



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

MCPB No. 09-53  
 Preliminary Plan No. 11996019A  
 Winterset (Paez property)  
 Date of Hearings: April 2, 2009 and May 7, 2009

JUN 16 2009

**MONTGOMERY COUNTY PLANNING BOARD**

**RESOLUTION<sup>1</sup>**

WHEREAS, pursuant to Montgomery County Code Chapter 50, the Montgomery County Planning Board ("Planning Board" or "Board") is vested with the authority to review preliminary plan applications; and

WHEREAS, on January 14, 2009, Mr. Ramiro Paez, ("Applicant"), filed a limited amendment application to amend the previous conditions of approval of preliminary plan No. 119960190 on a 0.74 acre lot, Lot 46, Block 2, Winterset, located on Winterset Terrace west of the intersection of Glen Road and Falls Road (MD 189) ("Property" or "Subject Property"), in the Potomac Subregion master plan area ("Master Plan"); and

WHEREAS, Applicant's preliminary plan limited amendment application was designated Preliminary Plan No. 11996019A, Winterset (a.k.a. Paez property) ("Preliminary Plan" or "Application"); and

WHEREAS, Planning Board staff ("Staff") issued a memorandum to the Planning Board, dated February 20, 2009, setting forth its analysis, and recommendation for approval, of the Application subject to certain conditions ("Staff Report"); and

WHEREAS, following review and analysis of the Application by Staff and the staff of other governmental agencies, on April 2, 2009, the Planning Board held a public hearing on the Application (the "Hearing"); and

WHEREAS, at the Hearing, the Planning Board heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, the Planning Board was not convinced that the conditions recommended in the Staff Report satisfactorily addressed the amendments requested by the Applicant to the approved preliminary forest conservation plan for the Preliminary Plan that included the Subject Property, and

<sup>1</sup> This Resolution constitutes the written opinion of the Board in this matter and satisfies any requirement under the Montgomery County Code for a written opinion.

Approved as to  
 Legal Sufficiency:

*Jancy Glavin*

M-NCPPC Legal Department 8787 Georgia Avenue, Silver Spring, Maryland 20910 Chairman's Office: 301.495.4605 Fax: 301.495.1320

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the Applicant to the approved preliminary forest conservation plan for the Preliminary Plan that included the Subject Property, and

WHEREAS, the Planning Board offered recommendations to the Applicant so as to amend the Application, and

WHEREAS, the Applicant requested deferral of the Planning Board's decision to effect those recommendations, and

WHEREAS, Staff issued a Staff Report to the Planning Board, dated April 23, 2009, setting forth its analysis, and recommendation for approval, of the Application subject to certain conditions; and

WHEREAS, following review and analysis of the Application by Staff, on May 7, 2009, the Planning Board continued the Hearing on the Application; and

WHEREAS, at the Hearing, the Planning Board heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, on May 7, 2009, the Planning Board approved the Application subject to certain conditions, on motion of Commissioner Alfandre; seconded by Commissioner Presley; with a vote of 5-0, Commissioners, Alfandre, Cryor, Hanson, Presley and Robinson, voting in favor.

NOW, THEREFORE, BE IT RESOLVED THAT, pursuant to the relevant provisions of Montgomery County Code Chapter 50, the Planning Board approved a limited amendment to the previous conditions of approval for Preliminary Plan No. 11996019A to revise the conditions of the approved preliminary forest conservation plan on the Subject Property located on Winterset Terrace west of the intersection of Glen Road and Falls Road (MD 189), in the Potomac Subregion master plan area subject to the following conditions:

- 1) Prior to Planning Board approval of the record plat, Applicant must receive staff approval of the certificate of compliance for the use of an offsite forest conservation mitigation bank.
- 2) The Applicant must record a new plat for 11701 Winterset Terrace that shows the removal of the Category I conservation easement and addition of the Category II conservation easement within nine (9) months of the approval date of this limited amendment.
- 3) Onsite planting must occur prior to recordation of the plat.
- 4) Compliance with the Final Forest Conservation Plan amendment.

All other applicable conditions of approval contained in opinion dated February 26, 1996 remain in full force and effect.

BE IT FURTHER RESOLVED, that, having given full consideration to the recommendations and findings of its Staff, which the Board hereby adopts and incorporates by reference, and upon consideration of the entire record, the Montgomery County Planning Board FINDS, with the conditions of approval, that:

1. *The Preliminary Plan substantially conforms to the master plan.*

All previous findings by the Planning Board remain in full force and effect including conformance to the master plan

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

All previous findings by the Planning Board remain in full force and effect including adequacy of public facilities.

3. *The size, width, shape, and orientation of the proposed lots are appropriate for the location of the subdivision.*

All previous findings by the Planning Board remain in full force and effect including those related to lot configuration.

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

With the conditions of approval referenced above as approved by the Planning Board for limited amendment 11996019A, this plan satisfies the applicable requirement of Chapter 22A, the Montgomery County Forest Conservation Law.

5. *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.*

This limited amendment makes no changes to the existing stormwater management facilities within the Winterset Subdivision. The Application meets all applicable stormwater management requirements.

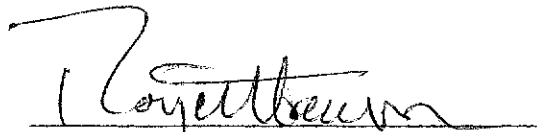
BE IT FURTHER RESOLVED, that the date of this Resolution is JUN 16 2009 (which is the date that this Resolution is mailed to all parties of record); and

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).

\* \* \* \* \*

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 Cryor, seconded by Commissioner Robinson, with Commissioners Hanson, Robinson, Cryor, and Presley voting in favor of the motion, and Commissioner Alfandre absent, at its regular meeting held on Thursday, June 11, 2009, in Silver Spring, Maryland.



Royce Hanson, Chairman  
Montgomery County Planning Board