



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

MCPB No. 09-102
Forest Conservation Plan No. 119970560
Kentsdale Estates
Date of Hearing: November 13, 2008

OCT -9 2009

MONTGOMERY COUNTY PLANNING BOARD

RESOLUTION

WHEREAS, pursuant to Montgomery County Code Chapter 22A, the Montgomery County Planning Board ("Planning Board" or "Board") is vested with the authority to review certain amendments to approved forest conservation plans; and

WHEREAS, on September 3, 2008, Roma Malkani ("Applicant"), filed an application for approval of an Amendment to a Final Forest Conservation Plan that would remove portions of existing Category I Forest Conservation Easement Areas on a 4.09 acre property located on Willowbrook Drive east of Paytley Bridge Lane ("Property" or "Subject Property"), in the Potomac Subregion Master Plan area ("Master Plan"); and

WHEREAS, Applicant's forest conservation plan application was designated as an Amendment to Final Forest Conservation Plan No. 119970560, Kentsdale Estates ("Final Forest Conservation Plan" or "Application"); and

WHEREAS, Staff issued a memorandum to the Planning Board, dated October 31, 2008, setting forth its analysis, and recommendation for denial, of the Application ("Staff Report"); and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and the staff of other governmental agencies, on November 13, 2008, 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 November 13, 2008, the Planning Board denied the Application, on motion of Commissioner Cryor; seconded by Commissioner Alfandre; with a vote of 5-0, Commissioners Hanson, Robinson, Alfandre, Cryor, and Presley voting in favor of staff recommendation for denial of the Forest Conservation Plan Amendment.

Approved as to
 Legal Sufficiency:

Christina Soneet 8/31/09

8787 Georgia Avenue, N.C. Planning Board, Department 2010 Chairman's Office: 301.495.4605 Fax: 301.495.1320

www.MCParkandPlanning.org E-Mail: mcp-chairman@mncppc.org

NOW, THEREFORE, BE IT RESOLVED THAT, pursuant to the relevant provisions of Montgomery County Code Chapter 22A and Forest Conservation Regulations Section 113, the Planning Board **denied** the Application that would remove portions of existing Category I Forest Conservation Easement Areas on a 4.09 acre property located on Willowbrook Drive east of Paytley Bridge Lane. ("Property" or "Subject Property"), in the Potomac Subregion Master Plan area ("Master Plan");

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 and upon consideration of the entire record, the Montgomery County Planning Board FINDS that:

1. *The scope of changes proposed by the amendment to the approved Final Forest Conservation Plan are unnecessary and excessive.*

The proposed Application for permanent removal of existing forest and associated modifications to existing *Category I Forest Conservation Easement Areas* are excessive and avoidable. Reasonable efforts were not made to protect the specific areas of forest as originally approved, nor have reasonable efforts been made to alter the development proposal. Alternative designs could be implemented to minimize impacts and provide features which are more compatible with forest conservation objectives. Therefore, the Board finds that the proposed amendment is unnecessary and excessive.

2. *The proposed amendment to the approved Final Forest Conservation Plan does not provide mitigation that is at least equal to or better than the forest conservation objectives met in the existing approved Forest Conservation Plan.*

The existing Final Forest Conservation Plan provides approximately 1.3 acres of Category I Forest Conservation Easement on the Subject Property, approximately 0.93 acres of which is tree/forest preservation, and 0.36 acres of reforestation. The Application proposes to reduce the conservation easement footprint to an approximate total of 0.35 acres, consisting of 0.19 acres of tree/forest preservation and 0.16 acres of reforestation. The Application would retain almost 1 acre less in forest conservation easement than approved by the Planning Board as shown on the current Final Forest Conservation Plan. The Board determined that the offsite mitigation offered by the Applicant was not enough to make up for this loss. Therefore, the Board finds that the Application does not provide mitigation that is at least equal to or better than the forest

conservation objectives met in the existing approved Forest Conservation Plan.

BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter and the date of this Resolution is OCT - 9 2009 (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 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