

MCPB Item No. Date: 09-19-13

### Preliminary Plan Amendment 11992009A: Sandy Spring Property, Lot 13

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**J4C** John Carter, Chief, Area 3 Planning Team

Completed: 09-05-13

Description

#### Preliminary Plan Amendment 11992009A: Sandy Spring Property, Lot 13

Modify the Category I conservation easement on property located at 17724 Country Hills Road, 2.23 acres, RE-2 Zone, Sandy Spring Ashton Master Plan *Staff Recommendation:* Approval with Conditions

Applicant: Andy and Barbara Benson Subject Property: Lot 13, Sandy Spring Property Submittal Date: March 13, 2013 Review Basis: Chapter 22A



#### Summary

This project is a voluntary request by the Applicant to remove 3,714 square feet of Category I conservation easement and to mitigate that removal by placing 3,714 square feet of new easement on another part of the site. The adjustment to the easement area addresses a driveway that is located in a portion of the easement and an area that is being maintained as lawn.

#### **STAFF RECOMMENDATION:**

Approval of the Limited Amendment to the Preliminary Plan and the associated Final Forest Conservation Plan, subject to the following conditions:

- The Applicant must submit a complete record plat application within ninety (90) days of the mailing date of the Planning Board Resolution for this Application that delineates the revised Category I conservation easement. The existing conservation easement remains in full force and effect until the new record plat is recorded in the Montgomery County Land Records.
- 2. The record plat must reference the standard Category I conservation easement as recorded at liber 13178, folio 412 in the Montgomery County Land Records.
- 3. All on-site plantings must be installed by the Applicant and accepted by the M-NCPPC inspector within one (1) year of the mailing date of the Planning Board Resolution for this Application.

#### BACKGROUND

The Montgomery County Planning Board approved Preliminary Plan No. 119920090: Sandy Spring Property, on January 27, 1994, for twenty-one lots in the RE-2 Zone. The application was subject to the Forest Conservation Law (Chapter 22A of the County Code) and a forest conservation plan (FCP) was required. The approved final FCP was for 68.1 acres and showed 24.1 acres of existing forest of which 8.6 acres was to be cleared and 15.5 acres was to be retained. This generated a 4.1 acre reforestation requirement which was met on-site through landscape credit, on-site natural regeneration, and with off-site planting.

#### SITE DESCRIPTION

The property that is the subject of application No. 11992009A ("Application") is located at 17724 Country Hills Road and is identified as Lot 13, Block B, on a record plat titled "Sandy Spring Property" ("Subject Property"). The Subject Property is 2.23 acres in size and is developed with a single family residence in the RE-2 Zone. The Subject Property contains 35,361 square feet of Category I conservation easement configured in a large "U" shape (See Figure 1). The easement consists of retained and natural generated forest. Topography on the Subject Property gently slopes downhill from the east to the west. The Subject Property is located within the Northwest Branch watershed, which has a Use-IV designation. The Countywide Stream Protection Strategy rates the condition of this watershed as fair. There are no intermittent streams or associated 100-year floodplains on or adjacent to the Subject Property.



Figure 1: 2013 Aerial View of Subject Property

#### PROPOSAL

On March 13, 2013, the Applicant voluntarily submitted this Application to amend Preliminary Plan No. 119920090 and the associated FCP by adjusting the location of the Category I conservation easement on the Subject Property. The Applicant proposes to replace 3,714 square feet of Category I conservation easement from two separate locations in the northeast corner of the Subject Property with 3,714 square feet of Category I conservation easement contiguous to the southern boundary of the existing Category I conservation easement (See Figure 2). As shown, a driveway was constructed by a previous owner of the Subject Property in one of the areas of easement that is being adjusted by this Application. The new area of easement selected to offset the easement removal is currently unforested but similar in condition to the easement areas that are being removed.



#### Figure 2: Proposed Easement Changes

#### PLANNING BOARD REVIEW AUTHORITY

The Forest Conservation Law requires Planning Board action on certain types of modifications to an approved FCP. Section 22A.00.01.13.A(1) of the Forest Conservation Regulation states: *Minor amendments which do not result in more than a total of 5,000 square feet of additional forest clearing may be approved by the Planning Director on a case by case basis...* 

Although the total modification requested under this Application is less than the 5,000 square foot threshold, the Planning Board has stated in other cases that the removal of, or change to, a recorded conservation easement warrants consideration with a final decision from the Planning Board.

#### **ANALYSIS AND FINDINGS**

This Application is not in response to a violation, but is rather a proactive request by the current homeowner to bring the Subject Property into compliance, citing the existing driveway that was constructed by prior owners in a Category I conservation easement and other areas around the home which were not allowed to naturally regenerate. The Applicant has worked with Staff to develop a mitigation package that meets the Planning Board's policy for easement removal and the needs of the Applicant. The Planning Board policy for the removal of conservation easement, as determined in November 2008, is a ratio of 2:1 if taken off-site. However, if the easement can be rearranged on-site, the Board has found this to be acceptable at a ratio of 1:1. On-site mitigation is generally preferable to off-site mitigation because it provides in-kind and in-place benefits for what is being removed. Any unforested areas to be considered as mitigation would need to be planted.

For this Application, the proposed mitigation for the easement removal is to replace the easement onsite over previously unprotected area. The amended FCP shows 3,714 square feet to be placed into Category I conservation easement at a 1:1 replacement to offset the 3,714 square feet of easement removed.

The new easement area cannot be considered forest due to a low density of trees and other missing aspects that are required for it to be defined as a forested biological community. Since the mitigation area cannot be considered forest, Staff recommended supplemental planting of eight, two inch caliper trees to meet the minimum forest standards. Staff also requested appropriately located signage to delineate the Category I conservation easement to decrease the chances of future encroachments and to improve natural regeneration as was proposed by the original plan approval in 1992. The final number of plantings within the new easement area can be reduced if there are naturally occurring trees within the easement that could be counted towards the density count. The Applicant revised the plans and has included supplemental planting and appropriate signage.

Staff believes that the new area of easement, with the proposed supplemental plantings and signage, stands a better chance of becoming established as forest when compared to the areas of easement being removed.



Figure 3: Proposed New Easement Area

#### **NOTIFICATION and OUTREACH**

The Subject Property was signed with notification of the preliminary plan amendment prior to the March 17, 2013 submission. All adjoining and confronting property owners, civic associations, and other registered interested parties will be notified of the upcoming public hearing on the Application. As of the date of this report, Staff has not received any phone calls or correspondence in regards to this Application. Any comments received hereafter will be forwarded to the Planning Board

#### CONCLUSION

Staff finds that with the amendments to the forest conservation easements proposed by this Application and the recommended conditions of approval, the Subject Property will be in compliance with Chapter 22A, the Montgomery County Forest Conservation Law. Staff recommends that the Planning Board approve this Application subject to the conditions specified above.

#### Attachments:

- A. Original Approved Forest Conservation Plan
- B. Opinion for Preliminary Plan No. 119920090
- C. Original Plat Preliminary Plan No. 119920090
- D. Revised Preliminary Plan 11992009A



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APPLICANT: JOSEPH ALFANDRE HOMEBUILDING P.O. BOX 60950 ROTOMAC MARYLAND 20854	FINAL FOREST	•	ON PLAN
POTOMAC, MARYLAND 20854			



ATTACHMENT B

Date of Mailing: January 27, 1994

MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION 8787 Georgia Avenue • Silver Spring, Maryland 20910-3760

> Action: Approved Staff Recommendation (Motion of Comm. Aron, seconded by Comm. Richardson, with a vote of 4-0; Comms. Aron, Richardson, Baptiste and Floreen voting in favor).

MONTGOMERY COUNTY PLANNING BOARD

#### OPINION

#### Preliminary Plan 1-92009 NAME OF PLAN: SANDY SPRING PROPERTY

On 01-14-92, JOSEPH ALFANDRE & CO. , submitted an application for the approval of a preliminary plan of subdivision of property in the RE2 zone. The application proposed to create 21 lots on 297.70 ACRES of land. The application was designated Preliminary Plan 1-92009. On 01-13-94, Preliminary Plan 1-92009 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 in the record on the application. Based upon the testimony and evidence presented by staff and on the information on the Preliminary Subdivision Plan Application Form attached hereto and made a part hereof, the Montgomery County Planning Board finds Preliminary Plan 1-92009 to be in accordance with the purposes and requirements of the Subdivision Regulations (Chapter 50, Montgomery County e, as amended) and approves Preliminary Plan 1-92009, subject to the following conditions:

- Compliance with Environmental Planning Division approval regarding the requirements of the forest conservation legislation (as part of preliminary plan). Applicant shall satisfy all conditions prior to recording of plat or MCDEP issuance of the sediment and erosion control permit, as appropriate
- Record plats to reflect delineation of conservation easements over the 100-year floodplain, stream valley buffer and tree preservation areas
- 3. Final alignment and termination of Country Hills Road and Crystal Spring Drive to be reviewed during Ashton Sandy Spring Master Plan Amendment
- Dedication of internal streets network for
  60' rights-of-way

- Continued -



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- Conditions of Health Department approvals dated 5-13-93 and 8-24-93
- 6. Access and improvements including sidewalk connections to be approved by MCDOT
- 7. Prior to recording of plat(s) provide sidewalk easements from Country Hills Road to Sherwood High School with location acceptable to MCBOE and technical staff
- 8. Other necessary easements
- 9. This preliminary plan will remain valid until February 27, 1997. 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.



NO. AT. 108 THIS PLAT KEN OCT 1 3 1994 SITE 1" = 2000 VICINITY MAP SURVEYOR'S AND ENGINEER'S CERTIFICATE We hereby certify that the data shown hereon is correct; that it is a subdivision of a part of the land conveyed to Sandy Spring, LLC, a Maryland Limited Liability Company, from Sandy Spring Land Company Limited Partnership, a Maryland Limited Partnership (formerly Joseph Alfandre Homes Limited Partnership II, a Maryland Limited Partnership), by a deed dated Sentempon 47, 4003 and parameter the Land Partnership), by a deed Homes Limited Partnership II, a Maryland Limited Partnership), by a deed dated September 17, 1993 and recorded among the Land Records of Montgomery County, Maryland in Liber 11887 at Folio 572; that once engaged as described in the owner's dedication hereon, all property markers shown thus -0- will be set as delineated hereon in accordance with the provisions of Section 50-24 (e) of the Montgomery County Code; and that the total area included on this plat is 195552 square feet or 4.48925 acres of land, none of which is dedicated to public use. DATE: 03-11-1994 AS TO PROPERTY LINE ESTABLISHMENT SHOWN ON THIS PLAT. AS TO ROAD DESIGN AND STORM DRAINAGE SYSTEMS SHOWN ON THIS PLAT. 100 JULIEN KIM RIPLEY REGISTERED PROPERTY L'INE MULIES NO. 147 ENGINEER **URVEYOF** LIGENSE NO. 147 WINER'S DEDICATION AND GRANT EASEMENTS We Sandy Spring LLC, owners of the property shown and described hereon, addet this plan of subdivision, establish the minimum building restriction lines, guarantee compliance with the provisions of section 50-24 of the subdivision regulations, grant to Montumery County, Maryland, Stope easements 50 feet wide, unless otherwise shown hereon, adjacent, contiguous and parallel to all streets. Slope easements shall be extinguished at such time as the Public Improvements on the abutting streets have been lawfully completed and accepted for maintenance by Montgomery County, Maryland, Further, we grant to Montgomery County, Maryland, storm drainage easements as shown hereon, if any. Further, we grant to the Washington Suburban Sanitary Commission, (W.S.S.C.) such exclusive rights as necessary for the construction, reconstruction, operation, maintenance and repair of sanitary sewers and/or water mains and appurtenances within the water and/or sever rights of ways/easements shown hereon, if any, subject to and together with the conditions contained in a right of way document from the grantor (s) their successors or assigns to the W.S.S.C. and to be recorded hereafter. Further. we grant to Baltimore Gas and Electric Company, Chesapeake Author, We grant to Baltimore Gas and Electric Company, Chesapeake and Potomac Telephone Company of Maryland, and Washington Gas Light Company, and to each of them, and their successors and assigns, a Public Utility Easement in, on, and over the land designated hereon as "PUE", if any, with the terms and provisions of said grant being those set forth in that certain document entitled "DECLARATION OF TERMS AND PROVISION OF PUBLIC UTILITY EASEMENTS", recorded in Liber 3834 at Folio 457 among the Land Records of Montgomery County, Maryland. Further, we establish the ingress/egress easement shown hereon for the benefit of Lot 13, Block D. Conservation easements shown hereon are granted in accordance with the terms of a document recorded in Liber 10728 at Folio 501. As owners of this subdivision we, our successors and assigns, will cause all property corner markers and any other required monumentation to be set by a registered Maryland Surveyor in accordance with Section 50-24 (e) of the Montgomery County Code prior to acceptance of public streets for maintenance. There are no suits or actions at law, leases, liens, mortgages or trusts affecting the property shown hereon except for a certain deed of trust and the parties in interest thereto have indicated their assent below. 2/10/94 SANDY SPRING allerth. alles ALFAN BERT. SECRETAR LVIN AND DONALD BROWN PARTNERSHIP mar RONALD L. CHASEN, TRUSTEE DAVID N. PRENSKY, TRUSTEE LOTS 13 & 14, BLOCK D SPRING LAWN FARM OLNEY (8TH) ELECTION DISTRICT MONTGOMERY COUNTY, MARYLAND SCALE: 1" = 100' FEBRUARY, 1994 LAND USE EVALUATION • PLANNING CIVIL ENGINEERING • SURVEYING RODGERS & ASSOCIATES, INC. (301) 948-4700 ROCKVILLE (301) 253-6609 FREDERICK (301) 948-6256 FAX 15800 CRABBS BRANCH WAY ROCKVILLE, MD. 20855 · JOB NO. 481-K5 594-12 MSA SSU 1249-6263



# Legend

Property Boundary Existing Category 1 Conservation Easement (CE) Boundary

CE area to be released CE area to be added

## General Notes

1. This plan is a limited amendment to Preliminary Plan 119920090, approved by the Planning Board (resolution mailed 8/12/97). Lot 13, Block D, Spring Lawn Farm

("Property"), is the subject of this amendment. 2. There are no wetlands, Waters of the US, or 100-year floodplain present within the

Property. 3. The boundary information shown hereon is based on a boundary survey by

Rodgers Consulting, Inc. in October, 2012.

4. No rare, threatened, or endangered species were observed on the property.

5. The area of the Property is 2.23 acres. 6. This plan is for the purpose of revising Category I conservation easements on the

property only. 7. This limited amendment to Preliminary Plan 119920090 is limited to the release of part of the Category I Conservation Easement as shown hereon. The information presented on this plan has been deemed by the Montgomery County Planning Department and Planning Board to be sufficient for the purpose of this plan and application.

 8. Credit for naturally regenerating native species may be accepted by the inspector in place of newly planted trees included on the planting schedule on this plan.
 9. This application is not binding on any property not mentioned in Note 1.

# Planting Schedule for new easment area:

 $3.714 \text{ sf} = 0.08 \text{ acres} = \text{Eight } 2^{\circ} \text{ trees}$ 

Quantity	Latin Name	Common Name	Size	Condition
4	Liriodendron tulipifera	Tulip Poplar	2" - 2.5" cal	B&B
4	Quercus rubra	Red Oak	2" - 2.5" cal	B&B

# Surveyor's Certification

I hereby certify to the best of my professional belief and knowledge that the outline of the property included in this application is taken from a boundary survey conducted by Rodgers Consulting, Inc., in October, 2012. The boundary survey of the property was prepared under my direct responsible charge in accordance with COMAR Title 09, Subtitle 13, Chapter 06, Regulation .12.

7-17-2013 Date

(Cho)

Timothy Paul Quinn Professional Land Surveyor Maryland Registration Number 20002 License Expiration 9-20-2014







Spring Lawn Farm Lot 13, Block D, Plat No. 19518 L.39788 F. 344 Olney (8th) Election District, Montgomery County, Maryland



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