



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

MCPB No. 18-009
 Site Plan No. 81992023A
 Gilbert Residence
 Date of Hearing: February 1, 2018

FEB 06 2018

RESOLUTION

WHEREAS, under Montgomery County Code Chapter 22A, the Montgomery County Planning Board is authorized to review forest conservation plan applications; and

WHEREAS, on May 11, 2017, Mr. Anthony Gilbert ("Applicant") filed an application for approval to amend a Site Plan for Forest Conservation Plan Purposes that would remove a Category II Conservation Easement and revise the limits of disturbance ("LOD") from the property located at 2081 Shadowridge Drive, Olney, MD, Lot 44, Block A ("Subject Property"), in the in the Olney Master Plan ("Master Sector Plan") area; and

WHEREAS, Applicant's site plan amendment application was designated Site Plan No. 81992023A, Gilbert Residence ("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 November 30, 2017 setting forth its analysis and recommendation for denial of the Application; and

WHEREAS, on December 14, 2017, 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 defer the Application to a date in the near future once all concerns of the Planning Board had been addressed; and

WHEREAS, following additional review and analysis of the Application by Staff, Staff issued a memorandum to the Planning Board, dated January 18, 2018 setting forth its analysis and recommendation for approval with conditions of the Application, ("Staff Report"); and

WHEREAS, on February 1, 2018, 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

Approved as to
 Legal Sufficiency:

Christina Sont 1/31/18

WHEREAS, at the hearing the Planning Board voted to approve with conditions the Application by the vote certified below.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves the Site Plan Amendment for Forest Conservation Plan Purposes, Plan No. 81992023A to remove the Category II Conservation Easement on the Subject Property with the following conditions:¹

1. Prior to the start of any demolition, clearing, grading or construction on the Subject Property, the Applicant must abandon the entirety of the original Category II Conservation Easement recorded among the County Land Records in Liber 10728 at Folio 510 and identified on Plat 19170 on Lot 44. The abandonment document must be approved by the M-NCPPC Office of the General Counsel and must be recorded in the Montgomery County Land Records by deed.
2. Prior to the start of any demolition, clearing, grading or construction on the Subject Property, the Applicant must record a new Category II Conservation Easement reflecting the easement area that is not authorized to be removed. The new easement agreement must be approved by the M-NCPPC Office of the General Counsel and must be recorded in the Montgomery County Land Records by deed. The entirety of the existing easement remains in full force and effect until the abandonment document and the revised easement have been approved and recorded in the Montgomery County Land Records.
3. Within ninety (90) days of the mailing date of the Planning Board Resolution approving the limited amendment to the Site Plan, the Applicant must submit a complete record plat application that delineates the revised conservation easement and references the Liber/Folio of the recorded deed for the revised easement.
4. The revised Record Plat must be recorded in the Montgomery County Land Records within 365 days of the mailing date of the Planning Board Resolution approving the limited amendment to the Site Plan.
5. Prior to the start of any demolition, clearing, grading or construction on the Subject Property, the Applicant must record an M-NCPPC approved Certificate of Compliance in an M-NCPPC approved off-site forest bank to satisfy the mitigation requirement of a 4:1 replacement rate for removing 583 square feet of Category II Conservation Easement by purchasing 2,332 square feet (4:1) of forest credit for planted forest or 4,664 square feet (8:1) of forest credit for existing forest in an off-site forest bank.
6. Prior to the start of any demolition, clearing or grading on the Property the Applicant must execute a two-year Maintenance and Management Agreement approved by the M-NCPPC Office of General Counsel. The maintenance and management agreement is required for all forest planting areas credited toward meeting the requirements of the Forest Conservation Plan.

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.

7. Prior to the start of any demolition, clearing, or grading on the Property the Applicant must provide financial surety to the M-NCPPC Planning Department for the mitigation planting shown on the approved amended Final Forest Conservation Plan.
8. The Applicant must install the mitigation plantings as shown on the Final Forest Conservation Plan within the remaining Category II Conservation Easement within 6 months following the pre-construction meeting unless modified by the M-NCPPC Forest Conservation Inspector.
9. The Applicant must apply a natural earth-tone finish to the required 6-foot wooden privacy fence surrounding the pool and patio area that blends into the so as to reduce the visual impact of the fence.
10. The Applicant must comply with all recommendation made by the consulting arborist in a letter dated December 12, 2017 unless modified by the M-NCPPC forest conservation inspector.
11. The Applicant must have all required site inspections performed by M-NCPPC Staff per Section 22A.00.01.10 of the Forest Conservation Regulations.
12. 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.

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 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 complies with the requirements of the Forest Conservation Law. The Final Forest Conservation Plan (FFCP) requirements associated with the original Site Plan No. 819920230 have not been altered as a result of this application. The removal of 583 square feet of Category II Conservation Easement, which was used to meet the forest conservation requirements of the original FFCP, is being mitigated by taking the 583 square feet to an off-site forest bank at a 4:1 replacement rate purchasing 2,332 square feet (4:1) of forest credit for planted forest or 4,664 square feet (8:1) of forest credit for existing forest in an off-site forest bank.

BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is FEB 06 2018 (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 Vice Chair Dreyfuss, seconded by Commissioner Fani-González, with Chair Anderson, Vice Chair Dreyfuss, and Commissioners Fani-González and Patterson voting in favor, and Commissioner Cichy absent at its regular meeting held on Thursday, February 1, 2018, in Silver Spring, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board