



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

AUG 12 2013

MCPB No. 13-91
 Preliminary Plan No. 120130050
 Trotters Glen
 Date of Hearing: July 22, 2013

RESOLUTION

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

WHEREAS, on September 14, 2012, Tom Mateya ("Applicant"), filed an application for approval of a preliminary plan of subdivision of property that would create 69 lots on 175.8 acres of land in the RNC zone, located on both sides of Batchellors Forest Road, approximately one mile east of Georgia Avenue ("Subject Property"), in the Olney Policy Area, 2004 Olney Master Plan ("Master Plan") area; and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120130050, Trotters Glen ("Preliminary Plan" 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 July 11, 2013, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on July 22, 2013, 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. 120130050 to create 69 lots on the Subject Property, subject to the following conditions:¹

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.

Approved as to
 Legal Sufficiency:

Christina Sorensen 7/17/13
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1. This Preliminary Plan is limited to 69 lots for 69 dwelling units including 10 MPDUs.
2. The Applicant must comply with the conditions of approval for the Final Forest Conservation Plan No. 820130060, approved as part of this Preliminary Plan, subject to:
 - a. Prior to signature set, the Applicant must revise the "Planting Schedule" table on Sheet 17 of the approved Final Forest Conservation Plan to match the updated table as shown in Attachment L of the Staff Report.
 - b. Prior to signature set, the Applicant must revise the Final Forest Conservation Plan to include the isolated wetland and associated wetland buffer, located north of the existing pond on Sheet 14 of the Final Forest Conservation Plan, within a Category I conservation easement. The Category I conservation easement must be shown on the record plat(s).
 - c. The Final Sediment Control Plan must be consistent with the final limits of disturbance shown on the approved Final Forest Conservation Plan.
 - d. A Category I conservation easement must be shown on the record plat(s) over all areas of stream valley buffer, wetland buffer, forest retention and forest planting, as shown on the approved Final Forest Conservation Plan.
 - e. Forest plantings must be provided over all unforested stream valley buffers as shown on the approved Final Forest Conservation Plan. Distribution and installation of plant materials must be coordinated with M-NCPPC forest conservation inspector at the pre-planting meeting to preserve and enhance the existing diversity of wetland habitat onsite.
 - f. The Applicant must comply with all tree protection and tree save measures shown on the approved Final Forest Conservation Plan. Additional or adjustments to the tree save measures not specified on the Final Forest Conservation Plan may be required by the M-NCPPC forest conservation inspector at the pre-construction meeting.
 - g. Prior to the start of clearing and grading, the Applicant must submit a financial security instrument for planting and maintenance of 25.83 acres of forest as shown on the approved Final Forest Conservation Plan, not including the planting and maintenance associated with the onsite stream and wetland restoration.
 - h. The Applicant must obtain M-NCPPC approval of a two-year maintenance and management agreement for the forest planting shown on the approved Final Forest Conservation Plan prior to M-NCPPC accepting any on-site planting.
 - i. Prior to the issuance of the 28th building permit the Applicant must demonstrate appropriate approvals from Maryland Department of the Environment and Army Corps of Engineers and receive approval of an amendment to the forest conservation plan detailing the limits of

disturbance for the removal of the dam and onsite stream and wetland restoration including submittal of a financial security instrument for any additional planting and maintenance associated with the onsite stream and wetland restoration by M-NCPPC Staff. Prior to (the issuance of the 48th building permit, the Applicant must complete the dam breach and restoration work.

- j. The Applicant must obtain M-NCPPC approval of a two-year maintenance and management agreement for the planting associated with the onsite stream and wetland restoration prior to M-NCPPC accepting any on-site planting for this area.
 - k. The Applicant must install permanent Category I Forest Conservation Easement signage and/or permanent split rail fencing or other fencing proposed by the Applicant and acceptable to Staff, along the perimeter of the conservation easements, as shown on the approved Final Forest Conservation Plan.
 - l. The Applicant must remove all existing, unnecessary structures and features located within the stream valley buffers and open space areas, including sand traps, putting greens, wells, buildings, pavement, septic fields, and irrigation features as shown on the approved Final Forest Conservation Plan prior to M-NCPPC accepting any on-site planting.
3. The Planning Board has accepted the recommendations of the Montgomery County Department of Transportation ("MCDOT") in its letter dated May 28, 2013, and hereby incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDOT provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
 4. Prior to recordation of plat(s), the Applicant must satisfy the provisions for access and improvements as required by MCDOT.
 5. The Applicant must make a lump sum payment of \$23,400.00 to mitigate the PAMR required 2 peak-hour trips prior to the issuance of the first building permit.
 6. The Planning Board has accepted the recommendations of the Montgomery County Department of Permitting Service ("MCDPS") – Water Resources Section in its amended stormwater management concept letter dated May 24, 2013, and does hereby incorporate them as conditions of the Preliminary Plan approval. Therefore, the Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDPS – Water Resources Section provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
 7. The certified Preliminary Plan must contain the following note:

Unless specifically noted on this plan drawing or in the Planning Board conditions of approval, the building footprints, building heights, on-site parking, site circulation, and sidewalks shown on the Preliminary Plan are illustrative. The final locations of buildings, structures and hardscape will be determined at the time of site plan approval. Please refer to the zoning data table for development standards such as setbacks, building restriction lines, building height, and lot coverage for each lot. Other limitations for site development may also be included in the conditions of the Planning Board's approval.

8. The Applicant must dedicate and show on the record plat(s) the following dedications:
 - a. Thirty five (35) feet from the existing pavement centerline along the Subject Property frontage for Batchellors Forest Road.
 - b. Thirty Nine (39) feet from the existing pavement centerline along the Subject Property frontage for Emory Church Road or from the western property line to 700 feet east of the intersection with Norbrook Road.

9. The record plat must show necessary easements including the following:
 - a. A public use and access easement over the 8 foot shared use path between the Emory Church right-of-way and the Batchellors Forest Road right-of-way.
 - b. A public use and access easement over all existing and proposed 5 foot pedestrian trails located in the Rural Open Space Areas.
 - c. A public use and access easement over the 21 foot wide emergency vehicle access lane.
 - d. The record plat must reflect all areas under Homeowners Association ownership and specifically identify stormwater management parcels.
 - e. The record plat must have the following note: "The land contained hereon is within an approved cluster development and subdivision or resubdivision is not permitted after the property is developed."
 - f. The record plat must reference the Common Open Space Covenant recorded at Liber 28045 Folio 578 ("Covenant"). The Applicant must provide verification to Staff prior to release of the final building permit that the Applicant's recorded HOA Documents incorporate the Covenant by reference.

10. A Rural Open Space Easement must be recorded in the Montgomery County Land Records for the 114.78-acre area designated as private Rural Open Space

(Parcels A, B, D, E and Lot 57, as shown on the Preliminary Plan). Reference to the recorded easement is to be noted on the record plat(s). The Rural Open Space Easement will include Greater Sandy Spring Green Space, Inc. as a

grantee with language agreed upon between Staff and the Applicant prior to record plat.

11. Record Plat to reflect a note that the following items are subject to the terms of a Maintenance and Liability easement agreement with Montgomery County
 - a. Any fence or wall within the dedicated right-of-way
 - b. The off road shared use path B-13
12. The Final number of MPDU's are to be determined at the time of Site Plan.
13. The Subject Property is within the Blake School cluster area. The Applicant must make a School Facilities Payment to MCDPS at the elementary school level at the single-family detached and single-family attached, unit rates for all units for which a building permit is issued and a School Facilities Payment is applicable. The timing and amount of the payment will be in accordance with Chapter 52 of the Montgomery County Code.
14. The Adequate Public Facility (APF) review for the preliminary plan will remain valid for eighty-five (85) months from the date of mailing of the Planning Board resolution.
15. Concurrent Site Plan
 - a. Prior to recordation of any plat, Site Plan No.820130050 must be certified by MNCPPC Staff.
 - b. No clearing, grading or recording of plats prior to certified site plan approval.
 - c. Final approval of the number and location of buildings, dwelling units, on-site parking, site circulation, sidewalks, and shared use paths will be determined at Site Plan.
 - d. In the event that a subsequent Site Plan approval substantially modifies the subdivision shown on the approved Preliminary Plan with respect to lot configuration or location or right-of-way width, or alignment, the Applicant must obtain approval of a Preliminary Plan amendment prior to certification of the Site Plan.

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. The Preliminary Plan substantially conforms to the Master Plan.

Open Space & Environmental Resources

The Southeast Quadrant section of the Master Plan calls for establishing a network of public and private open spaces that include all stream valleys and other environmental resources as a means of protecting water quality in the upper reaches of the Northwest Branch watershed (Image 3). The Polinger Property section of the Master Plan further says to cluster development to allow for access to the existing sewer main in the Batchellors Forest tributary located in the northeastern section of the Subject Property. The Preliminary Plan proposes 116.1 acres (66%) of the Subject Property be placed in either Rural or Common open space. The locations of open space on the Subject Property protect all stream valleys, wetlands, steep slopes, and connect with other off site forested areas. The Preliminary Plan also establishes category 1 conservation easements in all stream valley buffers, and fully reforests all buffer areas as required by the Master Plan.

The development clusters the new lots in two development pods, one on the northwest side of Batchellors Forest Road and the other on the southeast side of the road, generally in the white developable areas shown on the map on page 24 of the Master Plan. The Preliminary Plan does not follow the exact language of the Master Plan which states homes should be clustered in the northeastern section of the Subject Property due to existing forests, a stream valley buffer and wetland buffers all being located in the northeastern portion of the Subject Property. The lots however are clustered on the northern half of the Subject Property, avoid environmental features, are compatible with adjacent development, are screened from Batchellors Forest Road, and have access to gravity sewer lines.

Batchellors Forest Road/Rustic Roads

The Master Plan designates Batchellors Forest Road as a Rustic Road, and requires that future developments along the road protect its rustic character. The Preliminary Plan protects many of the scenic vistas along Batchellors Forest Road through the clustering of lots, locating the entrances away from significant features, and the reconstruction of the wooden four board fence that lines the existing roadside.

The Preliminary Plan protects many rustic views onto the Subject Property from Batchellors Forest Road. On the northwest side of Batchellors Forest Road, the development cluster is located at least 120 feet away from the edge of pavement, and many of the proposed lots wrap about the back side of the 15 acre conservation lot, and behind a wetland buffer that will be reforested. The location of the entrance for Public Road B and the location of the lots create an open view into open space at the 90 degree bend in the road. The location of the 15 acre conservation lot and the cul-de-sac of Public Road B both further protect the rustic views on the northwest side of

Batchellors Forest Road. On the southeast side of Batchellors Forest Road, the Preliminary Plan proposes open space on the inside corner of the 90 degree bend, to complement the open space on the northwest side of the road. The Preliminary Plan also created about a 30 foot wide open space buffer between the lots and the road right-of-way to allow for landscaping.

**Transportation Access*

The Preliminary Plan provides for bicycle and pedestrian access to both Batchellors Forest Road and Emory Church Road; provides future access to Olney Manor Park and provides an off-road bike path identified as B-13 in the Master Plan. The Master Plan makes multiple recommendations to provide multi-modal connections on the Subject Property, and to other sites within the greater Southeast Quadrant of Olney. The *Pollinger Property* section of the Master Plan specifically recommends bicycle and pedestrian connections between Emory Church and Batchellors Forest through the Subject Property and the Southeast Quadrant transportation section of the Master Plan further requires a bicycle and pedestrian connection from the Subject Property to Olney Manor Park. The Master Plan alignment for the B-13 shared use path recommends using the existing, unimproved area of right-of-way for Emory Church Road between Norbrook Road and Batchellors Forest Road. The existing right-of-way, however, runs along a small stream and then crosses a stream and large area of wetlands, and bisects an existing forest. The Applicant and Staff have worked to find an alternative alignment for the B-13 shared use path that avoids the environmental features while still providing a direct connection between Emory Church and Batchellors Forest. To provide the required bicycle and pedestrian access to Olney Manor Park, the Applicant will extend the B-13 off-road shared use path west along the Property's frontage with Emory Church Road as an off-road shared use path to the Property's western border. The parcel to the west of the Subject Property is identified for future park acquisition, and will allow the shared use path to be continued onto Park property once that acquisition is finalized. Bike and Pedestrian access between Batchellors Forest Road and Emory Church Road is further provided by the sidewalks that will be located on both sides of Public Roads A, B and C, and on the proposed alternate emergency access lane, connecting Emory Church Road to Public Road B.

The Preliminary Plan does not provide vehicular access to Emory Church Road, or a vehicular connection between Emory Church Road and Batchellors Forest Road. At the Pre-Preliminary Hearing, the Planning Board was asked to provide advice to the Applicant on the Boards interpretation of the Master Plan. The majority opinion of the Planning Board was that it is not necessary to provide for a vehicular connection to Emory Church Road, as long as adequate bicycle, pedestrian and emergency vehicle access was provided. The Preliminary Plan does provide an emergency vehicle access lane between Emory Church Road and the development, which will generally be locked to vehicles but accessible to emergency responders. Batchellors Forest Road is the designated emergency access route for emergency response vehicles, Emory Church

Road could be used if found to be necessary by emergency responders. There is further concern that providing a vehicular connection between Batchellors Forest Road and Emory Church Road may increase non-local through traffic volumes along both roads. With respect to Batchellors Forest Road, the current Master Plan went to considerable lengths to reduce the volume of traffic in the Southeast Quadrant and made significant changes from what had been envisioned by the 1980 Olney master plan. The current Master Plan designated Batchellors Forest Road as a rustic road. This designation was made, in part, based on changes to the proposed transportation network of the greater Southeast Olney area recommended in the 1980 Olney master plan.

- 2. Public facilities will be adequate to support and service the area of the approved subdivision.*

LATR & PAMR

A traffic study dated June 18, 2012 and a supplemental analysis dated March 26, 2013 were submitted to determine the impact of the development on the area transportation system. Two local intersections were identified as critical intersections for analysis to determine whether they meet the applicable congestion standard of 1,450 Critical Lane Volume (CLV) for the Olney Policy Area.

All analyzed intersections are currently operating within an acceptable 1,450 CLV congestion standards and are expected to continue operating within the acceptable standards with background and total future development conditions. Therefore, the Preliminary Plan meets the LATR requirements of the APF review.

According to the 2012-2016 Subdivision Staging Policy (SSP), the Olney Policy Area is adequate under the roadway test and inadequate under transit test, requiring a 25% of Impact Tax as a TPAR payment. The Preliminary Plan application, however, was completed and submitted before January 1, 2013. According to the current SSP, the Applicant may meet its TPAR requirement by complying with either the current TPAR or the PAMR requirements that were in force immediately before the County Council's SSP resolution, Resolution No. 17-601, which was amended in 2012. The Applicant chose to be reviewed using the PAMR analysis. According to the FY2013 PAMR, there is 5% trip mitigation requirement for the Olney Policy Area. The project will generate a maximum of 28 new PM peak hour trips of which 5% must be mitigated, or 2 trips. The current PAMR payments are \$11,700 per trip; therefore the Applicant is required to make a lump sum payment of \$23,400.00 prior to obtaining the building permit to mitigate the 2 peak-hour trips. With the required payments, the Preliminary Plan meets the TPAR requirement under the current SSP.

Circulation

The Preliminary Plan provides three new public streets, identified currently as Public Streets A, B and C. Each of these public streets will be located in a 74 foot wide right-of-way which meets MCDOT's context sensitive design standards for an open section secondary residential street. Batchellors Forest Road splits the Subject Property into two development areas, with the northern area of 57 new lots sharing one access point at Public Road B and Batchellors Forest. The second development area of 12 lots shared one access point at Public Road A and Batchellors Forest. Both access points were found to be adequate for site distance and operations by MCDOT. The Preliminary Plan also provides for 39 feet of dedication from centerline along Emory Church Road, even though no direct vehicle access is provided between the new lots and Emory Church. The Preliminary Plan also provides for a 70 foot (35 feet from centerline) dedication for Batchellors Forest Road along all Property frontages as required by the Master Plan.

The Preliminary Plan provides extensive opportunities for pedestrian circulation and connection through the provision of the Master Plan shared use path B-13, sidewalks on both sides of all public streets, the use of Batchellors Forest Road as the designated emergency access route with an alternate emergency access route on Emory Church Road with improvements to some existing golf cart paths as a trail network.

Overlength cul-de-sac

In Chapter 50, section 50-26 (b) Roads and streets – Design Standards, culs-de-sac and turnarounds, it states "A cul-de-sac or a street that would end in a turnaround must not be longer than 500 feet, measured on its centerline, unless, because of property shape, size, topography, large lot size, or improved street alignment, the Board approves a greater length." The Applicant has submitted an overlength cul-de-sac justification (Attachment G), acknowledging the creation of cul-de-sacs longer than 500 feet on all three proposed public streets. The justification by the Applicant explains the desire of the Master Plan to create interconnected open space, preserve stream valleys, and protect the character of Batchellors Forest Road is stated as justification that roads cannot be designed to avoid the cul-de-sacs.

The Planning Board agrees that the creation of the overlength culs-de-sac is appropriate for the Preliminary Plan. As described earlier, the layout of the Preliminary Plan is an attempt to achieve multiple Master Plan and site specific goals. The current layout does an adequate job of providing screening of the new lots from Batchellors Forest Road, allows all new lots to be serviced by gravity sewer lines, and provides the open space and environmental protection required by the Master Plan.

Other Public Facilities and Services

All other public facilities and services are available and will be adequate to serve the use. Public water and sewer is available to the Subject Property and will serve 68 of the 69 lots. Other services including natural gas, electric, and telecommunications are available to the Subject Property. The Preliminary Plan has been reviewed by the Montgomery County Fire and Rescue Service who have determined that the submitted Fire Access Plans adequately provide fire and emergency access to the Subject Property. Other public facilities and services, and health services are currently operating within the standards set by the Subdivision Staging Policy currently in effect. The Subject Property is located within the Blake High School Cluster. As of July 1, 2012, a school facility payment is required at the elementary and high school level.

3. *The size, width, shape, and orientation of the approved lots are appropriate for the location of the subdivision, taking into account the recommendations included in the applicable master plan, and for the type of development or use contemplated.*

The Preliminary Plan has been reviewed for compliance with the Montgomery County Code, Chapter 50, the Subdivision Regulations. The Preliminary Plan meets all applicable sections. The proposed lot size, width, shape and orientation are appropriate for the location of the subdivision.

The lots were reviewed for compliance with the dimensional requirements for the RNC Zone Optional Method of Development as specified in the Zoning Ordinance Section 59-C-9.574. The lots will meet all the dimensional requirements for area, frontage, width, and the proposed dwellings can meet setbacks in that zone. The Preliminary Plan is providing for adequate amounts of Rural Open Space and Common Open Space, as required by the RNC Zone.

4. *The Application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A.*

A. Forest Conservation

The Board finds that as conditioned, the Forest Conservation Plan ("FCP") complies with the requirements of the Forest Conservation Law.

The Subject Property contains 13.89 acres of existing forest. The FCP shows clearing 0.43 acres of forest, retaining 13.46 acres of forest, and planting 25.83 acres of forest onsite, for a total of 39.29 acres of forest. All retained and planted forests are protected in a Category I conservation easement. Approximately 0.26 acres of existing forest to be removed is located within the dedicated right-of-way of Batchellors Forest Road. The

Preliminary Plan does not clear this forest, but must include it as forest cleared because there is future potential to clear any forest not in a conservation easement. The remaining 0.17 acres of forest clearing is existing forest located within the dedicated right-of-way of Emory Church Road. The majority of this forest in the right-of-way will be cleared for the construction of an off road multi-use trail and water main installation.

The remaining 13.46 acres of onsite forest is retained and protected in a Category I conservation easement. The FCP retains the maximum amount of forest possible; it is only the forest located in the right-of-way dedication areas that will not be retained and/or protected in a conservation easement. In order to comply with Section 22A-12(f)(3), the Applicant must provide 21.74 acres of forest planting onsite, which combined with the 13.46 acres of forest retention, results in the afforestation threshold and the minimum onsite forest required under Section 22A-12(f), 35.20 acres. The forest conservation worksheet requires that the Applicant provide a total of 22.17 acres of planting. The FCP provides 25.83 acres of onsite forest planting, thus satisfying Section 22A-12(f)(3).

B. Forest Conservation Variance

Section 22A-12(b)(3) of the Forest Conservation Law identifies certain individual trees as high priority for retention and protection ("Protected Trees"). Any impact to these Protected Trees, including removal or any disturbance within a Protected Tree's critical root zone ("CRZ"), requires a variance under Section 22A-12(b)(3) ("Variance"). Otherwise such resources must be left in an undisturbed condition.

This Application will require the removal of eight Protected Trees and impact to the CRZ of forty other trees as identified in the Staff Report. In accordance with Section 22A-21(a), the Applicant has requested a Variance and the Board agreed that the Applicant would suffer unwarranted hardship by being denied reasonable and significant use of the Subject Property without the Variance.

The Board made the following findings necessary to grant the Variance:

1. *Granting the Variance will not confer on the Applicant a special privilege that would be denied to other applicants.*

Granting the variance will not confer a special privilege on the Applicant as the removal and disturbance to the specified trees are due to the development of the Subject Property. The Subject Property

contains numerous large trees located within the developable area of the site and within the existing and dedicated road rights-of-way for Batchellors Forest Road and Emory Church Road. Granting a variance request to allow land disturbance within the developable portion of the site is not unique to this Applicant. The Planning Board finds that the granting of this variance is not a special privilege that would be denied to other applicants.

- 2. The need for the Variance is not based on conditions or circumstances which are the result of the actions by the Applicant.*

The need for the variance is not based on conditions or circumstances which are the result of actions by the Applicant. The requested variance is based upon existing site conditions, Master Plan recommendations for roadway dedication and lot location, and the development standards of the RNC zone.

- 3. The need for the Variance is not based on a condition related to land or building use, either permitted or non-conforming, on a neighboring property.*

The need for a variance is a result of the existing conditions and the proposed site design and layout on the Subject Property, and not a result of land or building use on a neighboring property.

- 4. Granting the Variance will not violate State water quality standards or cause measurable degradation in water quality.*

The variance will not violate State water quality standards or cause measurable degradation in water quality. The FCP proposes 3.36 acres of forest planting above the minimum requirement under the forest conservation law. The combined reforestation and landscaping proposed on the site will replace the functions currently provided by the subject trees. In addition, Montgomery County Department of Permitting Services has found the stormwater management concept for the project to be acceptable. The stormwater management concept incorporates Environmentally Sensitive Design (ESD).

No mitigation for the impact or removal of variance trees is required. There are eight (8) trees proposed for removal in this variance request. Seven of these trees will not be disturbed by this Preliminary Plan, but were included due to their potential to be removed in the future because of their location within the road rights-of-way and/or public utility easements for Emory Church Road and Batchellors Forest Road.

No mitigation is recommended for these trees. The entire stream valley buffer will be reforested, including 3.66 acres in excess of the planting required by the forest conservation law; therefore, no additional mitigation is recommended for the removal of the remaining tree (Tree #151). There is some disturbance within the critical root zones of forty trees; however, they will receive adequate tree protection measures. No mitigation is recommended for trees impacted but retained.

5. *All stormwater management requirements shall be met as provided in Chapter 19, article II, title "stormwater management", Section 19-20 through 19-35.*

This finding is based in part upon the determination by MCDPS that the Stormwater Management Concept Plan meets applicable standards. The MCDPS Stormwater Management Section accepted an amended stormwater management concept for the Application on May 24, 2013. The stormwater management goals will be met using Bio Swales for the roadways and Dry Wells on the lots for rooftops. The concept also requires the existing pond on the Subject Property be upgraded to comply with current State standards or be breached. The Preliminary Plan is proposing breaching the existing pond and establishing wetland areas.

BE IT FURTHER RESOLVED, that this Preliminary Plan will remain valid for 60 months from its initiation date (as defined in Montgomery County Code Section 50-35(h)), and that prior to the expiration of this validity period, a final record plat for all property delineated on the approved Preliminary Plan must be recorded in the Montgomery County Land Records, or a request for an extension must be filed; and

BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is AUG 12 2013 (which is the date that this Resolution is mailed to all parties of record); and

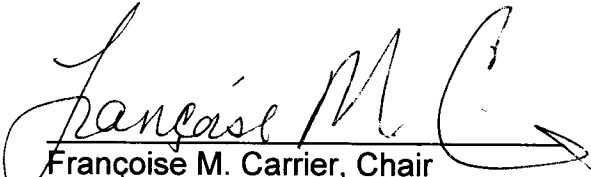
BE IT FURTHER RESOLVED, that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this

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 Dreyfuss, seconded by Vice Chair Wells-Harley, with Chair Carrier, Vice Chair Wells-Harley, and Commissioner Dreyfuss voting in favor, with Commissioner Anderson voting against, and Commissioner Presley absent, at its regular meeting held on Monday, July 22, 2013, in Silver Spring, Maryland.


Françoise M. Carrier, Chair
Montgomery County Planning Board