

MCP-CTRACK

From: abbotthuang
Sent: Friday, October 15, 2010 1:35 PM
To: MCP-Chair
Subject: request regarding planning board decision July 1, 2010

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OFFICE OF THE CHAIRMAN
THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

Dear Ms. Carrier,

I hope that you remember me and will take the time to read this email out of your busy schedule. I tried to speak to you on the phone, but your receptionist asked me to email you instead. I have been working on this project over 12 years, and believe it or not, this is the condensed version.

I have the unfortunate situation of a very constrained backyard of about 10 feet wide (I have been told by park and planning staff that a plat of this sort would not be approved today because it is asking for problems). When I had moved into my house over 12 years ago, I guess, that the builder had taken down trees in an easement (approximately 80% of the property that was purchased) so to give me a reasonable size backyard and not have trees measuring 40-50 feet within 10 feet of my patio and a possible storm hazard. Also, he needed some room to build my house. He never showed my the final plat until closing. As I had alluded during the hearing which was not in any documents presented at the hearing, I tried to place a pool in the backyard (my builder gave me documents saying my backyard was sufficient for a pool) about 12 years ago. It was denied and environmental staff got word of the easement violation. Mr Steve Cary came to my house about 12 years ago. He issued a fine of \$1000 which I paid. He had several other requests that I worked on including the amount of land violated in the easement which was approved. I have those documents if you would like to see them. He also met with my builder, and he told me that my builder denied taking down the trees. As far as I can tell, he never cashed the \$1000 check because he knew that I did not take down the trees. I believed that Mr. Cary has left park and planning, and he left my situation with Mr. Joshua Penn about 11 years ago. I have never violated the easement, and I have even personally replanted in the easement with native trees, but the trees which some are almost 20 feet tall were cropped out of the photos that were shown at the hearing. I never received any credit for the trees.

A few years passed, and my son started swimming competitively all year round and my daughter was interested in swimming. I tried to get approval for a pool but there was no place in my backyard to place it due to the easement. I spent some time at park and planning doing some research regarding my development. About 6 years ago at the park and planning building on Spring Street, I ran into Cathy Conlin who told me about Vincent Berg who had a land bank that I could purchase land to offset the easement. I went back to park and planning letting them know that I would be willing to purchase land for the trees that were taken down by my builder for the area of the pool. Over 5 years ago, I met Mr. Mark Pfefferle at my house to see the situation. He told me that he was not going to fine me and never once told me to stop mowing the grass. He again said that I was going to give me permission for the pool although no trees needed to be taken down.

Mr. Berg suggested that I contact Michele Rosenfeld to see if she could help out. Over the next 4 years, I worked with her and was compliant with all the requests from park and planning which changed several times and became more time consuming and expensive. There have spent hours and several very expensive documents that I have provided over the years for the pool which is less than 600 square feet in the easement. I have spent almost \$25000 in legal fees and the demands of the park and planning staff for which I did not violate the easement just to have the pool building permit approved.

Now the planning board wants me to spend another about \$30000 based on their decision. I think this is too punitive and has become extremely too expensive for something that I did not do which park and planning knows that to be true, and I even tried to mitigate with my own planting.

I would like to request the following:

I have spoken to my local land bank whose costs are exorbitant and gouging over twice what Mr. Berg charges. I would like to purchase land from him instead. Furthermore, there have been several other situations after my initial requests that have purchased land outside of the closest land bank. I would like to be treated the same as others.

I hope that you can accomodate my request.

Thank you for your time and consideration. If you need to reach me by phone, my cell phone number is
you want to meet sometime, I can provide you with additional documents that were not presented at the hearing.

Yours sincerely,

Abbott Huang



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

MCPB No. 10-103
Preliminary Plan No. 11992012A
Piney Glen Farms (Lot 20)
Date of Hearing: July 1, 2010

SEP 27 2010

MONTGOMERY COUNTY PLANNING BOARD

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 August 24, 2009, Mr. Abbott Huang, ("Applicant"), filed a limited amendment application to amend the conditions of approval of a preliminary plan designated as Preliminary Plan No. 11992012A, Piney Glen Farms Lot 20, ("Preliminary Plan" or "Application"); consisting of a 2.16 acre lot, (Lot 20, Piney Glen Farms), located on Albermyrtle Road, approximately 500 feet west of Piney Meetinghouse Road ("Property" or "Subject Property"), in the Potomac Subregion master plan area ("Master Plan"); and

WHEREAS, Planning Board staff ("Staff") issued a memorandum to the Planning Board, dated April 13, 2010, setting forth its analysis and recommendation for approval of the Application subject to certain conditions; and

WHEREAS, following review and analysis of the Application by Staff and the staff of other governmental agencies, on May 20, 2010, the Planning Board held a public hearing on the Application (the "Hearing"); and

WHEREAS, immediately following the Hearing, Staff became aware of a noticing defect that prevented the Applicant from receiving notice of the Hearing; and

WHEREAS, Staff requested that the Planning Board reconsider the Application prior to the mailing of a Resolution due to the noticing error; and

WHEREAS, on May 27, 2010, the Planning Board voted to reconsider the Application on motion of Commissioner Dreyfuss, seconded by Commissioner Wells-Harley, with a vote of 3-0, Commissioners Hanson, Dreyfuss, and Wells-Harley voting in favor, with Commissioners Presley and Alfandre being absent; and

Approved as to
 Legal Sufficiency:

Christina Somers 8/31/10

8787 Georgia Avenue, Suite 200, Silver Spring, Maryland 20910 Chairman's Office: 301.495.4605 Fax: 301.495.1320

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WHEREAS, Staff issued a memorandum to the Planning Board, dated June 21, 2010, 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 July 1, 2010, the Planning Board held a public hearing on the Application (the "Reconsideration Hearing"); and

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

WHEREAS, on July 1, 2010, the Planning Board approved the Application subject to certain conditions, on motion of Commissioner Alfandre; seconded by Commissioner Presley, with a vote of 4-0, Commissioners Alfandre, Carrier, Presley and Wells-Harley voting in favor, with Commissioner Dreyfuss absent.

NOW, THEREFORE, BE IT RESOLVED THAT, pursuant to the relevant provisions of the Montgomery County Code Chapter 50, the Planning Board approved a limited amendment to Preliminary Plan No. 11992012A, to revise the conditions of the approved preliminary forest conservation plan on the Subject Property, 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 that reflects the new Category I conservation easement boundary and references the standard easement description as recorded at Liber 13178/Folio 412 in the Montgomery County Land Records.
2. Applicant must receive Staff approval of the certificate of compliance for an offsite forest conservation mitigation bank within 90 days of the date of mailing of the Planning Board's Resolution of this action. The Applicant must obtain 0.42 acres of credits (0.84 acres of off-site retained forest) in the closest available mitigation bank to the Watts Branch Watershed.
3. All other conditions of Preliminary Plan and Forest Conservation Plan No. 119920120 that were not modified herein, as contained in the Planning Board's Resolution dated January 11, 1994, 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 except as amended by the conditions referenced above, 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 with 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 changes to the Category I conservation easement and the required mitigation satisfy the requirements of the Forest Conservation Law. The Applicant is removing 0.21 acres of unforested Category I conservation easement and mitigating that removal at a 2:1 ratio (0.42 acres of planted forest or 0.84 acres of retained forest) in an offsite forest mitigation bank. Further, the Applicant is required to perform this mitigation in a mitigation bank within the Watts Branch Watershed. With the conditions of approval referenced above as approved by the Planning Board the Preliminary Plan satisfies the applicable requirements of Chapter 22A, the Montgomery County 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 approval makes no changes to the stormwater management concept originally approved for the Piney Glen Subdivision. The Application meets all applicable stormwater management requirements.

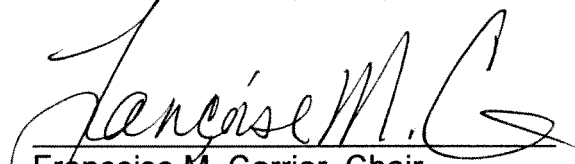
BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Planning Board and the date of this Resolution is SEP 27 2010 (which is the date that this Resolution is mailed to all parties of record); and

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).

* * * * *

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 Wells-Harley, seconded by Commissioner Dreyfuss, with Chair Carrier, Vice Chair Wells-Harley, Commissioners Alfandre, Dreyfuss, and Presley present and voting in favor of the motion, at its regular meeting held on Thursday, September 23, 2010, in Silver Spring, Maryland.


Françoise M. Carrier, Chair
Montgomery County Planning Board