



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

DEC 20 2013

MCPB No. 13-179
Preliminary Plan No. 12008008A
Boswell's Addition to Riding Stable Estates
Date of Hearing: Dec. 19. 2013 Consent Agenda

RESOLUTION

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

WHEREAS, on April 15, 2013, the Planning Board, by Resolution MCPB No. 13-35, approved Preliminary Plan No. 120080080 to subdivide on 4.87 acres of land in the RE-1 zone, located at 15615 Riding Stable Road ("Subject Property"), in the Patuxent Policy Area, in the Fairland master plan ("Master Plan") area into three (3) lots; and

WHEREAS, the Parent Tract on which the Subject Property is a part is comprised of 5.89 acres, of which 4.87 acres is located in Montgomery County and 1.02 acres is located in Prince George's County; and

WHEREAS, Condition No. 2 of Preliminary Plan No. 120080080 allowed for the use of the land in Prince George's County as an offsite area for purposes of meeting certain requirements for afforestation under Chapter 22A of the Montgomery County Code ("Forest Conservation Law") and in order to meet the long term protective measures required by §22A-12(h)(2) that such property be encumbered by a Prince George's County Woodland and Wildlife Habitat Conservation Easement, modified so that no amendment or release of the easement would be effective without the written approval of the Planning Board; and

WHEREAS, Prince George's County would not approve the requested modification; and

WHEREAS, Robin L. and Chuck Boswell, ("Applicant"), filed an application for approval to amend Condition No. 2 of Preliminary Plan No. 120080080 to provide for an alternative long term protective measure under §22A-12(h)(2) to meet the intent of the condition; and

Approved as to
Legal Sufficiency

 12/5/13

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WHEREAS, Applicant's application was designated Preliminary Plan No. 12008008A, Boswell's Addition to Riding Stable Estates ("Preliminary Plan", "Amendment" or "Application"); and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and other governmental agencies, Staff issued a memorandum to the Planning Board, dated December 5, 2013, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on December 19, 2013, Staff presented the Amendment to the Planning Board as a consent item for its review and action at which time 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 hereby adopts the Staff's recommendation and analysis set forth in the Staff Report and hereby approves Preliminary Plan No. 12008008A, by modifying the following condition of the previously approved preliminary plan:¹

Condition 2(f), (g) and (h) are amended as follows:

- f. The use of any land in Prince George's County must be identified on the final Forest Conservation Plan as an offsite area for purposes of meeting the requirements for afforestation. Any existing forest located in the offsite area will be assigned an afforestation credit at the rate of 1 acre of existing forest per ½ acre of required afforestation, and must be placed in a Conservation Deed of Easement granted to and enforceable by the Planning Board as a protective measure for offsite forest preservation in a form approved by the Office of General Counsel.
- g. No longer applicable.
- h. The approved Conservation Deed of Easement must be recorded in the Prince George's County land records prior to recordation of the plat, and the recording reference must be noted on the record plat.

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 development must comply with the conditions of approval for Preliminary Plan No. 120080080, including the forest conservation plan, as set forth in the MCPB No. 13-35, except as amended by this Application

BE IT FURTHER RESOLVED, that, having considered the recommendations and findings of its Staff 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 plan, and all findings not specifically addressed remain in effect.

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

The Applicant is required to protect the 0.53 acres of forest in Prince George's County with a Conservation Deed of Easement granted to and enforceable by the Planning Board as a protective measure for offsite forest preservation in accordance with §22A-12(h)(2).

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 Preliminary Plan will remain valid for the period established for Preliminary Plan No. 120080080, and that prior to the expiration of this validity period, a final record plat for all property delineated on the approved Preliminary Plan must be recorded in the Montgomery County Land Records, or a request for an extension must be filed, 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 DEC 20 2013 (which is the date that this Resolution is mailed to all parties of record); and

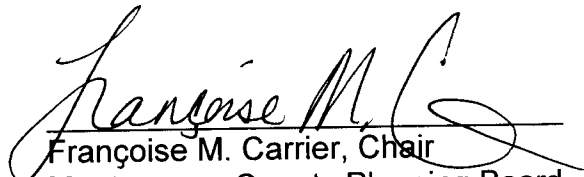
BE IT FURTHER RESOLVED, that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this

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


Françoise M. Carrier, Chair
Montgomery County Planning Board