

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

MCPB No. 15-135
Preliminary Plan No. 11999034E
Alvermar Woods
Date of Hearing: November 12, 2015

NOV 16 2015

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 February 4, 1999, the Planning Board, approved Preliminary Plan No. 119990340, creating two lots on 4.17 acres of land in the RE-2 Zone, located at the southwest corner of the intersection of River Road and Riverwood Drive, in the Potomac Subregion Master Plan ("Master Plan") area; and

WHEREAS, on December 16, 2008, Kambiz Kazemi ("Mr. Kazemi"), filed an application for approval of an amendment to the previously approved preliminary plan to remove onsite Category I conservation easement from Lot 17, Alvermar Woods known as 10410 Riverwood Drive, one of the lots created by Preliminary Plan No. 119990340, and mitigate offsite outside the watershed, which was designated Preliminary Plan No. 11999034A; and


WHEREAS, on October 21, 2010 the Planning Board held a public hearing on Preliminary Plan No. 11999034A, which it denied by resolution MCBP No. 10-148, dated July 28, 2011; and

WHEREAS, on July 31, 2011, Mr. Kazemi filed another application for approval of an amendment to the previously approved preliminary plan to remove onsite Category I conservation easement from Lot 17 and mitigate partially onsite and partially offsite within the same watershed, which was designated Preliminary Plan No. 11999034B, Alvermar Woods, Lot 17 ("Preliminary Plan", "Amendment", or "Application"); and

WHEREAS, on October 3, 2013 the Planning Board held a public hearing on Preliminary Plan No. 11999034B, which it approved by resolution MCBP No. 13-148, dated October 16, 2013; and

WHEREAS, on April 2, 2014, Mr. Kazemi filed another application for approval to amend the previously approved preliminary plan to remove all onsite Category I

Approved as to
Legal Sufficiency:

 11/5/15
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conservation easement from the Lot 17 and mitigate offsite outside the watershed, which was designated Preliminary Plan No. 11999034C; and

WHEREAS, on July 17, 2014 the Planning Board held a public hearing on Preliminary Plan No. 11999034C, which it denied by resolution MCPB No. 14-63, dated November 6, 2014; and

WHEREAS, on October 31, 2014, Mr. Kazemi filed another application for approval to amend the previously approved preliminary plan to remove all onsite Category I conservation easement from Lot 17 and 1,008 square feet of Category I conservation easement from Lot 16 and mitigate offsite outside the watershed, which was designated Preliminary Plan No. 11999034D; and

WHEREAS, on December 4, 2014, the Planning Board held a public hearing on Preliminary Plan No. 11999034D, which it approved by resolution MCPB No. 14-117, dated December 10, 2014; and

WHEREAS, on July 29, 2015, Mehdi Mirzaie ("Applicant") filed an application for approval to amend the previously approved preliminary plan to remove all remaining onsite Category I conservation easement, 13,442 square feet, from Lot 16 ("Subject Property") and mitigate offsite, which was designated Preliminary Plan No. 11999034E; and

WHEREAS, following review and analysis of the Application by the Planning Board staff ("Staff") and other governmental agencies, Staff issued a memorandum to the Planning Board, dated October 30, 2015, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on November 12, 2015, the Planning Board held a public hearing on the Application, at which it 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. 11999034E to remove a total of 13,442 square feet of Category I Conservation Easement from the Subject Property subject to the following conditions:¹

¹ For the purposes of these conditions, the term "Applicant" shall also mean the developer, the owner or any successors in interest to the terms of this approval.

1. The Applicant must submit a complete record plat application within ninety (90) days of the mailing of the Planning Board Resolution approving the limited amendment to the Preliminary Plan that removes the entire Category I conservation easement. 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 submit a Certificate of Compliance to use an M-NCPPC approved offsite forest mitigation bank within ninety (90) days of the mailing of the Planning Board Resolution approving 11999034E. The Certificate of Compliance must provide 0.60 acres (26,884 square feet) of mitigation credit for the removal of 0.30 acres (13,442 square feet) of Category I conservation easement taken offsite.
3. All other conditions of Preliminary Plan No. 119990340 and Forest Conservation Plan No. 119990340 that were not modified herein, as contained in the Planning Board's Opinion dated February 4, 1999, remain in full force and effect.

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 the existing Category I Conservation Easement 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 NOV 16 2015 (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 Fani-González, seconded by Vice Chair Wells-Harley, with Chair Anderson, Vice Chair Wells-Harley, and Commissioners Presley and Fani-González voting in favor, and Commissioner Dreyfuss absent, at its regular meeting held on Thursday, November 12, 2015, in Silver Spring, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board