



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

MCPB No. 18-032
Preliminary Plan No. 11995016C
Camberwell Property (a.k.a Camotop) Lot 10, Block B
Date of Hearing: April 26, 2018

MAY 04 2018

RESOLUTION

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

WHEREAS, by Opinion dated February 23, 1995, the Planning Board approved Preliminary Plan No. 119950160, Camberwell Property, establishing 8 lots on 20.20 acres of land in the Potomac Subregion Master Plan ("Master Plan") area; and

WHEREAS, on September 15, 2009, the Planning Board approved an amendment to Preliminary Plan No. 119950160, known as Preliminary Plan No. 11995016A for Camberwell Property Lot 12 (MCPB No. 09-97), to revise the conditions of the approved forest conservation plan on Lot 12; and

WHEREAS, on July 25, 2017, the Planning Board approved an amendment to Preliminary Plan No. 119950160, known as Preliminary Plan No. 11995016B for Camberwell Property Lot 13 (MCPB No. 17-057), to revise conditions of the approved forest conservation plan on Lot 13; and

WHEREAS, on October 2, 2017, Amir Tofigh ("Applicant" or "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 Camberwell Property (a.k.a. Camotop) Lot 10, Block B ("Subject Property"); and

WHEREAS, the Applicant's application to amend the Preliminary Plan was designated Preliminary Plan No. 11995016C, Camberwell Property (a.k.a. Camotop) Lot 10, Block B ("Preliminary Plan," "Amendment," or "Application"); and

WHEREAS, the Amendment is also a Final Forest Conservation Plan Amendment ("Forest Conservation Plan") for the Subject Property; and

WHEREAS, following review and analysis of the Application, Planning Board staff ("Staff") issued a memorandum to the Planning Board, dated April 13, 2018,

Approved as to
Legal Sufficiency


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

WHEREAS, on April 26, 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, 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. 11995016C to remove a total of 0.92 acres of Category I Conservation Easement and 0.16 acres of Category II Conservation Easement on the Subject Property, subject to the following conditions:

1. Within sixty (60) days of the mailing of the Planning Board Resolution, the Applicant must submit a cost estimate for the new tree planting and two-year maintenance requirements of the Forest Conservation Plan for Staff review and approval.
2. Within sixty (60) days of the mailing date of the Planning Board Resolution, the Applicant must record in 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 certify the purchase of 91,476 square feet of mitigation credit equivalent to either 91,476 square feet of forest planting or 182,952 square feet of existing forest retention for the removal of all existing conservation easement from the Subject Property.
3. Within ninety (90) days of the mailing date of the Planning Board Resolution, the Applicant must submit financial security for the planting and maintenance requirements of the Forest Conservation Plan in an amount and form approved by Staff.
4. Within ninety (90) days of the mailing date of the Planning Board Resolution, the Applicant must record a Category II 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 Category II Conservation Easement area on the Subject Property.
5. Within ninety (90) days of the mailing date of the Planning Board Resolution, the Applicant must enter into 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.

6. After recordation of the Certificate of Compliance to use an offsite mitigation bank, recordation of the new Category II Conservation Easement and posting of financial security for the requirements of the approved Forest Conservation Plan, the Applicant must obtain and record in the Land Records of Montgomery County, Maryland a release of the Category I and Category II Conservation Easements existing on the Subject Property as of the date of the Planning Board Resolution, in a form approved by the M-NCPPC Office of the General Counsel. All existing conservation easements on the Subject Property remain in full force and effect until this deed of release is recorded.
7. Within one hundred and fifty (150) 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 II Conservation Easement.
8. By April 15, 2019 the Applicant must complete the planting requirements in the Forest Conservation Plan and have the planting inspected and accepted by the M-NCPPC Inspector.

BE IT FURTHER RESOLVED that all other preliminary plan conditions of approval for this project 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. *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 Amendment addresses the forest conservation law violations and recognizes the decline of forest conditions on the Subject Property. Unauthorized mowing of the retained forest areas has prevented forest regeneration. Regardless of the mowing, the number of live plants in the forest areas of the Subject Property have been decreasing since the

approved forest clearing allowed by the forest conservation plan was done in 2011. Root damage to trees growing at the edge of the conservation easement resulted in the recent death of few large oak trees. Also, Emerald Ash Borers have invaded the forest and are killing all the understory ash trees.

The total amount of mitigation required by this Amendment is 2.62 acres. The amount of conservation easement released is 1.08 acres. Montgomery County Planning Board policy is for 2 acres of planting mitigation for every 1 acre of conservation easement released. In this case, the Applicant will provide additional mitigation for the release of the 0.25 acres forest planting area. The additional mitigation amounts to 0.45 acres of additional offsite planting. The overall mitigation rate for this amendment is 2.43 acres of mitigation for every acre of conservation easement released.

The Amendment resolves the forest clearing violation and does not alter the minimum forest planting requirements of the subdivision.

BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is MAY 04 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 Vice Chair Dreyfuss, seconded by Commissioner Cichy, with Chair Anderson, Vice Chair Dreyfuss, and Commissioners Fani-González, Cichy, and Patterson voting in favor at its regular meeting held on Thursday, April 26, 2018, in Silver Spring, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board