



APR 2 2010

MCPB No. 10-26
Forest Conservation Plan No. S-2749
Lufsey Property
Date of Hearing: February 4, 2010

MONTGOMERY COUNTY PLANNING BOARD

RESOLUTION¹

WHEREAS, pursuant to Montgomery County Code Chapter 22A, the Montgomery County Planning Board ("Planning Board" or "Board") is vested with the authority to review forest conservation plan applications; and

WHEREAS, on April 21, 2009, Mr. Vincent E. Lufsey ("Applicant"), filed an application for approval of a Preliminary Forest Conservation Plan (PFCP) on 8.02 acres of land located 23320 and 23330 Ridge Road (MD 27), on the southwest corner of the intersection of Ridge Road and Davis Mill Road ("Property" or "Subject Property"), in the Preservation of Agricultural and Rural Open Space master plan area ("Master Plan"); and

WHEREAS, Applicant's preliminary forest conservation plan application was designated Forest Conservation Plan No. S-2749, Lufsey Property ("Forest Conservation Plan" or "Application"); and

WHEREAS, Staff issued a memorandum to the Planning Board, dated December 31, 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 Planning Board staff ("Staff") and the staffs of other governmental agencies, on February 4, 2010, the Planning Board held a public hearing on the Application (the "Hearing"); and

¹ 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:

M-NCPPC Legal Department

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

WHEREAS, on February 4, 2010, the Planning Board approved the Preliminary Forest Conservation Plan subject to certain conditions, on motion of Commissioner Amy Presley; seconded by Commissioner Marye Wells-Harley; with a vote of 3-0, Commissioners Royce Hanson, Amy Presley and Marye Wells-Harley voting in favor.

NOW, THEREFORE, BE IT RESOLVED THAT, pursuant to the relevant provisions of Montgomery County Code Chapter 22A, the Planning Board APPROVES Preliminary Forest Conservation Plan No. S-2749 on 8.02 acres of land located at 23320 and 23330 Ridge Road (MD 27), on the southwest corner of the intersection of Ridge Road and Davis Mill Road ("Property" or "Subject Property"), in the Preservation of Agricultural and Rural Open Space master plan area ("Master Plan").

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 (except as modified herein) and upon consideration of the entire record, the Montgomery County Planning Board FINDS, with the conditions of approval, that:

- 1. Application must satisfy all the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A.*
- 2. Applicant shall record a Category I conservation easement over all environmental/stream valley buffer areas and all planted and retained forests within nine (9) months after approval of the special exception by the Board of Appeals. Applicant shall include a note on the Final Forest Conservation Plan that Applicant shall i) waive any challenge to the validity of the easements due to their not being shown on a plat, and ii) include specific reference to the easements in any Deed of conveyance that includes that portion of the property on which any portion of the easements are located.*
- 3. Applicant must obtain approval of the Final Forest Conservation Plan within four (4) months after the Board of Appeals' approval of the special exception.*
- 4. Applicant shall begin afforestation within two growing seasons after approval of the Final Forest Conservation Plan.*
- 5. Applicant shall install permanent Category I Forest Conservation Easement signage along the perimeter of the forest conservation easements.*
- 6. Applicant must re-grade all man-made steep slopes within the proposed Category I Forest Conservation Easement to no steeper than a 3:1 gradient, remove unconsolidated fill material, and provide top soil prior to installing afforestation planting material.*

7. *Applicant must provide Environmental Planning Staff with a soil analysis report for the afforestation areas prior to scheduling the pre-planting meeting and must amend the soils if they are unsuitable for tree planting before the trees are planted.*

BE IT FURTHER RESOLVED, that the date of this Resolution is APR 12 2010 (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 Presley, seconded by Commissioner Wells-Harley, with Commissioners Hanson, Wells-Harley, Alfandre, and Presley voting in favor of the motion, and with Commissioner Dreyfuss absent, at its regular meeting held on Thursday, March 18, 2010, in Silver Spring, Maryland.



Royce Hanson, Chairman
Montgomery County Planning Board