



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

MCPB No. 21-061
Forest Conservation Plan No. CU202106
Reflection Park
Date of Hearing: July 8, 2021

JUL 27 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 October 7, 2020, Remembrance Life, Inc. ("Applicant") filed an application for approval of a forest conservation plan on approximately 40.39 acres of land located at 16621 New Hampshire Ave. ("Subject Property") in the Patuxent Policy Area and Cloverly Master Plan ("Master Plan") area; and

WHEREAS, Applicant's forest conservation plan application was designated Forest Conservation Plan No. CU202106 Reflection Park ("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 June 25, 2021, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on July 8, 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 July 8, 2021, the Planning Board approved the Forest Conservation Plan on motion of Commissioner Verma; seconded by Commissioner

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Approved as to
Legal Sufficiency: /s/ Delisa Coleman
M-NCPPC Legal Department

Patterson; with a vote of 5-0, Commissioners Anderson, Cichy, Fani-Gonzales, Patterson and Verma voting in favor.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Forest Conservation Plan No. CU202106 on the Subject Property, subject to the following conditions:¹

1. This Preliminary Forest Conservation Plan approval is no longer valid if the Montgomery County Hearing Examiner denies Conditional Use No. CU202106.
2. Applicant must submit a Final Forest Conservation Plan ("FFCP") to M-NCPPC Staff for review with the Preliminary Plan of Subdivision submittal.
3. The FFCP must be consistent with the final approved PFCP.
4. Applicant must obtain approval of the FFCP prior to certification of the preliminary plan of subdivision.

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.

The project proposes to clear 25.63 acres existing forest. Based on the land use category and the forest conservation worksheet there is no planting requirement generated for the Application. The Applicant proposes to retain 14.66 acres of existing forest onsite. All forest saved as well as environmental buffers will be protected in a Category I Conservation Easement.

B. Forest Conservation Variance

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.

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 or CRZ impact to 128 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.*

Granting the variance will not confer a special privilege on the Applicant as the removal and impacts of the trees is due to the location of the trees and necessary site design requirements unique to a cemetery use. The Applicant proposes removal of the seventy-seven trees that are located within the existing forest stand and impact to fifty-one specimen trees. It is M-NCPPC policy not to require mitigation for specimen trees removed within forest stand. Additional no mitigation is required for trees that are impacted but retained. Therefore, granting of this variance is not a special privilege that would be denied to other applicants.

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 which are the result of actions by the Applicant. The requested variance is based upon the existing site conditions and necessary design requirements of this specific use.

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 existing conditions 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 variance will not violate State water quality standards or cause measurable degradation in water quality. The specimen trees being removed are not located within a stream buffer, wetland, or special protection area. Therefore, the project will not violate State water quality standards or cause measurable degradation in water quality.


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 JUL 27 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).

* * * * *

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 Verma, seconded by Commissioner Cichy, with Chair Anderson, Vice Chair Fani-González, and Commissioners Cichy and Verma voting in favor of the motion, and Commissioner Patterson absent at its regular meeting held on Thursday, July 22, 2021, in Wheaton, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board