



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

MCPB No. 21-113

OCT 21 2021

Forest Conservation Plan No. MR2022005

Project Name: South Lake Elementary School

Date of Hearing: October 14, 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 August 12, 2021, the Montgomery County Public Schools ("Applicant"), together with a Mandatory Referral Plan filed an application for approval of a forest conservation plan at 18201 Contour Road, Gaithersburg, approximately 100 feet south of Horizon Run Road, within the Montgomery Village Master Plan ("Master Plan") area; and

WHEREAS, Applicant's forest conservation plan application was designated Forest Conservation Plan No. MR2022005, South Lake Elementary School Preliminary/Final Forest Conservation Plan ("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 October 1, 2021 setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on October 14, 2021, 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, by the vote as certified below.

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Approved as to

Legal Sufficiency: /s/ Emily Vaias

M-NCPPC Legal Department

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVED Forest Conservation Plan No. MR2022005 on the Subject Property, subject to the following conditions:¹

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 Certification of the Final Forest Conservation Plan, the Applicant must amend the Final Forest Conservation Plan to reflect any changes to the Mandatory Referral plan, including pedestrian and frontage improvements, changes to the Limits of Disturbance, and any changes to the worksheet and mitigation total that may result.
4. Prior to Certification of the Final Forest Conservation Plan, the Applicant must adjust the storm drain connection at the northeast corner of the property to avoid disturbance of the specimen trees along the northern property boundary.
5. Prior to the issuance of a building permit for this development Application, 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 must be in a form approved by the M-NCPPC Office of the General Counsel and must be recorded in the Montgomery County Land Records by deed.
6. Prior to the issuance of a building permit 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 Great Seneca Creek watershed to satisfy the reforestation requirement for a total of 1.01 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 Great Seneca Creek watershed or by making a fee-in-lieu payment if mitigation credits are not available at any bank.
7. Prior to the start of any demolition, clearing, grading or construction for this development Application, the Applicant must install permanent conservation easement signage along the perimeter of the conservation easements as shown on the FCP, or as directed by the M-NCPPC Forest Conservation Inspection Staff.
8. Prior to the start of any demolition, clearing, grading or construction for this development Application, the Applicant must install the permanent conservation

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.

easement fencing along the perimeter of the conservation easements as shown on the FCP, or as directed by the M-NCPPC Forest Conservation Inspection Staff.

9. 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.

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. Environmental Guidelines

The Board finds that as conditioned, the Forest Conservation Plan complies with the *Environmental Guidelines*.

A Natural Resources Inventory and Forest Stand Delineation (NRI/FSD 420212430) was approved by Staff on June 24, 2021. There are no known cultural resources or records of Rare, Threatened or Endangered Species on the site. The eastern side of the property includes a stream and stream buffer, wetlands and wetland buffers. A very small area of encroachment is proposed to connect a storm drainage pipe to an existing storm drain system. The *Environmental Guidelines* permit necessary and unavoidable stream buffer encroachments to provide critical infrastructure needed to support the development. This connection is a necessary part of the stormwater management infrastructure for the school, and there are no reasonable alternatives available.

B. Forest Conservation

The Board finds that as conditioned, the Forest Conservation Plan complies with the requirements of the Forest Conservation Law.

A Forest Conservation Plan for the Subject Property was submitted as part of the Mandatory Referral application. The Subject Property contains approximately 0.67 acres of forest outside of existing utility easements. The Application proposes to remove approximately 0.08 acres of forest and retain 0.59 acres, which results in a forest planting requirement of 1.01 acres. The mitigation requirement will be met as conditioned.

No variance approval is required with this Forest Conservation Plan.


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 OCT 21 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 Cichy, seconded by Commissioner Verma, with Chair Anderson and Commissioners Cichy and Verma voting in favor of the motion, and Commissioner Patterson absent at its regular meeting held on Thursday, October 14, 2021, in Wheaton, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board