustic, country arterial, or country road”. Based on the classification of Glen Road and Query Mill Road as Rustic Roads, no sidewalk or other frontage improvements are required. The Application will not access Moran Court and there is no proposal to extend Moran Court beyond its current termination. Therefore, no improvements are required as part of this Application. As shown on the Preliminary Plan, transportation access is adequate to serve the development.

#### Local Area Transportation Review (LATR)

The Applicant submitted a transportation statement showing how the Preliminary Plan for 5 dwelling units generates 50 or fewer additional peak-hour person trips, therefore, the Application is exempt from review under the LATR guidelines.

Other Public Facilities and Services

School Adequacy

The Application was reviewed under the FY2019 Annual School Test, approved by the Planning Board on June 21, 2018, and effective July 1, 2018. Under the FY2019 Annual School Test, student generation is calculated by multiplying the number of dwelling units by the applicable regional student generation rate for each school level. For the purposes of this calculation, dwelling units are categorized by structure type: single family detached, single family attached (townhouse), low- to mid-rise multifamily unit, or high-rise multifamily unit. The Subject Property seeks approval for 5 single-family detached dwelling units. This Property is in the Wootton Cluster in the southwest region of the County.

Based on this analysis, the Project is estimated to generate zero new elementary school students, zero new middle school students, and zero new high school students.

*Student Generation Rates Per Dwelling Unit – Southwest Region*

	<b>Elementary School</b>	<b>Middle School</b>	<b>High School</b>
<b>SF Detached</b>	0.193	0.111	0.147
<b>SF Attached</b>	0.191	0.094	0.124
<b>MF Low- to Mid-Rise</b>	0.146	0.063	0.083
<b>MF High-Rise</b>	0.055	0.022	0.031



*Potter Glen – Estimated Enrollment Impact*

<b>Unit Type</b>	<b>Net New Units</b>	<b>ES Generation Rates</b>	<b>ES Students Generated</b>	<b>MS Generation Rates</b>	<b>MS Students Generated</b>	<b>HS Generation Rates</b>	<b>HS Students Generated</b>
Single-Family Detached	5	0.193	0.965	0.111	0.555	0.147	0.735
<b>Total</b>	<b>5</b>		<b>0</b>		<b>0</b>		<b>0</b>

Cluster Adequacy Test

Student enrollment and capacity projections for the Wootton Cluster, as established in the FY2019 Annual School Test, are summarized below. As indicated in the last column of the table, the sum of the projected future enrollment and the estimated student impact associated with the Subject Application fall below the moratorium<sup>2</sup> thresholds at all three school levels. As a result, staff finds that sufficient capacity exists at the elementary, middle and high school cluster levels to accommodate the estimated number of students generated by this project.

*FY2019 Annual School Test - Thomas S. Wootton High School Cluster*

<b>School Level</b>	<b>Projected Cluster Totals, September 2023</b>			<b>Moratorium Enrollment Threshold</b>	<b>Projected Enrollment + Application Impact</b>
	<b>Enrollment</b>	<b>Program Capacity</b>	<b>% Utilization</b>		
<b>Elementary</b>	2,968	3,504	84.7%	4,205	2,968
<b>Middle</b>	1,315	1,521	86.5%	1,826	1,315
<b>High</b>	2,283	2,159	105.7%	2,591	2,283

Individual School Adequacy Test

The applicable elementary and middle schools for this project are Travilah Elementary School and Robert Frost Middle School, respectively. Based on the FY2019 Annual School Test results, the student enrollment and capacity projections for these schools are noted below.

<sup>2</sup> The moratorium enrollment threshold represents 120% enrollment utilization.

*FY2019 Annual School Test - Individual School Adequacy*

School	Projected School Totals, September 2023				Moratorium Enrollment Thresholds		Projecte d Enrollm ent + Applicati on Impact
	Enroll ment	Progra m Capaci ty	% Utiliza tion	Surpl us/ Defic it	120% Utilizat ion	Surplus / Deficit	
Travilah ES	394	522	75.5%	+128	627	632	394
Frost MS	917	1,084	84.6%	+167	1,301	1,264	917

Under the individual school adequacy test, a school is deemed inadequate if the projected school utilization rate exceeds 120% and if the school seat deficit meets or exceeds 110 seats for the elementary school or 180 seats for the middle school. If a school's projected enrollment exceeds both thresholds, then the school service area is placed in a residential development moratorium.

The Moratorium Enrollment Thresholds, identified above, are the enrollments at which the 120% utilization threshold and the seat deficit threshold are exceeded. As indicated in the last column, the projected enrollment plus the estimated impact of this Application falls below both applicable moratorium thresholds for Travilah Elementary School and Frost Middle School. Therefore, there is sufficient anticipated school capacity to accommodate the estimated number of students generated by the Project.

School Capacity Analysis Conclusion

Based on the FY2019 Annual School Tests at the cluster and individual school level, there is adequate school capacity to support the development.

Other public facilities and services are available and adequate to serve the proposed lots. Each lot will be served by on-site well and septic systems. The use of individual, well water service and septic systems is consistent with the existing W-6 and S-6 services categories designated for the Property. The Application has been reviewed by the MCDPS – Well and Septic Section, which determined the proposed well and septic locations are acceptable as shown on the approved well and septic plan dated June 7, 2019.

The Application has been reviewed by the MCDPS Fire Department Access and Water Supply Section who determined that the Property has adequate access for fire and rescue vehicles by transmittal dated March 21, 2019.

Electric and telecommunications services are available and adequate to serve the proposed lots. Other public facilities and services, such as police stations, firehouses and health services are currently operating within the standards set by the 2016-2020 Subdivision Staging Policy Resolution.

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

A. Forest Conservation

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

As required by Chapter 22A, an FFCP was submitted with the project Application. The total net tract area for forest conservation purposes is 12.46 acres which includes the Subject Property of 13.32 acres, plus off-site work of 0.10 acres and a deduction of 0.96 acres for right-of-way dedication. The Property is zoned RE-2 and is classified as Medium Density Residential as specified in the Trees Technical Manual. The Subject Property contains 11.57 acres (539,700 sq. ft.) of forest. The Applicant proposes to remove 7.95 acres of forest, retain 3.62 acres of forest in Category I Conservation Easements and receive credit for retention of forest within Category II Conservation easements of 0.30 acres. This results in a total reforestation requirement of 1.18 acres. The Applicant is meeting this requirement by purchasing the appropriate amount of forest credits in an off-site forest bank.

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 24 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 removal of the 14 trees and impacting 10 others is due to the location of the trees and necessary site design requirements imposed by governmental agencies. 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, requirements of governmental agencies and necessary design requirements of this Preliminary Plan application.

Of the 14 specimen trees proposed to be removed, 10 are located within the active construction areas of the development for the installation of the houses and primary septic fields for each residence. The remaining 3 trees are outside of the active construction areas. However, these 3 trees are so severely impacted that their long-term health would be in jeopardy and it would be prudent to remove them.

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 as 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 removed are not located within a stream buffer.

As shown on the FFCP, there are 14 specimen trees proposed for removal in this variance request resulting in a total of 503 inches of DBH being removed. These trees being removed are located within an existing forest stand on the Subject Property. It has been M-NCPPC

policy not to require mitigation for specimen trees removed within forest stands since the removal of the forest stand is compensated for through the Forest Conservation Worksheet. Additionally, no mitigation is required for trees that are impacted, but retained.

5. *All stormwater management, water quality plan, and floodplain requirements of Chapter 19 are satisfied.*

The Preliminary Plan Application meets the stormwater management requirements of Chapter 19 of the County Code. The Applicant received a stormwater concept approval from the MCDPS Water Resources Section on April 24, 2019. The Application will meet stormwater management goals by capturing and treating runoff in individual drywells on each of the five lots.

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 50.4.2.G), 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 ~~JUN 27 2019~~ JUN 27 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).

\* \* \* \* \*

**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 Dreyfuss, seconded by Commissioner Patterson, with Chair Anderson, Vice Chair Dreyfuss, and Commissioners Cichy and Patterson voting in favor, and Commissioner Fani-González absent at its regular meeting held on Thursday, June 20, 2019, in Silver Spring, Maryland.

  
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Casey Anderson, Chair  
Montgomery County Planning Board