



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

OFFICE OF
THE GENERAL COUNSEL

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MEMORANDUM

DATE: July 23, 2004

TO: Montgomery County Planning Board

VIA: Michele Rosenfeld, Associate General Counsel
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MR (LTD)

FROM: Tariq A. El-Baba, Associate General Counsel
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TAB

REVIEW TYPE: Preliminary Plan Application

PROJECT NAME: Glen Falls, Preliminary Plan No. 1-03007

PROCEDURAL POSTURE: Remanded Pursuant to Court Order Issued by Montgomery County Circuit Court for Approval of Three Lots – No additional testimony or evidence to be introduced into the record.

ZONE: R-200/TDR

LOCATION: North Side of South Glen Road, approximately 200 feet west of Normandie Farm Drive

VICINITY: Potomac Subregion

APPLICANT: F.S. Peoples Realty

HEARING DATE: July 29, 2004

STAFF RECOMMENDATION: Approval of three lots, subject to the following conditions:

1. Conditions of MCDPS Stormwater management approval.

2. All roads shown on the approved preliminary plan shall be dedicated by the applicant to the full width mandated by the Potomac Subregion Master Plan, unless otherwise designated on the preliminary plan.
3. Access and improvements, as required, to be approved by MCDPW&T prior to recording of plat.
4. Record plat to reference common ingress/egress easement.
5. Final landscaping plans to be submitted for review and approval by technical staff prior to recording of plat.
6. Other necessary easements.
7. The Adequate Public Facilities (APF) review for this preliminary plan will remain valid for sixty-one (61) months from the date of mailing of this Planning Board Opinion.
8. This preliminary plan will remain valid for thirty-seven (37) months from the date of mailing of this Planning Board Opinion. Prior to the expiration of this validity period, a final record plat for all property delineated on the approved preliminary plan must be recorded or a request for an extension must be filed.

BACKGROUND

On November 21, 2002, this subdivision application was heard by the Board and approved for two of the three residential lots requested by the applicant. Following issuance of the Board's written opinion in this case (Attachment One), the applicant noted an appeal of that decision to the Montgomery County Circuit Court ("Court") in August 2003. On February 12, 2004, following consideration of the parties' memoranda of law and oral argument, Judge Nelson W. Rupp, Jr. ruled from the bench in favor of the Petitioner (Attachment Two); and, subsequently, on March 26, 2004, Judge Rupp signed an Order reversing the Planning Board's decision and remanding to the Planning Board for further action consistent with the Court's ruling. (Attachment Three).

RECOMMENDATION

Legal staff recommends that the Planning Board comply with the Order of the Court and approve the application for three lots in the R-200/TDR Zone, subject to the above-enumerated conditions of approval.