



MCPB Item # _____
Date: 12 / 2 / 2021

MEMORANDUM

DATE: November 29, 2021

TO: Montgomery County Planning Board

VIA: Michael F. Riley, Director of Parks ^{MR}
Miti Figueredo, Deputy Director, Administration ^{MF}
John Nissel, Deputy Director, Operations
Andrew Frank, Division Chief, Park Development Division (PDD) ^{AF}

FROM: Brenda Sandberg, Real Estate Management Supervisor, PDD
Henry Coppola, Real Estate Specialist, PDD ^{HCC}

SUBJECT: Land Acquisition Recommendation: Broad Run Conservation Park
Part of the Broad Run Creek Farm II, LLC, Property
21820 Club Hollow Road
Poolesville, MD 20837
472.78 acres, more or less, improved

STAFF RECOMMENDATION

Staff requests the following action by the Montgomery County Planning Board:

Approve MCPB Resolution No. 21-127 for the acquisition of 472.78 acres of the Broad Run Creek Farm II property to create the Broad Run Conservation Park for a negotiated purchase price of \$3,135,027.82 to be funded with Advanced Land Acquisition Funds (ALARF).

Approve payment of \$953,055 to the Montgomery County Agricultural Easement Program (AEP) to release the current AEP Easement over the property, as required by County Code, to be funded with County G.O. Bonds in the Legacy Open Space CIP.

A draft of Resolution #21-127 is attached. If the Planning Board approves this acquisition, staff will bring this matter to the County Council for approval of the use of ALARF funds.

SUMMARY

This proposed acquisition of 472.78 acres of the entire 535.36-acre Broad Run Creek Farm will provide for conservation, research, and interpretation of significant natural and cultural resources, and will serve as a focal point for the Broad Run Park by providing public access for recreation and education at this unique place in Montgomery County. A natural surface trail will connect through this property to the C&O Canal Historic Park to the north and south creating a major loop trail system. Although the County AEP Easement is being removed from the property per County Code requirements, the property will continue to support the agricultural economy and rural setting through agricultural leases on crop fields, a private farm on 62.58 acres retained by the sellers, and no additional residential development potential on the entire 535-acre property.

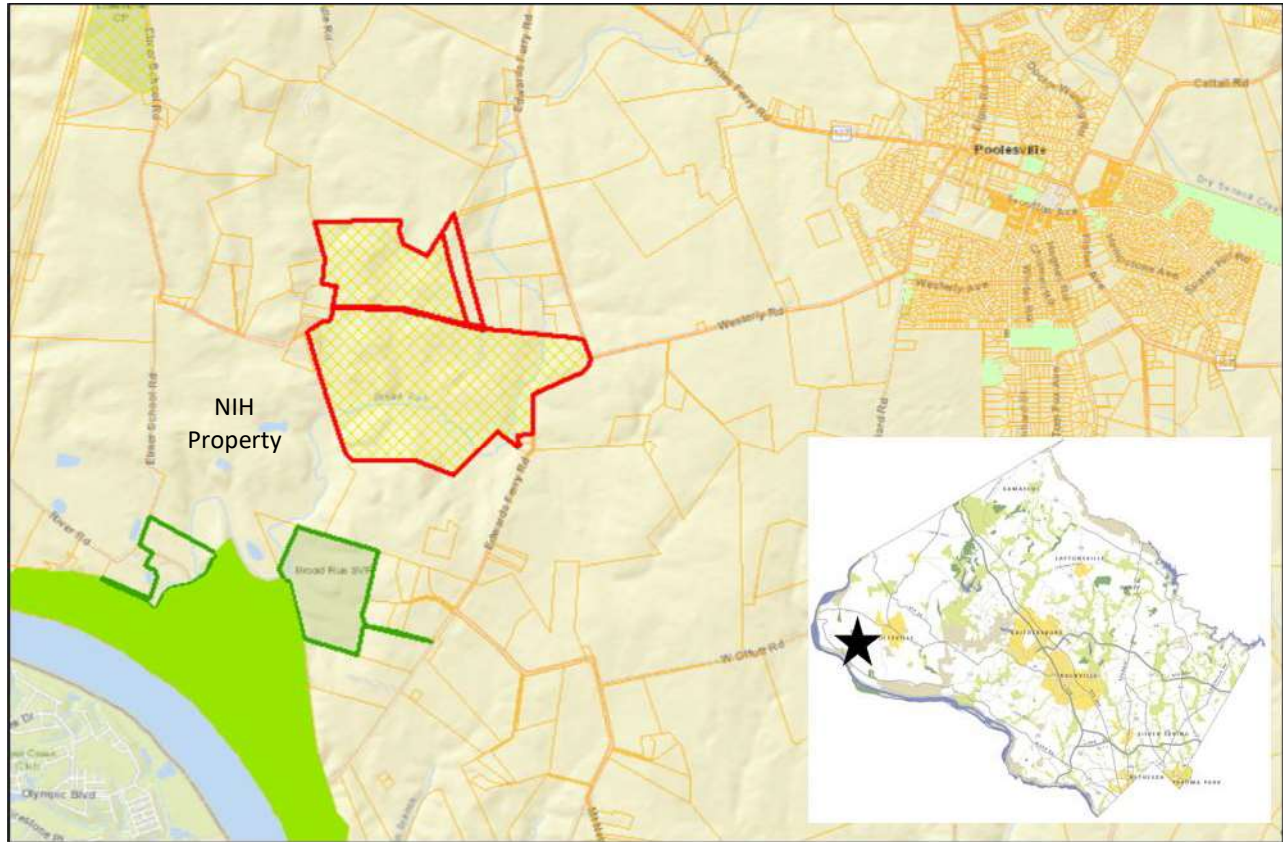


Figure 1: Vicinity Map, Broad Run Creek Farm II Property

BACKGROUND

The entire Broad Run watershed was designated in the 2001 *Legacy Open Space Functional Master Plan* (LOS FMP) as a significant, best-of-the-best stream and terrestrial ecosystem that deserved conservation using a variety of LOS tools. Entirely within Montgomery County's Agricultural Reserve, the Broad Run passes through an area underlain by unique Triassic soils, including evidence of rare Diabase soils, and a landscape that has changed little in 150 years. The Planning Board specifically designated this Broad Run Creek Farm II Property as a Natural Resource in the Legacy Open Space FMP in March 2008 with the stated intent to acquire the land for a park.

Over the past 20 years, several actions have taken place to implement the vision for conservation of and public access to the Broad Run watershed. Broad Run Park acquisitions to date include the donation of 106 acres off Edwards Ferry Road in 2002 and purchase of 43 acres off River Road in 2013 (see Figure 1). In 2014, Park staff coordinated with the National Institutes of Health (NIH) Animal Center Master Plan process resulting in acknowledgement of the Commission's interest in possible future ownership of land and support for a trail connection along the Broad Run within this federal government property. These two acquisitions plus the potential for a trail connection through the NIH property will connect the Broad Run Creek Farm II acquisition over 2.5 miles to the C&O Canal Historic Park to the south.

The Property is located at 21820 Club Hollow Road southwest of Poolesville on both sides of the road. The 472.78 acres to be acquired consists of all of Parcel 964 which lies south of Club Hollow Road and a portion of Parcel 350 on the north side of the road (see Figure 2). Roughly two thirds of the Property is wooded with the remaining third serving as active cropland. The Property is in the Agricultural Reserve and is subject to a County Agricultural Easement. The owner is a willing seller and the Property is being acquired through negotiation in fee simple.

Negotiations have resulted in a contract to acquire 472.78 acres of this 535.36-acre farm, with 62.58 acres remaining as a small farm in private ownership with one future residence. The rest of this memorandum provides the policy rationale for public ownership of this parcel, explanation of the legally required release of the County agricultural easement, and estimated start-up costs and OBI for the initial phase of this new park.

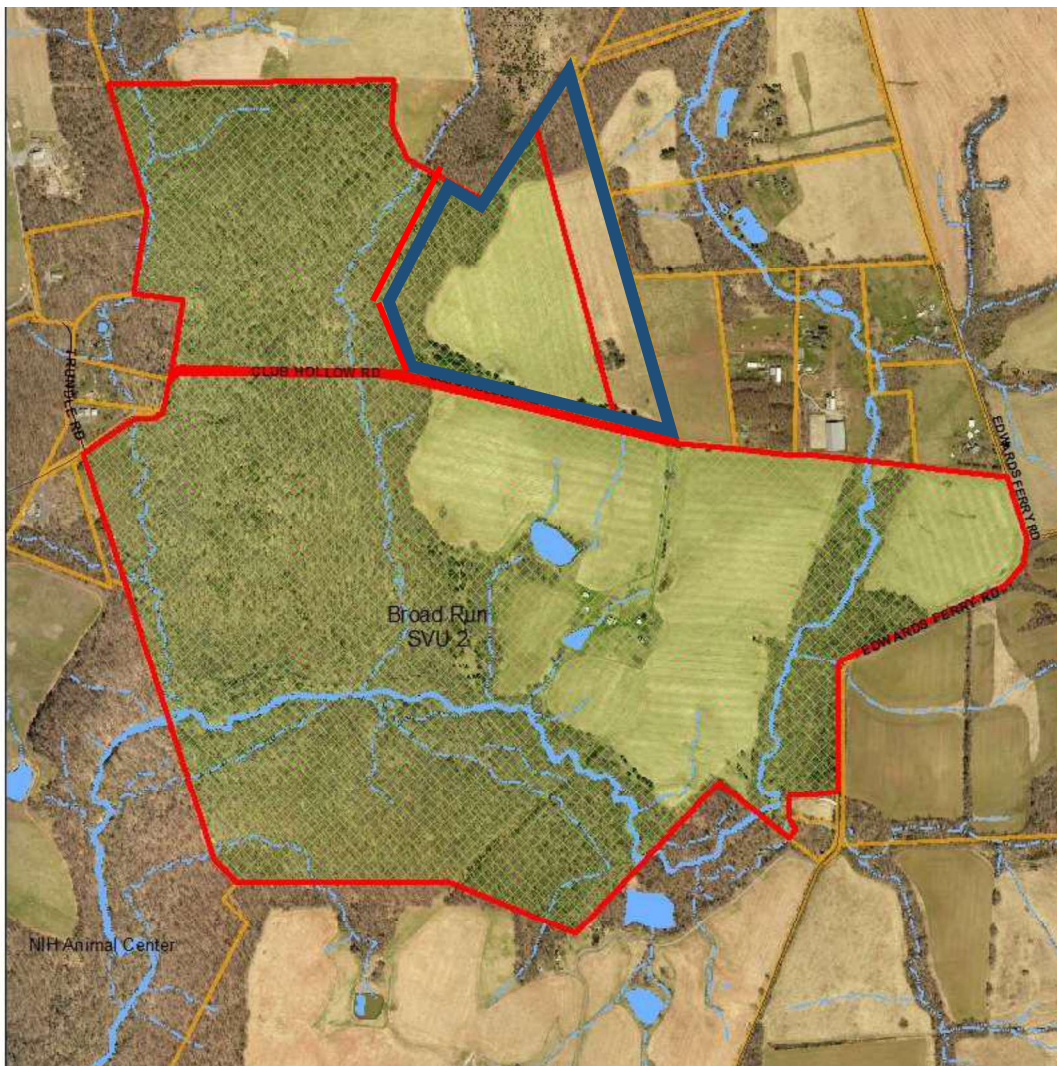


Figure 2: Proposed Acquisition, Broad Run Creek Farm II Property (excluded area in blue outline)

POLICY RATIONALE AND PARK BENEFITS

Park ownership of this property provides a unique opportunity to achieve Parks' dual goals of stewarding resources and providing public access to the natural environment.

Natural Resource Stewardship

Public ownership of this property would ensure the long-term preservation and conservation of this area that has been designated as a Legacy Open Space "best of the best" Natural Resource. Placing this property into the public park systems will provide an opportunity to research, document, and understand some of the most exceptional features it contains, including:

- 325 acres of forest, much of which is high quality, mature habitat uncommon in the county, inclusive of particularly unique plant assemblages and globally rare geology
- Significant areas of contiguous forest and Forest Interior habitat that support critical species and provide important greenspace corridor connectivity
- 1.5 miles of Broad Run mainstem and headwater tributaries with unusually extensive wetland and vernal pool complexes, and
- High potential for rare, threatened, and endangered species

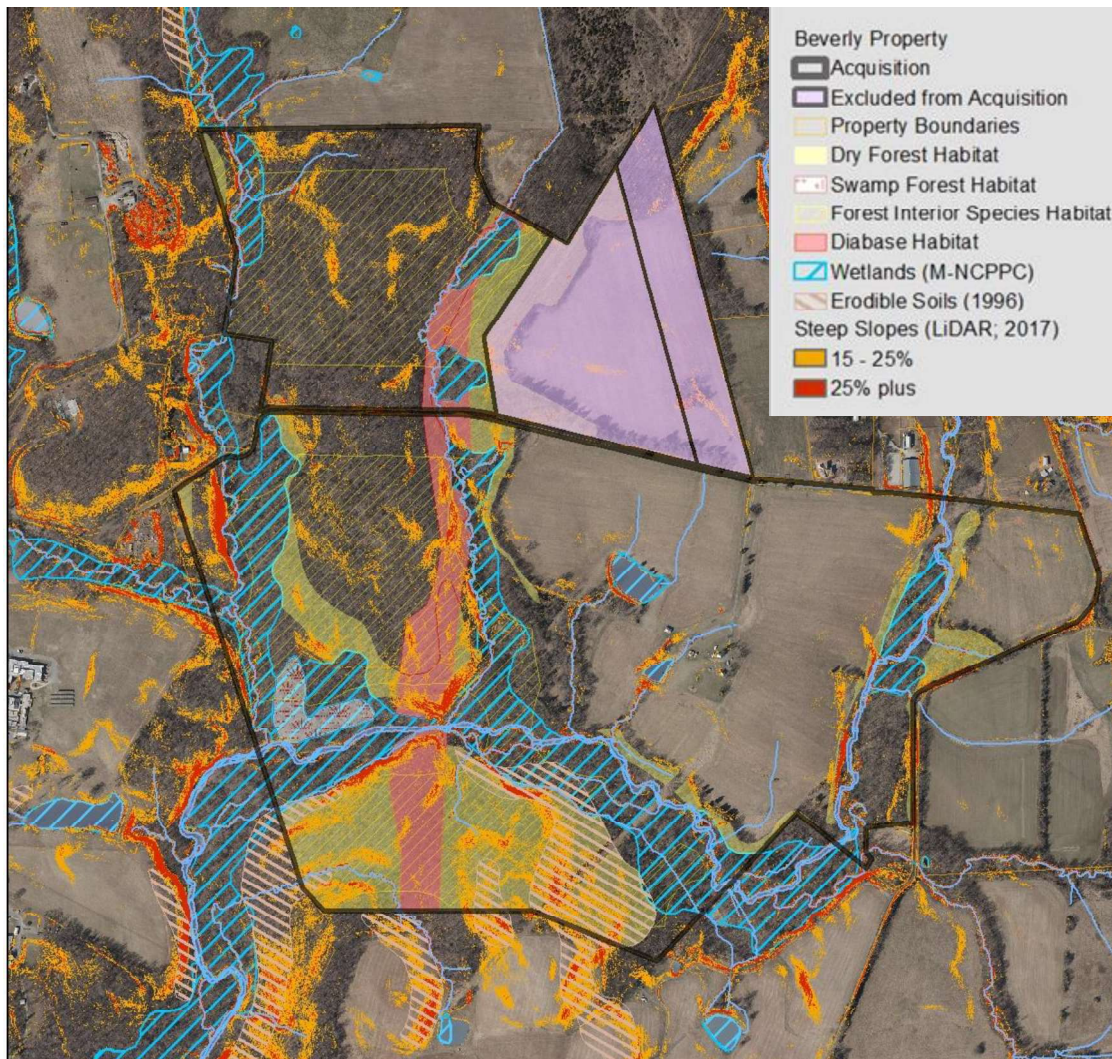


Figure 3: Natural Resources Map

Cultural Resource Stewardship

The property is also rich with cultural resources that cover several important historical themes. The property contains a previously unknown mill site along the mainstem of Broad Run and the remains of several farm buildings that can provide opportunities to research and interpret the farming and milling history of the County. The property also has a high potential for archaeological sites related to indigenous tribes' use of the landscape. Parks' ownership will ensure responsible research and management of these non-renewable resources, while also providing the basis for future public interpretation and education.

Trail Connectivity

The 2016 Countywide Park Trails Plan calls for a natural surface trail connection through this proposed property. This proposed multiuse trail would connect the C&O Canal Towpath to the south up through the Broad Run watershed to Woodstock Equestrian Park and continue northwest to the C&O Canal Towpath. This acquisition is a keystone property needed to create the proposed loop trail system. As noted above, two properties already have been added to the park system for this trail as recently as 2013, and the National Institutes of Health (NIH) Animal Center Master Plan (2014) includes support for a public trail connection on their site that would complete the southern connection of this new acquisition to the C&O Canal Towpath.

Figure 4: 2016 Countywide Park Trails Plan Recommendation



Public Access

Park ownership of the property would provide opportunities for the public to experience and enjoy this remarkable natural area through a diversity of resource-based recreational activities. Multi-use trails for hiking, running, horseback riding, and mountain biking will be a primary park amenity. Primitive camping is another priority amenity that will provide access to this special place. This park also will support many other resource-based recreational activities, including fishing, picnicking, birdwatching, and photography. A major public benefit of this park is the provision of educational opportunities through interpretation of the significant cultural and natural resources. The Parks Department also envisions preserving the rural and agricultural character of the area through agricultural leases over current cropland. The range and quality of the potential experiences this property offers the public would make this a park experience unmatched in our current system.

CONTRACT INFORMATION

A partial acquisition of 472.78 acres of the entire 535.36-acre property was negotiated with the Sellers for a price of \$3,135,027.82. The intent of the Sellers is to keep the remainder property as a 62.58-acre private farm. One Transferable Development Right (TDR) will stay with the remainder property to provide for a single residence on that private farm.

The contract also provides for a two-year Reservation Term during which the Sellers will continue to use the property and after which time possession will be handed over to the Commission for public park use (December 2023). During the Reservation Term, M-NCPPC staff will have access to the property (in coordination with the Sellers) to conduct research and gather detailed survey data on natural and cultural resources to prepare for future recreation, conservation and interpretation of the park.

MONTGOMERY COUNTY AGRICULTURAL EASEMENT PROGRAM (AEP)

This property is currently subject to an agricultural preservation easement under the Montgomery County Agricultural Easement Program (AEP). The Montgomery County Code requires that *“if the federal government or the State or County buys or condemns land under an agricultural easement for park or any other nonagricultural use, the condemning authority must pay the present value of the easement to the [AEP] Fund”* (Montgomery County Code, Chapter 2B, Section 2B-10(b)). As a state-chartered agency, the Commission is subject to this legal requirement.

The Commission has agreed with Montgomery County government to a negotiated value of \$953,055 for the AEP easement. The Commission also will separate and transfer five (5) remaining development rights to the County to permanently remove any future residential development from this parkland. The existing TDR Easement over the property that removed 100 TDRs from the entire Broad Run Creek Farm II in perpetuity remains in force over this land.

While creating a unique park on this property requires removal of the AEP, the property will continue to support the goals of the Agricultural Reserve:

- The residential development potential on the entire property will remain the same as prior to Parks acquisition – only one buildable TDR will stay with the portion of the property remaining with the Sellers.
- Parks plans to continue agricultural production through our agricultural lease program to local farmers.
- Parks acquisition will continue to preserve the rural viewshed along 3 designated Scenic and Rustic Roads that front the property at this unique location within the Agricultural Reserve.

START UP COSTS & OPERATING BUDGET IMPACT (OBI)

During the Reservation Term and after possession of the Property is turned over to the Parks Department, several projects will need to be implemented to create a safe and functional interim condition park. Some of the existing structures will be removed and other projects, including natural/cultural resource research and management tasks, will be undertaken to create a safe and accessible interim park condition. Other start up projects may include creating a parking area, installing interpretative signage, and purchasing dedicated maintenance equipment for the park. The total costs of these start up projects are estimated at approximately \$380,000. Site Improvement funds within the Legacy Open Space CIP are available to fund these activities.

After initial site cleanup, demolition, and construction work is completed to create the interim park condition, the Operating Budget Impact (OBI) for the interim condition is expected to be approximately \$85,000 per year split into two categories. Tasks to keep the Property maintained will include natural resource maintenance, inspections, and regular mowing and other standard maintenance work with an OBI of approximately \$20,000 per year. For the cultural resources on this park, one-half of a work year plus some contracting cost is proposed for this significant park. Ongoing archaeological and historic research, creation of interpretive materials, and provision of interpretive and educational programs would be provided for this park for an estimated \$65,000 per year in OBI.

CONCLUSION

Acquisition of this important property to create the Broad Run Conservation Park is a win-win proposal for Montgomery Parks and the Agricultural Reserve, and the residents of Montgomery County that enjoy both these special aspects of the County:

- Park acquisition will create a significant and unique park for resource stewardship, resource-based recreation, and public access and education
- Agricultural uses will continue under Parks stewardship on large areas of cropland with no more residential development on the entire farm than is currently allowed
- Release of the AEP easement will provide new funds to the AEP program for preservation of additional farmland in the Agricultural Reserve

CC: Doug Ludwig
Mike Little
Darren Flusche
Darryl McSwain
Jim Poore
Kristi Williams
Shuchi Vera
David Vismara
Megan Chung

Attachment: Draft Planning Board Resolution #21-127



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

MCPB No. 21-127

**Acquisition: Broad Run Creek Farm II Property
To Create Broad Run Conservation Park**

RESOLUTION

WHEREAS, the Maryland-National Capital Park and Planning Commission (“Commission”) is authorized by Md. Code Ann., Land Use §17-101 (formerly Article 28, Section 5-101), to acquire, develop, maintain and operate a public park system within the Maryland-Washington Metropolitan District; and

WHEREAS, the Montgomery County Planning Board received and considered a recommendation from staff of the Commission, in closed session on November 18, 2021, that it approve the acquisition of part of a property known as 21820 Club Hollow Road, Poolesville, Maryland, identified as all of Parcel 964 (Tax-ID 03-00038401) and part of Parcel P350 (Tax-ID 03-01874304), containing a total of 472.78 acres, more or less, improved (collectively, “Property”), from Broad Run Creek Farm II, LLC, a Maryland limited liability company (“Seller”), as well as associated Forest Bank Credits and five development rights; and

WHEREAS, on the Seller’s retained 62.58 acres, the Seller agreed to preserve existing forest that meets the Montgomery County definition of “Forest” under the Forest Conservation Act by placing forest into a Category 1 Forest Conservation Easement as a material portion of consideration for this transaction; and

WHEREAS, the entire tract of Seller’s land, including the Property, is encumbered by a Montgomery County Agricultural Preservation Easement (“Easement”), with six development rights remaining in Seller’s possession; and

WHEREAS, Commission’s Montgomery County Department of Parks (“Parks”) has reached an agreement with Montgomery County (“County”) to release and terminate the Easement as a part of Parks’ transaction to buy the Property to enable Parks to use the Property for park purposes without the restrictions imposed by the Easement; and

WHEREAS, the Property, without the Easement restrictions, meets parkland acquisition criteria to create Broad Run Conservation Park which will provide public access and natural resource based recreational amenities including multi-use trails and camping while stewarding natural and cultural resources; and

WHEREAS, there are sufficient funds available in the Commission’s Advanced Land Acquisition Revolving Fund (ALARF) account to pay the \$3,135,027.82 negotiated purchase price for the Property; and

WHEREAS, there are sufficient funds available in the Commission's Legacy Open Space PDF No. P018710 to pay the \$953,055 negotiated termination price of the Easement - which price represents the present value of the Easement, a statutory compliance requirement as per Montgomery County Code Section 2B-10(b); and

WHEREAS, the Commission has determined it would not use the development rights to be acquired for any residential development and is agreeable to the transfer of the five development rights to be acquired from Seller to the County to support the County's goal of preserving agricultural land.

NOW THEREFORE, BE IT RESOLVED, that (i) the acquisition of the Property from the Seller as described above, for a purchase price of \$3,135,027.82, in accordance with the Land Purchase Agreement between the Commission and Seller, and (ii) the payment of \$953,055 and transfer of five development rights to the County to release and terminate the Easement, and (iii) the recordation of a Forest Conservation Easement over the forest on the Seller's remainder property are hereby approved by the Montgomery County Planning Board on this 2nd day of December, 2021 and the Executive Director is authorized to execute all instruments to carry out the aforesaid on behalf of the Maryland-National Capital Park and Planning Commission.

[AUTHORIZATION APPEARS ON THE NEXT PAGE]

MCPB No. 21-127

Acquisition of the Broad Run Creek Farm II Property to Create Broad Run Conservation Park

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This is to certify 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 _____, seconded by _____, with _____ voting in favor of the motion, at its regular meeting held on Thursday, December 2, 2021 in Wheaton, Maryland.

Casey Anderson, Chair

APPROVED AS TO LEGAL SUFFICIENCY:

By: _____
M-NCPPC Legal Department
Date: _____

Signature: *Henry Coppola*
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