



MONTGOMERY COUNTY PLANNING BOARD

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB No. 12-23
Preliminary Plan No. 11995095A
Rapley Preserve at Avenel (Lot 117, Block C)
Date of Hearing: February 16, 2012

RESOLUTION

WHEREAS, under 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 May 5, 2010, Mr. Marc Solomon ("Applicant") filed a limited amendment application to amend the conditions of approval of Preliminary Plan No. 119950950 on a 2.07 acre lot, Lot 117, Block C, Rapley Preserve at Avenel, 9313 Rapley Preserve Drive, approximately 300 feet northeast of the intersection with Rapley Preserve Circle, in Potomac ("Property" or "Subject Property"), in the Potomac Subregion master plan area; and

WHEREAS, Applicant's limited preliminary plan amendment application was designated Preliminary Plan No. 11995095A, Rapley Preserve at Avenel ("Application"); and

WHEREAS, Planning Board staff ("Staff") issued a memorandum to the Planning Board, dated February 3, 2012, 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 February 16, 2012 the Planning Board held a public 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 February 16, 2012, the Planning Board approved the Application subject to certain conditions, on motion of Commissioner Anderson, seconded by Commissioner Presley, with a vote of 5-0; Commissioners Anderson, 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 50, the Planning Board

approved a limited amendment to Preliminary Plan No. 119910890 to revise the conditions of the approved preliminary forest conservation plan on the Subject Property subject to the following conditions:

1. Applicant must submit a new record plat within three months of the mailing of the Planning Board Resolution approving the limited amendment to the Preliminary Plan. The record plat must clearly delineate the amended forest conservation easement and reference the standard Category I conservation easement as recorded at liber 13178 and folio 412 in the Land Records for Montgomery County, Maryland. The record plat must contain a note stating "all Category I easement areas shown on this plat are subject to the same conditions and allowances as the easements shown on the Site Plan Forest Restoration Plan No. 819950400 (Lot 108), dated April 4, 1999."
2. Prior to submission of the record plat application, the Applicant must submit a revised Forest Conservation Plan, subject to Staff approval for the following:
 - a. Removal of concrete pad reference from the plan;
 - b. Permanent forest conservation easement signage at the easement boundary; and
 - c. Evergreen shrubs between the generator and property line, with species and planting in the next planting period.
3. Prior to submission of the record plat application, the Applicant must complete installation of a suitably designed noise attenuating structure around the emergency generator and properly stabilize the disturbed area within three months of the mailing of the Planning Board Resolution approving the limited amendment to the Preliminary Plan. The enclosure shall be considered "installed" when an Acoustical Engineer monitors the actual noise levels at the nearest property line and certifies that the generator complies with the Montgomery County Noise Ordinance. The certification must be submitted in report format to M-NCPPC Staff.
4. Prior to submission of the record plat application, the Applicant must remove the shed and any foundation within the Category I conservation easement.
5. All other conditions of Preliminary Plan and Forest Conservation Plan No. 119950950 contained in the Planning Board Resolution dated August 7, 1995, and not modified herein, 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.*

The Planning Board's previous findings with respect to Master Plan conformance still apply.

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

The Planning Board's previous findings with respect to adequate public facilities still apply.

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

The Planning Board's previous findings with respect to lot configuration still apply.

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

The Applicant is mitigating the removal of 546 square feet of Category I conservation easement by adding 1,035 square feet of Category I conservation easement onsite. Therefore the Planning Board finds that the Application satisfies the applicable requirements of the 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 Rapley Preserve at Avenel, Lot 117, Block C. The Application meets all applicable stormwater management requirements.

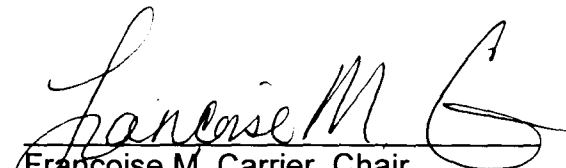
BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board and the date of this Resolution is APR 19 2012 (which is the date that this Resolution is mailed to all parties of record); and

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).

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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 Vice Chair Wells-Harley, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Anderson, Dreyfuss, and Presley voting in favor of the motion at its regular meeting held on Thursday, April 12, 2012, in Silver Spring, Maryland.


Françoise M. Carrier, Chair
Montgomery County Planning Board