



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

OCT 14 2013

MCPB No. 13-141
Preliminary Plan No. 11992009A
Sandy Spring Property, Lot 13
Date of Hearing: September 19, 2013

RESOLUTION

WHEREAS, under Montgomery County Code Chapter 50, the Montgomery County Planning Board is authorized to review preliminary plan applications; and

WHEREAS, the Planning Board, by Opinion dated January 27, 1994, approved Preliminary Plan No. 119920090, creating twenty-one lots on 297.7 acres of land in the RE-2 zone, located southeast of the intersection of New Hampshire Avenue and Olney Sandy Spring Road, in the Cloverly Policy Area, Sandy Spring Ashton master plan ("Master Plan") area, of which Lot 13 ("Subject Property") was one of the approved lots; and

WHEREAS, on March 13, 2013, Andy and Barbara Benson ("Applicant"), filed an application for approval of an amendment to the previously approved preliminary plan to remove 3,714 square feet of Category I conservation easement from the Subject Property and to mitigate that removal on-site; and

WHEREAS, Applicant's application to amend the preliminary plan was designated Preliminary Plan No. 11992009A, Sandy Spring Property, Lot 13 ("Preliminary Plan", "Amendment" or "Application"); and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and other governmental agencies, Applicant submitted a revised forest conservation plan, and Staff issued a memorandum to the Planning Board, dated September 6, 2013, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on September 19, 2013, the Planning Board held a public hearing on the Application, and at the hearing the Planning Board heard testimony and received evidence submitted for the record on the Application; and

Approved as to
Legal Sufficiency:

 9/6/13
MNCPPC Legal Department

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www.montgomeryplanningboard.org E-Mail: mcp-chair@mncppc-mc.org

WHEREAS, at the hearing, the Planning Board voted to approve the Application subject to certain conditions, by the vote as certified below.

NOW, THEREFORE, BE IT RESOLVED THAT, the Planning Board approves Preliminary Plan No. 11992009A to remove 3,714 square feet of Category I conservation easement and to mitigate that removal on-site, subject to the following conditions:¹

1. The Applicant must submit a complete record plat application within ninety (90) days of the mailing date of the Planning Board Resolution for this Application that delineates the revised Category I conservation easement. The existing conservation easement remains in full force and effect until the new record plat is recorded in the Montgomery County Land Records.
2. The record plat must reference the standard Category I conservation easement as recorded at liber 13178, folio 412 in the Montgomery County Land Records.
3. All on-site plantings must be installed by the Applicant and accepted by the M-NCPPC inspector within one (1) year of the mailing date of the Planning Board Resolution for this Application.

BE IT FURTHER RESOLVED, that all other conditions of Preliminary Plan No. 119920090 and Forest Conservation Plan No. 119920090 as contained in the Planning Board's Opinion dated January 27, 1994, unless modified herein remain valid, unchanged and in full force and effect.

BE IT FURTHER RESOLVED, that having considered the recommendations and findings of its Staff as presented at the hearing and as set forth in the Staff Report, which the Board hereby adopts and incorporates by reference (except as modified herein), and upon consideration of the entire record, the Planning Board FINDS, with the conditions of approval, that:

Unless specifically set forth herein, this Amendment does not alter the intent, objectives, or requirements in the originally approved preliminary, and all findings not specifically addressed remain in effect.

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

A. Forest Conservation

¹ For the purpose of these conditions, the term "Applicant" shall also mean the developer, the owner or any successor(s) in interest to the terms of this approval.

The Board finds that the forest conservation plan as revised complies with the requirements of the Forest Conservation Law. The amended forest conservation plan shows 3,714 square feet to be placed into Category I conservation easement with a 1:1 replacement to offset the 3,714 square feet of easement removed. The area within the 3,714 square feet being added is of the same condition and character as the easement area to be removed. There is no net loss of protected forest area and the forest conservation plan as amended continues to satisfy all the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A.

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

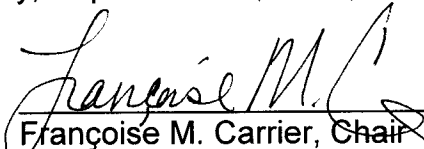
BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is ~~OCT 14 2013~~ (which is the date that this Resolution is mailed to all parties of record); and

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 Dreyfuss, seconded by Commissioner Anderson, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Anderson and Dreyfuss voting in favor, and Commissioner Presley absent, at its regular meeting held on Thursday, September 19, 2013, in Silver Spring, Maryland.



Françoise M. Carrier, Chair
Montgomery County Planning Board