

JUN 30 2011



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

MCPB No. 11-44

Respondent: John Johnson

Date of Hearing: March 31, 2011

ORDER

WHEREAS, pursuant to Montgomery County Code Chapter 22A, the Montgomery County Planning Board is vested with primary enforcement authority for the Montgomery County Forest Conservation Law; and

WHEREAS, on November 19, 2010, the Montgomery County Planning Department of the Maryland-National Capital Park and Planning Commission issued a Notice of Hearing to John Johnson (Respondent), alleging that the Respondent violated the Montgomery County Forest Conservation Law as a result of continual grass cutting in a Category I Forest Conservation Easement that is located on property owned by the Respondent and by failing to pay an Administrative Citation and complete remedial action as directed; and

WHEREAS, on January 11, 2011, Administrative Law Judge Lorraine E. Fraser, of the Maryland Office of Administrative Hearings, held a hearing at 8787 Georgia Avenue, Silver Spring, Maryland 20910; and

WHEREAS, on February 8, 2011, the Administrative Law Judge filed a Recommended Order, attached herein, proposing that the Planning Board hold that Respondent violated a Category I Conservation Easement and order that:

1. Respondent pay an administrative civil fine of \$250.00;
2. Respondent pay an administrative civil penalty of \$1,968.00;
3. Respondent take corrective actions, including having a professional survey conducted at his expense showing the boundaries of the Category I Conservation Easement on the Property; installing 6-inch x 6-inch corner posts and signage marking the easement boundaries; removing the grass in the easement and replacing it with wood mulch; and planting four two-inch caliper native trees, three ¾-inch to one-inch caliper native canopy trees, and ten native shrubs; and
4. The records and publications of the Montgomery County Planning Department and the Maryland-National Capital Park and Planning Commission reflect this decision; and

Approved as to
Legal Sufficiency:


M-NCPPC Legal Department

8787 Georgia Avenue, Silver Spring, Maryland 20910 Chairman's Office: 301.495.4605 Fax: 301.495.1320

www.MCParkandPlanning.org E-Mail: mcp-chairman@mncppc.org

WHEREAS, following review and analysis of the Recommended Order by Planning Board staff and the staff of other governmental agencies, on March 31, 2011 the Planning Board held a public hearing ("the Hearing") to review the Recommended Order; and

WHEREAS, at the Hearing, the Planning Board heard arguments concerning the Recommended Order; and

WHEREAS, on March 31, 2011 the Planning Board adopted the Recommended Order subject to certain modifications, on motion of Commissioner Alfandre; seconded by Commissioner Wells-Harley; Commissioners Carrier and Pressley voting in favor; with Commissioner Dreyfuss abstaining.

NOW, THEREFORE, BE IT RESOLVED that, pursuant to the relevant provisions of Montgomery County Code Chapter 22A, the Planning Board hereby adopts and incorporates by reference the recommendation and analysis set forth in the Recommended Order except for the following modifications:

1. The \$250 administrative fine is waived;
2. The corrective actions requiring Respondent to conduct a professional survey at Respondent's expense and to plant four two-inch caliper native trees are waived.

BE IT FURTHER RESOLVED, that Respondent must pay the administrative civil penalty, install the 6"x6" corner posts and signage marking the easement boundaries, and remove the grass in the easement and replace it with wood mulch no later than 60 days from the mailing date of this resolution;

BE IT FURTHER RESOLVED, that Respondent must plant three ¾- to one-inch caliper native canopy trees and ten native shrubs between October 1, 2011 and November 15, 2011;

BE IT FURTHER RESOLVED, that this resolution incorporates by reference all evidence of record, including maps, drawings, memoranda, correspondence, and other information; and

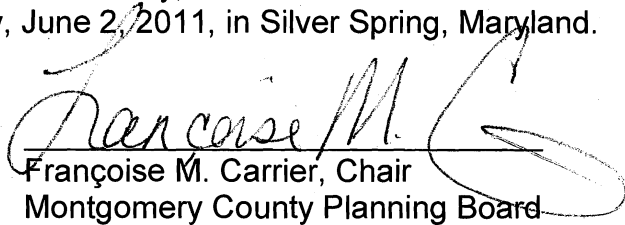
JUN 30 2011 BE IT FURTHER RESOLVED, that the mailing date of this Resolution is _____; and

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).

* * * * *

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 Dreyfuss, with Chair Carrier, Commissioners Dreyfuss and Presley present and voting in favor of the motion, and Vice Chair Wells-Harley, and Commissioner Alfandre absent at its regular meeting held on Thursday, June 2, 2011, in Silver Spring, Maryland.


Françoise M. Carrier, Chair
Montgomery County Planning Board