



November 12, 2004

TO: Montgomery County Planning Board

VIA: Rose Krasnow, Chief *RK*
Development Review Division

FROM: Catherine Conlon, Acting Supervisor *CC*
Development Review Division

Richard A. Weaver, Planner (301) 495-4544 *RAW*
Development Review Division

SUBJECT: Request for an extension to the validity period – Preliminary Plan No.
1-00076, Independence of Privacy World

Attached, please find the applicant's request to extend the validity period for the Plan referenced above until September 23, 2005. The extension will afford adequate time for the approved preliminary plan and site plan to be recorded by plat. Pursuant to Section 50-35 (h)(3)(d) of the Subdivision Regulations, "the Planning Board may only grant a request to extend the validity period of a preliminary plan if the Board is persuaded that:

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

The applicant is requesting the extension based on certain situations beyond their control. To summarize the letter submitted by the applicant, the applicant has experienced the following difficulties in moving the plan forward to plat recordation:

- Landscaping issues with staff and the State Highway Administration on Layhill Road
- Landscaping issues interior to the site
- Surveying issues encountered in preparation of the record plats
- Obtaining lengthy WSSC sewer and water plan approvals
- Designating off site forest planting areas

Staff advises that the landscaping issues have been resolved and that the signature set for the site plan has been signed. The applicant has been actively pursuing resolution of the surveying issues as part of the record plat process. The applicant's engineers are finalizing the WSSC approvals and are negotiating with WMATA on easements for sewer outfalls. Pending resolution of the off-site forest planting requirements, the applicant may proceed with submission of record plat applications.

Staff finds the hardships experienced by the applicant are, in fact, to a certain degree outside of their control. Therefore, staff supports the extension request and recommends approval for an extension of the validity period for preliminary plan 1-00076 until September 23, 2005.

Attachment