



**SEP 19 2016**

MCPB No. 16-095  
Preliminary Plan No. 11997056B  
Kentsdale Estates Lot 38, Block D  
Date of Hearing: September 15, 2016

**RESOLUTION**

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

WHEREAS, on May 28, 1997, the Planning Board approved Preliminary Plan No. 119970560, creating 7 lots on 20.07 acres of land in the RE2 Zone, off of Willowbrook Drive, in the Potomac Subregion Master Plan ("Master Plan") area; and

WHEREAS, on July 27, 2010, by Resolution MCPB No. 10-63, the Planning Board approved Preliminary Plan Amendment No. 11997056A to revise the forest conservation easements on Lot 41, Block D, of the Kentsdale Estates subdivision; and

WHEREAS, on May 12, 2016, Diana Epstein ("Applicant"), filed an application for approval of an amendment to the previously approved Preliminary Plans to remove a total of 56,304 square feet of Category I Conservation Easement from Kentsdale Estates Lot 38, Block D ("Subject Property") and provide mitigation offsite by acquiring 95,659 square feet of mitigation credit at an offsite bank and mitigation onsite with the establishment of a 16,949 square foot Category II Conservation Easement; and

WHEREAS, the Applicant's application to amend the Preliminary Plan was designated Preliminary Plan No. 11997056B, Kentsdale Estates Lot 38, Block D ("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 September 2, 2016, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on September 15, 2016, 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:

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. 11997056B to remove a total of 56,304 square feet of Category I Conservation Easement from the Subject Property. The Applicants will provide offsite mitigation by acquiring 95,659 square feet of credit at an approved Montgomery County Forest Conservation Bank and onsite mitigation by establishing a 16,949 square foot Category II Conservation Easement. Approval of Preliminary Plan No. 11997056B is subject to the following conditions:

1. Within sixty (60) days of the mailing date of this Resolution, the Applicant must record in the Land Records of Montgomery County, Maryland a Certificate of Compliance, approved by the M-NCPPC Office of General Counsel, to use an offsite forest mitigation bank. The Certificate of Compliance must provide 95,659 square feet of mitigation credit equivalent to either 95,659 square feet of forest planting or 191,318 square feet of existing forest retention for the removal of the Category I Conservation Easement from the Subject Property.
2. Within sixty (60) days of the mailing date of this Resolution, the Applicant must record a Category II Conservation Easement Agreement by deed in the Land Records of Montgomery County, Maryland for the 16,949 square feet Category II Conservation Easement shown on approved plan number 11997056B. The new Category II Conservation Easement Agreement must be approved by the M-NCPPC Office of General Counsel before recordation.
3. After providing all required mitigation, the Property Owner must record a M-NCPPC Deed of Conservation Easement Release in the Land Records of Montgomery County, Maryland. The existing Category I Conservation Easement remains in full force and effect until the M-NCPPC Deed of Release is recorded in Land Records of Montgomery County, Maryland.
4. Within one hundred and twenty (120) days of the mailing date of the Planning Board Resolution, the Property Owner must submit a complete Record Plat application that delineates the new Category II Conservation Easement and documents the release of the Category I Conservation Easement.

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.*

The 95,659 square feet of forest bank credit and the 16,949 square foot Category II Conservation Easement required by this Amendment total 112,608 square feet of forest mitigation, which is double the amount of conservation easement area approved for release through this Amendment. This 2:1 rate for mitigation is consistent with Planning Board policy. This Amendment will also resolve a forest conservation easement violation 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 SEP 19 2016 (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).

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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 Fani-González, seconded by Vice Chair Wells-Harley, with Chair Anderson, Vice Chair Wells-Harley, and Commissioners Fani-González and Cichy voting in favor, and Commissioner Dreyfuss absent at its regular meeting held on Thursday, September 15, 2016, in Silver Spring, Maryland.

  
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Casey Anderson, Chair  
Montgomery County Planning Board