

Montgomery County Planning Board

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB No. 23-023
Preliminary Plan Amendment No. 11996072A
14511 Jones Lane (Lot 23)
Date of Hearing: March 9, 2023

MAR 17 2023

RESOLUTION

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

WHEREAS, on April 29, 1996, the Planning Board, by written Opinion, approved Preliminary Plan No. 119960720, creating two lots on 1.0 acre of land in the R-200 zone, located at 14511 Jones Lane, approximately 1,000 linear feet north of the intersection of Jones Lane and Turkey Foot Road (“Subject Property”), in the North Potomac Policy Area and 2002 *Potomac Subregion Master Plan* (“Master Plan”) area; and

WHEREAS, on November 2, 2022, Jamica Woodley (“Applicant”) filed an application for approval of an amendment to the previously approved preliminary plan to abandon an existing 2,371 square foot Category I Conservation Easement on the Lot 23 of the Subject Property; and

WHEREAS, Applicant’s application to amend the preliminary plan was designated Preliminary Plan Amendment No. 11996072A, 14511 Jones Lane, Lot 23 (“Preliminary Plan,” “Amendment,” 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 February 27, 2023, providing its analysis and recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and

WHEREAS, on March 9, 2023, the Planning Board held a public hearing on the Application and voted to approve the Application subject to conditions, on the motion of Vice Chair Piñero, seconded by Commissioner Hedrick, with a vote of 5-0; Chair Zyontz, Vice Chair Piñero, Commissioners Bartley, Hedrick, and Pedoeem voting in favor.

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Approved as to
Legal Sufficiency: /s/ Allison Myers
M-NCPPC Legal Department

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Preliminary Plan Amendment No. 11996072A to abandon an existing 2,371 square foot (0.05 acres) Category I Conservation Easement on Lot 23 by adding the following conditions:¹

8. Within ninety (90) days of the mailing of the Planning Board Resolution approving Preliminary Plan Amendment No. 11996072A, the Applicant must submit a fee-in-lieu payment to the M-NCPPC Planning Department for the 0.10 acres (4,743 square feet) of mitigation credit.
9. Within ninety (90) days of the mailing of the Planning Board Resolution approving Preliminary Plan Amendment No. 11996072A, the Applicant must submit a Deed of Release of Conservation Easement for the entirety of the existing Category I Conservation Easement on Lot 23 in a form approved by the M-NCPPC Office of General Counsel. The Deed of Release must be recorded in the Montgomery County Land Records. The entirety of the existing easement remains in full force and effect until the Deed of Release has been approved and recorded in the Montgomery County Land Records. The Deed of Release cannot be approved by M-NCPPC until the fee-in-lieu is paid.

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 of its Staff as presented at the hearing and/or 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:

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.

1. *All Forest Conservation Law, Chapter 22a requirements are satisfied.*

The Application meets the requirements of Chapter 22A of the Montgomery County Forest Conservation Law. The Application includes one developed lot, Lot 23. There is no disturbance proposed as part of this Application.

¹ 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.

The Planning Board approved Forest Conservation Plan No. 119960720 as part of Preliminary Plan No. 119960720 for the creation of two lots. Forest Conservation Plan No. 119960720 required a 0.14-acre forest conservation planting requirement to be satisfied on the two lots with the planting area protected in a Category I Conservation Easement.

The Application requests to abandon the portion of the Category I Conservation Easement located on Lot 23 and mitigate for the removal by fee-in-lieu payment at a 2:1 ratio. Category I Conservation Easements are utilized to protect sensitive environmental features and forest, and these do not exist on this Property. It is not clear if the required forest plantings occurred; however, the Applicant notes that when they purchased Lot 23 in 2020, there was no forest within the Category I Conservation Easement. Per Chapter 22A, the minimum size criteria under the definition of "forest" is 10,000 square feet. The size of the Category I Conservation Easement does not meet the minimum criteria; nor does it contain any environmentally sensitive features, such as streams, wetlands, and stream buffers.

Per Section 22A-12(g)(2), "A person may make an in lieu fee payment to the forest conservation fund only if the person satisfactorily demonstrates that the off-site reforestation and afforestation requirements are less than 0.5 acre, and the Planning Board or Planning Director, as appropriate, finds that: (A) no on-site priority planting area is present; and (B) no other appropriate on-site planting area is available." The Board finds that the Application meets these criteria, as the afforestation requirement is under the 0.5-acre threshold, there is no priority planting area on-site, and the site contains no other areas suitable for planting.

Additionally, it has been Planning Board policy to not accept Conservation Easements on lots less than two acres in size to ensure property owners have a usable backyard area and to reduce the potential for unauthorized encroachments into the easements resulting in violations. The Conservation Easement does not contain any forest or other environmentally sensitive features, does not meet the minimum size criteria specified in the definition of "forest", would not be accepted as a Conservation Easement under the current standards, and per Section 22A-12(g)(2), the Applicant is eligible to make a fee-in-lieu payment to meet the forest conservation requirements under Chapter 22A.


BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is MAR 17 2023 (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 Hedrick, seconded by Commissioner Bartley, with a vote of 3-0; Vice Chair Piñero, and Commissioners Bartley, and Hedrick, voting in favor of the motion, Chair Zyontz and Commissioner Pedoeem were necessarily absent, at its regular meeting held on Thursday, March 16, 2023, in Wheaton, Maryland and via video conference.



Roberto R. Piñero, Vice Chair
Montgomery County Planning Board