



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

OCT 26 2012

MCPB No. 12-113  
Preliminary Plan No. 12002073A  
Yetley Property, Lot 46  
Date of Hearing: October 11, 2012

**RESOLUTION**

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

WHEREAS, by Resolution mailed on August 2, 2002, the Planning Board approved Preliminary Plan No. 120020730, creating five lots on 4.83 acres of land in the R-200 zone, located on Timber View Court, 1300 feet east of Randolph Road and Kemp Mill Road ("Subject Property"), in the White Oak master plan ("Master Plan") area; and

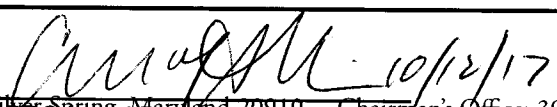
WHEREAS, on June 16, 2011, the Planning Board found that the owners of the Subject Property were in violation of the terms of a conservation easement on the Subject Property and issued an order (Planning Board Order, MCPB No. 11-52) with specific options for remedial action, including submission of an application for a limited preliminary plan amendment to remove a portion of the conservation easement and mitigate for such removal; and

WHEREAS, on June 7, 2012, Mr. & Mrs. Peter Regis ("Applicant"), filed an application for approval of an amendment to the previously approved preliminary plan and final forest conservation plan to remove 2,700 square feet of Category I conservation easement on lot 46, block 1 of the Subject Property ("Lot 46"), and mitigate the easement removed at a ratio of 2:1 in an M-NCPPC approved forest conservation bank within Montgomery County; and

WHEREAS, Applicant's application to amend the preliminary plan was designated Preliminary Plan No. 12002073A, Yetley Property, Lot 46 ("Preliminary Plan" 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 September 14, 2012, setting forth its analysis and

Approved as to  
Legal Sufficiency:

 10/12/12  
8787 Georgia Avenue, Silver Spring, Maryland 20910 Chairman's Office: 301.495.4605 Fax: 301.495.1320

[www.MCParkandPlanning.org](http://www.MCParkandPlanning.org) E-Mail: [mcp-chairman@mncppc.org](mailto:mcp-chairman@mncppc.org)

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

WHEREAS, on October 11, 2012, 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, at the hearing, the Planning Board voted to approve the Application subject to certain conditions, on motion of Commissioner Anderson, seconded by Commissioner Wells-Harley, with a vote of 4-0; Commissioners Anderson, Carrier, Presley, and Wells-Harley voting in favor, and with Commissioner Dreyfuss absent from the hearing.

NOW, THEREFORE, BE IT RESOLVED THAT, the Planning Board approves Preliminary Plan No. 12002073A to remove 2,700 square feet of Category I conservation easement subject to the following conditions:<sup>1</sup>

1. Applicant must submit a complete record plat application within three (3) months of the mailing date of this Planning Board Resolution approving the limited amendment to the Preliminary Plan that delineates the revised Category I conservation easement. The existing easement remains in full force and effect until the new record plat is recorded.
2. Prior to Planning Board approval of the record plat, the Applicant must submit a certificate of compliance to use an offsite forest conservation mitigation bank. The certificate of compliance must provide mitigation credits for onsite easement removal at a rate of 2:1.
3. Applicant must install supplemental plantings within the remaining Category I conservation easement, as shown in the September 19, 2012 submitted final forest conservation plan. Planting must occur during the first planting season after the Planning Board Resolution is mailed. Supplemental plantings must include at a minimum; four (4) native understory shrubs, four (4) native tall shade trees, and two (2) native evergreen trees.
4. Applicant must delineate the Category I conservation easement boundary along the existing wood line with permanent easement markers or split rail fence, and appropriate signage within three (3) months of the mailing date of the Planning Board Resolution.

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<sup>1</sup> 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.

BE IT FURTHER RESOLVED, that all other conditions of Preliminary Plan No. 120020730 that were not modified herein, as contained in the Planning Board's Resolution mailed August 2, 2002, 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:

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

The Applicant is mitigating the removal of 2,700 square feet of Category I conservation easement at a 2:1 ratio. The Applicant will purchase credits in an off-site forest conservation bank to satisfy the mitigation planting requirement.

BE IT FURTHER RESOLVED, that this Preliminary Plan will remain valid for sixty months from its initiation date (as defined in Montgomery County Code Section 50-35(h)), 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 OCT 26 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).

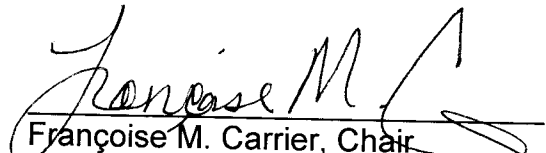
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#### CERTIFICATION

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 Presley, seconded by Vice Chair

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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, October 18, 2012, in Silver Spring, Maryland.

  
Françoise M. Carrier, Chair  
Montgomery County Planning Board