

- d. Note stating the M-NCPPC staff must inspect tree-save areas and protection devices prior to clearing and grading.
- e. Letter from the State of Maryland accepting the internment and re-internment of existing gravesites
- f. Details of the masonry pier and rail fence.

* * * * *

[CERTIFICATION OF BOARD VOTE ADOPTING OPINION ON FOLLOWING PAGE]

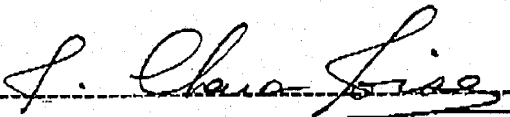
APPROVED AS TO LEGAL SUFFICIENCY

DND 12/29/05
M-NCPPC LEGAL DEPARTMENT

Site Plan No. 8-03030A
Fraley property
Page 13

CERTIFICATION OF BOARD VOTE ADOPTING OPINION

At its regular meeting, held on **Thursday, January 5, 2006**, in Silver Spring, Maryland, the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission by unanimous consent, with Commissioner Wellington absent, **ADOPTED** the above Opinion which constitutes the final decision of the Planning Board and memorializes the Board's findings of fact and conclusions of law for **Site Plan No. 8-03030A, Fraley Property.**



Certification As To Vote of Adoption
M. Clara Moise, Technical Writer

PLAT NO. 220061220

Spring House at Norbeck (Preliminary Plan: Kakar Property)
Located on Baileys Road, approximately 465 feet southeast of Norbeck Road
R-200 zone; 2 lots
Community Water, Community Sewer
Master Plan Area: Aspen Hill
Sasirul and Sufia Islam, Applicant

The record plat has been reviewed by MNCPPC staff and other applicable agencies as documented on the attached Plat Review Checklist. Staff has determined that the plat complies with Preliminary Plan No. 120051020, formerly 1-05102 and Site Plan No. 820050390, formerly 8-05039, as approved by the Board and that any minor modifications reflected on the plat do not alter the intent of the Board's previous approval of the preliminary plan.

* Signature to be filed

RECORD PLAT REVIEW SHEET

Plan Name: Kakan Property Plan Number: 1-05102
 Plat Name: SPRING HOUSE & NORBECIC Plat Number: 220061220
 Plat Submission Date: 12/12/05
 DRD Plat Reviewer: PW
 DRD Prelim Plan Reviewer: Cathy Conlon

Initial DRD Review:

Signed Preliminary Plan - Date 7/7/05 Checked: Initial PW Date 1/25/06
 Planning Board Opinion - Date 8/12/05 Checked: Initial PW Date 1/25/06
 Site Plan Req'd for Development? Yes No Verified By: PW (initial)
 Site Plan Name: Kakan Property Site Plan Number: 8-05039
 Planning Board Opinion - Date 8/17/05 Checked: Initial PW Date 1/25/06
 Site Plan Signature Set - Date 6-1-06 Checked: Initial PAK Date 6-21-06
 Site Plan Reviewer Plat Approval: Checked: Initial PAK Date 6-21-06

Review Items: Lot # & Layout Lot Area Zoning Bearings & Distances
 Coordinates Plan # Road/Alley Widths Easements Open Space N/A
 Non-standard BRLs N/A Adjoining Land Vicinity Map Septic/Wells N/A
 TDR note N/A Child Lot note N/A Surveyor Cert Owner Cert Tax Map

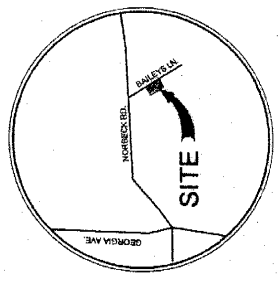
Agency Reviews Req'd	Reviewer	Date Sent	Due Date	Date Rec'd	Comments
Environment		12/20	1/06	1/16	No revisions
Research	Bobby Fleury	12/20	1/06	12/20	
SHA	Doug Mills	12/20	1/6		
PEPCO	Jose Washington	12/20	1/06		
Parks	Doug Powell	12/20	1/06		
DRD	Steve Smith	12/20	1/6	12/29	

Final DRD Review:

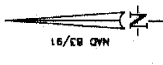
DRD Review Complete: Initial TA Date 6/16/06
 (All comments rec'd and incorporated into mark-up)
 Engineer Notified (Pick up Mark-up): Initial TA Date 1/25/06
 Final Mylar w/Mark-up & PDF Rec'd: Initial TA Date 6/16/06
Board Approval of Plat:
 Plat Agenda: Initial TA Date 7/10/06
 Planning Board Approval: _____
 Chairman's Signature: _____
DPS Approval of Plat:
 Engineer Pick-up for DPS Signature: _____
 Final Mylar for Reproduction Rec'd: _____
Plat Reproduction:
 Addressing: _____
 File Card Update: _____
 Final Zoning Book Check: _____
 Update Address Books with Plat #: _____
 Update Green Books for Resubdivision: _____
 Notify Engineer to Seal Plats: _____
 Engineer Seal Complete: _____
 Complete Reproduction: _____
 Sent to Courthouse for Recordation: _____

No. _____

PLAT NO.



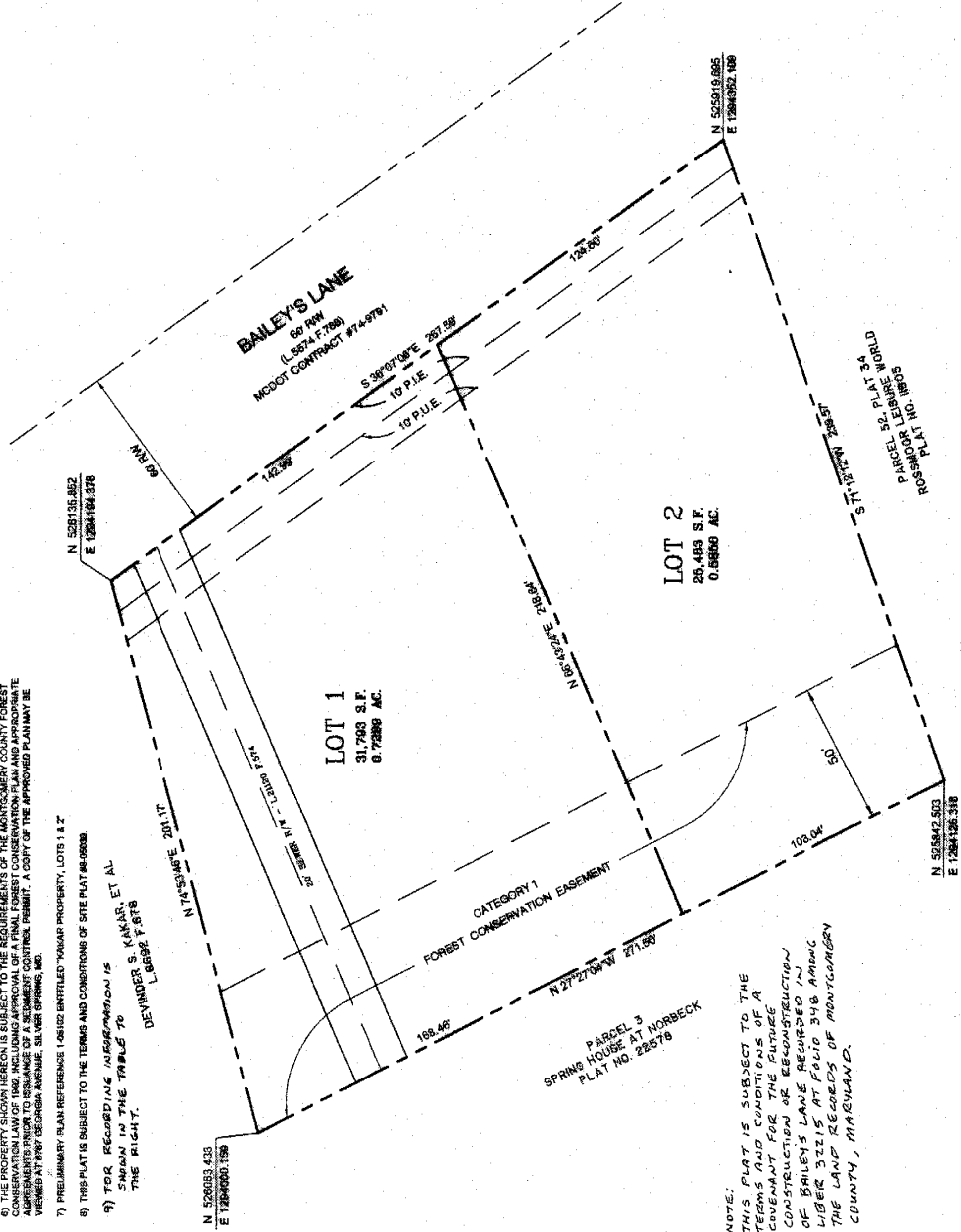
VICINITY MAP
1"=5000'



TOR EASEMENT	TOR TRANSFER	NO. USED	SERIAL NO.
L. 30594 F. 611	L. 30634 F. 619	1	12. 8426

AREA TABULATION	TOR TABULATION
LOT 1 31,799 S.F. 0.7299 AC.	
LOT 2 25,485 S.F. 0.5860 AC.	
DEDICATION NONE	
TOTAL PLAT 57,276 S.F. 1.3149 AC.	

- NOTES**
- 1) ALL TERMS, CONDITIONS, AGREEMENTS, LIMITATIONS, AND REQUIREMENTS ASSOCIATED WITH ANY SUBDIVISION RECORD PLAT SHALL BE GOVERNED BY THE TERMS AND CONDITIONS OF THE SUBDIVISION RECORD PLAT AS APPROVED BY THE MONTGOMERY COUNTY PLANNING BOARD AND INTENDED TO SURVIVE AND NOT BE EXTINGUISHED BY THE RECORDATION OF THIS PLAT, UNLESS EXPRESSLY CONTAINED BY THE PLAN AS APPROVED. THE OFFICIAL PUBLIC FILES FOR ANY SUCH PLAN ARE MAINTAINED BY THE PLANNING BOARD AND AVAILABLE FOR PUBLIC REVIEW DURING NORMAL BUSINESS HOURS.
 - 2) THE PROPERTY SHOWN HEREON IS TO BE SERVED BY PUBLIC WATER AND SEWER SERVICES ONLY.
 - 3) THE LAND HEREON IS ZONED RE-27082. DEVELOPMENT IS LIMITED TO 4-200 STAVO/ADCS/PS.
 - 4) THIS SUBDIVISION RECORD PLAT HAS BEEN PREPARED WITHOUT THE BENEFIT OF A CURRENT TITLE REPORT AND THE APPLICANT HAS REPRESENTED THAT THE PROPERTY IS FREE OF ALL LIENS, ENCUMBRANCES, AND OTHER MATTERS RESTRICTING THE OWNERSHIP AND USE OF THE PROPERTY. THE SUBDIVISION RECORD PLAT IS NOT INTENDED TO REPLACE AN EXAMINATION OF TITLE OR TO DEPECT OR NOTE ALL MATTERS AFFECTING TITLE.
 - 5) THE PROPERTY SHOWN HEREON IS IDENTIFIED ON TAX MAP 1662 AS PARCEL PM4.
 - 6) THE PROPERTY SHOWN HEREON IS SUBJECT TO THE REQUIREMENTS OF THE MONTGOMERY COUNTY FOREST CONSERVATION LAW OF 1992, INCLUDING APPROVAL OF A FINAL FOREST CONSERVATION PLAN AND APPROPRIATE AGREEMENTS PRIOR TO ISSUANCE OF A SEVERMENT CONTROL PERMIT. A COPY OF THE APPROVED PLAN MAY BE VIEWED AT 687 GEORGE AVENUE, SILVER SPRING, MD.
 - 7) PRELIMINARY PLAN REFERENCE 146102 ENTITLED "YAKAR PROPERTY, LOTS 1 & 2".
 - 8) THIS PLAT IS SUBJECT TO THE TERMS AND CONDITIONS OF SITE PLAN #6-0808.
 - 9) FOR RECORDING INFORMATION IS SHOWN IN THE TABLE TO THE RIGHT.



OWNER'S CERTIFICATE

WE, THE UNDERSIGNED, OWNERS OF THE PROPERTY SHOWN AND DESCRIBED HEREON, HEREBY ADMIT THIS PLAN OF SUBDIVISION AND ESTABLISH THE MINIMUM BUILDING RESTRICTION LINES. WE HAVE REVIEWED THE RECORDS OF MONTGOMERY COUNTY, MARYLAND, TEN HUNDRED FEET WIDE PUBLIC UTILITY EASEMENTS, DESIGNATED HEREON AS "P.U.E.", SUBJECT TO THE TERMS AND PROVISIONS FOR PUBLIC UTILITY EASEMENTS INDICATED WITH SAID DECLARATION.

WE HAVE REVIEWED THE RECORDS OF THE MARYLAND NATIONAL CAPITAL PARK AND PLANNING BOARD OF THE MARYLAND-NATIONAL CAPITAL PLANNING BOARD'S CONSERVATION EASEMENTS, AS SHOWN HEREON, PURSUANT TO M-NSPCP PRELIMINARY PLAN NO. 146102, INCLUDING ITS ASSOCIATED FOREST CONSERVATION PLAN, AND IN ACCORDANCE WITH SECTION 14-6102 OF THE MONTGOMERY COUNTY FOREST CONSERVATION LAW OF 1992, AS AMENDED, AND THE FOREST CONSERVATION AGREEMENTS, RECORDED AMONG THE FOREST AND RECORDS IN LIBER 13178 AT FOLIO 412.

WE HEREBY GRANT TO MONTGOMERY COUNTY, MARYLAND, THEIR SUCCESSORS AND ASSIGNS, PUBLIC UTILITIES AND RECORDS, THE RIGHT TO UTILIZE THE PROPERTY SHOWN AND DESCRIBED HEREON IN ACCORDANCE WITH THE TERMS AND CONDITIONS AS OWNERS OF THE SUBDIVISION. WE, OUR SUCCESSORS AND ASSIGNS, SHALL CAUSE PROPERTY CORNER MARKERS TO BE SET BY A LICENSED MARYLAND LAND SURVEYOR, IN ACCORDANCE WITH SECTION 50-101 OF THE MONTGOMERY COUNTY FOREST CONSERVATION LAW OF 1992, AS AMENDED, AND THE FOREST CONSERVATION AGREEMENTS, RECORDED AMONG THE FOREST AND RECORDS IN LIBER 13178 AT FOLIO 412.

DATE: 5/2/06
 DATE: 5/2/06

SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT THE PLAN SHOWN HEREON IS CORRECT TO THE BEST OF MY PROFESSIONAL KNOWLEDGE, BELIEF AND INFORMATION AND THAT THE PROPERTY SHOWN HEREON IS ALL OF THE LAND CONVERTED TO NEURAL NETWORKS AND MOUNTAIN VIEW RECORDING LIBER 3215 LIBER 318 AMONG THE LAND RECORDS OF MONTGOMERY COUNTY, MARYLAND. I FURTHER CERTIFY THAT, SINCE I HAVE BEEN ENGAGED AS DESCRIBED BY THE OWNER'S DECLARATION HEREON, ALL PROPERTY CORNER MARKERS WILL BE SET IN ACCORDANCE WITH SECTION 50-101 OF THE MONTGOMERY COUNTY FOREST CONSERVATION LAW OF 1992, AS AMENDED, AND THE FOREST CONSERVATION AGREEMENTS, RECORDED AMONG THE FOREST AND RECORDS IN LIBER 13178 AT FOLIO 412.

DATE: 5/05/06
 DATE: 5/05/06

Dewberry
 203 Perry Parkway, Suite 1
 Gaithersburg, MD 20877-2169
 (301) 948-8300 Fax: (301) 258-7607

SUBDIVISION RECORD PLAT
LOTS 1 & 2
SPRING HOUSE AT NORBECK
 WHEATON (13TH) ELECTION DISTRICT
 MONTGOMERY COUNTY, MARYLAND
 SCALE: 1"=30' DATE: NOVEMBER 2005

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

APPROVED: _____
 CHAIRMAN ASST. SECRETARY TREASURER

M-NCR/PC RECORD PLAT FILE NO. _____

MONTGOMERY COUNTY, MARYLAND
 DEPARTMENT OF PERMITTING SERVICES

RECORDED: _____
 DATE: _____

BY: _____
 DIRECTOR

NOTED: THIS PLAT IS SUBJECT TO THE TERMS AND CONDITIONS OF A COVENANT FOR THE PURCHASE CONSTRUCTION OR RECONSTRUCTION OF BAILEY'S LANE RECORDING LIBER 3215 LIBER 318 AMONG THE LAND RECORDS OF MONTGOMERY COUNTY, MARYLAND.

PARCEL 3
 SPRING HOUSE AT NORBECK
 PLAT NO. 22678

NO.	DESCRIPTION	DATE
1
2
3
4

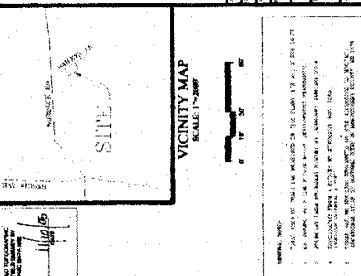
TOP FABRICATION

ITEM NO.	DESCRIPTION	QUANTITY	UNIT
1
2
3
4

OWNER
 KAKAR PROPERTY
 12345 MAIN ST.
 VANCOUVER, B.C. V1A 1A1

DATE
 2007-07-24
 TIME
 10:00 AM

Dewberry
 2007 Parkway, Suite 1
 Vancouver, BC V6Z 1K2
 Telephone: (604) 681-1234
 Fax: (604) 681-5678



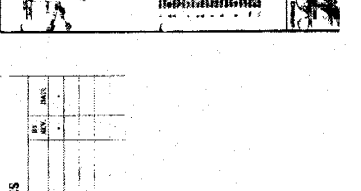
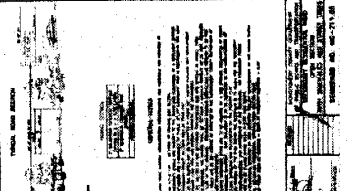
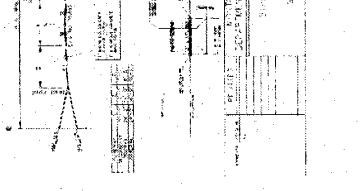
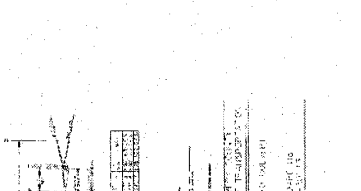
1. The Project is located on the southeast corner of the intersection of Main Street and 10th Avenue, in the City of Vancouver, British Columbia.

2. The Project is a proposed subdivision of land into two lots, Lot 1 and Lot 2.

3. The Project is subject to the following zoning bylaw: ...

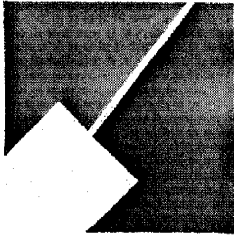
4. The Project is subject to the following conditions of approval: ...

5. The Project is subject to the following notes: ...



NO.	REVISIONS	DATE
1
2

M-NCPPC



MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

8787 Georgia Avenue
Silver Spring, Maryland 20910-3760
301-495-4500, www.mncppc.org

Date Mailed: **AUG 12 2005**
Hearing Date: July 7, 2005
Action: Approved Staff
Recommendation
Motion of Commissioner Wellington,
seconded by Commissioner Bryant,
with a vote of 5-0;
Chairman Berlage and Commissioners
Perdue, Bryant, Wellington and
Robinson voting in favor.

MONTGOMERY COUNTY PLANNING BOARD

OPINION

Preliminary Plan 1-05102
NAME OF PLAN: Kakar Property

The date of this written opinion is **AUG 12 2005** (which is the date that this opinion is mailed to all parties of record). Any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this written opinion, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules of Court – State).

On May 25, 2005, the applicant, Nasirul Islam ("Applicant"), submitted an application for the approval of a preliminary plan of subdivision of property in the RE-2/TDR-2 zone. The Application proposed to create two lots on 1.31 acres (57,276 square feet) of land located on the southwest side of Bailey's Lane, 370 feet southeast of Norbeck Road, in Silver Spring. The Application was designated Preliminary Plan 1-05102 ("Application" or "Preliminary Plan"). On July 7, 2005, Preliminary Plan 1-05102 was brought before the Montgomery County Planning Board for a public hearing. At the public hearing, the Montgomery County Planning Board heard testimony and received evidence submitted into the record on the application.

The record for this application ("Record") closed at the conclusion of the public hearing, upon the taking of an action by the Planning Board. The Record includes: the information on the Preliminary Plan Application Form; the Planning Board staff-generated minutes of the Subdivision Review Committee meeting on the application; all correspondence and any other written or graphic information concerning the application received by the Planning Board or its staff following submission of the application and prior to the Board's action at the conclusion of the public hearing, from the applicant,

public agencies, and private individuals or entities; all correspondence and any other written or graphic information issued by Planning Board staff concerning the application, prior to the Board's action following the public hearing; all evidence, including written and oral testimony and any graphic exhibits, presented to the Planning Board at the public hearing.

SITE DESCRIPTION

The subject property consists of 1.31 acres (57,276 square feet) of land comprised of one existing unrecorded parcel. The property is located on the southwest side of Bailey's Lane and is zoned RE-2/TDR-2. The property is undeveloped and currently contains early successional forest. The site lies within the Northwest Branch watershed (Use Classification IV-P). There are no streams, wetlands, floodplains, or environmental buffers on the property.

PROJECT DESCRIPTION

This is an application to subdivide the subject property into two residential lots. The proposal will create a 31,793 square foot lot and a 25,483 square foot lot. One Transfer Development Right (TDR) will be purchased to facilitate the proposed development. The lots will be served by public water and sewer service and will have direct access to Bailey's Lane via individual driveways. A site plan for the proposed development was concurrently reviewed by the Planning Board.

BACKGROUND

The two proposed lots were included in previous Preliminary Plan No. 1-03071, which was approved by the Planning Board on July 3, 2003. That preliminary plan included an adjacent parcel in the subdivision (Parcel 831, located to the north of the subject property, is improved with an existing single-family detached home). As part of that approval, it was determined that two TDRs were needed to develop the three proposed lots. Rather than provide the two TDRs required to record the lots associated with the previous approval, the Applicant submitted a new preliminary plan, the instant Application, which excludes the adjacent parcel and existing house. The subject two-lot plan requires only one TDR because one of the proposed lots can be achieved by-right per the base zone.

ANALYSIS

Master Plan Compliance

Staff advised the Board that the Aspen Hill Master Plan ("Master Plan") does not specifically identify the subject property for discussion but does give general guidance and recommendations regarding zoning and land use. The Master Plan recommends

that this area maintain the existing zoning as adopted and maintain the residential land use consisting of one-family detached homes. The proposed subdivision complies with the recommendations adopted in the Master Plan in that it is a request for residential development and is consistent with the Zoning Ordinance development standards for the R-200/TDR zone.

Forest Conservation

Staff advised the Board that the Preliminary Plan is subject to the forest conservation law and that, because the Applicant is proposing an optional method of development, the Applicant must retain forest to meet the forest conservation threshold on-site. The Applicant is meeting this requirement by retaining 0.28 acres of forest. The remainder of the forest conservation obligations will be met by 0.28 acres of off-site planting. Staff informed the Board that in similar, non-optional method of development, Environmental Planning would recommend an applicant not encumber the proposed lots with forest conservation easements and request the applicant meet all its forest conservation requirements off-site. However, since the Applicant is proposing an optional method of development by utilizing a TDR, Staff stated that the Applicant is required to meet at least some of the requirements on-site. In order to clearly delineate and protect future homeowner encroachment into the forest conservation easement, Environmental Planning requested the installation of a split-rail fence on the forest conservation easement line.

CONCLUSION

Staff advised the Board that the proposed subdivision meets all requirements of the Subdivision Regulations (Chapter 50) and complies with the recommendations of the Master Plan. The Preliminary Plan also meets the requirements of the forest conservation law. Therefore, Staff recommended approval of the Preliminary Plan with the specified conditions.

SUMMARY OF TESTIMONY AND EVIDENCE IN RECORD

Development Review Staff ("Staff") recommended approval of the Application in its memorandum dated June 29, 2005 ("Staff Report"). Staff presented its findings consistent with the Staff Report at the public hearing. The Applicant, who appeared at the public hearing represented by legal counsel, advised the Board that he supported the Staff recommendation. No other party testified in support of or in opposition to the Application. Additionally, the record includes no correspondence either in support of, or in opposition to, the Application.

FINDINGS

Having given full consideration to the recommendations and findings of its Staff, which the Board hereby adopt and incorporate by reference; the recommendations of the applicable public agencies¹; the Applicant's position; and other evidence contained in the Record, which is hereby incorporated in its entirety into this Opinion, the Montgomery County Planning Board finds that:

- a) Preliminary Plan No. 1-05102 substantially conforms to the Aspen Hill Master Plan.
- b) Public facilities will be adequate to support and service the area of the proposed subdivision.
- c) The size, width, shape, and orientation of the proposed lots are appropriate for the location of the subdivision.
- d) The application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A. This finding is subject to the applicable condition(s) of approval.
- e) 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 the Montgomery County Department of Permitting Services ("MCDPS") that the Stormwater Management Concept Plan meets MCDPS' standards.
- f) The Applicant has agreed to furnish to DPWT, prior to record plat, a recorded covenant wherein the Applicant agrees to pay a pro-rata share for future improvements to Bailey Lane, including sidewalk construction. Such requirement and agreement is supported by evidence of record, including DPWT's DRC notes dated June 20, 2005, and MNCPPC's DRC Meeting Summary sheet, also dated June 20, 2005. Additionally, the Staff Report for the concurrently reviewed Site Plan 8-05039 states that the Applicant offered to agree to the terms of such a covenant.
- g) The Record of this application does not contain any contested issues; and, therefore, the Planning Board finds that any future objection, which may be raised concerning a substantive issue in this application, is waived.

¹ The application was referred to outside agencies for comment and review, including the Washington Suburban Sanitary Commission, the Department of Public Works and Transportation, the Department of Permitting Services and the various public utilities. All of these agencies recommended approval of the application.

CONDITIONS OF APPROVAL

Finding Preliminary Plan No. 1-05102 in accordance with the purposes and all applicable regulations of Montgomery County Code Chapter 50, the Planning Board approves Preliminary Plan No. 1-05102, subject to the following conditions:

- 1) Approval under this preliminary plan is ~~limited to two (2)~~ single-family residential lots.
- 2) Compliance with the conditions of approval for the preliminary forest conservation plan, including submittal of final forest conservation plan and installation of split-rail fencing at the rear of the area to be cleared and along the edge of the forest conservation area. The Applicant must satisfy all conditions prior to recording of plat(s) or MCDPS issuance of sediment and erosion control permits, as appropriate.
- 3) Record plat to reflect a ~~Category I~~ easement over all forest conservation areas.
- 4) Compliance with the conditions of approval of the MCDPS stormwater management approval dated May 23, 2005.
- 5) The Applicant shall dedicate all rights-of-way shown on the approved preliminary plan to the full width mandated by the Master Plan unless otherwise designated on the preliminary plan.
- 6) Access and improvements as required to be approved by MCDPWT prior to recordation of the plat.
- 7) Prior to plat recordation, the applicant shall verify that one (1) TDR has been obtained for the development. The Record Plat shall reflect the TDR easement.
- 8) No clearing, grading or recording of the plat prior to site plan signature set approval.
- 9) Final approval of the location of buildings will be determined at site plan.
- 10) Other necessary easements.

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). 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.

APPROVED AS TO LEGAL SUFFICIENCY

TAB

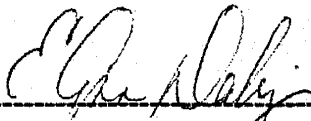
M-NCPPC LEGAL DEPARTMENT

DATE 8/1/05

[CERTIFICATION OF BOARD VOTE ADOPTING OPINION ON FOLLOWING PAGE]

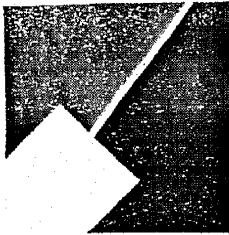
CERTIFICATION OF BOARD ADOPTION OF OPINION

At its regular meeting, held on **Thursday, August 4, 2005**, in Silver Spring, Maryland, the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission, by unanimous consent **ADOPTED** the above Opinion which constitutes the final decision of the Planning Board and memorializes the Board's findings of fact and conclusions of law for **Preliminary Plan No. 1-05102, Kakar property**. Commissioner Robinson was absent.



Certification As To Vote of Adoption
E, Ann Daly, Technical Writer

M-NCPPC



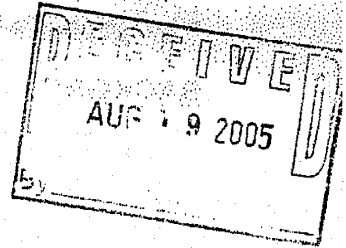
MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

8787 Georgia Avenue
Silver Spring, Maryland 20910-3760
301-495-4500, www.mncppc.org

Date of Mailing: AUG 17 2005

MONTGOMERY COUNTY PLANNING BOARD
OPINION



Site Plan No.: 8-05039
Project: Kakar Property
Date of Hearing: July 7, 2005

Action: *APPROVAL SUBJECT TO CONDITIONS.* (Motion to approve was made by Commissioner Bryant; duly seconded by Commissioner Perdue; with a vote of 5-0, Chairman Berlage and Commissioners Perdue, Bryant, Wellington and Robinson voting in favor.)

The date of this written opinion is AUG 17 2005 (which is the date that this opinion is mailed to all parties of record). Any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this written opinion, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules of Court – State). This site plan shall remain valid as provided in Section 59-D-3.8.

INTRODUCTION

On May 25, 2005, the applicant, Nasirul Islam ("Applicant"), filed an application with the Planning Board for review and approval of two one-family detached homes on 1.31 acres and one TDR on 1.31 acres in the RE-2/TDR2 Zone. The application was captioned Site Plan No. 8-05039 (Kakar Property) ("Application" or "Site Plan"). On July 7, 2005, the Application was brought before the Montgomery County Planning Board for a public hearing ("Hearing"), concurrently with Preliminary Plan No. 1-05102 (Kakar Property). At the Hearing, the Montgomery County Planning Board heard a presentation from M-NCPPC technical staff and received evidence submitted in the record on the application.

THE SUBJECT PROPERTY

The Subject Property consists of 1.31 acres and is located on the southwest side of Bailey's Lane, 370 feet southeast of Norbeck Road (MD 28) in the RE-2/TDR-2 Zone. The

Subject Property is the only undeveloped property along the west side of Bailey's Lane, in the Aspen Hill Planning Area. The area adjoins the northeast boundary of Leisure World (PCR Zone), less than one mile east of Georgia Avenue and is commonly known as Norbeck Hills. The Spring House at Norbeck adjoins the subject site at its rear, juxtaposed between the Subject Property and Leisure World. The East Norbeck Local Park is located directly across Norbeck Road to the north. The Subject Property currently contains early successional forest and lies within the Northwest Branch watershed (Use Classification IV-P). There are no streams, wetlands, floodplains, or environmental buffers on the property.

BACKGROUND

The proposed two lots were included in Preliminary Plan No. 1-03071 for a three-lot subdivision that was approved by the Planning Board on July 3, 2003. In addition to the two proposed lots, Preliminary Plan 1-03071 included the adjacent Parcel 831 that contains an existing house. As a condition of approval of Preliminary Plan 1-03071, the Planning Board had required that the Applicant obtain two (2) TDRs for the development of the subdivision.

Rather than provide the two (2) TDRs that were required by the Planning Board, the Applicant submitted a new preliminary plan application, Preliminary Plan 1-05102, for a two-lot subdivision that excludes Parcel 831 and its existing house. Excluding Parcel 831 resulted in the Applicant being required to obtain only one (1) TDR for development pursuant to Preliminary Plan 1-05102 since one of the proposed lots can be achieved, by right, per the base zone. At the Hearing, the Planning Board approved Preliminary Plan 1-05102 for two lots and required as a condition of approval that prior to plat recordation, the Applicant verify that one (1) TDR had been obtained for the development.

PROPOSED DEVELOPMENT

The Proposed site plan features two one-family detached homes on two lots. The proposal will create a 31,793 square foot lot and a 25,483 square foot lot. The lots will be served by public water and sewer service and will have direct access to Bailey's Lane via individual driveways. The two proposed houses retain the building line established by the existing house adjoining the subject property to the north, and reflect the spacing and building locations of other houses in the RE-2/TDR2 Zone. A forest conservation easement is proposed for the rear of the two lots, interrupted only by the 20-foot WSSC easement that extends from the street frontage on Bailey's Lane to the rear lot line between Lot 1 and the adjacent Parcel 831. The proposal utilizes R-200 standards as applicable to the RE-2/TDR-2 Zone.

SUMMARY OF TESTIMONY AND EVIDENCE IN RECORD

Staff's initial Staff Report was dated June 30, 2005. A Revised Staff Report, dated July 7, 2005, was submitted into the record at the Hearing. The Applicant, who appeared at the Hearing represented by his legal counsel, advised the Board that he supported the Staff recommendation. No other party testified in support or in opposition to the Application. Additionally, the record includes no correspondence either in support of, or in opposition to, the Application.

FINDINGS

Having given full consideration to the recommendations and findings of its Staff, which the Board hereby adopt and incorporate by reference; the Applicant's position; and other evidence contained in the Record, including the Staff Report, as amended, which is hereby incorporated in its entirety into this Opinion, the Montgomery County Planning Board finds that:

1. An approved development plan or a project plan is not required for the subject development.
2. As amended in accordance with recommended conditions, the Site Plan meets all of the requirements of the RE-2/TDR2 Zone, as demonstrated in the project data table below.

PROJECT DATA TABLE			
Kakar Property Development Standard	Site Plan 8-05039	RE-2/TDR-2 Zone Permitted/Req'd	RE-2/TDR-2 Zone Approved
Gross Site Area	1.31 acres		
Total Net Tract Area	1.31 acres		57,276 sf
Area of Public Dedication	0.19 acres		
Proposed Use	One-Family Residential		
<u>Development Standards R-200</u>			
Lot 1 Area		20,000 sf minimum	31,793 sf

Lot 2 Area	20,000 sf minimum	25,483 sf
<u>Density (maximum)</u>	2 units/acre max	
Lot 1		1 unit/.72 acre
Lot 2		1 unit/.58 acre
Building Setbacks		
From public street (Master Plan)	10 feet minimum (zone)	41 feet minimum
Established building line	40 feet	41 feet minimum
Lot 1: From adjoining lot-1 side	12 feet min.	24 feet +/- inches
Lot 2: From adjoining lot-1 side	12 feet min.	13 feet +/- inches
Lot 1: Sum of both sides	25 feet min.	95 feet +/- inches
Lot 2: Sum of both side	25 feet min.	46 feet +/- inches
Lot 1: Rear	30 feet min.	122 feet +/- inches
Lot 2: Rear	30 feet min.	141 feet +/- inches
Lot width at bldg line Lot 1	100 feet +/-	122 feet +/- inches
Lot width at bldg line Lot 2	100 feet +/-	122 feet +/- inches
Building Height	50 feet maximum	50 feet maximum
Building Coverage		
Impervious Area	N/A	N/A
Building Coverage	25%	9.4% max.
Green Area	N/A	85% minimum
Lot 1		25,187 sf
Lot 2		21,709
Parking		
Standard	2 spaces/unit 4 spaces	4 spaces min.

3. The locations of the buildings and structures, the open spaces, the landscaping, the recreation facilities, and the pedestrian and vehicular circulation systems are adequate, safe, and efficient.

a. Buildings.

The buildings locations are adequate, safe and efficient. The site design utilizes R-200 development standards, maintaining the established patterns of the existing

neighborhood with respect to lot size, setbacks, spacing between the houses, and stormwater management. The proposed placement of the houses provides for generous rear yard dimensions in addition to forest conservation areas.

b. Open Spaces.

The Open space provided consists of the front yards, rear yards, and a 50-foot wide forest conservation easement across the rear lot lines of the three properties. The proposed placement of the houses will provide shaded rear yards that are adequate, safe, and efficient. The generous rear yards create attractive open space while preserving attractive views of the forest conservation areas. Staff recommends that the signature set drawings indicate the form and location of any decks.

c. Landscaping and Lighting.

Landscaping for the project includes the provision of a forest conservation area across the rear of the two lots, along with various selected landscaping elements. Staff recommends strongly the following measures to ensure adequate compatibility: enhancing the visual boundary of the conservation easement by means of a split rail fence, extending the road side wooded buffer at the edges of the property to frame the houses and provide a visual connection to the existing wooded boundary. Staff also recommends selected landscape elements for screening the garages and driveways.

d. Recreation.

The proposal is exempt from Recreation Requirements.

e. Vehicular and Pedestrian Circulation

Vehicular ingress/egress conforms to R-200 standards. Each house is provided with an individual vehicular entrance driveway. Each driveway leads to a side-loaded garage, providing adequate, safe, and efficient access.

Pedestrian circulation for this subdivision is accommodated on-street. There are no sidewalks provided throughout the development, which is served by an open section road with swales to accommodate stormwater conveyance. Applicant shall furnish

to DPWT, prior to record plat, a recorded covenant wherein the Applicant agrees to pay a pro-rata share for future improvements to Bailey Lane, including sidewalk construction.

4. Each structure and use is compatible with other uses and other site plans and with existing and proposed adjacent development.

The buildings proposed are compatible with other uses and development within the immediate and surrounding area. The siting of the buildings, their respect for the established building lines, height and orientation will provide an appropriate level of compatibility for this infill property.

The activity associated with the proposed residential uses will not cause any negative effect on the surrounding residential and commercial uses.

5. The site plan meets all applicable requirements of Chapter 22A regarding forest conservation.

As conditioned, the proposal meets the requirements of Chapter 22A for forest conservation.

PLANNING BOARD ACTION AND CONDITIONS

The Montgomery County Planning Board APPROVES Site Plan Review No. 8-05039 for 2 one-family detached homes and 1 TDR on 1.31 gross acres in the RE-2/TDR2 zone subject to the following conditions:

1. Stormwater Management
 - a. Conditions of MCDPS stormwater management concept approval dated April 10, 2004, reconfirmed May 23, 2005.
2. Environmental Planning
 - a. Comply with the conditions of the final forest conservation plan. The applicant must satisfy all conditions prior to recording of plat(s) or Montgomery County Department of Permitting Services (MCDPS) issuance of sediment and erosion control permits;