



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

MCPB No. 14 - 39
Preliminary Plan No. 11995106A
Potomac Chase II: Lots 14, 15, 20 and 21, Block Q
Date of Hearing: June 5, 2014

JUN 25 2014

RESOLUTION

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

WHEREAS, by Opinion dated November 20, 1995, the Planning Board, approved Preliminary Plan No. 119951060, creating 9 lots (including the four lots that are the subject of this application) on 5.3 acres of land in the R-200 Zone, located off of Jones Lane, in the Potomac Subregion Master Plan ("Master Plan") area; and

WHEREAS, under Preliminary Plan No. 119951060, the approved forest conservation plan protected 0.87 acres of existing forest and required an additional 0.43 acre planting area, all protected by Category I Conservation Easements, some of which was located on Lots 14, 15, 20 and 21 ("Subject Property"); and

WHEREAS, on September 18, 2013, the owners of the Subject Property, John and Teresa Messina (Lot 14), Robert and Patricia Adams (Lot 15), Joseph Mathai and Patricia Kollappallil (Lot 20), and Lawrence and Colleen Opack (Lot 21) (collectively, "Applicant" or "Applicants"), filed an application for approval of an amendment to the previously approved preliminary plan to remove a total of 27,172 square feet of Category I Conservation Easement from the Subject Property, establish a 4,442 square foot Category II Conservation Easement on Lot 20, and establish a 4,354 square foot Category II Conservation Easement on Lot 21; and

WHEREAS, Applicant's application to amend the preliminary plan was designated Preliminary Plan No. 11995106A, Potomac Chase II: Lots 14, 15, 20 and 21, Block Q ("Preliminary Plan", "Amendment" or "Application"); and

WHEREAS, following review and analysis of the Application, Planning Board staff ("Staff") issued a memorandum to the Planning Board, dated May 23, 2014, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

Approved as to
Legal Sufficiency:

Ana M. [Signature] 5/27/14

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WHEREAS, on June 5, 2014, 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. 11995106A to remove a total of 27,172 square feet of Category I Conservation Easement from the Subject Property is subject to the following conditions:¹

Common Conditions for Lot 14, Lot 15, Lot 20 and Lot 21:

1. No later than ninety (90) days from the mailing date of this Resolution, the Applicants must submit a complete Record Plat application that delineates and references the new Category II Conservation Easements. The Record Plat must be approved and recorded in the Land Records of Montgomery County, Maryland within nine (9) months of the mailing date of this Planning Board Resolution. The existing Category I Conservation Easement remains in full force and effect until the Record Plat is recorded in the Land Records of Montgomery County, Maryland.
2. The Record Plat must reference the standard Category II Conservation Easement agreement as recorded at liber 13178, folio 421 in the Land Records of Montgomery County, Maryland.

Specific Condition for Lot 14:

3. Within six (6) months of the mailing date of this Resolution, the Owner of Lot 14 must record in the Land Records of Montgomery County, Maryland a certificate of compliance, approved by the M-NCPPC Office of General Counsel, to use an offsite mitigation bank. The Certificate of Compliance must provide 16,124 square feet of forest bank credit for the removal of 8,062 square feet of Category I Conservation Easement from Lot 14.

Specific Condition for Lot 15:

4. Within six (6) months of the mailing date of this Resolution, the Owner of Lot 15 must record in the Land Records of Montgomery County, Maryland a certificate of compliance, approved by the M-NCPPC Office of General Counsel, to use an

¹ For the purposes of these conditions, the term "Applicants" refers to the owners of Lots 14, 15, 20 and 21, or any successors in interest to those owners, jointly and severally. The term "Owner" refers severally to the owner or owners of the specified lot, or any successors in interest to that specific owner or owners.

offsite mitigation bank. The Certificate of Compliance must provide 4,748 square feet of forest bank credit for the removal of 2,374 square feet of Category I Conservation Easement from Lot 15.

Specific Conditions for Lot 20

5. The Owner of Lot 20 must establish and plant the Category II Conservation Easement as shown on the approved Forest Conservation Plan with two (2), two-inch caliper white oak trees and one (1), two-inch caliper redbud tree. Prior to installation of the Category II Conservation Easement plantings on Lot 20, the Owner of Lot 20 or his or her agent must attend a pre-planting meeting with the M-NCPPC inspector. The Owner of Lot 20 must install, and the M-NCPPC inspector must inspect and approve, the plantings prior to November 30, 2014. The plantings must meet the survivability requirements of Section 22A.00.01.08 of the Forest Conservation Regulations.
 - a. The Owner of Lot 20 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.
6. Within six (6) months of the mailing date of this Resolution, the Owner of Lot 20 must record in the Land Records of Montgomery County, Maryland a certificate of compliance, approved by the M-NCPPC Office of General Counsel, to use an offsite mitigation bank. The Certificate of Compliance must provide 11,230 square feet of forest bank credit for the removal of 7,836 square feet of Category I Conservation Easement from Lot 20.
7. The privacy fencing on Lot 20 cannot be installed until after the approved Record Plat is recorded in the Land Records of Montgomery County, Maryland.

Specific Conditions for Lot 21

8. The Owner of Lot 21 must establish and plant 4,354 square feet of Category II Conservation Easement as shown on the approved Forest Conservation Plan with two (2), two inch caliper redbud trees in between the existing oak and hickory trees. Prior to installation of the Category II Conservation Easement plantings on Lot 21, the Owner of Lot 21 or his or her agent must attend a pre-planting meeting with the M-NCPPC inspector. The Owner of Lot 21 must install, and the M-NCPPC inspector must inspect and approve, the plantings prior to November 30, 2014. A pre-planting meeting with the M-NCPPC inspector is to occur prior to planting the Category II Conservation Easement planting on Lot 21. The plantings must meet the survivability requirements of Section 22A.00.01.08 of the Forest Conservation Regulations.

- a. The Owner of Lot 21 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.
9. Within six (6) months of the mailing date of this Resolution, the Owner of Lot 21 must record in the Land Records of Montgomery County, Maryland a certificate of compliance, approved by the M-NCPPC Office of General Counsel, to use an offsite mitigation bank. The Certificate of Compliance must provide 13,446 square feet of forest bank credit for the removal of 8,900 square feet of Category I Conservation Easement from Lot 21.

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 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. Except as 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.
2. The Application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County, Chapter 22A.

Mitigation offsite equal to twice the area of conservation easement removal and abandonment of existing Category I Conservation Easement, and for Lots 20 and 21 replacement with Category II Conservation Easement to protect existing tree canopy in addition to the offsite mitigation, will more than compensate for loss of the original forest conservation requirements.

BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is JUN 25 2014 (which is the date that this Resolution is mailed to all parties of record); and

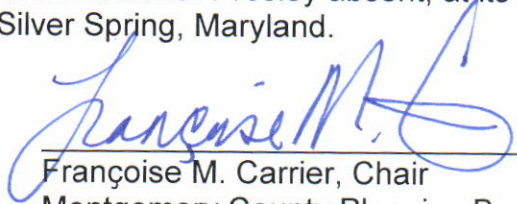
BE IT FURTHER RESOLVED, that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this

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 Anderson, seconded by Vice Chair Wells-Harley, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Anderson and Dreyfuss voting in favor, and Commissioner Presley absent, at its regular meeting held on Thursday, June 5, 2014, in Silver Spring, Maryland.



Françoise M. Carrier, Chair
Montgomery County Planning Board