



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

MCPB No. 11-68
Preliminary Plan No. 11996019B
Winterset
Date of Hearing: June 23, 2011

RESOLUTION

WHEREAS, pursuant to 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 September 27, 2010, Ted Chorvinsky, Alan and Sheri Heller, N.T. and Mallika Umamaheswaran, Francisco Hoyos, Clara Garcia, and David and Bilha Marcus ("Applicant"), filed a limited amendment application to amend Preliminary Plan No. 119960190 on 2.71 acres, consisting of lots 23, 24, and 25, Block 4 and lots 49 and 50, Block 2, Winterset, located on Winterset Terrace and Broad Green Court, west of the intersection of Falls Road / Md-189 and Glen Road in Potomac ("Property" or "Subject Property"), in the Potomac Subregion master plan area ("Master Plan"); and

WHEREAS, Applicant's preliminary plan limited amendment application was designated Preliminary Plan No. 11996019B, Winterset ("Preliminary Plan" or "Application"); and

WHEREAS, Planning Board staff ("Staff") issued a memorandum to the Planning Board, dated June 9, 2011, 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 June 23, 2011, the Planning Board held a public hearing on the Application (the "Hearing"); and

WHEREAS, at the Hearing, the Planning Board heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, on June 23, 2011, the Planning Board approved the Application subject to certain conditions, on motion of Commissioner Dreyfuss, seconded by Commissioner Wells-Harley, with a vote of 4-0, Commissioners Anderson, Carrier, Dreyfuss, and Wells-Harley, voting in favor. Commissioner

APPROVED AS TO LEGAL SUFFICIENCY
Christina Sorensen 7/21/11
M-NCPPC LEGAL DEPARTMENT

Presley was absent.

NOW, THEREFORE, BE IT RESOLVED THAT, pursuant to the relevant provisions of Montgomery County Code Chapter 50, the Planning Board approved Preliminary Plan No. 11996019B to revise the conditions of the approved preliminary forest conservation plan on the Subject Property, located on Winterset Terrace and Broad Green Court, west of the intersection of Falls Road / Md-189 and Glen Road in Potomac in the Potomac Subregion master plan area, subject to the following conditions:

1. Applicant must record a new record plat within nine (9) months of the mailing of the Planning Board Resolution approving the Preliminary Plan. The record plat must reference the standard Category II (liber 13178 folio 421) conservation easement as recorded in the Land Records for Montgomery County, Maryland.
2. All plantings as shown on the 3/31/11 revised forest conservation plan must occur within one (1) year of the mailing date of the Planning Board Resolution approving the limited amendment to the Preliminary Plan.
3. All other conditions of Preliminary Plan and Forest Conservation Plan No. 119960190 that were not modified herein and as contained in the Planning Board's Resolution dated February 26, 1996, 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.*

All previous findings by the Planning Board remain in full force and effect including substantial conformance to the Master Plan

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

All previous findings by the Planning Board remain in full force and effect including adequacy of public facilities.

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

All previous findings by the Planning Board remain in full force and effect including those related to lot configuration.

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

The Applicant will meet the 2:1 mitigation requirement of 1.48 acres through a combination of landscaping/tree cover credit and off-site mitigation. To receive the landscaping/tree cover credit, the Applicant will create 0.74 acres of Category II conservation easement on site.

The Applicant can receive credit for the entire 0.74 acres under the forest conservation law for tree cover in the Category II conservation easement because the Property is zoned R-200 and it is considered high density residential, and the Planning Board found that using afforestation as forest cover is inappropriate for the site and credit for afforestation through tree cover was acceptable.

In addition to the 0.74 acres of Category II conservation easement, the Applicant will purchase 0.74 acres of credit in an off-site forest conservation mitigation bank. The combination of the 0.74 acres of Category II conservation easement and the 0.74 acres of off-site mitigation equals a total mitigation of 1.48 acres or a 2:1 ratio to the Category I conservation easement being removed.

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 Winterset Subdivision. The Application meets all applicable stormwater management requirements.

BE IT FURTHER RESOLVED that for the purpose of these conditions, the term "Applicant" shall also mean the developer, the owner or any successor in interest to the terms of this approval.

BE IT FURTHER RESOLVED, that this Resolution constitutes the written

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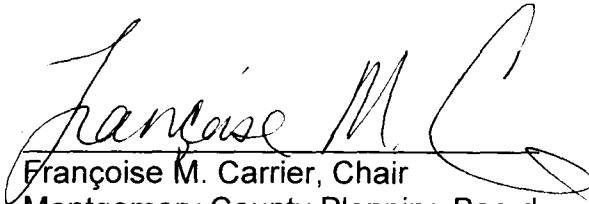
opinion of the Board and the date of this Resolution is _____
(which is the date that this Resolution is mailed to all parties of record); and

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 Dreyfuss, seconded by Commissioner Presley, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Anderson, Dreyfuss and Presley present and voting in favor of the motion, at its regular meeting held on Thursday, July 28, 2011, in Silver Spring, Maryland.


Françoise M. Carrier, Chair
Montgomery County Planning Board