



MR2020029, Boyds Transit Center: Preliminary Forest Conservation Plan

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Description

**A. Boyds Transit Station
Preliminary Forest Conservation Plan No.
MR2020029**

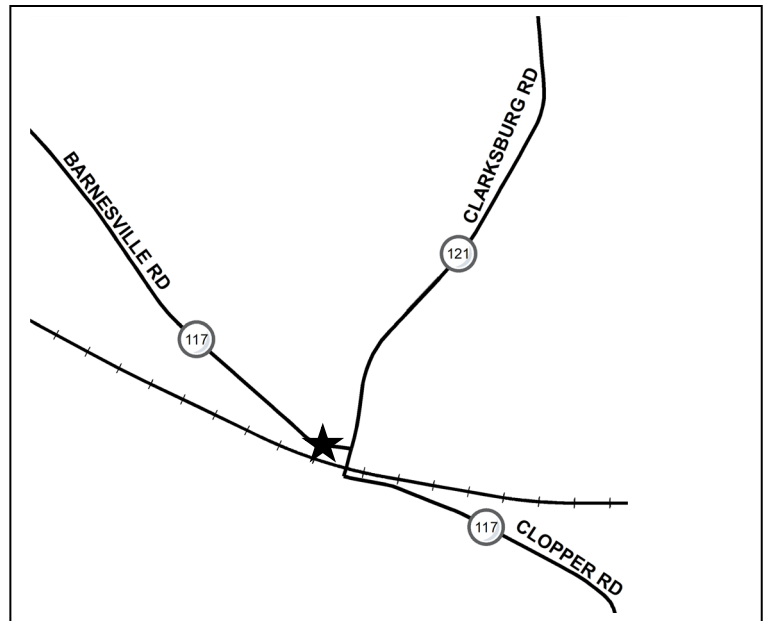
Construction of site improvements at the existing MARC Rail Station in Boyds, Maryland. Improvements include a parking lot, a bus drop-off, site access improvements on Barnesville Road, and construction of sidewalk within the site and along Barnesville Road. Site is a 1.16-acre property in the CRN zone. MARC Rail Communities Sector Plan (2019).

Recommendation: Approval with conditions

Applicant: Montgomery County Department of Transportation (MCDOT)

Submittal Date: August 4, 2020

Review Basis: Chapter 22A



Summary

- Staff recommends **approval with conditions.**
- The Boyds Transit Station project includes review of the the Preliminary Forest Conservation Plan and the Mandatory Referral. This memorandum covers Staff review and recommendations for the Forest Conservation Plan. The Planning Board’s action on the Forest Conservation Plan is regulatory and binding. The review and recommendations for the Mandatory Referral are covered in a separate memorandum.
- MCDOT proposes to construct site improvements at the existing MARC Rail station in Boyds, Maryland. Improvements include parking lot, bus drop-off, site access improvements on Barnesville Road, construction of a sidewalk within the site and along Barnesville Road. The Application is for a Preliminary Forest Conservation Plan.

CONDITIONS

A. Approval of the Preliminary Forest Conservation Plan, subject to the following conditions:

1. Applicant must submit a Final Forest Conservation Plan (“FFCP”) to M-NCPPC Staff for review and approval prior to issuance of a Sediment Control Permit.
2. The FFCP must be consistent with the final approved PFCP.
3. Prior to the initial planting acceptance inspection by the M-NCPPC Forest Conservation Inspection Staff, the Applicant must install permanent conservation easement signage along the perimeter of the conservation easements as shown on the FCP or as determined by the Forest Conservation Inspection Staff.
4. The Applicant must provide mitigation for the loss of trees per the approved variance, total mitigation of 45 caliper inches, in the form of fifteen (15) native canopy trees with a minimum size of three (3) caliper inches. The trees must be clearly shown and labelled on the Final Forest Conservation Plan. The mitigation trees must be planted outside of any right-of-way, or utility easements, including stormwater management easements and not counted as part of the screening requirement under Division 6.5 of the Montgomery County Zoning Ordinance. The mitigation trees must be installed and accepted by M-NCPPC within one year of construction completion.
5. Prior to any demolition, clearing, grading or construction for this development Application, the Applicant must record in the Land Records an M-NCPPC approved Certificate of Compliance to use an M-NCPPC approved off-site forest bank to satisfy the reforestation requirement for a total of 0.20 acres of mitigation credit.
6. The limits of disturbance shown on the final Sediment Control Plan must be consistent with the limits of disturbance shown on the Final Forest Conservation Plan.
7. 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.

PROJECT DESCRIPTION

MCDOT proposes to construct site improvements at the existing MARC Rail station in Boyds, Maryland. Improvements include parking lot, bus drop-off, site access improvements on Barnesville Road and construction of a sidewalk within the site and along Barnesville Road.

The Planning Board’s actions on the Preliminary Forest Conservation Plan is regulatory and binding. The Planning Board must act on the Preliminary Forest Conservation Plan before it finalizes its recommendations on the Mandatory Referral.

SITE DESCRIPTION

The project site is in Boyds, at the SW corner of Barnesville Road and Clarksburg Road. The properties included in this Application are zoned CRN. The proposed development tract area is 1.16 acres comprised of Parcel 157 and 155 ("Property") shown in Figures 1 and 2. Temporary impacts off-site total 0.2447 acres for Parcel 113, CSX right-of-way, and road right-of-way.

The project area, located within the *MARC Rail Communities Sector Plan (2019)*, does not contain forest but does contain two hedge rows, mostly of trees identified as invasive species in Montgomery County. Many of the trees in the hedgerows are early successional, while two (2) specimen sized trees (30" DBH or greater) were identified. The site drains to the southern portion of the site. There are no rare threatened or endangered species identified on site. There are no streams, wetlands or floodplains present on site.

The development site is adjacent to the Boyds- White Ground Historic District-MHIC 18-8-1 to the west and south. One National Register of Historic Places (NRHP) eligible building, known as Hoyles Mill, and another existing building, are proposed to be preserved and are within the development parcels 157 and 155. The site is adjacent to a CSX Right of way and the Metropolitan Branch of the B&O Railroad NRHP eligible resource.

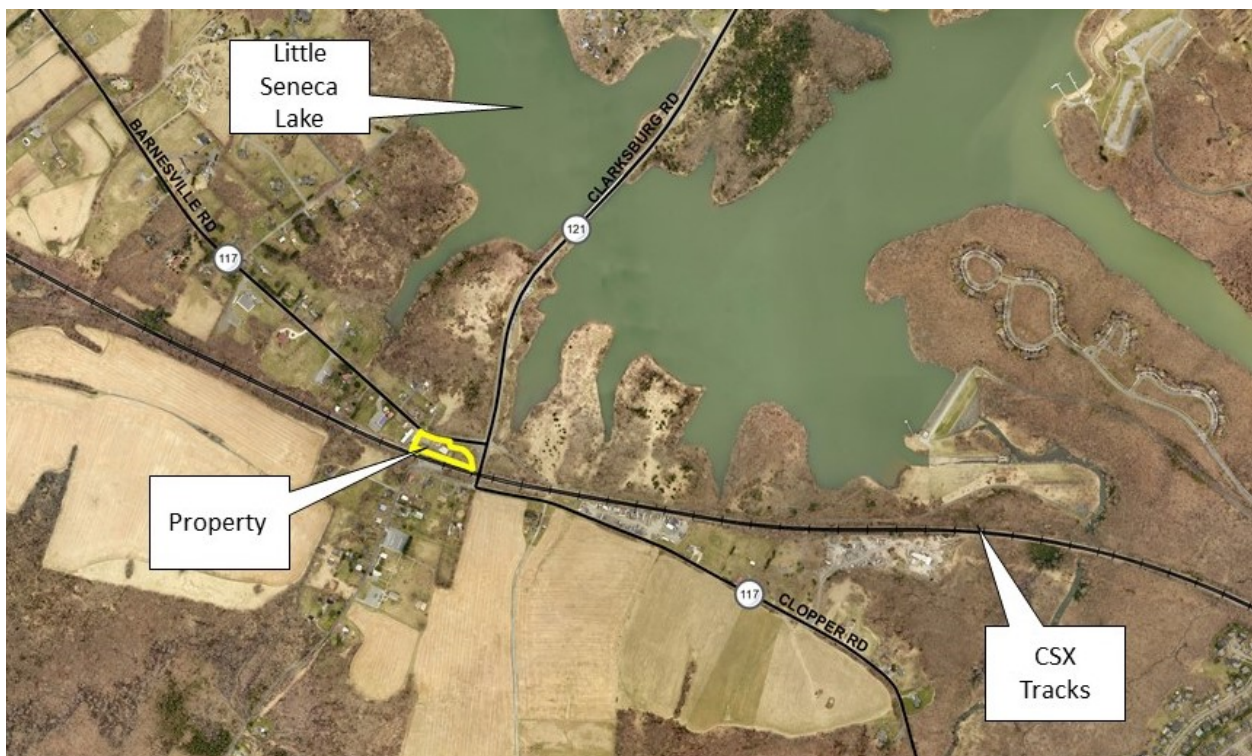


Figure 1. Project Location and Surrounding Area



Figure 2. 2019 Aerial Photograph of Property

A. FOREST CONSERVATION PLAN ANALYSIS AND FINDINGS

The Application meets all applicable requirements of Chapter 22A of the Montgomery County Forest Conservation Law.

Review for Conformance to the Forest Conservation Law

The Application is subject to the Montgomery County Forest Conservation Law (Chapter 22A of the County Code) under Section 22A-4(d) as a project by “a government entity subject to a mandatory referral or a park development plan on a tract of land 40,000 square feet or larger...” The Property included in the Preliminary FCP Application is approximately 1.16 acres in size.

Environmental Guidelines

A Natural Resources Inventory and Forest Stand Delineation (NRI/FSD) #420200900 for the Property was approved by Staff on February 20, 2020. The Property is in the Little Seneca Creek watershed Use Class I-P waters. There are no streams, wetlands, or environmental buffers on or affecting the Property. The Application meets all applicable requirements of the Environmental Guidelines.

Preliminary Forest Conservation Plan

The Application is for 1.36 acres of land, including some off-site work. With no forest clearing, and by meeting the afforestation threshold, the project results in a 0.20-acre planting requirement.

The Applicant proposes to meet the 0.20-acre forest planting requirement through purchasing credits in an off-site forest conservation bank. The Application meets all applicable requirements of Chapter 22A of the Montgomery County Forest Conservation Law.

Variance Request - The Applicant submitted a variance request in a letter dated June 17, 2020 (Attachment B). The Applicant proposes to remove ten (10) trees. One tree is 30" DBH and greater, and nine trees are less than 30" DBH but considered high priority within historic area. The project impacts eleven (11) trees that are considered high priority for retention under Section 22A-12(b)(3) of the County Forest Conservation Law. One of the high priority for retention trees is greater than 30" DBH and 10 of the high priority for retention trees is less the 30" DBH. This variance request includes the historic area variance trees that are within the project area and adjacent to the LOD.

Trees to be removed:

Tree # on FCP Doc	Common Name	DBH (inches)	Condition
4	Virginia Red Cedar	9.0	Good
8	Princess Tree	22.0	Poor
9	Princess Tree	28.0	Poor
10	Tree of Heaven	13.0	Poor
14	Princess Tree	23.0	Poor
15	Boxelder	22.5	Poor
17	Black Locust	18.0	Poor
70	Princess Tree	35.0	Poor
PP	Black Locust	4.0	Fair
QQ	Tree of Heaven	2.5	Poor

Trees to be impacted:

Tree # on FCP Doc	Common Name	DBH (inches)	Condition
1	Black Locust	23.0	Fair
5	Black Locust	22.0	Poor
7	Black Cherry	11.0	Poor
11	Tree of Heaven	8.0	Poor
12	Tree of Heaven	10.0	Poor
13	Tree of Heaven	12.0	Poor
18	Princess Tree	17.0	Poor
20	Princess Tree	26.0	Poor
22	Tree of Heaven	9.0	Poor
46	Tree of Heaven	34.0	Poor
48	Princess Tree	28.0	Fair/Poor

Unwarranted Hardship Basis

Per Section 22A-21, a variance may only be granted if the Planning Board finds that leaving the requested trees in an undisturbed state would result in unwarranted hardship, denying the Applicant reasonable and significant use of its property. The tree removals have been minimized by design of the layout, ensuring the preservation of as many variance trees as possible.

Due to the accessibility of the existing buildings, the spatial requirements for a bus station and parking, clear zones for motor vehicle turning movements, and topography, the removal and impact to the variance trees has already been minimized.

If MCDOT is not allowed to impact the trees, the proposed improvements could not be achieved, and the project could not be accomplished. As such, this would cause an unwarranted hardship to the community that it serves.

Section 22A-21 of the County Forest Conservation Law sets forth the findings that must be made by the Planning Board or Planning Director, as appropriate, in order for a variance to be granted.

Variance Findings

Staff has made the following determination based on the required findings that granting of the requested variance:

1. *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 removal of the three trees is due to the location of the trees and is a necessary site design requirement. Therefore, Staff believes that the granting of this variance is not a special privilege that would be denied to other applicants.

2. *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 which are the result of actions by the Applicant. The requested variance is based upon the existing site conditions, the necessary design requirements, and the need to retain the existing historic structures on this site.

3. *Is not based on a condition relating to land or building use, either permitted or non-conforming, on a neighboring property.*

The requested variance is a result of the existing conditions and not as a result of land or building use on a neighboring property.

4. *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. Mitigation for the removal of these trees by planting larger caliper trees on-site will be conditioned. The mitigation trees will eventually have the same form and function as the trees to be removed and could result in greater canopy coverage that currently exists.

Additionally, stormwater requirements to the maximum extent possible are being met, improving stream health and allowing for improved ecological benefits in the area. Therefore, Staff concurs that the project will not violate State water quality standards or cause measurable degradation in water quality.

Mitigation for Trees Subject to the Variance Provision

There is a total of 177.0 inches of DBH of variance trees outside of forest proposed for removal in this variance request. The Applicant will provide mitigation for the specimen tree loss by replacing the total number of DBH removed with one-quarter of the number of inches replanted. This results in a total mitigation of 45 inches of replanted trees. In this case, the Applicant will plant 15 3" caliper overstory trees native to the Piedmont Region of Maryland on the Property outside of any rights-of-way and outside of any utility easements. Additionally, no mitigation is required for trees that are impacted, but retained.

County Arborist's Recommendation on the Variance

In accordance with Montgomery County Code Section 22A-21(c), the Planning Department is required to refer a copy of the variance request to the County Arborist in the Montgomery County Department of Environmental Protection for a recommendation prior to acting on the request. The request was forwarded to the County Arborist on September 3, 2020. To date, M-NCPPC staff has not received a response from the County Arborist.

Variance Recommendation

Staff recommends approval of the variance request.

Stormwater Management Concept

Stormwater management goals will be met via permeable paving and includes a partial waiver of the onsite stormwater management requirements. Montgomery County Department of Permitting Services in their approval letter date March 23, 2020 (Attachment C) has found the stormwater concept acceptable. Staff has reviewed the stormwater management concept and the approval letter and has incorporated them into the review.

CONCLUSION

Staff recommends the Planning Board approve the Preliminary Forest Conservation Plan with conditions specified above.

ATTACHMENTS

- Attachment A – Preliminary Forest Conservation Plan
- Attachment B – Tree Variance Request
- Attachment C – DPS Stormwater Management Plan Approval