



Shrivastav Property, Lot 4, Limited Amendment, Preliminary Plan, 11991089A

JPP

Joshua Penn, Senior Planner, Joshua.Penn@montgomeryPlanning.org, 301-495-4546

RW

Rich Weaver, Planner Coordinator, Richard.Weaver@montgomeryplanning.org, 301-495-4544

JAC

John Carter, Chief Area 3 Planning Team



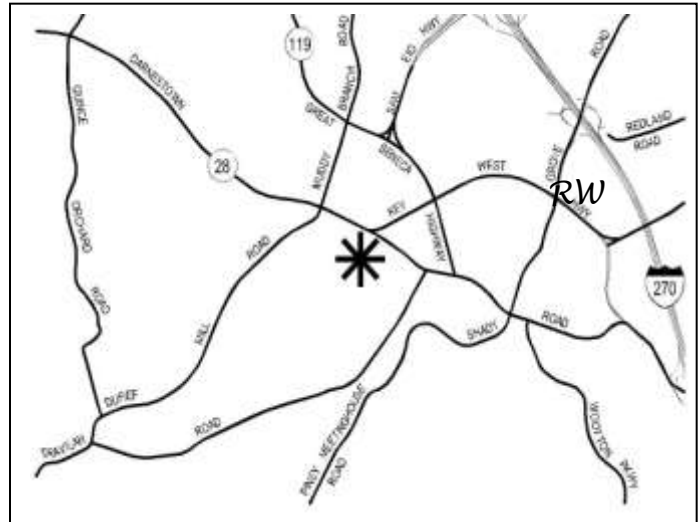
Completed: 12/16/11

Description

Limited Amendment, Preliminary Plan 11991089A, Shrivastav Property, Lot 4

R-200 zone; 0.46 acres; 1 existing lot containing a one-family residential dwelling; request to remove an existing forest conservation easement; located at 10705 Hunting Lane 900 feet west of the intersection with Darnestown Road in Rockville; Potomac Subregion Master Plan

Staff Recommendation: Approval with Conditions



Summary

- Proposal to remove 6,310 square feet of Category I easement
- Proposed mitigation of 12,620 square feet (2:1) of credit in an off-site forest conservation mitigation bank

STAFF RECOMMENDATION: Approval of the limited amendment to the preliminary plan and associated final forest conservation plan, subject to the following conditions:

1. Applicant must submit a complete record plat application within three (3) months of the mailing of the Planning Board Resolution approving the limited amendment to the preliminary plan. The existing easement remains in full force and effect until the new record plat is recorded.
2. Prior to Planning Board approval of the record plat, the Applicant must receive staff approval of the certificate of compliance for an offsite forest conservation mitigation bank.
3. All other conditions of preliminary plan and forest conservation plan No. 119910890 that were not modified herein, as contained in the Planning Board’s Resolution dated January 24, 1994, remain in full force and effect.

PROJECT DISCRIPTION

The Montgomery County Planning Board originally approved preliminary plan #119910890 “Shrivastav Property”, on June 15, 1995. That approval was for three (3) lots on 1.73-acres of land in the R-200 zone. The subdivision was subject to the forest conservation law (Chapter 22A of the County Code) and a forest conservation plan (FCP) was required.

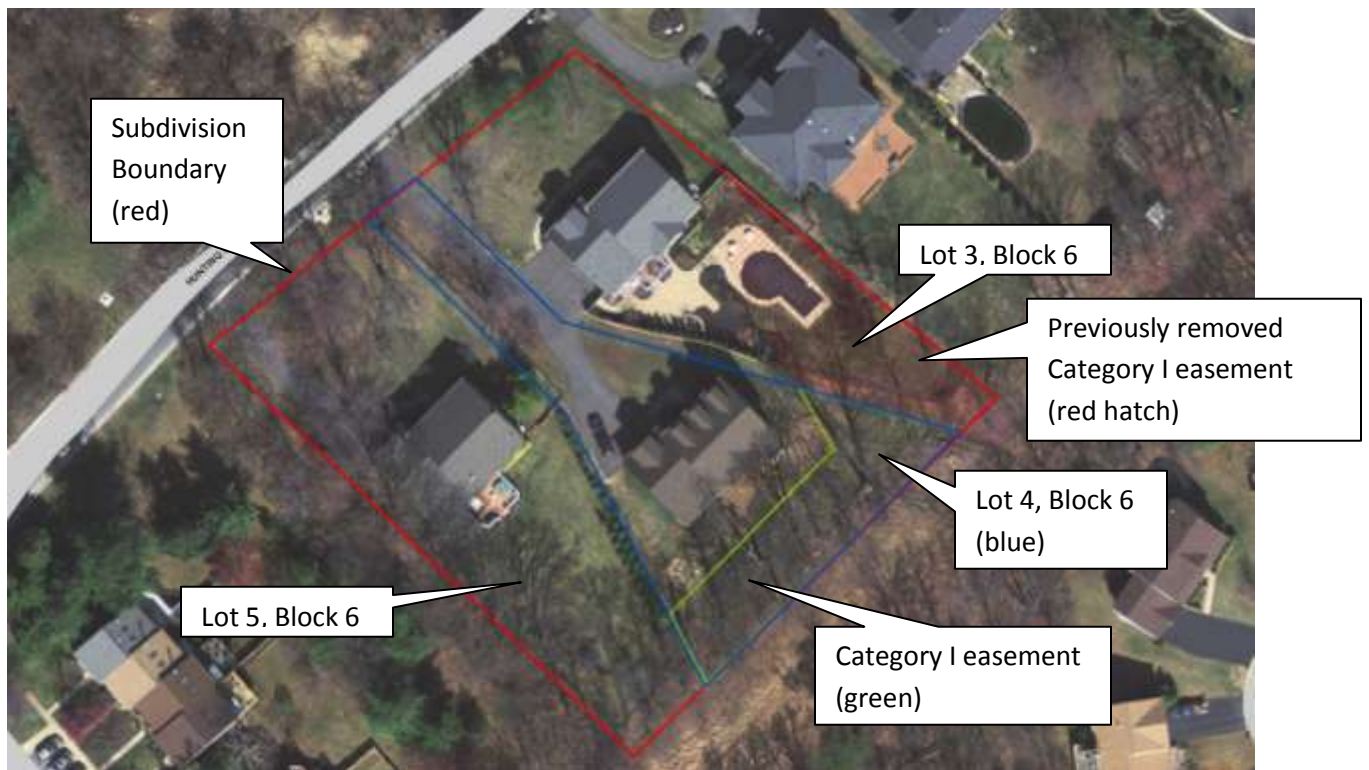


Figure 1: Shrivastav Property Subdivision (#119910890)

The approved FCP showed 0.06 acres of forest on-site and no forest clearing which generated a 0.20 acre afforestation requirement to be met on-site.

The subject property, identified as Lot 4, Block 6, was issued a violation for mowing and cutting of natural vegetation and trees in the Category I conservation easement. An M-NCPPC forest conservation inspector issued the Notice of Violation (NOV) (#EPDNOV0001) on August 9, 2011 for the encroachments (see Attachment A). The NOV required the property owner to plant six (6) two inch caliper trees (Maryland native species) and to cease mowing the easement. The property owner has complied with all conditions of the NOV and the violation has been closed.

SITE DESCRIPTION

The subject property is located at 10705 Hunting Lane 900 feet west of the intersection with Darnestown Road in Rockville. Lot 4, Block 6, is 20,129 square foot in size and has 6,310 square feet of Category I conservation easement on it, comprising 31% of the lot area. The lot gently slopes downhill from the southwest to the northeast. There are no streams, wetlands, floodplain, or environmental buffers on the lot. It is located within the Muddy Branch watershed, a Use I stream. The Countywide Stream Protection Strategy (CSPS) rates this watershed as fair.



Figure 2: Shrivastav Property Subdivision, Lot 4, Block 6

PROPOSAL

On October 5, 2011, an application to amend the preliminary plan of subdivision and forest conservation plan #119910890 to remove the Category I easement on Lot 4. The amendment proposes to remove 6,310 square feet of Category I conservation easement and to purchase 12,620 square feet of credit in an approved off-site forest conservation bank. The Applicant has made this request to provide for a more usable back yard area.

ANALYSIS

PLANNING BOARD REVIEW AUTHORITY

The Forest Conservation Regulations require Planning Board action on certain types of modifications to an approved FCP. Section 22A.00.01.13.A of the Forest Conservation Regulation states:

Major amendments which entail more than a total of 5000 square feet of additional forest clearing must be approved by the Planning Board or the Planning Director (depending on who approved the original plan).

The total modification is greater than the 5000 square foot threshold at 6,310 square feet. Additionally, staff believes that the removal of, or significant change to, the conservation easement warrants consideration in a public forum with a final decision from the Planning Board.

REVIEW

This limited amendment to the preliminary plan is in response to a violation; rather it is a request to remove the easement. The aforementioned violation has been resolved. The Planning Board policy for the removal of conservation easement, as determined in November of 2008, is to mitigate at a ratio of 2:1 if taken off-site.

The Shrivastav preliminary plan, 119910890, also created a 0.15 acre conservation easement on the lot adjacent to the subject property (Lot 3, Block 6). There are no environmentally sensitive areas within this conservation easement; the easement shown on the original forest conservation plan was created purely to meet the developer's forest conservation requirements. The easement on Lot 3 was previously abandoned through the process in place as of April of 2008; the mitigation was taken off-site. Since the removal of the easement on Lot 3 in 2008, the easement on the subject property no longer meets the minimum size requirement of 10,000 square feet required to be defined as forest.

Staff believes that the easement on the subject property is a remnant and that it will never become forest as defined by the Law. Staff believes that the proposed mitigation to purchase 12,620 square feet of credit at a 2:1 ratio for the easement removal meets the Planning Board's mitigation policy, and is appropriate in this instance.

NOTIFICATION and OUTREACH

The subject property was properly signed with notification of the upcoming preliminary plan amendment prior to the October 5, 2011 submission. All adjoining and confronting property owners, civic associations, and other registered interested parties will be notified of the upcoming public hearing

on the proposed amendment. As of the date of this report, staff has received no inquiries. Any comments received hereafter will be forwarded to the Board

CONCLUSION

Staff recommends that the Planning Board approve this limited preliminary plan of subdivision to revise the forest conservation plan with the conditions specified above.

Attachment



MONTGOMERY COUNTY PLANNING DEPARTMENT

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

8787 Georgia Avenue, Silver Spring, Maryland 20910

Environmental Planning Division 301.495.4540 Fax: 301.495.1303

www.MontgomeryPlanning.Org

NOTICE OF VIOLATION

EDPNOV 0001

FOR MONTGOMERY COUNTY, MARYLAND, the undersigned issuer, being duly authorized, states that:

On, 08/09/2011 the recipient of this NOTICE, Simleen Kaur
Date Recipient's Name

who represents the property owner, Simleen Kaur and Arvinder
Property Owner's Name

is notified that a violation of the Montgomery County Forest Conservation Law (Chapter 22-A) exists at the following location: 10705 Hunting Lane Rockville MD 20850 category/construction of category 1 easement

Plan No. 119910890 Explanation: cut natural vegetation within conservation easement cut trees without prior MNEPPC written approval

VIOLATION:

- Failure to hold a required pre-construction meeting.
- Failure to have tree protection measures inspected prior to starting work.
- Failure to install or maintain tree protection measures per the approved Forest Conservation or Tree Save plan.
- Failure to comply with terms, conditions and/or specifications of an approved Forest Conservation plan or Tree Save plan, or as directed by Forest Conservation Inspector
- Failure to obtain an approved Forest Conservation plan or Tree Save plan prior to cutting, clearing, or grading 5,000 square feet on a property of 40,000 square feet or greater.
- Failure to comply with reforestation or afforestation requirements of a Forest Conservation Plan.
- Failure to obtain written approval for a fence permit prior to installing a fence that passes through or around a conservation easement.
- Other: violations of category 1 conservation easement agreement Liber 13178 folo 412

Failure to comply with this NOV by 09/30/11 may result in i) issuance of a citation, ii) issuance of a Stop Work Order, and/or iii) issuance of a Notice of Hearing to appear before the Planning Board for appropriate Administrative Action. Recipient is to call the inspector at 301-495-4601 when the corrective action is complete. The following corrective action(s) must be performed as directed and within any time frames specified below:

- Stake out limits of disturbance (LOD) and contact Forest Conservation Inspector for a pre-construction meeting:
- Install tree protection measures and/or tree care as directed by Forest Conservation Inspector.
- Submit required application for compliance with Chapter 22A of the County Code. Contact Environmental Planning at 301-45-4540.
- Cease all cutting, clearing, or grading and/or land distributing activity. Approval from Forest Conservation Inspector is required to resume work.
- Schedule a pre-planting meeting with the Forest Conservation Inspector prior to the reforestation of afforestation planting.
- Schedule and attend a meeting with staff to determine appropriate corrective action to be performed by a date certain. Failure to complete the corrective action by the date assigned may result in i) issuance of a citation, ii) issuance of a Stop Work Order, and/or iii) issuance of a Notice of Hearing to appear before the Planning Board for appropriate Administrative Action.
- Other: Plant 6 2 inch caliper Native to Maryland trees with the conservation easement stop mowing the conservation easement area

MNCPPC Inspector Stephen Peck Signature Stephen Peck Date 08/09/2011

RECEIVED BY: SIMLEEN KAUR Signature Simleen Date 08/09/11