



**Congressional Country Club, Final Forest Conservation Plan Amendment No. CBA-1206**

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**Completed: 01/15/21**

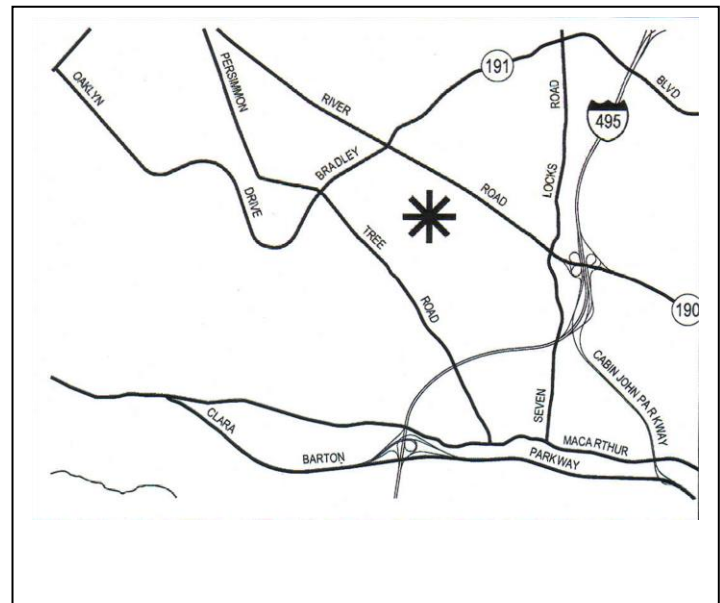
**Description**

**Congressional Country Club Final Forest Conservation Plan Amendment No. CBA-1206**

Request to amend the Final Forest Conservation Plan to construct a Performance Center, modify the Arrival Area of the Clubhouse, and stream stabilization work; located at 8500 River Road, in the southeast quadrant of the intersection of River Road (MD 190) and Bradley Blvd. (MD 191); RE-2/R-200 Zones; 357.80 acres within the 2002 Potomac Subregion Master Plan.

**Staff Recommendation:** *Approval with conditions*

**Applicant:** Congressional Country Club  
**Accepted Date:** September 15, 2020  
**Review Basis:** Chapter 22A



**Summary**

- Staff recommends **Approval with conditions**.
- Application to amend the approved Final Forest Conservation Plan to allow for the removal of on-site Category II conservation easements, removal and impacts to trees subject to the Tree Variance provision of the Forest Conservation Law and impacts within the on-site stream buffer for stream stabilization work to allow for the construction of a new Performance Center/Training Facility, modifications to the Arrival Area of the Clubhouse and to stabilize an eroding stream.
- The Application includes removal of 1.07 acres of Category II conservation easements.
- The Application includes on-site and off-site mitigation to comply with Chapter 22A, Forest Conservation Law.
- The Board of Appeals for Montgomery County granted an Administrative Modification to the Special Exception CBA-1206-G to allow the construction of the Performance Center/Training Facility in December 2019 and for the modifications to the Arrival Area in April 2020.
- The Application meets the requirements of Chapter 22A, Forest Conservation Law.
- To date, no community correspondence has been received.

## **SECTION 1 - RECOMMENDATION AND CONDITIONS**

Staff recommends approval of Final Forest Conservation Plan Amendment CBA-1206, Amendment #7, subject to the following conditions:

1. The Applicant must schedule the required site inspections by M-NCPPC Forest Conservation Inspection Staff per Section 22A.00.01.10 of the Forest Conservation Regulations.
2. 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 Inspection Staff.
3. Prior to any demolition, clearing, grading or construction for this development Application, the Applicant must record an M-NCPPC approved Certificate of Compliance in an M-NCPPC approved off-site forest bank within the Cabin John Creek watershed to satisfy the reforestation requirement for a total of 1.07 acres of mitigation credit. The off-site requirement may be met by purchasing credits from a mitigation bank elsewhere in the County, subject to Staff approval, if forest mitigation bank credits are not available for purchase within the Cabin John Creek watershed. If there are no credits available for purchase from a mitigation bank, the Applicant may satisfy the 1.07 acre mitigation requirement via fee-in-lieu payment to M-NCPPC.
4. Prior to the start of any demolition, clearing, grading or construction for the development Application, the Applicant must record a new Category II Conservation Easement reflecting the entire easement area including the area that is not authorized to be removed. The new easement agreement must be approved by the M-NCPPC Office of the General Counsel and must be recorded in the Montgomery County Land Records by deed prior to recordation of the deed of abandonment for the existing conservation easement. The entirety of the existing easement remains in full force and effect until the abandonment document and the revised easement have been approved and recorded in the Montgomery County Land Records.
5. Prior to the start of any demolition, clearing, grading, or construction for the development Application, the Applicant must submit abandonment documents to remove the Category II conservation easements that are being extinguished. The abandonment documents 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 documents from M-NCPPC, the Applicant must record the abandonment documents in the Montgomery County Land Records.
6. The Applicant must plant the variance tree mitigation plantings on the Subject Property with a minimum size of 3 caliper inches totaling twenty-four 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 Inspection Staff.
7. Within the first planting season following the release of the first Sediment and Erosion Control Permit from the Montgomery County Department of Permitting Services for the Subject Property, or as directed by the M-NCPPC Forest Conservation Inspection Staff, the Applicant must install the variance tree mitigation plantings as shown on the approved Final Forest Conservation Plan.
8. 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.

## SECTION 2 - SITE LOCATION AND EXISTING CONDITIONS

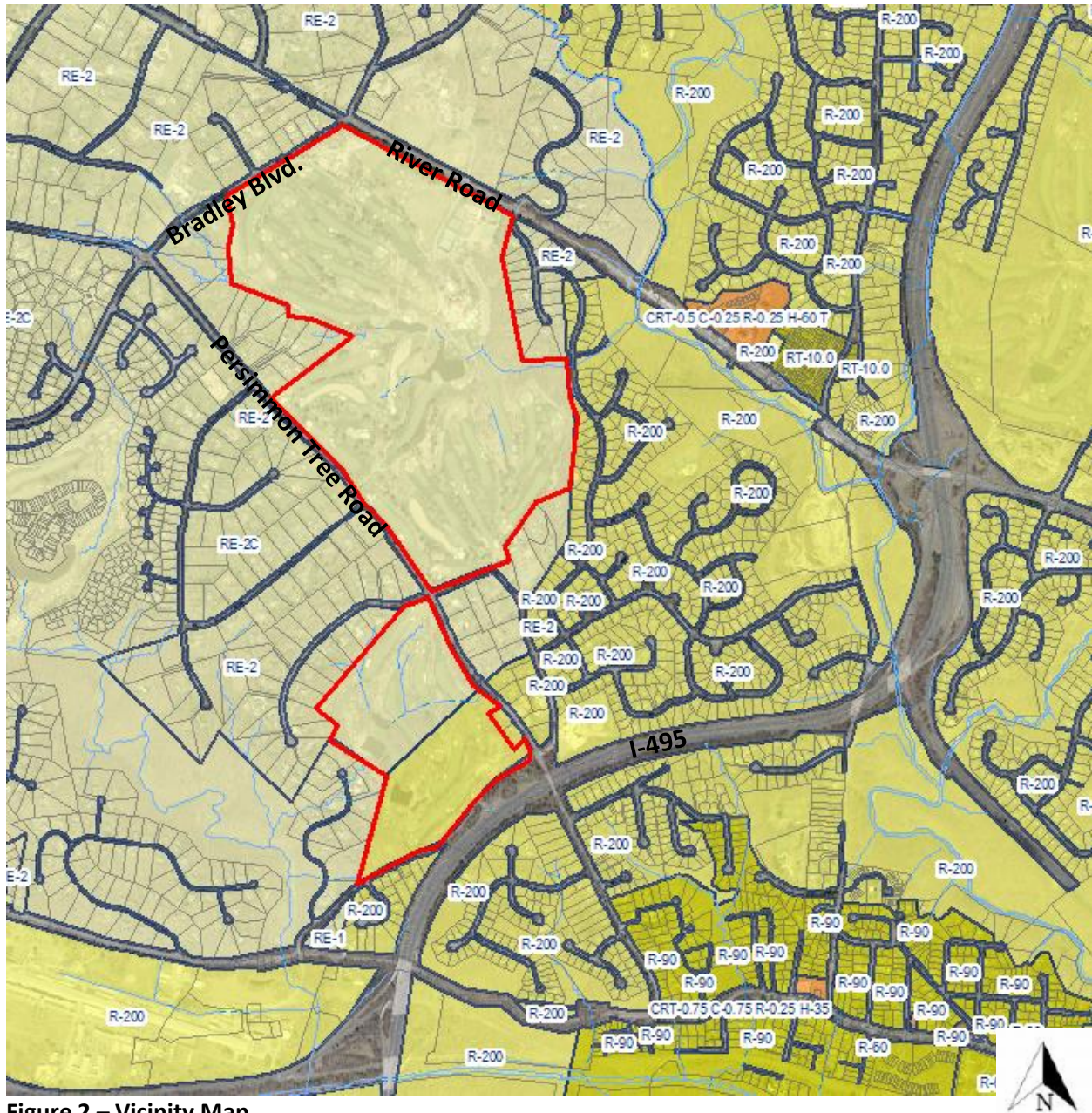
### Site Location and Vicinity

Congressional Country Club (“Club”) is a 357.80-acre private country club and golf course identified as Parcels A and B and zoned RE-2/R-200 (“Property” or “Subject Property”). It is located at 8500 River Road, in the southeast quadrant of the intersection of River Road (MD 190) and Bradley Boulevard (MD 191), in Bethesda (Figure 1). The Property is comprised of Parcel A and Parcel B, with Persimmon Tree Road dividing the two parcels. The Property fronts onto River Road, Bradley Boulevard, and Persimmon Tree Road, with residential lots zoned RE-2 and RE-2C located to the north and west, and lots zoned R-200 to the south and east (Figure 2). The Property is located within the 2002 *Potomac Subregion Master Plan* area and within the Cabin John Creek Watershed, which is classified by the State of Maryland as Use I-P waters.



Figure 1 - The Property (Parcel A and Parcel B)





**Figure 2 – Vicinity Map**

### Existing Conditions

The Property is currently developed with two 18-hole golf courses, tennis courts, pools, a club house, and other recreational amenities for the Country Club's members, as well as structures associated with the maintenance of the facilities. The two golf courses are known as the Blue Course and the Gold Course. A tributary stream to Cabin John Creek enters the Property near the northwestern corner and flows in a southeasterly direction along the property boundary before entering a series of ponds that are centrally located on the site. After exiting the ponds, the stream flows in a westerly direction before leaving the Property and ultimately joining the mainstem of Cabin John Creek within the nearby Cabin John Stream Valley Park. The Property contains existing Category I and Category II conservation easements, established as part of previous approvals (Figure 3).





Figure 3 – Existing Category I and Category II Conservation Easements

### SECTION 3 - PRIOR APPROVALS AND PROPOSED AMENDMENT

#### Prior Approvals for Special Exception CBA-1206

Special Exception CBA-1206 was originally approved in February 1962 and has since been amended nine times by the Board of Appeals, the most recent amendments to CBA-1206-G were granted in December 2019 for the construction and operation of a Performance Center/Training Facility and in April 2020 for modifications to the

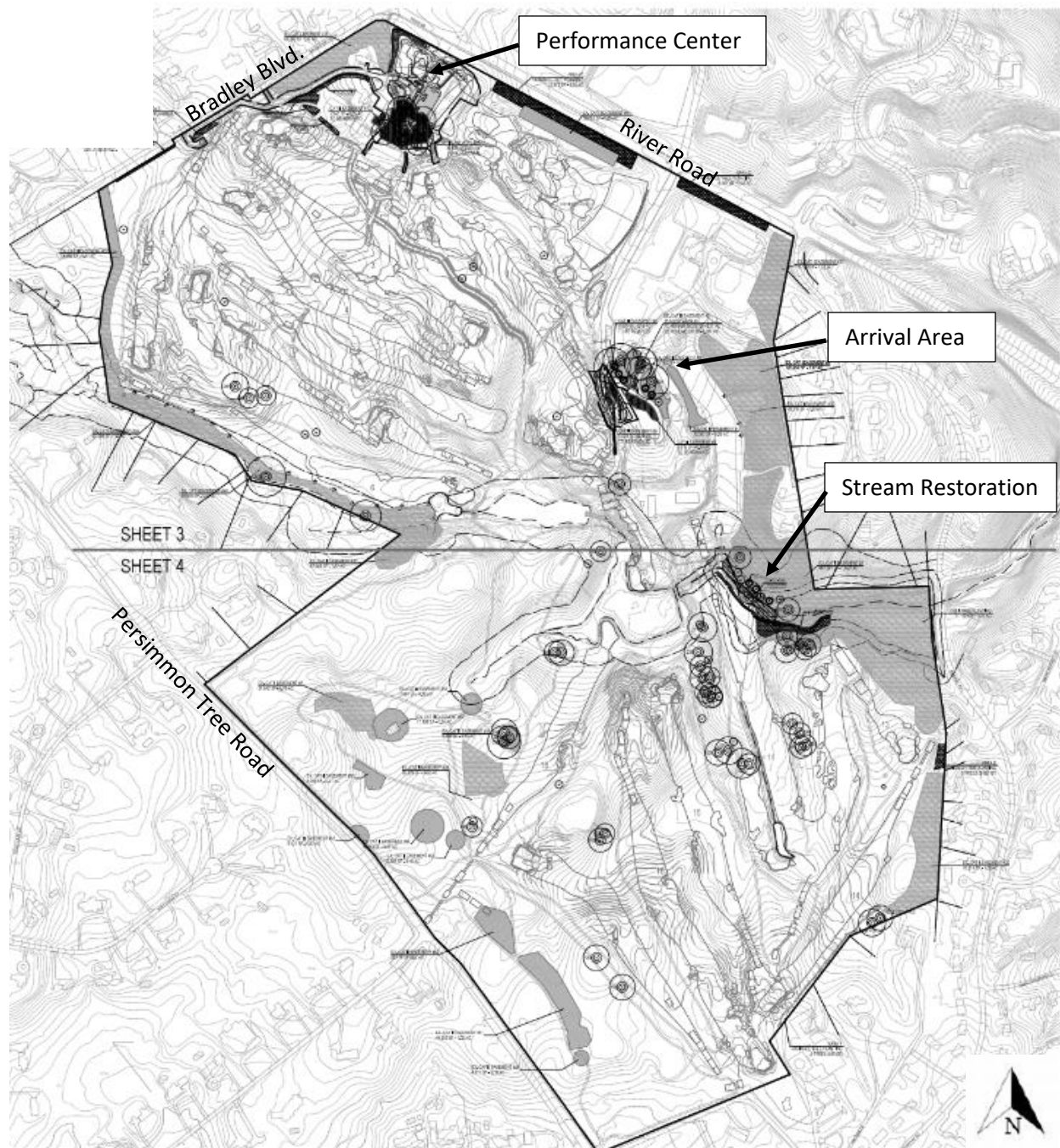
Arrival Area (Attachments A and B). The most recent comprehensive Forest Conservation Plan amendment, Final Forest Conservation Plan CBA-1206, was granted by the Planning Board on July 24, 2019. The 2019 amendment was designated Amendment #5 and constituted a major redesign to the Blue Course resulting in removals of conservation easements and mitigation for those removals. Additionally, Amendment #5 corrected prior errors in the forest conservation worksheet. Final Forest Conservation Plan Amendment #6, approved administratively on July 6, 2020 followed closely behind to address necessary revisions identified in the field by the M-NCPPC forest conservation inspector. Two subsequent Forest Conservation Plan approvals were granted; on December 17, 2015, an amendment for the construction of new tennis courts and a small parking area located within non-forested areas and outside of any conservation easements was approved. This approval included the removal of one specimen tree under the Tree Variance provision, and mitigation in the form of tree replacement was provided on-site. On January 17, 2019, a Forest Conservation Plan of Compliance Forest Conservation Plan No. CBA 1206 was approved in response to a sediment control violation on the Property. The violation included the removal of tree canopy but did not affect any trees protected by the approved Forest Conservation Plan, including trees located within Category I or Category II conservation easements or any significant or specimen trees.

The current Forest Conservation Plan approval includes a Forest & Tree Management Plan that was approved in 2013. The purpose and goal of this Management Plan was to “establish conservation and best management practices to be followed by Congressional Country Club (“Club”) relative to the maintenance, removal and/or replacement of individual and specified specimen trees located on the Club’s property, some of which are within conservation easement areas...”. This Management Plan allows for measures to be taken under the direction of the M-NCPPC forest conservation inspector that allow for additional maintenance of the easement areas as well as special provisions for temporary easement encroachment during golf tournaments.

#### **Current Application for Final Forest Conservation Amendment CBA 1206 (Amendment #7)**

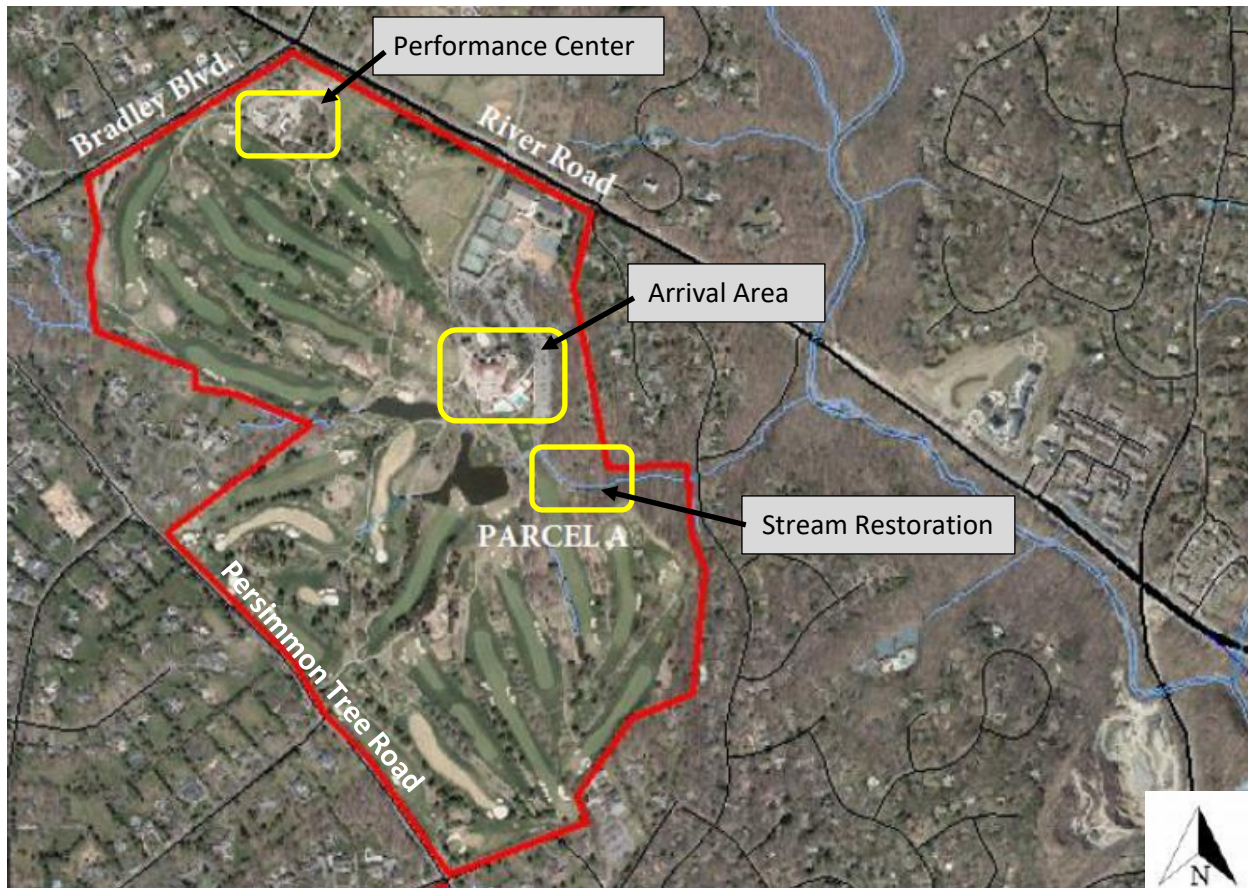
Congressional Country Club (“Applicant”) filed an application to amend the approved Final Forest Conservation Plan to allow for the removal of existing Category II conservation easements, removal and impacts to the critical root zones of trees subject to the Tree Variance provision of the Forest Conservation Law, and disturbance within the stream buffer (“Application”) (Figure 4 and Attachment C). This amendment includes construction of a new Performance Center/Training Facility, modifications to the existing Arrival Area, and stabilization of an existing eroding stream. These activities are located on Parcel A (Figure 5). This Application does not include any changes to the Blue Course on Parcel A or the Gold Course, which is located on Parcel B. The proposed changes to the plan requested in this Application are outlined and discussed in more detail below.





**Figure 4 – Final Forest Conservation Plan Amendment #7**





**Figure 5 – Proposed Activities**

The Application proposes to construct a new Performance Center/Training Facility to consolidate all training activities into one building and to allow the training to be located inside and occur year round. The new Performance Center will be located in the northwest corner of the Property, fronting the River Road and Bradley Blvd. intersection, where the existing maintenance and storage facility buildings are located. This construction necessitates the removal of two existing structures and a reorganization of this portion of the maintenance complex resulting in a change to the layout and paved areas. These activities will result in the removal of 0.80 acres of existing onsite Category II conservation easement that will be mitigated for at an offsite location.

Modifications to the existing Arrival Area at the Clubhouse includes the reorganization of the golf cart parking, changes to the vehicular circulation around the center island to facilitate traffic flow, and the addition of five parking spaces to the bag drop-off area. These improvements will realign the landscape islands and update pedestrian and golf cart circulation. These activities will result in the removal of 0.27 acres of Category II conservation easement that will be mitigated for at an offsite location.

The Application also includes approximately 500 linear feet of stream restoration to restore and stabilize eroding banks within the stream located on the southern side of the Clubhouse. All of the stream restoration work will be based on the standard design guidelines included in Maryland's Waterway Construction Guidelines by the Maryland Department of the Environment's Water Management Administration. This stream is located within an existing Category I conservation easement and will require temporary disturbance to allow the work to occur. The area will then be stabilized and replanted as needed.

## SECTION 4 – ANALYSIS AND FINDINGS

### Forest Conservation

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

Typically, after a 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 Application proposes to remove a total of 1.07 acres of Category II conservation easement to allow for the construction of the new Performance Center and associated reconfiguration of the maintenance facility, and for the modifications in the Arrival Area of the Clubhouse (Table 1). As conditioned in this report, the Category II conservation easement will be mitigated for at an approved off-site location to replace the area of conservation easement removed. The stream restoration work will require temporary disturbance in the stream buffer and existing Category I conservation easement. This easement area will be replanted as necessary and no additional mitigation is recommended.

Table 1. Category II Conservation Easement Removal

<b>Affected Easement</b>	<b>Disposition</b>	<b>Activity</b>
Category II Easement #2	Remove 0.01 acres	Arrival Area Modifications
Category II Easement #4	Remove 0.16 acres	Arrival Area Modifications
Category II Easement #5	Remove 0.06 acres	Arrival Area Modifications
Category II Easement #6	Remove 0.04 acres	Arrival Area Modifications
Category II Easement #11	Remove 0.75 acres	Performance Center
Category II Easement #12	Remove 0.05 acres	Performance Center
<b>Total</b>	<b>Remove 1.07 acres</b>	-----

### *Forest Conservation Tree Variance*

Section 22A-12(b)(3) of the Montgomery County Forest Conservation Law provides criteria that identify certain individual trees and other vegetation as high priority for retention and protection. The law requires that there be no impact to: trees that measure 30 inches or greater DBH; are part of an historic site or designated with an historic structure; are designated as national, State, or County champion trees; are at least 75 percent of the diameter of the current State champion tree of that species; or trees, shrubs, or plants that are designated as Federal or State rare, threatened, or endangered species. Any impact to high priority vegetation, including disturbance to the critical root zone (CRZ) requires a variance. An applicant for a variance must provide certain written information in support of the required findings in accordance with Section 22A-21 of the County Forest Conservation Law. This Application to amend the Final Forest Conservation Plan requires impacts to trees identified as high priority for retention and protection (Protected Trees), therefore, the Applicant has submitted a variance request for these impacts. Staff recommends that a variance be granted, and mitigation be required.

*Variance Request* – The Applicant submitted a variance request in a letter received by the Montgomery County Planning Department in August 2020, for the impacts/removal of trees (Attachment D). The Applicant wishes to obtain a variance to remove eight Protected Trees that are 30 inches or greater, DBH, and considered a high priority for retention under Section 22A-12(b)(3) of the County Forest Conservation Law. These trees are described in detail in the Applicant’s letter and shown graphically on the Forest

Conservation Plan. The Applicant also proposes to impact, but not remove, three Protected Trees that are considered high priority for retention under Section 22A-12(b)(3) of the County Forest Conservation Law. Details of the Protected Trees to be affected but retained are described in detail in the Applicant's letter and shown graphically on the Forest Conservation Plan. The Protected Trees included in the Tree Variance Request are listed in Tables 2 and 3 and shown graphically in Figures 6 and 7.

Unwarranted Hardship Basis – Per Section 22A-21, a variance may only be considered if the Planning Board finds that leaving the Protected Trees in an undisturbed state would result in an unwarranted hardship, denying an applicant reasonable and significant use of the Property. The Applicant contends that an unwarranted hardship would be created due to existing conditions on the Property that have evolved over time since the Property was originally developed, and the needs and expectations of the current use of the Property.

The Protected Trees are located throughout the Property and those affected by the Application are located adjacent to existing developed portions of the Property, including the maintenance facilities and the clubhouse, and adjacent to the existing streams. The Property is currently developed for use as a country club and golf course having received the Special Exception approval in 1962. This Application to amend the approved Final Forest Conservation Plan includes the addition of a Performance Center that will allow the members of the club to utilize the training facility year-round. It also includes improvements to the existing arrival area for the clubhouse. There is an expectation that the current use of the Property may be maintained and upgraded. Due to the already developed nature of the Property, there is limited area available for new construction. In addition, the location of the Performance Center and its relation to the proposed driving range and practice area was strategically chosen based on the current design and layout of the course. In order to provide safe and effective practice, the teeing ground must provide 300 yards of space from one end to the other. The indoor hitting building must link to the practice tee and driving range at a safe distance and alignment. To accommodate the necessary space and program requirements, the building must be sited in the proposed location. The proposed facility has six bays that open, and function in relation with the outdoor amenities of the site; the location and the alignment of the facility is ultimately dictated by the overall golf course design. Construction of the proposed facility in another location on the Property is limited by the space requirements and would still result in the removal of and impacts to Protected Trees. Due to the proposed construction activity and removal of existing structures, to provide adequate space for the proposed facility and golf cart circulation requirements, the Performance Center will result in the removal of six Protected Trees. One Protected Tree will be removed and mitigated in place in the Clubhouse Arrival Area. This tree suffered severe storm damage and has been determined to be a hazard due to its current health and location next to the clubhouse entrance. This tree will be removed for the safety of the employees and members that frequent this portion of the Property. In addition, the stream restoration work to restore a severely eroded stream will require the removal of one Protected Tree that is currently along the eroded stream bank. The conditions are such that the Applicant is not able to fully utilize the Property for the use that has been approved and taken place for decades. The number and location of the Protected Trees within the developed portions of the Property, adjacent to existing structures, and the changing conditions create an unwarranted hardship. The proximity of the Protected Trees to the existing structures prevents any construction activity, including the removal of existing structures without disturbing the Protected Trees. If the variance were not considered, the development approved on this Property would be limited and existing structures could not be modified or removed. Staff has reviewed this variance request and has determined that there would be an unwarranted hardship if a variance were not considered.



Table 2 – Removed Protected Trees

Tree ID	Common Name	Scientific Name	DBH	Reason	Status
569	Maidenhair Tree	<i>Ginkgo biloba</i>	38 in.	Performance Center	Remove tree
570	Black Walnut	<i>Juglans nigra</i>	32 in.	Performance Center	Remove tree
574	Tulip Tree	<i>Liriodendron tulipifera</i>	32 in.	Performance Center	Remove tree
575	Atlantic White Cedar	<i>Chamaecyparis thyoides</i>	39 in.	Performance Center	Remove tree
576	Tulip Tree	<i>Liriodendron tulipifera</i>	42 in.	Performance Center	Remove tree
579	Black Walnut	<i>Juglans nigra</i>	46 in.	Performance Center	Remove tree
700	Southern Red Oak	<i>Quercus falcata</i>	56 in.	Arrival Area; storm damage and hazard	Remove tree
685	Tulip Tree	<i>Liriodendron tulipifera</i>	35 in.	Stream Restoration	Remove tree

Table 3 – Impacted Protected Trees

Tree ID	Common Name	Scientific Name	DBH	CRZ Impact	Reason
694	Northern Red Oak	<i>Quercus rubra</i>	54 in.	1%	Arrival Area
695	Black Oak	<i>Quercus velutina</i>	72 in.	2%	Arrival Area
699	Swamp White Oak	<i>Quercus bicolor</i>	54 in.	1%	Arrival Area

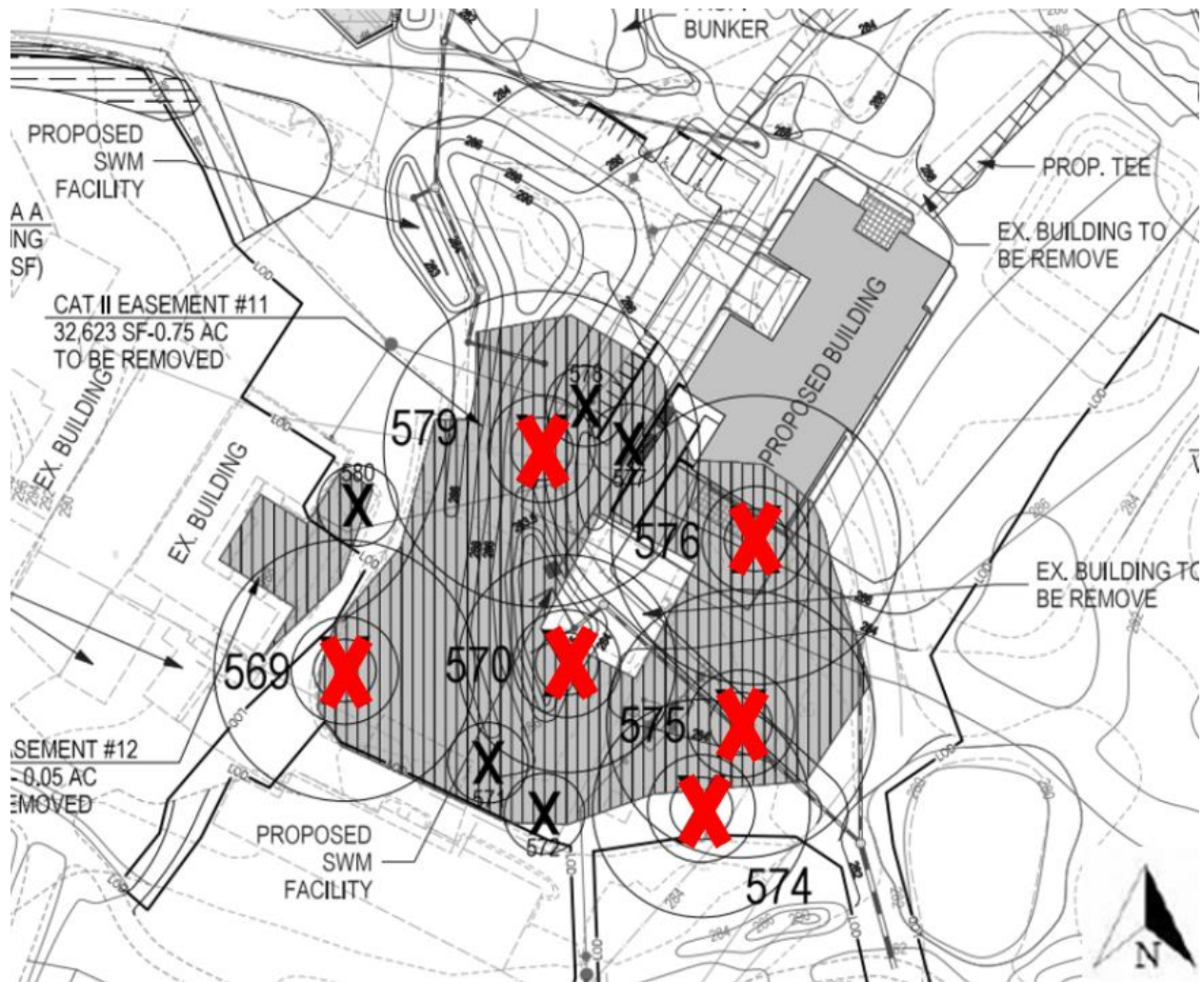


Figure 6. Performance/Training Center – remove six Protected Trees

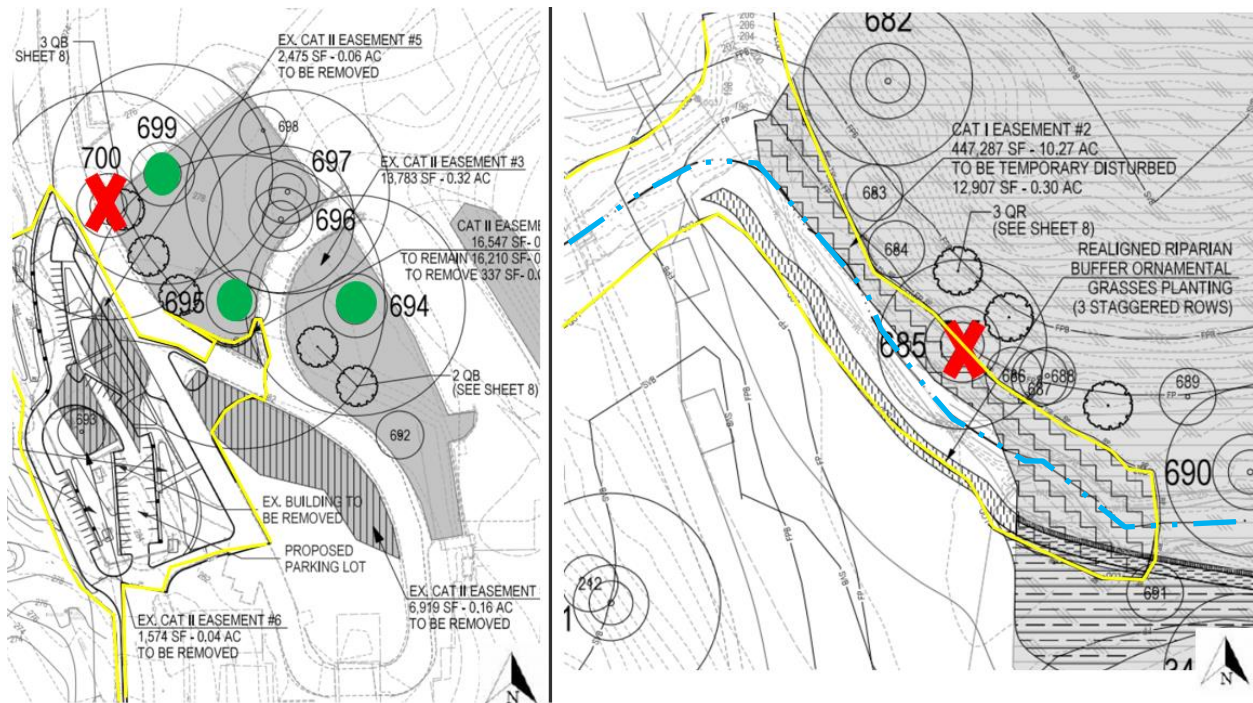


Figure 7. Arrival Area and Stream Restoration – remove two and impact only three Protected Trees

Variance Findings – 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, for a variance to be granted. Staff has made the following determination based on the required findings in the review of the variance request and the forest conservation plan:

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 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 the Applicant's proposed modification will remain almost entirely within the same developed footprint. The Applicant's proposal to consolidate the training and practice areas and remove existing maintenance buildings has resulted in unavoidable impacts to Protected Trees. The requested removal of and impacts to Protected Trees are due to 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. 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 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 conditions on the



Property, including the existing developed nature of the Property and location of the Protected Trees within the developable area.

3. *Is not based on a condition relating 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. *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. Onsite mitigation for the removal of the Protected Trees will ultimately replace the functions currently provided by the Protected Trees to be removed.

Mitigation for Protected Trees – Six trees subject to the variance provision and proposed to be removed for the construction of the Performance Center are located within the existing Category II conservation easements that will be removed. The easements will be mitigated for by purchasing credits at an offsite forest bank. Staff does not recommend additional mitigation for the Protected Trees within the easements. Tree #700 and Tree #685 will be removed due to disturbance for the Arrival Area and stream restoration, respectively. Mitigation for the removal of these two trees is recommended at a rate that approximates the form and function of the trees removed. Therefore, Staff is recommending that replacement occur at a ratio of approximately 1-inch caliper for every 4 inches removed, using trees that are a minimum of 3 caliper inches in size. This Application proposed to remove approximately 91 inches in DBH, resulting in a mitigation requirement of 23 caliper inches of planted, native, canopy trees with a minimum size of 3-inch caliper. The Forest Conservation Plan includes the planting of eight trees totaling twenty-four caliper inches on the Property. Although these trees will not be as large as the trees lost, they will provide some immediate benefit and ultimately replace the canopy lost by the removal of these trees. Staff does not recommend mitigation for trees affected, but not removed. The affected root systems of these trees will receive adequate tree protection measures allowing the roots to regenerate and the functions provided restored.

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. Staff forwarded the variance request to the County Arborist on November 17, 2020. As of the date of this staff report, there has been no response from the County Arborist.

#### Stream Buffer Encroachment

The Application is subject to the *Guidelines for Environmental Management of Development in Montgomery County* (January 2000) (Environmental Guidelines), which includes guidance for the protection of streams and their buffers. Section IV-A1 of the Environmental Guidelines allows for some encroachments within the stream buffer under certain circumstances, and when determined by staff that there are no reasonable alternatives and the impacts have been minimized as much as possible.

The Property is an existing developed country club and golf course with a severely eroding stream bank along one of its streams. The Application includes restoration and stabilization of the stream bank to address the

problem. Temporary encroachment into the stream buffer is required to perform the measures necessary to restore and stabilize the stream. After the work is complete, the area will be stabilized and replanted as necessary, and continue to be protected by the existing Category I conservation easement.

## **SECTION 5 – COMMUNITY CORRESPONDENCE**

The Applicant has met all proper signage and noticing requirements for the Forest Conservation Plan Amendment Application. During the review of the Application, staff has not received any correspondence from the community regarding this Application.

## **SECTION 6 - CONCLUSION**

In summary, the Application will result in the removal of 1.07 acres of existing Category II conservation easement with mitigation provided through the purchase of off-site forest bank credits, the temporary disturbance to the stream buffer and Category I conservation easement that will be stabilized and replanted after construction, and the removal of eight trees subject to the variance provision of the Forest Conservation Law, with mitigation provided on the Property. Mitigation for Variance trees located within the conservation easements that will be removed is included in the easement removal mitigation.

The amended Final Forest Conservation Plan No. CBA1206 with conditions meets all applicable sections of Chapter 22A of the Montgomery County Code, therefore, Staff recommends approval of the Final Forest Conservation Plan Amendment, subject to the conditions cited above.

## **ATTACHMENTS**

Attachment A	Board of Appeals Special Exception Modification Approval for Performance Center
Attachment B	Board of Appeals Special Exception Modification Approval for Arrival Area
Attachment C	Final Forest Conservation Plan Amendment
Attachment D	Applicant's Request for a Tree Variance