



MAR 27 2012

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

MCPB No. 11-52

Respondents: Peter and Gwendolyn Regis

Date of Hearing: June 16, 2011

ORDER

WHEREAS Montgomery County Code Chapter 22A vests the Montgomery County Planning Board 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 Peter and Gwendolyn Regis ("Respondents"), alleging that the Respondents violated the Montgomery County Forest Conservation Law as a result of continual grass cutting in a Category I Forest Conservation Easement, clearing of understory in a Category I Conservation Easement, and maintaining a garden in a Category I Conservation Easement, and by failing to pay an Administrative Citation and complete remedial action as directed; and

WHEREAS, on February 1, 2011 Administrative Law Judge Wayne A. Brooks, of the Maryland Office of Administrative Hearings, held a hearing at 8787 Georgia Avenue, Silver Spring, Maryland 20910; and

WHEREAS, on March 1, 2011, the Administrative Law Judge filed a Recommended Order, attached hereto, proposing that the Planning Board hold that Respondents violated a Category I Conservation Easement and order that:

1. Respondents pay an administrative civil fine of \$500.00;
2. Respondents pay an administrative civil penalty of \$2,470.00;
3. Respondents take corrective actions, including having a professional survey conducted at their 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 and garden in the easement and replacing it with wood mulch, and planting six two-inch caliper native trees and four one-inch caliper deciduous trees in the easement; and


Appointed by the Montgomery County
M-NCP&P Board of Commissioners
General Counsel

4. The records and publications of The Montgomery County Planning Department and the Maryland-National Capital Park and Planning Commission reflect this decision; and

WHEREAS, following review and analysis of the Recommended Order by Planning Board staff and the staff of other governmental agencies, on June 16, 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 June 16, 2011 the Planning Board adopted the Recommended Order, subject to certain modifications, on motion of Commissioner Presley; seconded by Commissioner Wells-Harley; with Commissioners Carrier, Dreyfuss, Presley, and 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 hereby orders Respondents to comply with one of the following two alternatives:

1. Alternative One:
 - a. Respondents must comply with the recommendations of the Recommended Order except for the following modifications:
 - i. The \$500 administrative fine is waived;
 - ii. The requirement to conduct a professional survey is waived;
 - b. No later than 60 days from the mailing date of this resolution, Respondents must pay an administrative civil penalty of \$2,470.00, install 6-inch x 6-inch corner posts and signage marking the easement boundaries, remove the grass and garden in the easement and replace it with wood mulch; and
 - c. Respondent must plant six two-inch caliper native trees and four one-inch caliper deciduous trees in the easement during the next planting period from the date of this Order, which is between October 1, 2012 and November 15, 2012.
2. Alternative Two:
 - a. Not later than 60 days from the mailing date of this order, Respondents must pay an administrative civil penalty of \$2,470.00.
 - b. Not later than 60 days from the mailing date of this order, Respondents must file an application for a limited preliminary plan

amendment removing all or part of the Category I Forest Conservation Easement on their property providing for offsite planting at a 2:1 ratio of offsite planting to Category I easement being removed, with offsite planting subject to a Category I Easement at an appropriate forestation mitigation bank;

- c. Not later than six months from the mailing date of this order, Respondents must obtain Board approval of the limited preliminary plan amendment.

BE IT FURTHER RESOLVED, that in the event Respondents choose Alternative Two but fail to comply with the requirements of Alternative Two, Respondents must comply with Alternative One no later than 60 days from the date of compliance with the requirements of Alternative Two, provided that the planting requirements must be met in the next planting period.

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

MAR 27 2021 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).

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CERTIFICATION

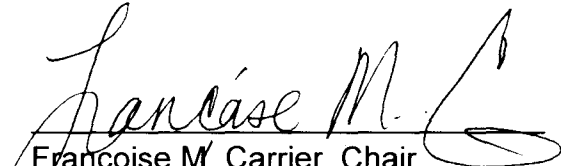
This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission on motion of Commissioner Anderson, seconded by Commissioner Dreyfuss, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Anderson and Dreyfuss voting in favor of the motion, and with

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Commissioner Presley absent, at its regular meeting held on Thursday, March 22, 2012, in Silver Spring, Maryland.



Françoise M. Carrier, Chair
Montgomery County Planning Board