



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

MCPB No. 18-056

Preliminary Plan No. 11991045C

Gomes Property (a.k.a. Peterson Property) Lot 1, Block A

Date of Hearing: June 28, 2018

JUL 17 2018

**RESOLUTION**

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

WHEREAS, on April 22, 1992, the Planning Board, approved Preliminary Plan No. 119910450, establishing 3 lots and 2 outlots on 11.70 acres of land in the Cloverly Subregion Master Plan ("Master Plan") area; and

WHEREAS, the Planning Board approved amendments to Preliminary Plan No. 119910450, known as amendments "A" and "B," neither of which impacted Lot 1, Block A of the subdivision ("Subject Property"); and


WHEREAS, on December 20, 2017, Fernando Gomes ("Applicant," "Property Owner"), filed an application for approval of an amendment to the previously approved Preliminary Plan requesting release of the Category I and Category II Conservation Easement from the Subject Property as follows:

1. Release 1.33 acres (57,935 square feet) of M-NCPPC Conservation Easement consisting of 0.27 acres (11,761 square feet) of Category I Conservation Easement and 1.06 acres (46,174 square feet) of Category II Conservation Easement.
2. Provide 1.80 acres (78,408 square feet) of Category I Conservation Easement on the Subject Property, including 1.51 acres (65,776 square feet) of new reforestation planting of 2" caliper native trees.

WHEREAS, The Applicant's application to amend the Preliminary Plan was designated Preliminary Plan No. 11991045C, Gomes Property (a.k.a. Peterson) Lot 1, Block A ("Preliminary Plan," "Amendment," or "Application"); and

WHEREAS, following review and analysis of the Application, Planning Board staff ("Staff") issued a memorandum to the Planning Board, dated June 15, 2018,

Approved as to  
Legal Sufficiency:

  
8787 Georgia Avenue, Silver Spring, Maryland 20910 Phone: 301.495.4605 Fax: 301.495.1320  
M-NCPPC Legal Department  
www.montgomeryplanningboard.org E-Mail: mcp-chair@mncppc-mc.org

setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on June 28, 2018, 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

WHEREAS, on June 28, 2018, the Planning Board voted to approve the Application subject to conditions on motion of Commissioner Cichy, seconded by Commissioner Patterson, with a vote of 4-0; Commissioners Anderson, Cichy, Dreyfuss, and Patterson voting in favor, and Commissioner Fani-Gonzalez absent.

NOW, THEREFORE, BE IT RESOLVED THAT, the Planning Board approves Preliminary Plan No. 11991045C, subject to the following conditions:

1. Within thirty (30) days of the mailing of the Planning Board Resolution the Applicant must submit, to Staff, a cost estimate for the planting of 1.51 acres of land with 2-inch caliper trees and two-year maintenance of the trees for review and approval.
2. Within sixty (60) days of the mailing date of the Planning Board Resolution, the Applicant must submit financial security for the planting and maintenance requirements of 1.51 acres of forest planting in an amount and form approved by Staff.
3. Within sixty (60) days of the mailing date of the Planning Board Resolution, the Applicant must record a Category I Conservation Easement by deed, in a form approved by the M-NCPPC Office of the General Counsel, in the Land Records of Montgomery County, Maryland for all new easement areas on the Subject Property.
4. Within sixty (60) days of the mailing date of the Planning Board Resolution, the Applicant must submit a Maintenance and Management Agreement in a form approved by the M-NCPPC Office of General Counsel to ensure compliance with the conditions of the Forest Conservation Plan.
5. Within ninety (90) days of the mailing of the Planning Board Resolution the Applicant must obtain and record a Release of all the existing Category I Conservation and Category II Conservation Easement, in a form approved by the M-NCPPC Office of the General Counsel, in the Land Records of Montgomery County, Maryland. All existing conservation easements remain in full force and effect until the deed of release is recorded.
6. Within ninety (90) days of the mailing date of the Planning Board Resolution,

the Applicant must submit a complete Record Plat application for the Subject Property that delineates and references the new Category I Conservation Easement. The record plat must reference the liber and folio of the Category I Conservation Easement.

7. By December 15, 2018 the Property Owner must complete the planting and have the planting inspected and accepted by the M-NCPPC Inspector.

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:

1. Except as 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.
2. The Application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County, Chapter 22A.

With the conditions of approval, the Amendment addresses the forest conservation law violations on the Subject Property

BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is JUL 17 2018 (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 (30) 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 Cichy, seconded by Commissioner Patterson, with Chair Anderson and Commissioners Cichy and Patterson voting in favor, and Vice Chair Dreyfuss and Commissioner Fani-González absent at its regular meeting held on Thursday, July 12, 2018, in Silver Spring, Maryland.



---

Casey Anderson, Chair  
Montgomery County Planning Board