



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

MCPB No. 19-036
Forest Conservation Plan No. 11993048C
Gate of Heaven
Date of Hearing (Consent Item): May 9, 2019

MAY 23 2019

RESOLUTION

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

WHEREAS, on December 2, 1993, by MCPB Opinion, mailed on December 16, 1993, the Planning Board approved Preliminary Plan No. 119930480 for the Gate of Heaven Cemetery, on approximately 127.52 acres of land located at 13801 Georgia Avenue Silver Spring Maryland 20906 ("Subject Property") in the 1994 Aspen Hill Master Plan area; and

WHEREAS, on September 15, 2016, by MCPB Resolution No. 16-093, the Planning Board approved Preliminary Plan No. 1199304A, an amendment to the previously approved Preliminary Plan, to allow temporary disturbance within a Category I Conservation Easement; and

WHEREAS, on October 20, 2016, the Archdiocese of Washington submitted an application for Preliminary Plan No. 1199304B, an amendment to the previously approved Preliminary Plan, which was withdrawn; and

WHEREAS, on March 2, 2018, the Archdiocese of Washington ("Applicant") filed an application to amend the Final Forest Conservation Plan for approval of the following modifications:

1. Removal of 1,396,471 square feet of Category I Conservation Easement.
2. Recordation of 1,334,974 square feet of Category I Conservation Easement.
3. Planting of 1.55 acres of forest.

WHEREAS, Applicant's Preliminary Plan amendment to amend the final Forest Conservation Plan was designated Final Forest Conservation Plan No. 11993048C ("Forest Conservation 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

Approved as to
Legal Sufficiency:

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Planning Board dated April 29, 2019, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on May 9, 2019, Staff presented the Amendment to the Planning Board as a consent item for its review and action; at which time the Planning Board voted to approve the Amendment subject to certain conditions, by the vote certified below.

NOW, THEREFORE, BE IT RESOLVED THAT, the Planning Board hereby adopts the Staff's recommendation and analysis set forth in the Staff Report and hereby approves Forest Conservation Plan No. 11993048C, subject to the following condition:

1. Limits of disturbance on the Sediment Control Plan must match the limits of disturbance shown on the Final Forest Conservation Plan.
2. Prior to the start of any demolition, clearing, grading or construction on the Subject Property, the Applicant must record a deed of release to remove approximately 1,396,471 square feet of Category I Conservation Easement on the Subject Property as shown on the Final Forest Conservation Plan. The deed of release must be in a form approved by the Maryland-National Capital Park & Planning Commission Office of the General Counsel.
3. Prior to the start of any clearing, grading, or demolition on the Subject Property, the Applicant must record a Category I Conservation Easement over approximately 1,334,974 square feet of reforestation/afforestation areas and retention areas credited toward the forest conservation requirements as shown on the amended Final Forest Conservation Plan. The Category I Conservation Easement must be recorded in the Montgomery County Land Records in the form of a deed approved by the M-NCPPC Office of the General Counsel, and the Liber Folio for the easement must be referenced on the record plat.
4. Prior to the start of any demolition, clearing, grading, or construction on the Subject Property, the Applicant must provide financial surety to the M-NCPPC Planning Department for the on-site forest planting areas.
5. Prior to the start of any demolition, clearing, grading, or construction on the Subject Property, the Applicant must submit for review and approval a two-year Maintenance and Management Agreement for the forest planting areas. The Agreement must be approved by the M-NCPPC Office of the General Counsel.
6. Forest planting must begin within the first planting season after issuance of the first grading permit.
7. The Applicant must install permanent conservation easement signage along the perimeter of the Category I Conservation Easements, or as determined by the M-NCPPC forest conservation inspector. Signs must be installed a maximum of 100 feet apart with additional signs installed where the easement changes direction.
8. 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 approved Final Forest Conservation Plan may be required by the M-NCPPC forest conservation inspector.

BE IT FURTHER RESOLVED that having given full consideration to 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, and ensures the protection of environmentally sensitive features.*

A. Forest Conservation

The Board finds that as conditioned, the Forest Conservation Plan complies with the requirements of the Forest Conservation Law.

The Applicant proposes to remove unforested areas, such as roads and paths, from the recorded Category I Conservation Easements and adds additional planting areas to increase the width of all easements to a 50' minimum. The current easement is approximately 32.06 acres and the proposed easement covers 30.65 acres. No protected forest is being removed; the changes in the size of the easement area are due to removal of existing WSSC easements that we no longer accept in conservation easements. An additional 1.55 acres of forest will be planted with this amendment.

BE IT FURTHER RESOLVED, that, having given full consideration to the recommendations and findings of its Staff as set forth in the Staff Report, which the Board hereby adopts and incorporates by reference, the Montgomery County Planning Board FINDS, with the conditions of approval that this Amendment does not alter the intent, objectives, or requirements in the originally approved site plan, as revised by previous amendments, and that all findings remain in effect; and

BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board and incorporates by reference all evidence of record, including maps, drawings, memoranda, correspondence, and other information; and

BE IT FURTHER RESOLVED, that the date of this written Resolution is MAY 23 2019 (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 Cichy, seconded by Commissioner Patterson, with Chair Anderson, Vice Chair Dreyfuss, and Commissioners Cichy and Patterson voting in favor, and Commissioner Fani-González absent at its regular meeting held on Thursday, May 9, 2019, in Silver Spring, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board