



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

FEB 03 2022

MCPB No. 22-010
Preliminary Plan Amendment No. 12000004B
Garden of Remembrance Memorial Park
Date of Hearing: January 20, 2022

RESOLUTION

WHEREAS, under Montgomery County Code Chapter 50, the Montgomery County Planning Board is authorized to review preliminary plan applications; and

WHEREAS, on October 11, 1999 the Planning Board approved Preliminary Plan No. 12000040, creating Parcel A on 152.23 acres of land in the RDT (now AR) zone, located at 14321 Comus Road, in the *1994 Clarksburg Master Plan* ("Master Plan") area; and

WHEREAS, on November 17, 2017, an amendment to Preliminary Plan No. 120000040 to modify the utility right-of-way along the western side of the Property was approved as Plan No. 12000004A; and

WHEREAS, on July 26, 2021, the Garden of Remembrance Memorial Park ("Applicant") filed an application for approval of an amendment to the previously approved preliminary plan(s) and Forest Conservation Plan to remove an existing 2.75-acre area of Category I conservation easement and replace on the same site ("Subject Property") 4.01 acres of forested area; and

WHEREAS Applicant's application to amend the preliminary plan and Final Forest Conservation Plan was designated Preliminary Plan No. 12000004B, Garden of Remembrance Memorial Park ("Preliminary Plan," "Amendment," 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

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Approved as to
Legal Sufficiency: /s/ Emily Vaias
M-NCPPC Legal Department

Planning Board, dated January 5, 2022, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on January 20, 2022, the Planning Board voted to approve the Application subject to certain conditions, by motion of Commissioner Cichy, seconded by Commissioner Rubin, with Chair Anderson, Commissioners Cichy, Patterson, Rubin and Verma voting in favor.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Preliminary Plan and Final Forest Conservation Plan No. 12000004B to remove and mitigate onsite the Category I conservation easement created by Preliminary Plan and Final Forest Conservation Plan No. 120000040 by adding the following conditions:¹

1. Within sixty (60) days of the mailing of the Planning Board Resolution approving 12000004B, the Applicant must record a new Category I Conservation Easement reflecting the entire easement area excluding the area that is authorized to be removed. The new easement agreement must be approved by the M-NCPPC Office of the General Counsel and must be recorded in the Montgomery County Land Records by deed prior to recordation of the Deed of Release of Conservation Easement for the existing conservation easement.
2. Within ninety (90) days of the mailing of the Planning Board Resolution approving 12000004B, the Applicant must submit a complete record plat application that delineates the revised conservation easement and references the Book/Page of the recorded deed for the new revised Category I Conservation Easements. The existing Conservation Easement remains in full force and effect until the record plat is recorded in the Montgomery County Land Records by the Applicant.
3. The revised Record Plat must be recorded in the Montgomery County Land Records within 365 days of the mailing date of the Planning Board Resolution approving the amendment to the Final Forest Conservation Plan.

4. 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-NCPFC Forest Conservation Inspection Staff.
5. All other conditions of Preliminary Plan and Final Forest Conservation Plan No. 120000040, as contained in the Planning Board's Opinion dated January 27, 2000, as amended, that were not modified herein remain in full force and effect.

BE IT FURTHER RESOLVED that all other preliminary plan conditions of approval for this project remain valid, unchanged and in full force and effect.

BE IT FURTHER RESOLVED unless specifically set forth herein, this Amendment does not alter the intent, objectives, or requirements in the originally approved preliminary plan as revised by previous amendments, and all findings not specifically addressed remain in effect, and that having considered the recommendations of its Staff 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.*

A. Forest Conservation

The Board finds that as conditioned, the Forest Conservation Plan complies with the requirements of the Forest Conservation Law. Section 22A.00.01.13 of the Montgomery County Forest Conservation Regulations states that "removal of any conservation easement must be reviewed by the Planning Board". Onsite mitigation is the preferred option, at a 1:1 ratio. This mitigation policy was established by the Planning Board in November 2008.

The Final Forest Conservation Plan was originally approved in 1999. Recently the Applicant realized that on the periphery of the protected

¹ For the purpose of these conditions, the term "Applicant" shall also mean the developer, the owner or any successor(s) in interest to the terms of this approval.

forest areas, encroachment had taken place with "Forest Glade" burial plots. These plots were meant for families wishing for a tranquil setting surrounded by forest. Although the encroachment is limited, pathways that accommodate vehicles were built, and markers set within the forest. The Applicant approached planning Staff to seek a remedy for this encroachment, resulting in the forest conservation plan amendment and the rearrangement of onsite easements.

The Forest Conservation Plan shows the removal of 2.75 acres of existing Category I Conservation Easement from the margins of the existing easement and the onsite mitigation with 4.01 acres of new Easement over existing forest.

BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is FEB 03 2022 (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 Rubin, with Chair Anderson and Commissioners Cichy, Patterson, Verma, and Rubin voting in favor of the motion at its regular meeting held on Thursday, January 27, 2022, in Wheaton, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board