



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

MCPB No. 19-100  
 Forest Conservation Plan Amendment No. CBA-1206  
 Congressional Country Club  
 Date of Hearing: July 18, 2019

JUL 24 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 March 12, 2019, Congressional Country Club (“Applicant”) filed an application for approval of a forest conservation plan amendment on approximately 357.80 acres of land located at 8500 River Road in Bethesda (“Subject Property”) in the Potomac Policy Area and Potomac Subregion Master Plan (“Master Plan”) area; and

WHEREAS, Applicant’s forest conservation plan application was designated Forest Conservation Plan Amendment No. CBA-1206, Congressional Country Club (“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 Planning Board dated July 5, 2019, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and

WHEREAS, on July 18, 2019, 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 approved the Application subject to certain conditions, by the vote certified below.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Forest Conservation Plan Amendment No. CBA-1206 on the Subject Property, subject to the following conditions:

1. Prior to the start of any clearing, grading, or demolition on the Property, the Applicant must record Category I conservation easements as shown on the approved Final Forest Conservation Plan in a form approved by the M-NCPPC

Approved as to  
 Legal Sufficiency:

*Christina Sout* 7/19/19

Office of the General Counsel among the Montgomery County Land Records. The Category I Conservation Easements approved by the M-NCPPC Office of the General Counsel must be recorded in the Montgomery County Land Records by deed prior to the abandonment of the existing easements.

2. Prior to the start of any clearing, grading, or demolition on the Property, the Applicant must record, in the Montgomery County Land Records, an M-NCPPC approved Certificate of Compliance in an M-NCPPC approved off-site forest bank to satisfy the reforestation requirement for a total of 7.16 acres of mitigation bank credit. Prior to recordation, the Certificate of Compliance must be approved by the M-NCPPC Montgomery County Planning Department Office of General Counsel.
3. Prior to the start of any clearing, grading, or demolition on the Property, the Applicant must submit abandonment agreements to remove the Category I and Category II conservation easements that are being extinguished. These Agreements must be in a form approved by the M-NCPPC Office of the General Counsel. Within thirty (30) days of receiving approval of the Abandonment Agreements from M-NCPPC, the Applicant must record the Abandonment Agreements in the Montgomery County Land Records.
4. The Applicant must plant mitigation trees on the Subject Property with a minimum size of 3 caliper inches totaling 867 caliper inches as shown on the approved Final Forest Conservation Plan. Adjustments to the planting locations of these trees is permitted with the approval of the M-NCPPC forest conservation inspector.
5. Within the first planting season following the release of the Sediment and Erosion Control Permit from the Montgomery County Department of Permitting Services for this Property or at the discretion of the M-NCPPC forest conservation inspector, the Applicant must install the plantings shown on the approved Final Forest Conservation Plan.
6. Prior to the start of any clearing, grading, or demolition on the Property, the Applicant must provide financial surety to guarantee the proposed forest and tree planting on the Property, as specified on the approved Final Forest Conservation Plan, in a form acceptable to the M-NCPPC Office of the General Counsel.
7. Prior to the start of any clearing, grading or demolition on the Property, the Applicant must submit for review and approval a two-year Maintenance and Management Agreement to the M-NCPPC Planning Department for the required forest and tree planting on the Property as shown on the approved Final Forest Conservation Plan. The Agreement must be approved by the M-NCPPC Office of the General Counsel.
8. Prior to the start of any disturbance associated with the realignment of the stream channel located between the two ponds and adjacent to golf course hole #10, the Applicant must provide M-NCPPC Staff with detailed plans of the proposed work.

9. Prior to the start of any disturbance associated with the restoration and stabilization of the stream located adjacent to golf course hole #11, the Applicant must provide M-NCPPC Staff with detailed plans of the proposed work.
10. The recommendations specified by Proper Tree Care in a letter dated June 19, 2019 for the protection and preservation of Trees #528 and #532 must be implemented under the direction of the M-NCPPC forest conservation inspector.
11. In coordination with the M-NCPPC forest conservation inspector, non-native, invasive species control measures outlined in the Certified Arborist's letter on the Forest Conservation Plan and in the "Forest and Tree Management Plan" (Updated 9 January 2013), shall be implemented by the Applicant. Supplemental native plantings per the Certified Arborist's recommendation and as referenced in the "Forest and Tree Management Plan" to be provided to reestablish areas of invasive species removal.
12. Prior to the start of any clearing, grading, or demolition on the Property, the Applicant must identify and provide funding for the costs associated with a watershed enhancement project within the Cabin John Creek Watershed. The project location and scope must be coordinated with M-NCPPC Parks Department Staff. The amount of funding by the Applicant for the watershed enhancement project must not exceed \$800,000.
13. The Limits of Disturbance ("LOD") shown on the Final Sediment and Erosion Control Plan must be consistent with the LOD shown on the approved Final Forest Conservation Plan.
14. 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.
15. The Applicant must install permanent conservation easement signage along the perimeter of the Category I and Category II Conservation Easements or as determined by the M-NCPPC forest conservation inspector. Signs must be installed at a maximum of 100 feet apart with additional signs installed where the easement changes direction. The M-NCPPC forest conservation inspector is authorized to determine the timing and location of sign installation.

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 amended Final Forest Conservation Plan will remove existing Category I and Category II conservation easements, remove and impact the critical root zones of trees subject to the Tree Variance provision of the Forest Conservation Law, and disturb areas within the stream buffer. This amendment includes updates to the existing Blue Course where golf tournaments on the Professional Golf Association (PGA) tour are held and does not include any changes to the Gold Course. Currently, there are 27 individual Category I conservation easements totaling 57.61 acres, 51 critical root zone Category II conservation easements totaling 16.5 acres, and 5 landscaping credit Category II conservation easements totaling 2.90 acres on the Property.

The Blue Course was renovated in the past to a stadium design which allowed for spectators to be on higher ground above the course to provide better visibility for spectators and camera crews. The design resulted in runoff from precipitation events being directed down to the course. This combined with the maturation of the trees along the course over the years, has created a situation where portions of the course are too wet to play. The conditions on the course have changed over time due to the growth of trees that block sunlight and air flow to the course. That combined with changing weather patterns and the topography of the current course have resulted in drainage issues that leave the course unplayable by members for days at a time and prohibit the ability to host events. In addition to the inconveniences to members when the course is not playable, the Club has been advised to redesign the course to meet current standards expected of courses that host PGA and other high-level professional golf tournaments. The amended Final Forest Conservation Plan addresses these issues and concerns and results in the removal of 3.70 acres of on-site Category I and 13.18 acres of Category II conservation easements.

Since the Application proposed a major redesign to the Blue Course, it provided an opportunity to take a comprehensive look at the original approval and how best to amend the plans to meet the current and future objectives of the Club as well as meet the goals and requirements of the Forest Conservation Law. The previous Forest Conservation Plans were inconsistent in terms of how credit was assigned to existing forest and forest retention calculations. The original approval included an existing forest calculation of 70.14 acres that was comprised of 53.26 acres of forest identified on the approved NRI/FSD as part of 14 forest stands plus 16.88 acres of critical root zone area for specimen trees. It also identified 59.56

acres of forest retention comprised of 43.12 acres from the 14 forest stands plus 16.44 acres of preserved critical root zones. The Forest Conservation Law does not allow for critical root zones of specimen trees to count as existing forest and forest retention. This was an error in the original approval that was carried forward with subsequent amendments. The originally calculated forest planting requirement was previously met via supplemental reforestation within Category I conservation easements, supplemental planting adjacent to tree stands so they would meet the definition of "forest" with protection in Category I conservation easements, and 1.67 acres of off-site credit in a forest bank. Given the scope of this amendment and the unusual review of the original Forest Conservation Plan, the Applicant re-evaluated the Forest Conservation Plan and how it met the Forest Conservation Law.

Typically, after a Final Forest Conservation Plan is approved, any further amendments include an evaluation of existing conservation easements and the effect of the amendment on those easements. If the amendment proposes easement removal, mitigation for the loss of the easement area is provided either on or off-site. The forest conservation worksheet calculations are not normally revisited. In this case, since the original forest conservation calculations were incorrect, the forest conservation worksheet was redone to include the corrected existing forest calculation based on the approved Natural Resource Inventory/Forest Stand Delineation's 14 forest stands totaling 53.26 acres. The notes on the approved Final Forest Conservation Plan indicate 43.12 acres of forest from the 14 forest stands was originally retained and protected in Category I conservation easements, resulting in a forest clearing calculation of 10.14 acres. Based on these corrected numbers, the total planting requirement would have been 20.69 acres.

This Application, Forest Conservation Plan Amendment #5, will remove 3.7 acres of Category I conservation easement. Approximately 2.12 acres of which is part of Category I conservation easement #2, which was part of the original existing forest. The remaining 1.58 acres of Category I conservation easement proposed for removal is forest planting that was previously completed, and which has been subtracted from the forest planting credits rather than the forest retention calculations. The revised total forest clearing calculation of 12.26 is comprised of the original 10.14 acres plus the proposed 2.12 acres. The result is a total planting requirement of 24.93 acres, which includes a reforestation requirement of 24.52 acres and an afforestation requirement of 0.41 acres.

The Forest Conservation Regulations (22A.00.01.08(G)) allow for some landscape credits. The total 24.93-acre planting requirement (0.41 acres

of afforestation and 24.52 acres of reforestation) for this Final Forest Conservation Plan amendment will be satisfied by 1.53 acres existing CRZ protection in Category II conservation easements, 1.34 acres existing tree save areas in Category II conservation easements, 13.23 acres of Category I conservation easements (11.36 acres existing + 1.87 proposed), and 8.83 acres in an off-site forest bank (1.67 acres existing + 7.16 acres proposed).

#### B. Forest Conservation Variance

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

This Application will require the removal or CRZ impact to 134 Protected Trees as identified in the Staff Report. In accordance with Section 22A-21(a), the Applicant requested a Variance, and the Board agrees that the Applicant would suffer unwarranted hardship by being denied reasonable and significant use of the Subject Property without the Variance.

The Board makes the following findings necessary to grant the Variance:

- 1. Granting the Variance will not confer on the Applicant a special privilege that would be denied to other applicants.*

Granting the variance will not confer a special privilege on the Applicant as the disturbance to the Protected Trees is due to the need to maintain the existing approved use on the Property. Protected Trees are located throughout the developed areas of the Property and with the Applicant's proposed redesign, the golf course will remain almost entirely within the same developed footprint. The Applicant's proposal to redesign the golf course which requires re-grading to alleviate topographic and drainage issues and to allow sunlight and airflow to the turf to maintain playability has resulted in unavoidable impacts to Protected Trees. The requested removal of and impacts to Protected Trees are due to required improvements necessary to maintain the existing use of the Property within the already developed areas of the site. Granting a variance to allow land disturbance within the developed portion of the Property is not unique to this Applicant.

2. *The need for the Variance is not based on conditions or circumstances which are the result of the actions by the Applicant.*

The need for the variance is not based on conditions or circumstances which are the result of actions by the Applicant. The requested variance is based upon existing and evolving conditions on the Property, including the location of the Protected Trees within the developable area.

3. *The need for the Variance is not based on a condition related to land or building use, either permitted or non-conforming, on a neighboring property.*

The need for a variance is a result of the existing conditions and the proposed design and layout of the Property, and not a result of land or building use on a neighboring property.

4. *Granting the Variance will not violate State water quality standards or cause measurable degradation in water quality.*

This approval is conditioned on mitigation that approximates the form and function of the trees removed. Therefore, their removal will not violate State water quality standards or cause measurable degradation in water quality. The Protected Trees being impacted will remain to provide the same level of water quality protection as they currently provide.

Mitigation for the Variance is at a rate that approximates the form and function of the Protected Trees removed. The Board approves replacement of Protected Trees at a ratio of approximately 1-inch caliper for every 4-inches removed. As conditioned, mitigation totaling 867 caliper inches of native, canopy trees will be planted on the Subject Property. No mitigation is required for Protected Trees impacted but retained.

BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Planning Board in this matter, and the date of this Resolution is JUL 24 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 and Commissioners Cichy and Patterson voting in favor, and Vice Chair Dreyfuss and Commissioner Fani-González absent at its regular meeting held on Thursday, July 18, 2019, in Silver Spring, Maryland.

  
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Casey Anderson, Chair  
Montgomery County Planning Board