



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

APR 26 2016

MCPB No.16-039
Site Plan No. 820160020
Mateny Hill Road Project
Date of Hearing: March 31, 2016

RESOLUTION

WHEREAS, under Section 59-7.1.2 of the Montgomery County Zoning Ordinance, the Montgomery County Planning Board is authorized to review site plan applications; and

WHEREAS, under Section 59-7.7.1.B.1, the Planning Board reviewed this site plan under the procedures and standards of the Zoning Ordinance in effect on October 29, 2014, including the zoning then in effect; and

WHEREAS, on October 22, 2015, Kate Kubit of Elm Street Development ("Applicant") filed an application for approval of a site plan for 44 one-family dwellings and two one-story detached dwellings, including 6 MPDUs, on 5.86 acres of R-200 and RT-12.5 zoned-land, located on the northeast side of Mateny Hill Road, approximately 200 feet north of the intersection with Dawson Farm Road ("Subject Property"), in the Germantown West Policy Area and the 1989 Germantown Master Plan ("Master Plan") area; and

WHEREAS, Applicant's site plan application was designated Site Plan No. 820160020, Mateny Hill Road Property ("Site 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 March 18, 2016, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on March 31, 2016, 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, on March 31, 2016, the Planning Board voted to approve the Application subject to certain conditions, on motion of Commissioner Presley, seconded by Commissioner Wells-Harley, with a vote of 4-0; Commissioners Anderson, Fani-Gonzalez, Presley, and Wells-Harley voting in favor and Commissioner Dreyfuss absent.

Approved as to
Legal Sufficiency:

8787 Georgia Avenue, Suite 20910, Silver Spring, Maryland 20910

MNCPPC Legal Department
www.MCParkandPlanning.org

Chairman's Office: 301.495.4605 Fax: 301.495.1320

E-Mail: mcp-chairman@mncppc.org

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NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves Site Plan No. 820160020 for 44 one-family attached dwellings and two one-story detached dwellings, including 6 MPDUs, the Subject Property, subject to the following conditions:¹

1. Preliminary Plan Conformance

The development must comply with the conditions of approval for Preliminary Plan No. 120150070.

2. Forest Conservation & Tree Save

The development must comply with the conditions of the approved Final Forest Conservation Plan No. 820160020 approved as part of the Site Plan:

- a. Prior to demolition, clearing, or grading a Category I Conservation Easement approved by the M-NCPPC Office of the General Counsel must be recorded in the Montgomery County Land Records by deed and the Liber Folio for the easement must be referenced on the record plat.
- b. Prior to any land disturbing activities, the Applicant must:
 - i. Submit for Staff review and approval, and record in the Montgomery County Land Records, a Certificate of Compliance for an off-site forest conservation mitigation bank for 1.98 acres of planting requirement.
 - ii. Provide financial surety to the M-NCPPC Planning Department for the 0.55 acres of new forest planting.
- c. The Applicant must plant a minimum of 94 caliper inches of native canopy trees as mitigation for the tree variance impacts on the Subject Property within one calendar year or two growing seasons after issuance of the final use and occupancy certificate. The trees must be a minimum of three-inch caliper.
- d. The Applicant must comply with all tree protection and tree save measures shown on the approved Final Forest Conservation Plan. 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.
- e. Prior to certification of the Site Plan, the Final Forest Conservation Plan must be revised and submitted to staff for approval to address the following:
 - i. Show the location of permanent Category 1 Conservation Easement signs along the perimeter of the conservation easement area to be installed at the time of the easement planting.

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.

- ii. Show split rail fencing along the conservation easement boundaries when adjacent to on-site residential properties.
- iii. Show the final type and location of tree variance mitigation trees.
- f. The Applicant shall install forest conservation easement signs and split rail fencing, or a Staff approved equivalent, no later than six months after concluding land disturbing activities within the conservation easement area.

3. Public Use Space, Facilities, and Amenities

- a) The Applicant must provide a minimum of 3.55 acres of green area (60.5 percent of net lot area) on-site.
- b) Before the final inspection for the row of townhomes containing the 23rd residential dwelling unit (50 percent of the total), the picnic area and surrounding landscaping must be completed.
- c) Before the issuance of the use and occupancy certificates for the 33rd residential dwelling unit (75 percent of the total), or prior to the final inspection for the row of townhomes on lots 36-40, whichever occurs first, the multi-age play area, associated site furniture, and surrounding site landscaping must be completed. By this date, the Applicant must also construct a 5-foot sidewalk within the public access easement running next to Lot 1 from Mateny Hill Road to the interior private street.
- d) Before the final inspection of the first row of townhomes on the Site, the Applicant must install at a minimum the base paving for the full width of the private street, and those sidewalks required for fire lane access that are not directly in front of a row of townhomes. Sidewalks in front of a row of townhomes that are part of the fire lane may install a temporary fire marshal approved stone base. The final sidewalk grade must be installed in front of each row of townhomes prior to the first use and occupancy certificate for any unit within the separate rows.

4. Recreation Facilities

- a) The Applicant must provide at a minimum the following recreation facilities:
 - a. A multi-age playground
 - b. A pedestrian system
 - c. 2 picnic/sitting areas

5. Maintenance of Public Amenities

- a) The Applicant is responsible for maintaining all publicly accessible amenities including, but not limited to the multi-age playground equipment, benches and picnic tables, trash receptacles, street and area lighting, landscaping, fencing, sidewalks, and private Streets.

6. Transportation

- a) The Applicant must construct the private one-way street to the applicable Montgomery County structural standards as specified in Preliminary Plan No. 120150070, and must construct all sidewalks, both on and off the Subject Property, to applicable ADA standards. Before the release of bond or surety, the Applicant must provide the Department of Permitting Services, Zoning & Site Plan Enforcement Staff with certification from a licensed civil engineer that all streets and sidewalks have been built to the above standards.
- b) Prior to the release of the surety bond for the private street, the Applicant must construct two speed humps on the private street to MCDPS Flat Top Speed Hump design in the locations identified on the Site Plan.
- c) Prior to the issuance of the first building permit for a residential structure, the Applicant must install "Do Not Enter" signs on both sides of the private street exit from the Subject Property, facing out toward Mateny Hill Road, and must install "Do Not Exit" signs on both sides of the private street entrance to the Subject Property, facing in towards the Subject Property. All signs must be consistent with the Manual on Uniform Traffic Control Devices.

7. Pedestrian & Bicycle Circulation

- a) The Applicant must provide five-foot wide sidewalks along all private streets, along the frontage of Mateny Hill Road, and off-site along Mateny Hill Road as identified on the Site Plan drawings.

8. Site Design

- a) The units on lot numbers 29 and 46 as identified on the Site Plan must meet the following design conditions.
 - a. On the sides facing Mateny Hill Road (ends of the townhouse rows), the structure must include a minimum of 3 windows, a door with a porch or stoop, and trim and façade treatments that match those used on the side of the unit that faces the internal Private Street
 - b. On the sides facing the internal Private Street (front of the end units), the structure must include a minimum of 3 windows, trim and façade treatments that match the treatments used on the side facing Mateny Hill Road, and a minimum of one element from the following list: additional shutters designed to mimic a window with closed shutters, a masonry water table, and a box or bay window.
- b) The units on lot numbers 3, 36, 40 and 41 as identified on the Site Plan must
 - a. On the side facades (end of townhouse rows), provide a minimum of three windows, trim and headers consistent with those used on the units front facades, and a minimum of one element from the following list: a box or bay window, additional shutters designed to mimic a window with closed shutters, a masonry water table, or a file place.

9. Landscaping

- a) The Applicant must install landscaping in the quantities, locations and species types as shown on the Landscape Plan.

10. Lighting

- a) Before issuance of the any building permit, the Applicant must provide certification to Staff from a qualified professional that the lighting plans conform to the Illuminating Engineering Society of North America (IESNA) standards for residential development.
- b) All onsite down-lights must have full cut-off fixtures.
- c) Illumination levels must not exceed 0.5 footcandles (fc) at any property line abutting county roads and residential properties.
- d) The light pole height must not exceed 15 feet including the mounting base.

11. Site Plan Surety and Maintenance Agreement

Prior to issuance of any building permit, or sediment and erosion control permit, the Applicant must enter into a Site Plan Surety and Maintenance Agreement with the Planning Board in a form approved by the M-NCPPC Office of General Counsel that outlines the responsibilities of the Applicant. The Agreement must include a performance bond(s) or other form of surety in accordance with Section 59.7.3.4.K.4 of the Montgomery County Zoning Ordinance, with the following provisions:

- a) A cost estimate of the materials and facilities, which, upon Staff approval, will establish the surety amount.
- b) The cost estimate must include applicable Site Plan elements, including, but not limited to plant material, on-site lighting, recreational facilities, site furniture, mailbox pad sites, fences, railings, private roads, paths and associated improvements within the relevant block of development. The surety must be posted before issuance of any building permit within each relevant block of development and will be tied to the development program.
- c) The bond or surety must be tied to the development program, and completion of all improvements covered by the surety for each phase of development will be followed by inspection and potential reduction of the surety.
- d) The bond or surety for each block shall be clearly described within the Site Plan Surety & Maintenance Agreement including all relevant conditions and specific CSP sheets depicting the limits of each block/phase.

12. Development Program

The Applicant must construct the development in accordance with a development program table that will be reviewed and approved prior to the approval of the Certified Site Plan.

13. Certified Site Plan

Before approval of the Certified Site Plan the following revisions must be made and/or information provided subject to Staff review and approval:

- a) Include the final forest conservation approval letter, stormwater management concept approval letter, development program, and Site Plan resolution on the approval or cover sheet(s).
- b) Add a note to the Site Plan stating that "M-NCPPC Staff must inspect all tree-save areas and protection devices before clearing and grading."
- c) Add a note stating that "Minor modifications to the limits of disturbance shown on the site plan within the public right-of-way for utility connections may be done during the review of the right-of-way permit drawings by the Department of Permitting Services."
- d) Update the existing tree schedule on sheets 5 and the tree list on sheet 7 of the Site Plan to show tree Tag Number 10 as removed, and provide a footnote below the tables stating the Applicant intents to try to save tree 10 but is showing it as removed because of the high amount of critical root zone impact.

BE IT FURTHER RESOLVED that all site development elements shown on the latest electronic version of Mateny Hill Road Property, No. 820160020, submitted via ePlans to the M-NCPPC as of the date of the Staff Report, are required, except as modified by the above conditions of approval; and

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 Site Plan conforms to all non-illustrative elements of a development plan or diagrammatic plan, and all binding elements of a schematic development plan, certified by the Hearing Examiner under Section 59-D-1.64, or is consistent with an approved project plan for the optional method of development if required, unless the Planning Board expressly modifies any element of the project plan.*

The Site Plan is not subject to a development plan, diagrammatic plan, a schematic development plan certified by the Hearing Examiner or a project plan.

2. *The Site Plan meets all of the requirements of the zone in which it is located*

The Subject Property is approximately 5.86 acres and is split zoned with approximately 3.71 acres of RT-12.5 zoning and approximately 2.15 acres of R-200 zoning. Both the R-200 development standards (59-C-1.628(e) and the RT-12.5 development standards (59-C-1.723) allow sites that are comprised of different

properties in different zones to be combined as one tract so long as there is a common boundary between the properties, the uses proposed are allowed by the zone, the total density does not exceed that allowed by the multiple properties individually and the total amount of green space meets the minimums required by each property individually. The following three tables shows the Application's conformance to the development standards of the two zones, including a section on the R-60 zoning standard which applies to one-family detached dwellings in the RT-12.5 zone.

Zoning Data Table: RT-12.5 (3.71 acres), 59-C-1.7		
For the townhouse unit type		
<u>Standard</u>	<u>Required</u>	<u>Approved</u>
59-C-1.731. Tract Area and Density		
Minimum Tract Area	20,000 sq. ft.	161,067 sq. ft.
Maximum Density	12.5 units/acre	10.2 units/acre
Common Open Space, Site >10,000 sq. ft.	10%, 8,416 sq. ft.	36%, 30,578 sq. ft.
59-C-1.732. Building Setback Minimums		
Setback from any lot in a one family detached zone	30 ft.	30 ft. minimum
From any public street	25 ft.	25 ft. minimum
From any adjoining Lot:		
Side/End Unit	10 ft.	10 ft. minimum
Rear	20 ft.	20 ft. minimum
59-C-1.733. Maximum Building Height		
Main Building	35 ft.	35 ft. maximum
Accessory building	25 ft.	25 ft. maximum
59-C-1.734. Coverage and Green Area		
Maximum percent of tract covered with buildings (MPDU standards 59-C-1.74)	40% max	19%
Minimum percent of tract devoted to green area (MPDU standards 59-C-1.74)	45% min (1.67 acres)	48% ² (1.78 acres)
Parking		
Vehicle Spaces (2 per DU)	38	45

² Stat only reflects the amount of green area on the RT-12.5 portion of the Site. In a combined tract development, 59-C-1.273(c) states the green area across the combined tract must not be less than the total required for the separate tracts. Total green area across tracts is 3.54 acres, in excess of the 2.04 acres required.

Zoning Data Table: RT-12.5 (3.71 acres), 59-C-1.7 For the single-family detached dwelling (follows R-60 zoning standards 59-C-1.62)		
<u>Standard</u>	<u>Required</u>	<u>Approved</u>
59-C-1.622. Density		
Maximum Density	6.10 units/acre	N/A ³
59-C-1.623. Setback from street		
No detached dwelling may be closer to any public street than:	20 ft.	25 ft. minimum
59-C-1.624. Yard Requirements⁴		
Side (R-200 zone)	12 ft. minimum	13 ft. minimum
Rear (RT-12.5 zone)	20 ft. minimum	20 ft. minimum
59-C-1.625. Lot area and width		
Area for a one-family detached dwelling	4,000 sq ft. minimum	5,000 sq. ft. minimum
Minimum lot width at street line	25 ft. minimum	25 ft. minimum
59-C-1.626. Maximum building height		
Main Building	40 ft. maximum ⁵	35 ft. maximum
Accessory building	25 ft. maximum	25 ft. maximum
59-C-1.627. Green Area		
Provided for each unit	2,000 sq ft. minimum	Part of 154,202 sq. ft. site total

Zoning Data Table: R-200 MPDU (2.45 acres), 59-C-1.62 For the townhouse dwelling type		
<u>Standard</u>	<u>Required</u>	<u>Approved</u>
59-C-1.622. Density		
Maximum Density	2.44 units/acre	3.72 units/acre ⁶
59-C-1.623. Setback from street		
No detached dwelling may be nearer to any public street than:	25 ft. minimum	Over 100 ft (existing)
59-C-1.624. Yard Requirements⁷		
Side	N/A	12 ft. minimum
Rear	20 ft. minimum	20 ft. minimum

³ Density based on the RT-12.5 zone, building setbacks and yard requirements reviewed only.

⁴ Side and rear yard setbacks based on those required by the abutting lot, provided the rear yard setback is a minimum of 15 feet.

⁵ Maximum is 40 feet; however, side yard setback must increase 1 foot for every 2 feet in building height over 35 feet.

⁶ In a combined tract, the total number of dwelling units allowed combined must not exceed the total permitted if approved separately. Total of 50 units allowed on combined tract without MPDU bonus, total of 46 proposed.

⁷ Side and rear yard setbacks based on those required by the abutting lot, provided the rear yard setback is a minimum of 20 feet. Abutting land is HOA/Forest Conservation for the Site.

Zoning Data Table: R-200 MPDU (2.45 acres), 59-C-1.62 For the townhouse dwelling type		
<u>Standard</u>	<u>Required</u>	<u>Approved</u>
59-C-1.625. Lot area		
Area for a one-family attached dwelling	1,500 sq ft. minimum	1,500 sq. ft. minimum
59-C-1.626. Maximum building height		
Main Building	40 ft. maximum ⁸	40 ft. maximum
Accessory building	25 ft. maximum	25 ft. maximum
59-C-1.627. Green Area		
Provided for each unit	2,000 sq ft. minimum/18,000 sq. ft. total	Part of 154,202 sq. ft. Site total

At the hearing on this Application, a member of the public questioned the Application's conformance to Section 59-C-1.628(e)(2) of the Zoning Ordinance, which applies to a combined MPDU development in two or more zones. The provision states, "No uses are permitted in any part of the combined tract except those that are permissible in the zone in which that part is classified." This Application includes detached dwellings and townhomes on both the R-200 and RT 12.5 portions of the Subject Property. Detached dwellings and townhomes are both permissible for MPDU developments in the R-200 zone and in the RT 12.5 zone. Accordingly, the Board finds that the Application conforms to Section 59-C-1.628(e).

3. *The locations of the buildings and structures, the open spaces, landscaping, recreation facilities, and pedestrian and vehicular circulation systems are adequate, safe, and efficient.*

- a. Buildings and Structures

The location of buildings and structures is adequate, safe and efficient. The 44 new townhome units are located primarily around the curving one-way private street, helping to define the street edge. To avoid the need for a dramatic increase in impervious surfaces and a reduction in open space, however, some front loaded units are located on the outside of the private street with both garages and front doors opening to the street.

The units identified as 36-40 on the Site Plan are oriented in a way that provides adequate rear access for vehicles, and allows the front doors to overlook and define the primary active recreation area of the Site Plan. The townhome units along the eastern property boundary are oriented for compatibility, with the

⁸ Maximum is 40 feet; however, side yard setback must increase 1 foot for every 2 feet in building height over 35 feet.

existing townhomes located to the east of the Subject Property, and to minimize their profile from the rear of the one-family detached dwellings to the north. The units on the northern and western portion of the Subject Property are also set back adequately to allow for a new Category I conservation easement to be established, which will greatly enhance the screening between the townhomes and the one-family detached units. Lots 24 and 46 are required to have front doors opening to the south so that the development blends in with the one-family detached dwellings further north on Mateny Hill Road. The Applicant is also providing one new one-family detached dwelling, and retaining one, one-family detached dwelling along Mateny Hill Road to be more compatible with the historic district to the west.

b. Open Spaces

The location of the open spaces is safe, adequate and efficient. There are open space parcels shown behind the rear lots of all the units located near the perimeter of the Subject Property. There are two areas of open space which provide recreation amenities, one is a 2,500 square foot multi-aged play area in the northern portion of the Subject Property and the second is an approximately 5,000 square foot area that features picnic tables and lots of landscaping with canopy trees. There are two additional open areas on the Subject Property suitable for use by residents. One is an approximately 1,900 square foot area that will be landscaped with trees, and the other is an approximately 7,000 square foot area that will be maintained as lawn to accommodate the Subject Property's underground utilities.

c. Landscaping and Lighting

The location of the landscaping and lighting is safe, adequate and efficient. The landscaping will screen the new development from neighboring properties and provide shade along the internal streets, sidewalks and recreation areas. There is an approximately 10-foot wide open space area that runs the entire eastern Subject Property boundary which will be planted with a mix of evergreens and canopy trees, adequately buffering the rear of the approved dwelling units from the rear of the existing neighboring townhomes. Along the northern Subject Property boundary, a new Category I conservation easement will protect a newly-planted forest, which, while not classified as "landscaping," will nevertheless screen the new townhomes from the existing one-family detached units. All of the larger open space areas on the Subject Property incorporate a mix of canopy trees, understory trees and shrubs that create shade and provide visual interest. The plantings around the multi-age play area provide shade without restricting views of the play area from the road and neighboring residential units. Shrubs and trees along the Mateny Hill Road

frontage will screen the private alley serving the three sticks of rear loaded townhomes and will minimize the visual mass of buildings as seen from Mateny Hill Road or the nearby historic properties.

The lighting shown on the lighting plan and accompanying photometrics plan meet all of the requirements for protecting the surrounding properties from excessive light spillage or glare. The Application will provide lighting along the entirety of the private street and will light the primary Play Area.

d. Recreation Facilities

The location and quantity of recreation facilities are safe, adequate and efficient. The Site Plan is subject to the requirements of the 1992 Montgomery County Recreation Guidelines, which require recreational amenities for developments of more than 25 one-family dwellings. To comply with the Guidelines, the Applicant is providing one multi-age play area, two picnic/sitting areas, and one pedestrian system. Additionally, the Applicant has requested the Planning Board consider off-site supply of a swimming pool, indoor community space and an indoor exercise room, all offered at the Germantown Community Center located approximately $\frac{3}{4}$ of a mile from the Subject Property. The Germantown Community Center is under a mile from the Subject Property, is accessible by bicycle and by foot through continuous sidewalks that lead from the Subject Property to the community center, and provides other amenities that, under the Guidelines, are acceptable if accessible from the Subject Property by car. The Planning Board accordingly approves the use of the off-site recreation supply as requested by the Applicant, and finds that the combined on and off-site recreation amenities provided are adequate.

e. Vehicular and Pedestrian Circulation

The location and design of the pedestrian circulation on the Subject Property are safe, adequate, and efficient. The Site Plan includes an extensive network of sidewalks. To meet the Fire Marshals requirement of 20 feet of clear emergency vehicle access while still providing a street width more appropriate for a one-way street, the sidewalks on one side of the interior street will be built with a mountable curb and will account for five of the 20 total feet of required space. The access and orientation of the dwelling units located on the inside of the one-way private street loop allows for a continuous sidewalk loop throughout the Subject Property unimpeded by vehicle crossings, except for one point at the alley access. While the Application will not provide sidewalks along Mateny Hill Road all the way to the nearby MARC station, the substantial sidewalk improvements included in this Application anticipate such a connection in the future.

The location and design of vehicle circulation on the Subject Property are safe, adequate and efficient. The Site Plan has access to the public road network through two locations on Mateny Hill Road. The eastern access point is an entrance only, and the western access point is an exit only—restrictions that will be reinforced by appropriate signage. The internal circulation is a private street which is shown as a one-way counterclockwise loop, and one alley. Although not adequate for normal two-way traffic, the two access points can provide emergency services access the Subject Property if necessary. There is a private alley internal to the Subject Property that provides garage access to 18 of the proposed dwellings. This alley is 16 feet wide, which is adequate because the alley is a dead end and is not the primary means of providing emergency vehicle access.

4. *Each structure and use is compatible with other uses and other site plans and with existing and proposed adjacent development.*

The approved use and structures are compatible with other uses, site plans, and existing and proposed development on adjacent properties. Along the eastern property boundary, there will be a correlation between the rear of the new townhouse units with the rear of the existing townhouse units on the neighboring property. To the north, while the existing development is one-family detached units, the new townhouse units are oriented in a way that presents the sides of the new units to the backs of the one-family detached units, which greatly reduces the massing visible from the rear yards of the off-site dwellings. To the west are additional one-family detached units; however, there is an area of forest conservation between the western Subject Property boundary and the proposed dwellings that will provide ample vegetative buffering. The Site Plan layout is also sensitive to Mateny Hill Road, which is currently fronted by one-family detached homes and leads to the Germantown Historic District.

5. *The Site Plan meets all applicable requirements of Chapter 22A regarding forest conservation, Chapter 19 regarding water resource protection, and any other applicable law.*

- A. Forest Conservation

The Board finds that as conditioned, the Final Forest Conservation Plan complies with the requirements of the Forest Conservation Law. The Final Forest Conservation Plan ("FFCP") contains 5.93 acres of net tract area. Based on the Forest Conservation worksheet, the Application has a 1.19-acre conservation threshold under the High Density Residential land use category, and the FCP proposes clearing all 1.81 acres of forest on the Subject Property. The Application generates a 2.53 acres planting requirement which the

applicant will meet with 0.55 acre onsite planting and 1.98 acres of credit at an offsite forest conservation mitigation bank.

As part of its approval of Preliminary Forest Conservation Plan No. 120150070 ("PFCP"), approved with Preliminary Plan No. 120150070, the Planning Board made the findings necessary in Section 22A-12(f)(3) to grant the Applicant's request not to save the existing forest on the Subject Property. The layout of the Subject Property and the need to remove the existing forest has not changed, and the previously-approved findings remain in effect.

B. Forest Conservation Variance

Section 22A-12(b)(3) of the Montgomery County 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.

The Planning Board made all necessary findings regarding the necessary Variance and mitigation as part of the Preliminary Forest Conservation Plan. The FFCP includes no changes to the number of Protected Trees impacted or requested for removal; therefore, the previous findings remain valid and mitigation approved as part of the PFCP remains adequate.

6. *The Application was properly noticed.*

Based on information provided by Staff at the public hearing on this Application, the Board finds that the Application and the public hearing were properly noticed. Individuals who were unable to attend the hearing due to vacation plans or other scheduling issues were able to submit written testimony on the Application in accordance with the Board's Rules of Procedure.

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 Site Plan shall remain valid as provided in Montgomery County Code § 59-D-3.8; and

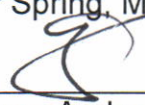
BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is APR 26 2016 (which is the date that this resolution is mailed to all parties of record); and

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 Presley, seconded by Commissioner Dreyfuss, with Chair Anderson and Commissioners Dreyfuss and Presley voting in favor, and Vice Chair Wells-Harley and Commissioner Fani-González absent, at its regular meeting held on Thursday, April 21, 2016, in Silver Spring, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board