



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

MCPB No. 21-101
Forest Conservation Plan No. MR2021035
Stonegate Elementary School
Date of Hearing: December 16, 2021

DEC 28 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 July 7, 2021, Montgomery County Public Schools ("Applicant") filed an application for approval of a forest conservation plan in order to construct a new 84,130 square foot elementary school on approximately 10.26 acres of land located at 14811 Notley Road ("Subject Property") in the Cloverly Policy Area and 1997 Cloverly Master Plan ("Master Plan") area; and

WHEREAS, Applicant's forest conservation plan application was designated Forest Conservation Plan No. MR2021035 Stonegate Elementary 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 3, 2021, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on December 16, 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, at the hearing, the Planning Board approved the Application subject to certain conditions, by the vote 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 APPROVES Forest Conservation Plan No. MR2021035 on the Subject Property, subject to the following conditions:¹

1. Prior to 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 ("FCP"). 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.
2. The Applicant must plant the variance tree mitigation plantings on the Subject Property with a minimum size of 3 caliper inches totaling 66.75 caliper inches as shown on the approved FCP. Adjustments to the planting locations of these trees is permitted with the approval of the M-NCPPC Forest Conservation Inspection Staff.
3. 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 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 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, Chapter 22A ("FCL").

The total net tract area for forest conservation purposes is 10.42 acres which includes the Subject Property of 10.27 acres, plus off-site work of 0.15 acres for offsite improvements. The Property is zoned R-200 and is classified as High Density Residential ("HDR") as defined in Section 22A-3 of the FCL and specified in the Trees Technical Manual. The Subject

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.

Property contains 0.92 acres of forest and is clearing or counted as clearing in the worksheet 0.61 acres. This results in a total afforestation requirement of 1.86 acres as calculated in the Forest Conservation Worksheet. The Applicant will meet this afforestation requirement by planting 1.92 acres of forest onsite and protecting it with a Category I Conservation Easement.

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 or CRZ impact to eleven (11) Protected Trees as identified in the Staff Report. In accordance with Section 22A-21(a), the Applicant requested a Variance, and the Board finds that the Applicant would suffer unwarranted hardship by being denied reasonable and significant use of the Subject Property for a public elementary school 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 disturbance to the Protected Trees is due to the reasonable development of the Subject Property. Granting a variance to allow land disturbance within the developable portion of the Subject Property is not unique to this Applicant.

2. *The need for the Variance 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 on existing site conditions, including the location of the Protected Trees within the developable area of the Subject Property, the new school construction, proposed utilities, and site grading.

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 surrounding land uses do not have any inherent characteristics or conditions that have created or contributed to this need for a variance.

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 Protected Trees being impacted are not located within a stream buffer, wetland, or a special protection area. Additional trees will be planted on the Subject Property as part of the forest conservation requirements. In addition, the Montgomery County Department of Permitting Services (MCDPS) is reviewing a stormwater management concept for the proposed project. The stormwater management concept incorporates Environmental Site Design 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-inch caliper for every 4 inches removed. 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 DEC 28 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 Commissioner Cichy, seconded by Commissioner Verma, with Chair Anderson and Commissioners Cichy, Patterson, Verma, and Rubin voting in favor of the motion at its regular meeting held on Thursday, December 16, 2021, in Wheaton, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board