



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

**JAN 14 2021**

MCPB No. 21-002  
Forest Conservation Plan No. S-862-C  
Rochambeau French International School  
Date of Hearing: January 7, 2021

**RESOLUTION**

WHEREAS, under Montgomery County Code Chapter 22A, the Montgomery County Planning Board is authorized to review forest conservation plan applications; and

WHEREAS, on April 26, 2018, the Rochambeau French International School ("Applicant") filed an application for approval of a forest conservation plan on approximately 11.20 acres of land located at 9650 Rockville Pike ("Subject Property") in the Bethesda Policy Area and 1990 *Bethesda-Chevy Chase Master Plan* ("Master Plan") area; and

WHEREAS, Applicant's forest conservation plan application was designated Forest Conservation Plan No. S-862-C, Rochambeau French International School ("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 December 18, 2020, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on January 7, 2021, 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, on January 7, 2021, the Planning Board approved the Forest Conservation Plan on motion of Commissioner Cichy; seconded by Commissioner Verma; with a vote of 5-0, Commissioners Anderson, Cichy, Fani-Gonzalez, Patterson, and Verma voting in favor.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Forest Conservation Plan No. S-862-C on the Subject Property, subject to the following conditions:<sup>1</sup>

1. At the time of Preliminary Plan submission, the Applicant must:
  - a. Submit a revised invasive species control plan to address/update the extent of invasive species control, the species targeted, alternative methods, and reporting to MNCPPC Forest Conservation Inspectors;
  - b. Update all FCP tables, notes and references to consistently reflect the site area, ROW dedications, forest conservation credit, and required planting;
  - c. Update plan notes for consistency with FCP specifications regarding realignment of the perimeter fence and related tree protection measures;
  - d. Provide updated/enhanced tree protection measures and notes for Tree-63;
  - e. Provide updates, corrections, and clarifications to the plans, details, notes, and specifications in coordination with Staff.
2. Prior to any clearing, grading or demolition on the site, the Applicant must submit and receive approval of a Final Forest Conservation Plan, which must be consistent with the approved Preliminary Forest Conservation Plan and associated conditions.
3. The Applicant must plant the variance tree mitigation plantings on the Subject Property, with a minimum size of 3 caliper inches, totaling at least 145.3 caliper inches as shown on the certified FCP. All onsite 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.
4. Prior to the start of any demolition, clearing, or grading for this development Application, the Applicant must record Category I and Category II Conservation Easements over all areas of forest retention, forest planting and environmental buffers as specified on the Certified Forest Conservation Plan. The easements must be in a form approved by the M-NCPPO Office of the General Counsel and must be recorded in the Montgomery County Land Records by deed. The Book/Page for the easement must be referenced on the record plat.
5. Prior to any demolition, clearing, or grading for this development Application, the Applicant must record an M-NCPPO approved Certificate of Compliance in

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<sup>1</sup> 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.

an M-NCPPC approved off-site forest bank to satisfy the reforestation requirement for a total of 0.83-acres of mitigation credit (or as determined on the certified 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, 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.

Although there is no forest on-site, this Application is subject to Chapter 22-A Forest Conservation Law. The submitted Preliminary Forest Conservation Plan shows a calculated afforestation requirement of 1.66-acres. As conditioned, this requirement will be met via Category I and Category II Conservation Easements in addition to credits purchased from an off-site forest bank.

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 15 Protected Trees and CRZ impact to 11 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.*

The Subject Property is currently developed with a Private Educational Institution use. Site improvements proposed through the Special Exception Modification would allow the Subject Property to comply with current standards including ADA, stormwater management, building codes, and generally reorient the Site from its former tenant, FASEB, to the anticipated future user, the French International School. Given that the Site is considerably populated by mature trees, the buildable area is largely interspersed with subject trees and their associated critical root zones; nearly any notable development of the property would require impacts and removals. The Applicant's proposal to reuse structures where possible and construction within the footprint of existing buildings and currently paved areas greatly reduces the impacts that would otherwise occur if the Applicant proposed demolition of the existing building and construction of a completely new building and infrastructure without regard to current site layout. Further, the Applicant's proposal will maintain the presence of open space and mature trees, much of which is proposed to be protected in conservation easements, in order to buffer the Site from the surrounding residential areas as well as Rockville Pike (MD-355). This approach is in line with language in the Master Plan regarding maintaining compatibility with the surrounding community. Although the existing FASEB will change uses, the French International School will serve as a similar long-term, stable community resource. Therefore, the variance request would be granted to any applicant in a similar situation, assuming all other criteria are met, particularly since reasonable preservation measures and other environmental enhancements have been incorporated into the Application.

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

As stated above, the requested variance and associated tree impacts are due to the programmatic concerns related to the improvement of the site circulation and stormwater management while minimizing new structures and impervious surfaces where possible. The variance request submitted by the Applicant reflects efforts to lessen overall site impacts and retain mature trees which provide environmental benefits and buffering from adjacent uses. Without this approach in the proposed design and redevelopment of the site, far greater subject tree impacts would be expected. Therefore, this variance request is not

based on circumstances which are the result of actions by the Applicant, and the variance can be granted under this condition provided that the impacts are avoided/minimized, and any necessary mitigation requirements are fulfilled.

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 proposed site design and layout on the Subject Property, and not as 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.*

The subject property is not directly associated with any streams, wetlands or related buffers. The Site is, however, currently developed with multiple buildings and supporting infrastructure such as sidewalks and parking lots. The existing properties are 42% covered in impervious surface with little stormwater management onsite and most runoff is untreated. There are presently no environmental site design stormwater management practices onsite. The existing stormwater management is limited to a structural underground facility within the front parking lot. This facility would not be acceptable to Montgomery County Department of Permitting Services' current stormwater regulations. The future DPS review and ultimate approval of the sediment and erosion control and storm water management plans will ensure that appropriate standards are met.

The proposed development is similarly impervious at 47% but will fully comply with current state and county water quality standards by meeting full environmental site design requirements. There is not expected to be degradation in water quality as this site will improve water quality through the implementation of several stormwater best management practices designed using ESD criteria per the Maryland Stormwater Design Manual and the Montgomery County Stormwater Regulations. The stormwater management design aims to replicate the natural hydrology of the site by utilizing eight small-scale bioretention facilities and infiltration under the synthetic turf field. Further, the proposed soil restoration techniques and tree plantings specified will help maximize the permeability of the soil, serving to further reduce runoff. The sizable forest conservation easements and the replanting of mitigation trees will also help water quality goals by providing



shading and water retention and uptake. Therefore, the Application will ultimately result in an improvement of water quality, rather than cause measurable degradation in water quality or violate State water quality standards.

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" DBH for every 4" DBH removed, using trees that are a minimum of 3" caliper. As a result of the proposed removal of 15 subject trees, for a total of 581.2" DBH removed, mitigation in the form of at least 145.3 caliper inches is required and recommended as a condition of approval. 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 JAN 14 2021 (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 Vice Chair Fani-González, seconded by Commissioner Verma, with Chair Anderson, Vice Chair Fani-González, and Commissioners Cichy, Patterson, and Verma voting in favor, at its regular meeting held on Thursday, January 14, 2021, in Wheaton, Maryland.

  
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Casey Anderson, Chair  
Montgomery County Planning Board