



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

SEP 8 2014

MCPB No. 14-71  
Preliminary Plan No. 12004082A  
Clover Ridge  
Date of Hearing (by Consent): September 4, 2014

**RESOLUTION**

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

WHEREAS, on June 9, 2005 (Opinion mailed September 23, 2005), the Planning Board approved Preliminary Plan No. 120040820, Clover Ridge, that created 3 lots and 1 outlot on 85.09 acres of RDT zoned land located on the south side of Clarksburg Road, approximately 2,500 feet northeast of the intersection with Moxley Road, ("Subject Property"), in the Agriculture and Rural Open Space Master Plan ("Master Plan") area; and

WHEREAS, on September 28, 2011, Victor Loun, ("Applicant"), filed an application for approval of an amendment to the previously approved preliminary plan to remove 2.5 acres of Category I Conservation Easement ("Easement") without mitigation; and

WHEREAS, Applicant's application to amend the preliminary plan was designated Preliminary Plan No. 12004082A, Clover Ridge, ("Preliminary Plan," Amendment" 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 April 13, 2014, setting forth its analysis and recommendation to deny the Application because the lack of mitigation proposed was not consistent with prior actions of the Planning Board based on its mitigation policy established in November 2008; and

WHEREAS, on April 26, 1012, 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 deferred its decision on the

Approved as to  
Legal Sufficiency:

*Amal K. 8/25/14*  
MNCPPC Legal Department

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Application directing Staff and the Applicant to try to reach a compromise due to the unique circumstances<sup>1</sup> of the Application; and

WHEREAS, on May 9, 2013, the Applicant revised the Application to remove 0.522 acres of Easement and mitigate with additional portions of the Subject Property to be placed in easement as onsite replacement for those portions of Easement to be removed; and

WHEREAS, following review and analysis of the revised Application, Staff issued a memorandum to the Planning Board, dated August 22, 2014, setting forth its analysis and recommendation for approval of the Application as revised, subject to certain conditions ("Staff Report"); and

WHEREAS, on September 4, 2014, Staff presented the Application to the Planning Board as a consent item for its review and action; and.

NOW, THEREFORE, BE IT RESOLVED THAT, the Planning Board hereby adopts the Staff's recommendation and analysis set forth in the Staff Report and approves Preliminary Plan No. 12004082A, subject to the following conditions:<sup>2</sup>

1. The Applicant must complete a record plat application within ninety (90) days of the mailing of the Planning Board Resolution approving this Preliminary Plan that delineates the revised Category I Conservation Easement. The record plat must reference the standard Category I Conservation Easement as recorded at liber 13178, folio 412 in the Land Records for Montgomery County, Maryland over i) the new areas to be covered by the easement, and ii) the areas identified to remain, as shown on the amended final forest conservation plan. The existing conservation easement remains in full force and effect until the record plat is recorded in the Montgomery County Land Records by the Applicant.
2. The Applicant must delineate the revised Category I Conservation Easement boundary on the Subject Property with permanent easement markers and appropriate signage no later than ninety (90) days from the recordation of the record plat.

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<sup>1</sup> Based on testimony and evidence presented at the hearing, the Planning Board found that the difficulty mowing the area of the Subject Property along the easement boundaries due to slopes and irregular angle, coupled with the danger to livestock from the unmowed natural vegetation in the easement area, and balancing competing Master Plan goals, created a unique situation under which it was appropriate to make an exception to the 1:1 onsite mitigation established under the 2008 Policy, provided the Applicant reconsidered the amount of easement area it found necessary to remove.

<sup>2</sup> 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.

BE IT FURTHER RESOLVED, that all other preliminary plan conditions of approval for this project remain valid, unchanged and in full force and effect; and

BE IT FURTHER RESOLVED, that having considered the recommendations and findings of its Staff 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 revised conditions of approval, that this Amendment does not alter the intent, objectives, or requirements in the originally approved preliminary plan, and all findings not specifically addressed herein remain in effect; and

BE IT FURTHER RESOLVED, that this Resolution incorporates by reference all evidence of record, including maps, drawings, memoranda, correspondence, and other information; 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 SEP 8 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 Vice Chair Wells-Harley, seconded by Commissioner Presley,, with Chair Anderson, Vice Chair Wells-Harley, and Commissioner Presley voting in favor, and Commissioner Dreyfuss absent at its regular meeting held on Thursday, September 4, 2014, in Silver Spring, Maryland.

  
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Casey Anderson, Chair  
Montgomery County Planning Board