



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

**MCPB No. 09-92**  
**Preliminary Plan and Forest Conservation Plan No. 12005038A** SEP 16 2009  
**Woodlawn Property**  
**Date of Hearing: February 26, 2009**

**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 and forest conservation plan applications; and

WHEREAS, on December 16, 2008, the Maryland State Highway Administration ("Applicant"), filed an application to amend on a limited basis a previously approved preliminary plan of subdivision and forest conservation plan that created 24 lots on 74.66 acres of land ("Property" or "Subject Property") located on the northwest and southeast sides of Needwood Road, approximately 600 feet southwest of Muncaster Mill Road, in the Upper Rock Creek Master Plan area ("Master Plan"), by creating right-of-way for the Inter-County Connector (ICC) and removing conservation easements within the right-of-way over 2.50 acres of the 74.66-acre subdivision; and

WHEREAS, the ICC is a State project and the Applicant's ICC right-of-way is consistent with the ICC Record of Decision; and

WHEREAS, the conservation easements were created by the forest conservation plan included in the approved preliminary plan of subdivision ("Preliminary Plan") to satisfy the requirements of the Forest Conservation Law, Chapter 22A of the Montgomery County Code; and

WHEREAS, Applicant's limited preliminary plan amendment and forest conservation plan applications to release that portion of the conservation easements that are within the ICC right-of-way and to provide appropriate mitigation therefore were designated Preliminary Plan and Forest Conservation Plan No. 12005038A ("Application"); and

WHEREAS, the Environmental Planning staff issued a memorandum to the Planning Board, dated February 13, 2009, setting forth a review and analysis by Planning Board staff ("Staff") and staffs of other governmental agencies, which

Approved as to  
 Legal Sufficiency:

*[Handwritten Signature]* 7/30/09

8787 Georgia Avenue, N.C. 20910 Chairman's Office: 301.495.4605 Fax: 301.495.1320

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recommended approval of the Application subject to certain conditions ("Staff Report"); and

WHEREAS, on February 26, 2009, the Planning Board held a public hearing on the Application (the "Hearing"); and

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

WHEREAS, on February 26, 2009, the Planning Board adopted the Staff Report and approved the Application subject to certain conditions, on motion of Commissioner Robinson; seconded by Commissioner Presley; with a vote of 5-0, Commissioners Alfandre, Cryor, Hanson, Presley, and Robinson voting in favor.

NOW, THEREFORE, BE IT RESOLVED THAT, pursuant to the relevant provisions of Montgomery County Code Chapter 50, the Planning Board approved Limited Preliminary Plan Amendment and Forest Conservation Plan Amendment No. 12005038A to create State Highway Administration Inter-County Connector right-of-way and remove conservation easements within the right-of-way on 2.50 acres of the 74.66-acre subdivision ("Property" or "Subject Property") located on the northwest and southeast sides of Needwood Road, approximately 600 feet southwest of Muncaster Mill Road, in the Upper Rock Creek Master Plan area ("Master Plan"), subject to the following conditions:

- 1) The State Highway Administration (SHA) must pay a fee-in-lieu of \$221,110.56, which may be provided in cash and/or by transfer of assets found to be of comparable value to M-NCPPC, to allow the M-NCPPC Department of Parks to plant and maintain 5.64 acres of forest on parkland located in the Potomac River watershed<sup>1</sup>. Payment to be made no later than June 30, 2009.
- 2) SHA must prepare an amendment to the conservation easements, include that portion of the SHA plat for the ICC related to the Subject Property as an exhibit, and record the documents among the land records of Montgomery County, Maryland. SHA must submit all documents related to the amended conservation easements no later than June 30, 2009 for Staff review and approval prior to recording these documents in the land records.

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 modified herein) and upon consideration of the

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<sup>1</sup> The \$221,110.56 fee-in-lieu represents the total fee due for removal of all conservation easements within the ICC ROW on three properties west of Georgia Avenue. The fee-in-lieu due for the Woodlawn subdivision is \$196,020.

entire record, the Montgomery County Planning Board FINDS, with the conditions of approval, that:

1. *The proposed removal of specific conservation easements within the Subject Property is unavoidable and necessary since the ICC ROW overlaps those portions of the easements to be removed.*
2. *The Application allows the subdivision to continue to satisfy all the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A.*

The previously approved forest conservation plan satisfied the requirements of the Forest Conservation Law by protecting 13.69 acres of existing forest in Category I conservation easements and park dedication, clearing 5.11 acres of forest, and 0.06 acre of reforestation. The Board finds that the amended plan will continue to meet the requirements. The required fee-in-lieu amount to be paid by SHA to M-NCPPC includes the value of planting new forest on a site at a rate of 2 acres of replacement forest per acre of conservation easement removed. Of the total fee-in-lieu amount to be paid by SHA, \$196,020 is to be used to plant and maintain new forest in the Potomac River watershed to mitigate for the loss of conservation easements on this Subject Property. The Board finds that SHA's payment of a fee-in-lieu to M-NCPPC will enable the M-NCPPC Parks Department to mitigate for the loss of forest within the abandoned conservation easements by planting forest on parkland located in the same watershed as the Subject Property. In addition, Board finds that the rate of forest replacement is consistent with required forest plantings to replace conservation easements that are approved by the Planning Board for abandonment, in limited circumstances, in other private development projects and in County projects.

BE IT FURTHER RESOLVED, that all other conditions contained in the adopted opinion approving Preliminary Plan 120050380 remain in full force and effect.

SEP 18 2009  
BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Planning Board in this matter, and the date of this Resolution is \_\_\_\_\_ (which is the date that this Resolution is mailed to all parties of record); and

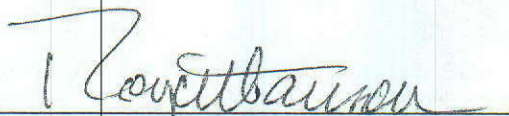
BE IT FURTHER RESOLVED, that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this Resolution, consistent with the procedural rules for the judicial review of administrative

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 Commissioner Wells-Harley, seconded by Commissioner Presley, with Commissioners Hanson, Alfandre, Presley, and Wells-Harley voting in favor of the motion, and with Commissioner Cryor absent, at its regular meeting held on Thursday, September 10, 2009, in Silver Spring, Maryland.



Royce Hanson, Chairman  
Montgomery County Planning Board