



MONTGOMERY COUNTY PLANNING DEPARTMENT

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB

Item No.

Date: 7/18/2019

21627 Ripplemead Drive, Laytonsville (a.k.a Fairhill) Forest Conservation Plan Amendment No. 11996071C (In Response to a Forest Conservation Law Violation)

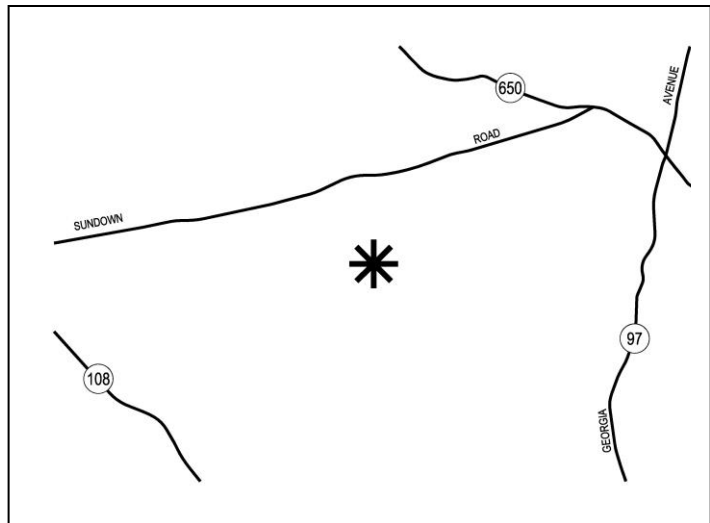
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Description

Completed: 6/25/19

Limited Amendment, Forest Conservation Plan No. 11996071C, 21627 Ripplemead Drive, Laytonsville (in response to a forest conservation law violation)

- AR Zone
- Fairhill Subdivision
- Lot 9, Block A
- Olney Master Plan
- Applicants: Karen & Dany Smith
- Accepted March 26, 2019



Summary

Request to amend the Forest Conservation plan on Lot 9 Block A, 21627 Ripplemead Drive, Laytonsville by:

1. Removing approximately 0.36 acres (15,675 square feet) of Category I Conservation Easement and mitigating offsite by acquiring 0.72 acres of forest mitigation credit at an M-NCPPC approved forest conservation bank.

STAFF RECOMMENDATION AND CONDITIONS

Staff recommends approval of the amendment to Forest Conservation Plan 11996071C with the conditions listed below:

1. Within 30 days of the mailing date of the Planning Board resolution approving the Amendment, the property owners must submit an executed Certificate of Compliance to the Planning Department that provides 0.72 acres of mitigation credit for the removal of 0.36 acres of Category I Conservation Easement.
2. Within 7 days of the Planning Department's approval of the Certificate of Compliance, the Certificate of Compliance must be recorded in the Montgomery County Land Records.
3. Within 60 days of the mailing date of the Planning Board's resolution approving the amendment, the property owners must submit a Deed of Release of the existing conservation easement on the Property in a form approved by the M-NCPPC Office of the General Counsel. The Deed of Release must be recorded in the Montgomery County Land Records after all necessary signatures are obtained for the easement to be extinguished.

SITE DESCRIPTION

The Subject Property, 21627 Ripplemead Drive (Lot 9, Block A of the Fairhill Subdivision), is a 2.14-acre lot located at the intersection of Ripplemead Drive and Ripplemead Court. The lot is approximately 2500 feet northeast of the intersection of Ripplemead Drive and Riggs Road. Access to the house on the subject property is via on Ripplemead Drive. Exhibit 1 shows the entire subdivision.



Exhibit 1. Fairhill Subdivision

The driveway enters the subject property from the public street at an elevation of 530 feet above sea level. The entire southern property line is an elevation of 530 feet and the elevation of the driveway varies from 530 at the street to 528 adjacent to the house. The property does fall 18 feet from the southern property line to the north east property corner that is immediately adjacent to driveway of 4916 Ripplemead Court. North and west of the house is lawn and the septic fields.

There are two separate conservation easements on the property. The conservation easement contain a shed and mowed grass as well as trees. Exhibit 2 shows the existing Category I Conservation Easements and the existing improvements on Lot 9, Block A.



Exhibit 2: 21627 Ripplemead Drive Conservation Easements with Aerial Photo Overlay

Background

The property was subject to Preliminary Plan 11974019R, which created 27 lots and 19 outlots. The Fairhill subdivision was platted in 1980 and recorded by plats 13188, 13189, and 13190. The subject property is identified as Lot 9, Block A, on plat 13190 (Attachment 1). The subdivision was approved prior to the effective date of the County Forest Conservation Law which took effect in 1992. In 1996, a new developer proceeded with the development of the 27 recorded lots and sought to convert 5 outlots to lots. The Planning Board approved

preliminary plan of subdivision 119960710 on July 17, 1996 for the conversion of the 5 outlots (Attachment 2). At the same time, the developer addressed the Forest Conservation requirements for the entire subdivision recorded in 1980. The Forest Conservation Law requirements became applicable to the entire subdivision due to the failure of the previous developer to obtain a sediment control permit. The final forest conservation plan became part of plan 119960710 and was approved in 1996 (Attachment 3). The developer established Category I Conservation Easements on all lots where the forest conservation plan showed areas of forest planting, forest retention or natural regeneration. The easements were recorded in the Montgomery County Land Records in 1997, starting at Liber 15627 and Folio 293 (Attachment 4).

The current property owner, Dany and Karen Smith, are the original property owners and purchased the property in 2001. Within one of the conservation easements is a shed that was erected before 2009. Over the years the property owner was not in compliance with the terms of the conservation easement. In 2009, the Planning Board held an enforcement hearing for the violations at 21627 Ripplemead Drive. The Planning Board determined that the property owners were in violation of the terms of the conservation easement and issued a civil administrative penalty. The property owner appealed the Planning Board's decision to the Court. The Court ruled in favor the Planning Board but remanded the penalty phase back to the Planning Board for reassessment. In the meantime, the easement encroachments continued. The property owner has sought to correct the violation by submitting the amendment to the forest conservation plan to extinguish all conservation easements on site.

Violations

In the October 2009 Notice of Hearing the Planning Department identified the following violations:

1. Grass cutting in a Category I Conservation Easement and supplemental planting area.
2. Shed built in a Category I Conservation Easement and supplemental planting area.

Those violations remain today.

Proposed Amendment

On March 26, 2019 a forest conservation plan amendment was accepted by the Planning Department. The existing Final Forest Conservation Plan for the subject property shows 15,675 square feet (0.36 acres) of existing conservation easements on the subject property. The applicant is proposing to remove all conservation easements. The submitted forest conservation plan is attached (Attachment 5). The property owner will need to acquire 0.72 acres of forest mitigation credit (31,350 square feet) in an approved off-site forest conservation bank to compensate for the conservation easement removal.

PLANNING BOARD REVIEW AUTHORITY

The Planning Board approved a Forest Conservation Plan for the entire subdivision with Preliminary Plan No. 119960710 "Fairhill". Lot 9, Block A was previously recorded and not part of the preliminary plan but was included in the forest conservation plan. The Planning Board has authority under the Forest Conservation Law (Chapter 22A of the Montgomery County Code) to review amendments to approved plans. In addition, the Planning Board has directed Staff to bring all requests for modifications to conservation easements to be considered in a public forum before them.

STAFF REVIEW AND RECOMMENDATION

The Property Owner proposes to remove 0.36 acres of conservation easements from 21627 Ripplemead Drive (Lot 9, Block A on Plat 13190). The property owner will mitigate for the removal of the conservation easement offsite in a forest mitigation bank. As a result, the property owner will need to acquire 0.72 acres of forest mitigation bank credits to mitigate for the removal of the two conservation easements on the property. The proposal is consistent with the Planning Board's policy of requiring 2 square feet of offsite forest planting for every 1 square foot of conservation easement released. Staff recommends approval of Forest Conservation Plan 11996071C with the conditions identified on page 2 of the staff report.

NOTIFICATION and OUTREACH

The Subject Property was properly signed with notification of the upcoming Preliminary Plan Amendment prior to the acceptance of the application. Staff received no correspondence at the time of this staff report.

ATTACHMENTS

1. Record plat 13190 - Fairhill
2. Planning Board Opinion for Preliminary Plan 1-96071 – July 17, 1996
3. Approved Forest Conservation Plan 1-96071
4. Category I Conservation Easement Agreement, Liber 15627 Folio 293
5. Submitted Forest Conservation Plan Amendment 11996071C