



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

MCPB No. 20-005

Preliminary Forest Conservation Plan No. MR2020010

Project Name: John F. Kennedy High School

Date of Hearing: January 30, 2020

MAR 03 2020

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 5, 2019, the Montgomery County Department of Education ("Applicant"), filed an application for approval of a Preliminary Forest Conservation Plan for 1901 Randolph Road, Silver Spring, Maryland ("Subject Property") associated with the expansion of the John F. Kennedy High School, with a three-story building addition on the southwest corner of the existing school building to allow for an increased enrollment capacity of 2,221 students and associated site improvements, located within the 1989 *Communities of Kensington-Wheaton Master Plan* ("Master Plan") area; and

WHEREAS, Applicant's Preliminary Forest Conservation Plan application was designated Forest Conservation Plan No. MR2020010, John F. Kennedy High School ("Preliminary 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 January 17, 2020 setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on January 30, 2020, 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, at the hearing, the Planning Board voted to approve the Application subject to certain conditions, on motion of Commissioner Fani-Gonzalez, seconded by Commissioner Verma, with a vote of 5-0; Commissioners Anderson, Cichy, Fani-Gonzalez, Patterson and Verma voting in favor.

Approved as to
Legal Sufficiency:

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVED Preliminary Forest Conservation Plan No. MR2020010 on the Subject Property, subject to the following conditions:¹

1. Prior to issuance of a Sediment Control Permit from the Department of Permitting Services, the Applicant must obtain approval of a Final Forest Conservation Plan from the Planning Department. The Final Forest Conservation Plan must be consistent with the approved Preliminary Forest Conservation Plan.
2. The Final Forest Conservation Plan must show the native shade trees as planting mitigations for the loss of specimen trees requiring a variance removed at the rate of one inch replaced for every four inches (d.b.h.) removed, using planting stock no smaller than three inches caliper, prior to issuance of Use and Occupancy Certificate.
3. All trees credited towards variance mitigation must be at least five (5) feet away from any structures, stormwater management facilities, PIEs, PUEs, ROWs, utility lines, and/or their associated easements, as shown on the Certified Preliminary Forest Conservation Plan.
4. 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.
5. Prior to the start of any clearing, grading, or demolition on the property, the applicant must record a Category I Conservation Easement over all areas of forest retention, forest planting and environmental buffers as specified on the approved Final Forest Conservation Plan. The 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.
6. At the direction of the M-NCPPC forest conservation inspector, the applicant must install permanent conservation easement signage along the perimeter of the conservation easements. Exact locations of the signs to be determined by the M-NCPPC forest conservation inspector to best define the limits of the conservation easement.
7. Prior to any demolition, clearing, grading or construction on the Property, the Applicant must record 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 3.57 acres of mitigation credit. Off-site requirement may be met by purchasing from a mitigation bank elsewhere in the County if forest is unavailable for purchase within the Northwest Branch Creek watershed.

¹ For the purpose of these conditions, the term "Applicant" shall also mean the developer, the owner, or any successor in interest to the terms of this approval.

8. The Limits of Disturbance on the Final Sediment Control Plan must be consistent with the final Limits of Disturbance as shown on the approved Final Forest Conservation Plan.
9. Prior to any land disturbing activities, the Applicant must hold a pre-construction meeting with the M-NCPPC Forest Conservation Inspector.
10. The Applicant must schedule the required site inspections by M-NCPPC staff per Section 22A.00.01.10 of the Forest Conservation Regulations.
11. Prior to certification of the plans, coordinate with M-NCPPC Staff on minor corrections and clarifications as necessary.
12. Copies of the Final Forest Conservation Plan and recorded Category I Conservation Easement must be kept at John F. Kennedy High School and given to the school maintenance staff(s) to ensure compliance with conditions of the Final Forest Conservation Plan.

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 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.

A Natural Resource Inventory/Forest Stand Delineation (NRI/FSD No. 420200090) for the Subject Property was approved on September 6, 2019. The Subject Property contains a total of 0.53 acres of forest. A total of 1.36 acres of forest will be cleared, 2.17 acres of forest will be retained, and a total of 3.57 acres of forest is required for reforestation and afforestation. The Application will satisfy the planting requirement of 3.57 acres by purchase of credits in an approved off-site forest bank within the same watershed.

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 of one (1) tree and CRZ impact to one (1) tree that are considered high priority for retention as identified in the Staff Report. In accordance with Section 22A-21(a), the Applicant has requested a Variance and the Board agreed that the Applicant would suffer unwarranted hardship by being denied reasonable and significant use of the Subject Property without the Variance.

The Board made 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 this variance will not confer a special privilege on the Applicant as removal of and disturbance to the specified trees is due to the need for a high school with adequate student capacity to serve the public, and to improve circulation and parking on-site while also minimizing impacts to the forest.

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

The requested variance is not based on conditions or circumstances that are the result of actions by the Applicant. The Application has minimized disturbance and designed the building addition and parking improvements to maximize forest retention.

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 requested variance is a result of the location of trees near the existing parking areas on the Subject Property and the impacts associated with the school building addition, and not a result of characteristics or conditions 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.*

The variance will not violate State water quality standards or cause measurable degradation in water quality. The specimen trees

requested for impact and removal are not located within a buffer for any water feature, wetland or special protection area. The Application includes improvements to the existing parking and on-site stormwater management system, whereas the result is impact to two (2) specimen trees. Water quality will improve with the approved development and State water quality standards will not result in measurable degradation in water quality. Therefore, the Planning Board concurs that the Application will not violate State water quality standards or cause measurable degradation in water quality. Mitigation for the Variance is at a rate that approximates the form and function of the Protected Tree removed. The Board approved replacement of the Protected Tree at a ratio of approximately one inch for every four inches removed. The individual replacement trees will be a minimum of 3-inch caliper in size and 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 MAR 03 2020 (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 Patterson, seconded by Commissioner Verma, with Chair Anderson, Vice Chair Fani-González, and Commissioners Patterson and Verma voting in favor of the motion, and Commissioner Cichy absent, at its regular meeting held on Thursday, February 20, 2020, in Silver Spring, Maryland.



Casey Anderson, Chairman
Montgomery County Planning Board