



**JUN 2 2015**

**MCPB No. 15-50**  
**Preliminary Plan No. 120110270**  
**Kingswell**  
**Date of Hearing: May 14, 2015**

**RESOLUTION**

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

WHEREAS, on June 17, 2011, Dr. Mouhamed Khan, ("Applicant"), filed an application for approval of a preliminary plan of subdivision of property that would record un-platted Parcel 241 as one lot in order to convert an existing residence into a non-residential professional office on 0.42 acres of land in the R-60 zone, located at 12014 Georgia Avenue ("Subject Property"), in the Communities of Kensington-Wheaton ("Master Plan") area; and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120110270, ("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 May 1, 2015, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on May 14, 2015, the Planning Board held a public hearing on the Application, and at the hearing the Planning Board 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, on motion of Commissioner Wells-Harley, seconded by Commissioner Fani-Gonzalez, by a vote of 5-0, Commissioners Anderson, Dreyfuss, Fani-Gonzalez, Presley, and Wells-Harley voting in favor:

NOW, THEREFORE, BE IT RESOLVED THAT, the Planning Board approves Preliminary Plan No. 120110270 to record un-platted Parcel 241 as one lot on the

Approved as to  
 Legal Sufficiency

*Quinn M. 5/19/15*

Subject Property, subject to the following conditions:<sup>1</sup>

- 1) This Preliminary Plan is limited to one lot for up to a 1,760 square-foot medical office, and accessory residence or other permitted uses that do not exceed the APF approval.
- 2) The Planning Board has accepted the recommendations of the Montgomery County Department of Transportation (MCDOT) in its letter dated December 12, 2014, 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.
- 3) Prior to recordation of plat, the Applicants must satisfy provisions for access and improvements as required by MCDOT.
- 4) The Applicant must construct and relocate the existing sidewalk and be buffered with a green panel along the Subject Property's Georgia Avenue frontage, prior to the issuance of any Use and Occupancy Certificate.
- 5) The Applicant must satisfy the Policy Area Mobility Review (PAMR) test by mitigating one new weekday peak-hour trip that must be satisfied by paying \$11,700 towards an off-site ADA-compliant improvement at the nearby Grandview Avenue/Cory Terrace intersection or an equivalent transportation improvement within the Kensington-Wheaton Policy Area. The Applicant must work with MCDOT and the Area 2 transportation staff to provide an engineer's cost estimate and a statement from MCDOT of satisfactory completion prior to release of any building permit.
- 6) The Applicant must dedicate, and the record plat must reflect, nine feet of additional right-of-way, along the property frontage, for a total of 60 feet from the centerline of Georgia Avenue.
- 7) Record plat must show necessary easements.
- 8) The Applicant must provide ADA compliant internal sidewalks and must provide one inverted-U bike rack, prior to the issuance of any Use and Occupancy Certificate.
- 9) The Planning Board has accepted the recommendations of the Montgomery County Department of Permitting Services (MCDPS) – Water Resources Section

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<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.

in its stormwater management concept letter dated December 12, 2014, 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.

10) 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 applicable development standards.”

11) The Adequate Public Facilities (APF) review for the Preliminary Plan will remain valid for 85 months from the date of mailing of the Planning Board resolution.

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 Property falls under the land use guidance of the 1989 *Master Plan for the Communities of Kensington-Wheaton* (Kensington-Wheaton Plan). The subject property is specifically recommended in the Plan as suitable for a non-resident professional office special exception (pg. 57). "The Plan designates this property as suitable for a non-resident professional office use as a special exception." Thus, the Preliminary Plan request is in total compliance with the Kensington-Wheaton Plan. An important Master Plan objective for Georgia Avenue is an attractive, functional, and safe sidewalk network that adequately serves the needs of pedestrians and bicyclists throughout the Kensington-Wheaton area. As part of the Kensington-Wheaton Plan, staff developed a vision for Georgia Avenue as a green corridor and identified the improvement of the sidewalks along Georgia Avenue to be critical in enhancing the green corridor concept as well as the overall mobility of Georgia Avenue.

The existing sidewalk for Georgia Avenue along the subject property is a typical example of a sidewalk that is not safe or attractive for pedestrians. Currently, Georgia Avenue is heavily congested with traffic that travels at relatively high speeds. The sidewalk along Georgia Avenue at the subject property offers

minimal protection from traffic as the sidewalk is directly against the roadway. Further, pedestrians are likely to feel unsafe as there are neither trees nor a landscaped panel to buffer the pedestrian from passing vehicles. As a result, the Planning Board conditioned approval of the special exception by stating that the Applicant improves the sidewalk along the subject property by reconstructing the walkway farther back from the road. This would allow for street trees to be planted between Georgia Avenue and the realigned sidewalk.

The Preliminary Plan substantially conforms to the Master Plan recommendations since it is compatible with the existing neighborhood in terms of use and building type, and meets the requirements and development standards of the R-60 Zone.

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

#### Roads and Transportation Facilities

The Local Area Transportation Review (LATR) guidelines require a traffic study to be performed if a development generates 30 or more weekday peak-hour trips. The proposed medical office and existing single-family dwelling will generate only five morning peak-hour trips and nine evening peak-hour trips. Therefore, no LATR is required.

Because the plan was submitted on or before March 30, 2013, or 30 days after the Planning Board adopted the *LATR & TPAR Guidelines*, the Applicant may choose to satisfy the "policy area review" test by either the Policy Area Mobility Review (PAMR) test or the Transportation Policy Area Review (TPAR) test. The Applicant selected PAMR over TPAR where the PAMR mitigation is 10% of the new weekday peak-hour trips in the Kensington/Wheaton Policy Area. The submitted traffic statement for the PAMR test showed that 10% of 8 new peak-hour trips equals to (and rounded-up to) one new peak-hour trip that is required to be mitigated. The Applicant must satisfy the PAMR test and mitigate the one new trip by paying \$11,700 towards the construction of the missing off-site handicapped ramp in the northwest quadrant of the nearby Grandview Avenue/Cory Terrace intersection that is not located along the property's frontage or an equivalent transportation improvement within the Kensington/Wheaton Policy Area.

### Other Public Facilities and Services

The Application has been reviewed by all public utilities including: Washington Gas, PEPCO, Verizon and WSSC, each of whom found that their respective utility is adequate to serve the development.

The Application has been reviewed by the Montgomery County Department of Fire and Rescue Service, which determined that the Property has adequate access for fire and rescue vehicles by transmittal dated, February 8, 2013. Other public utilities and services such as police stations, fire houses, and health service are currently operating with the standards set by the Subdivision Staging Policy currently in effect.

- 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 lots were reviewed for compliance with the dimensional requirements for the R-60 Zone as specified within the Montgomery County Zoning Ordinance. The Application meets all applicable sections and, as proposed, will meet all the dimensional requirements for area, frontage, width, and setbacks in that zone and for the location of the Property. The Application has been reviewed by other applicable county agencies, all of whom have recommended approval of the Preliminary Plan.

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

The project is subject to the Montgomery County forest conservation law (Chapter 22A of the Code) but has received an exemption from Article II from the requirements of preparing a forest conservation plan under 22A-5(s)(2). This exemption covers an activity conducted on a tract of land less than 1.0 acres that will not result in the clearing of more than 30,000 square feet of existing forest, or any existing specimen or champion tree, and reforestation requirements would not exceed 10,000 square feet. The proposed project meets the terms of the exemption because the tract area is 0.424 acres and there is no existing forest to be cleared or reforested. However, the site does have an existing specimen tree (#4 30" mulberry) that is proposed for removal therefore the site is subject to 22A-6(b), which requires a tree save plan. A tree save plan has been submitted for approval as part of this Preliminary Plan. The tree save plan shows the removal of four trees and tree protection measures for all other on and off-site trees.

5. *All stormwater management requirements shall be met as provided in Chapter 19, article II, title "stormwater management", Section 19-20 through 19-35.*

The MCDPS Stormwater Management Section conditionally approved the Stormwater Management Concept for the Applicant on December 12, 2014. The stormwater management concept meets required stormwater management goals via Environmental Site Design such as two dry wells and the use of permeable pavement and installation of a landscaped infiltration facility.

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 JUN 2 2015 (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 Presley, seconded by Commissioner Fani-González, with Chair Anderson, Vice Chair Wells-Harley, and Commissioners Dreyfuss, Presley, and Fani-González voting in favor at its regular meeting held on Thursday, May 28, 2015, in Silver Spring, Maryland.

  
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Casey Anderson, Chair  
Montgomery County Planning Board