

**OBGC COMMUNITY PARK  
FOREST CONSERVATION PLAN AMENDMENT NO. SC2021023**



# **OLNEY BOYS & GIRLS CLUB**



## **Description**

In response to a violation, a request for approval of Forest Conservation Plan Amendment No. SC2021023 to abandon 1.72 acres of existing Category I Forest Conservation Easement and mitigate onsite. Brooke Farm, Lot 5, 4501 Olney-Laytonsville Rd, Olney MD 20832.

No. SC2021023

Completed: 6-23-2022

MCPB

Item No. 8

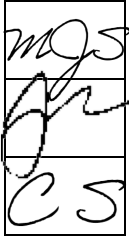
07-07-2022

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## Planning Staff



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### LOCATION

4501 Olney-Laytonsville Rd, Olney  
Brooke Farm, Lot 5

### MASTER PLAN

2005 *Olney Master Plan*

### ZONE

Agricultural Reserve

### PROPERTY SIZE

118.18 acres

### APPLICANT

OLNEY BOYS AND GIRLS CLUB, INC.

### ACCEPTANCE DATE

3/25/2021

### REVIEW BASIS

Chapter 22A



### Summary:

- Staff recommends approval with conditions of Forest Conservation Plan Amendment No. SC2021023 summarized by the following:
  - Abandon a total of 1.72 acres of existing 28.36-acre Category I Conservation Easement and mitigate onsite by adding an additional 6.69 acres into Category I easement and planting 7.6 acres of new afforestation, resulting in a new total Category I easement area of 33.33 acres.
  - Abandonment of 1.21 acres of Category I easement from within the environmental buffers and impacts to an additional 0.31 acres will be mitigated at a 4:1 planting ratio, resulting in 6.08 acres of afforestation.
  - Abandonment of 0.51 acres of Category I easement from outside of the environmental buffers and impacts to an additional 0.28 acres will be mitigated at a 2:1 planting ratio, resulting in 1.52 acres of afforestation.
- The proposal amends the originally approved Forest Conservation Plan No. S-2385 approved on May 12, 2000.
- The property was originally part of a 5-lot subdivision approved under Preliminary Plan No. 119900410.

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## SECTION 1: RECOMMENDATIONS AND CONDITIONS

### FOREST CONSERVATION PLAN SC2021023

Staff recommends approval of OBGC Community Park, Forest Conservation Plan Amendment No. SC2021023, subject to the following conditions:

1. Within ninety (90) days of the date of mailing of the Planning Board Resolution approving Forest Conservation Plan Amendment No. SC2021023, the Applicant must record a new Category I Conservation Easement Agreement reflecting the entire easement area excluding the area that is authorized to be removed, as specified on the approved Final Forest Conservation Plan. The new Category I Conservation Easement must be in a form approved by the Maryland-National Capital Park and Planning Commission (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. The existing Category I Conservation Easement remains in full force and effect until the new Conservation Easement Agreement is recorded.
2. Within ninety (90) days of the date of mailing of the Planning Board Resolution approving Forest Conservation Plan Amendment No. SC2021023, the Applicant must submit a Deed of Release of Conservation Easement for the entirety of the existing Category I Conservation Easement recorded among the County Land Records in Book 41834, Page 369 and identified on the Final Forest Conservation Plan, approved in 2000, in a form approved by the M-NCPPC Office of General Counsel. The Deed of Release must be recorded in the Montgomery County Land Records. The entirety of the existing easement remains in full force and effect until the Deed of Release has been approved and recorded in the Montgomery County Land Records. The Deed of Release cannot be approved by M-NCPPC until the new easements are recorded.
3. Within ninety (90) days of the mailing date of the Planning Board Resolution approving the amendment to the Final Forest Conservation Plan, 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 Easement.
4. 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.
5. Within sixty (60) days of the mailing of the Planning Board resolution approving Forest Conservation Plan Amendment No. SC2021023, the Applicant must begin implementation of the Invasive Species Management Plan (ISMP) as shown in the Final Forest Conservation Plan as directed by M-NCPPC Forest Conservation Inspection Staff.
6. Within one hundred twenty (120) days of mailing of the Planning Board Resolution approving Forest Conservation Plan Amendment No. SC2021023, the Applicant must submit a financial surety, in a form approved by the M-NCPPC Office of the General Counsel, to the M-NCPPC Planning Department for the 7.6 acres of new forest planting and maintenance, including invasive species management controls, and conservation easement markers.
7. Within one hundred twenty (120) days of the mailing of the Planning Board Resolution for Final Forest Conservation Plan Amendment No. SC2021023, the Applicant must execute a five-year

Maintenance and Management Agreement (“MMA”) in a form approved by the M-NCPPC Office of General Counsel. The MMA is required for all planting areas credited towards meeting the requirements of the FCP. The MMA includes invasive species management control measures consistent with the ISMP, or as deemed necessary by the M-NCPPC Forest Conservation Inspection Staff.

8. The Applicant must install the plantings as shown on the Final Forest Conservation Plan within twelve (12) months from the mailing of the Planning Board Resolution approving Forest Conservation Plan Amendment No. SC2021023, or as directed by M-NCPPC Forest Conservation Inspection Staff.

9. Prior to the initial planting acceptance inspection by the M-NCPPC Forest Conservation Inspection Staff, the Applicant must install the permanent conservation easement markers along the perimeter of the conservation easements, as shown on the Final Forest Conservation Plan, as amended, or as approved by the M-NCPPC Forest Conservation Inspection Staff.

10. The Applicant must schedule the required site inspections by the M-NCPPC Forest Conservation Inspection Staff per Section 22A.00.01.10 of the Forest Conservation Regulations or as required by M-NCPPC Forest Conservation Inspection Staff.

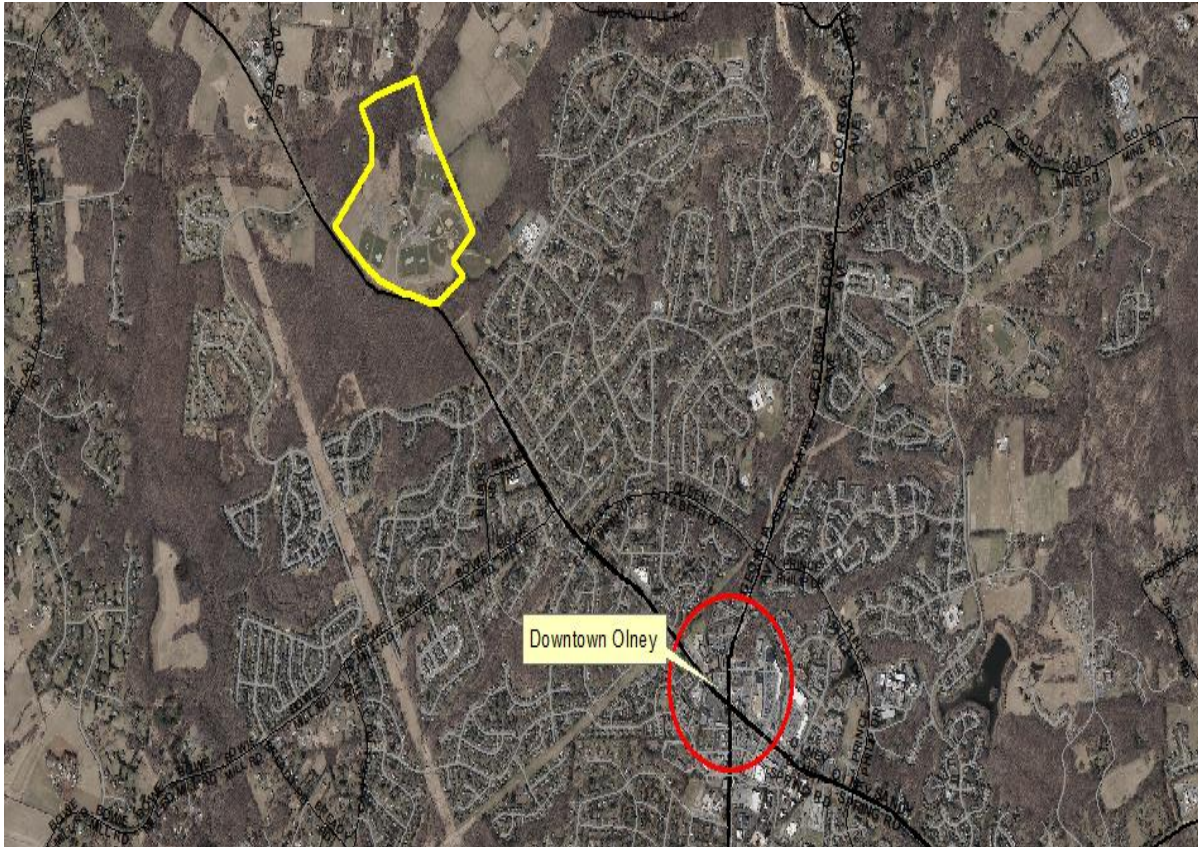
11. Any commercial activity or fundraising events that occur within the Category I Forest Conservation Easement will be limited to the Field of Screams “haunted” trail and the “holiday” festival of lights trail between September and January and will only utilize the trails that are shown on the Final Forest Conservation Plan.

12. Prior to opening each fundraising season, all natural surface trails and maintenance roads must be top dressed with woodchips to a depth of six (6) inches or greater.

## SECTION 2: SITE DESCRIPTION

### VICINITY

The Property is located in the Eastern Central portion of Montgomery County with a physical address of 4501 Olney-Laytonsville Road (the “Subject Property” or “Property”). The Property consists of 118.18-acres and is located in the Agricultural Reserve Zone (AR) Zone. The Subject Property is located on the North side of Maryland Route 108, Olney-Laytonsville Road, West of Olney and 1200 feet Southeast of Wickham Road. The Property is outlined in yellow in Figure 1 below.



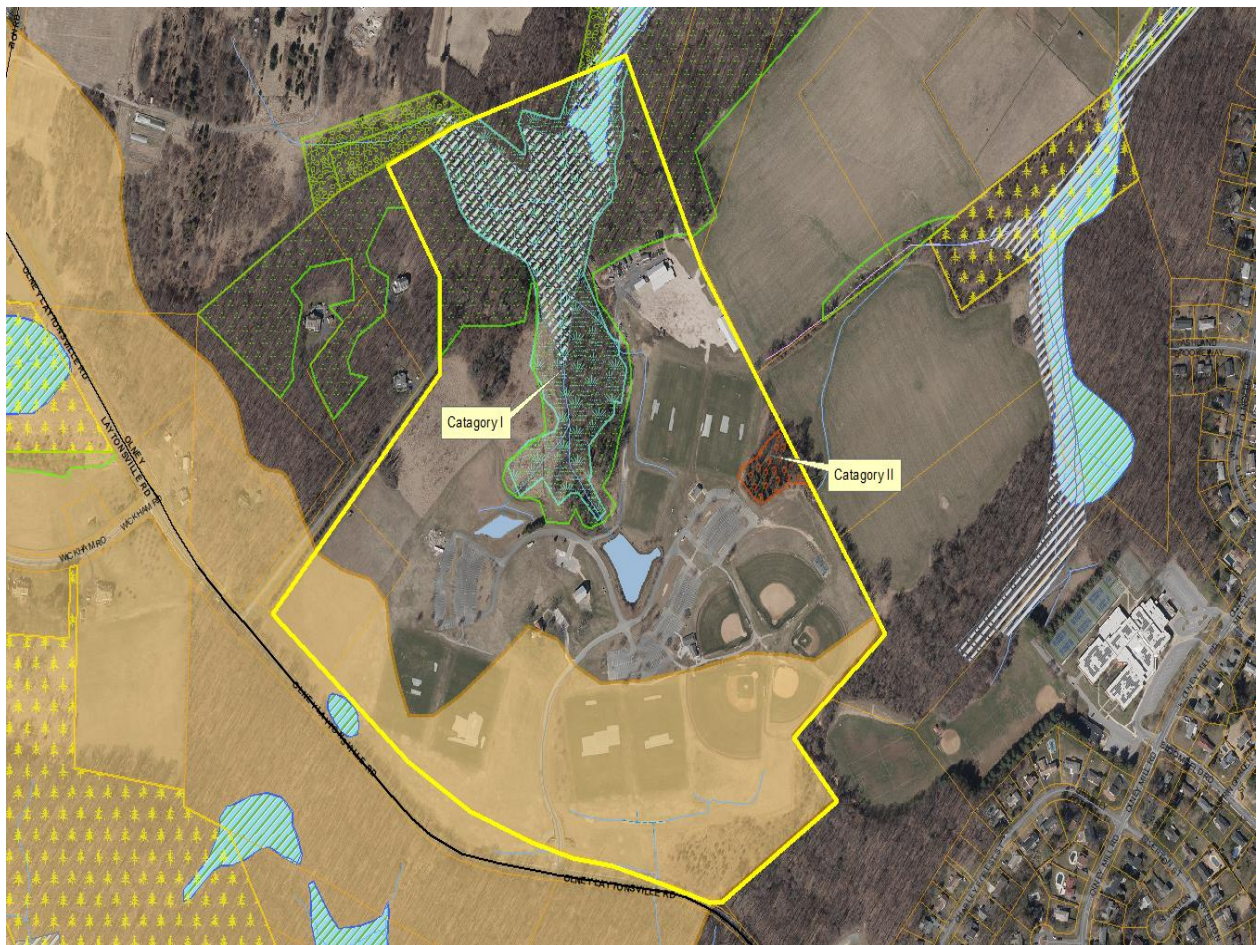
*Figure 1 – Vicinity Map*

## PROPERTY DESCRIPTION

The Subject Property is identified as Lot 5 per Plat No. 19584, formally known as Brooke Farm and is referenced in a deed recorded among the Land Records of Montgomery County, Maryland in Liber 17404 at Folio 622. The Property is owned by the Olney Boys and Girls Club, Inc., (OBGC) and is used primarily as a private active recreation park facility that features multiple-use athletic fields, baseball/softball fields, concession stands, parking areas, maintenance buildings, stormwater management facilities, open grass meadows, and a forested stream valley. The Club’s offices are located on site in the original Falling Green home, designated as an historic property identified on the index of Historic Sites as 23/057. The Club offers elite youth sports team memberships and summer camp programs, as well as offering a very popular annual Halloween “haunted” trail complex known as the “Field of Screams”. The “haunted” trail facility contains multiple structures, bridges, boardwalks, fences, natural surface trails, and other support buildings, and storage areas.

The Northern portion of the Property is encumbered by an existing 28.36 acre Category I Forest Conservation Easement (Liber 41834 at Folio 369) and is mostly forested including environmentally sensitive areas containing wetlands, 100-year Floodplain, and Stream Valley Buffers associated with

the Reddy Branch tributary of the Hawlings River, a Class IV, P stream, and is located within the Primary Management Area of the Patuxent River Watershed. The Upper Rock Creek Overlay Zone/Special Protection Area bifurcates the Southern portion of the Subject Property and continues South on the opposite side of Olney-Laytonsville Road. The Subject Property is bounded to the Northwest by single-family homes and “Our House” a private foundation property. To the Northeast, the Subject Property is adjacent to active agricultural farm fields and to the East of the Subject Property, the adjacent land is owned by Montgomery Parks and is part of Reddy Branch Steam Valley Park and Rosa Parks Middle School. A 1.33-acre Category II Conservation Easement (Liber 41834 at Folio 379) encumbers a small portion of forest and headwaters of a small tributary of the Reddy Branch stream. Figure 2 below highlights the Property’s environmental features and conservation easements.



*Figure 2 – Subject Property- Environmental Features*

## SECTION 3: BACKGROUND

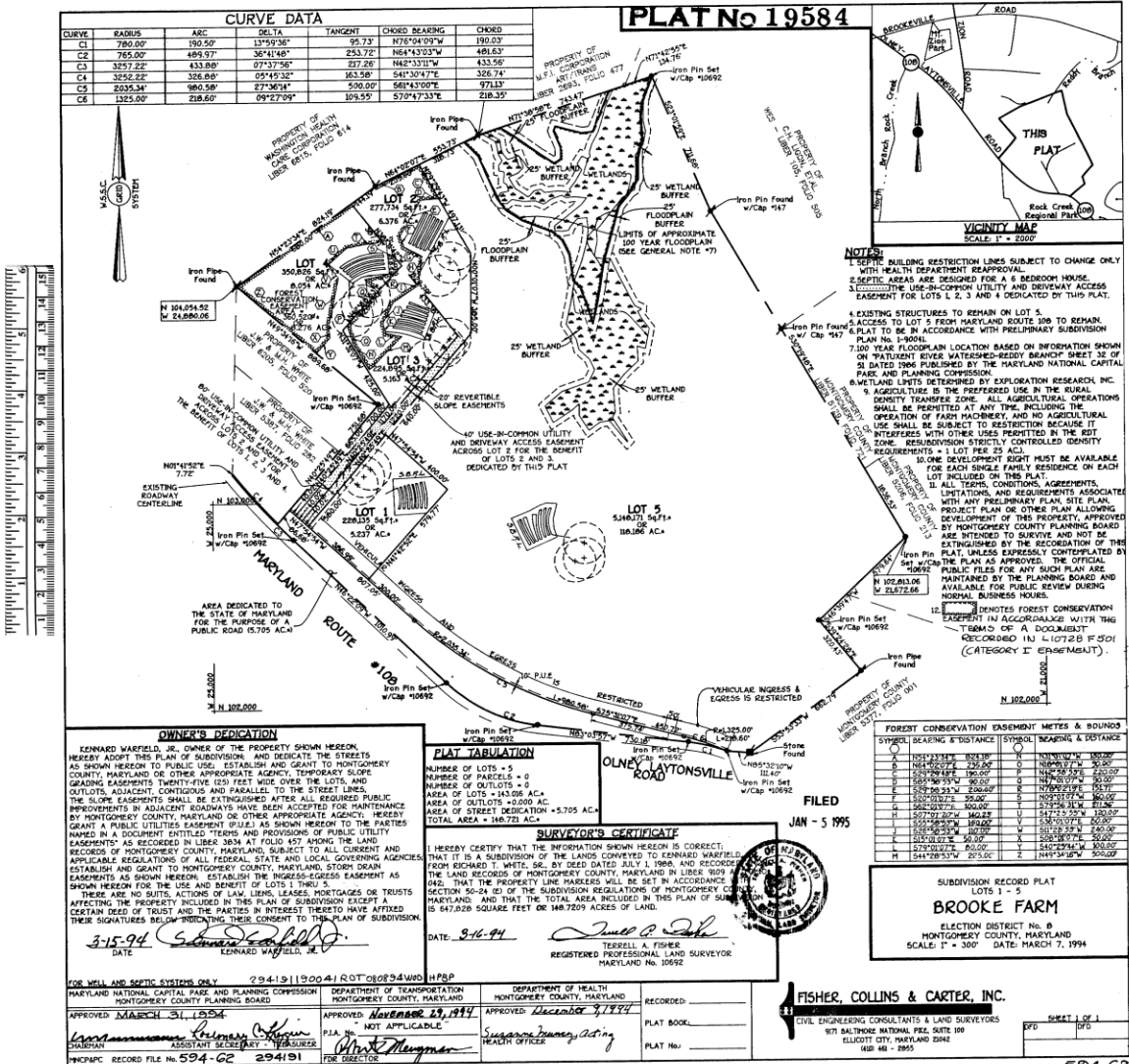


Figure 3 – Brooke Farm Subdivision

### PREVIOUS APPROVALS

The Property was created by Preliminary Plan No. 119900410 with the approval of (5) lots in the then RDT zone, including four (4) new residential lots and one (1) agricultural preservation lot. The Preliminary Plan was approved on May 3, 1994 and was subject to the Forest Conservation Law which was established in 1992. The agricultural portion of the property was exempt from the Forest



Conservation Law requirements at the time of subdivision. The Brooke Farm subdivision was recorded by Plat No. 19584 in 1995, and the Lots were then sold to individual property owners. On July 16, 1999, the agricultural preservation lot, Lot 5 was sold to OBGC and preceding settlement on the Property the Club applied for a Special Exception (Conditional Use) through the Board of Appeals (BOA) to permit the establishment and operation of a service organization to operate a park, including indoor and outdoor athletic facilities, along with ancillary storage and administrative facilities for the benefit of children and youths of the Greater Olney Community. A petition hearing of OBGC, Case No. S-2385 was held on June 9, 1999, and the Opinion of the Board approving the case was formally adopted on July 26, 1999 and shown as ATTACHMENT 1.

As a condition of approval in Case No. S-2385, OBGC was required to meet the Forest Conservation Law requirements by submitting and acquiring approval of a Final Forest Conservation Plan (FFCP) for Lot 5, which was subsequently approved on May 12, 2000. The original FFCP No. S-2385 is shown in ATTACHMENT 2.

On August 2, 2002, shortly after the FFCP was approved, OBGC representatives made a request to Staff to allow them to create a one-time “haunted” trail themed event within the Category I Conservation Easement, which proposed to include a natural surface trail, a bridge, and other temporary trail exhibits intended to help with fundraising activities and help offset operational costs of building and running a private recreational park. The proposal was reviewed and approved by Staff on September 4, 2002. On February 10, 2003 another request to recreate the “haunted” trail was made by OBGC to Staff, this time for a period of five (5) years. However, this request did not receive a response and no additional correspondence was found regarding this matter. The request memos to Staff, OBGC’s “haunted” trail proposal, and Staff’s “one time” approval email are shown in ATTACHMENT 3.

In 2011, OBGC submitted for a FFCP amendment for the installation of two proposed buildings and certain stormwater management improvements. The amendment was approved with conditions on June 9, 2011. At this time, it was noted that the Conservation Easements conditioned as part of the original FFCP were never recorded into the Land Records. As a condition of approval of the FFCP amendment, the Conservation Easements were again required to be recorded. The Conservation Easements were recorded into the Land Records on July 5, 2011.

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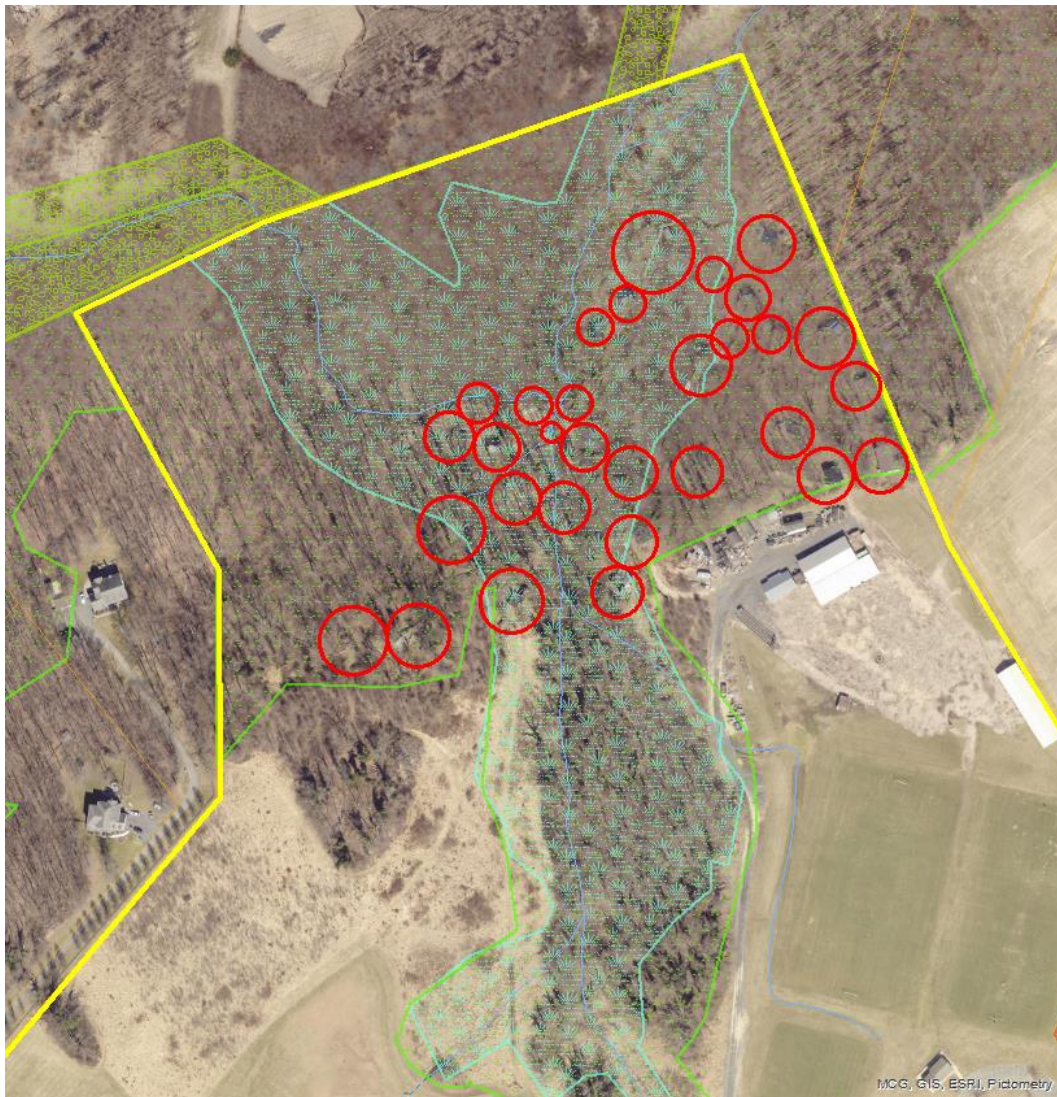
### FOREST CONSERVATION VIOLATION

Although approval of the activity in the easement area was only granted on a one-time basis for 2003, OBGC continued operating the “haunted” trail without permission from the Planning Department and Planning Board. In 2011, OBGC rectified the failure to record easements as previously conditioned by recording the Conservation Easement Agreements, but continued to use the easement area as part of its “haunted” trail event and in violation of their easement agreement.

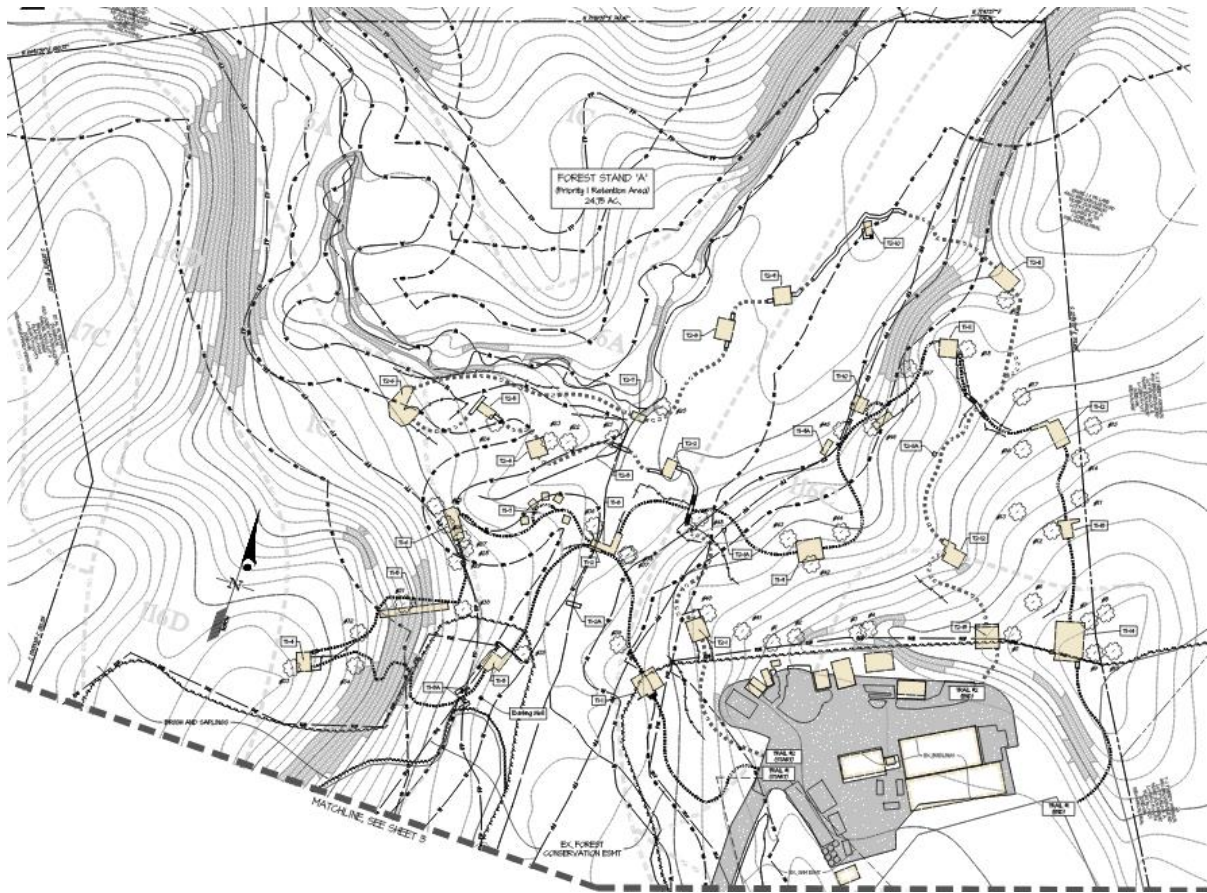
Since 2002 to present day, the Field of Screams “haunted” trail event has significantly expanded operations by adding extensive natural surface trails connecting more than 25 structures and exhibits

through the Category I Conservation Easement. This “one-time” event continued to expand over the next twenty years. This event has grown in popularity so much so that it is said to generate several hundred thousand dollars in annual sales and is purported to be the primary source of funding that allows OBGC to continue operating the recreational park.

On October 23, 2019 - a Notice of Violation (NOV) was issued via email to the Director of OBGC when aerial imagery revealed the presence of numerous structures within the easement area. On October 25, 2019, Forest Conservation Inspector Michael Sharp and Josh Kaye, M-NCPPC Program Manager/Supervisor, performed an on-site inspection of the Category I Conservation Easement to quantify the encroachments. The inspection revealed more than 25 structures had been erected in the protected forest, wetland, and stream buffer areas in direct violation of the terms of the easement agreement. A timeline of enforcement actions can be found in ATTACHMENT 4.



*Figure 4– Category I Conservation Easement Encroachments*



*Figure 5– Approved NRI Showing Existing Trail & Structures*

Before issuing the Notice of Violation in 2019, no easement inspections were ever documented after the original Final Forest Conservation Plan was approved. Staff’s original order directed the owners to either remove all structures from the easement or apply for an amendment to the FCP to allow continued fundraising activities. OBGC contends that continued operations of the recreational park will not be financially sustainable without funds generated through the Field of Screams “haunted” trail events. Therefore, they chose to apply for the amendment. Due to the financial implications to correct this violation, including substantial losses of funding due to closing the sports complex and canceling all activities through the COVID-19 pandemic, it took several years to negotiate an outcome that both parties could agree to and ultimately support under the circumstances. These negotiations resulted in the “Swiss Cheese” easement removal, as described in Section 4 below, in return for substantially more onsite mitigation than typically required for these types of amendments. The Field of Screams “haunted” trail event runs for approximately 22 days between late September to early November. In addition to the Field of Screams “haunted” trail to remain as a seasonal event, OBGC is also anticipating future fundraising needs and is proposing to incorporate a seasonal “holiday” festival of lights trail event within the same vicinity. No permanent structures or improvements will be added to the “holiday” festival of lights trail as everything will be temporary and removed each

season. The proposed event will take place approximately between Thanksgiving and New Year's of each calendar year. Those new trails and stations are also included in the proposed plan amendment. All proposed stations are in areas of forest that will not require trees to be removed. Because these fundraising events only occur during a few months of the year, with minimal activity in the easement the rest of the year, and the substantial mitigation proposed, staff was ultimately able to support OBGC's request.

Pictures below show some existing structures along the "haunted" trail. The easement area still appears to be very naturalized without any trash or debris remaining from previous events. All accessories and props are removed after each season and all utilities needed for the events are temporary and lay on top of the existing grade.







## SECTION 4: PROPOSAL

The Forest Conservation Plan violation identified unauthorized disturbance within the existing Category I Forest Conservation Easement. There are numerous structures, bridges, boardwalks, fences, natural surface trails, maintenance roads, and other support structures and storage areas that make up the “haunted” trail, all of which are in the Category I easement. This application proposes to maintain the existing structures and trail loops and new proposed stations and trail connections to accommodate limited future expansion of the “haunted” trail event and a new proposed “holiday” light trail by carving out and releasing the existing easement area around each proposed and existing structures, plus adding an additional five feet around each structure and bridge. Structures, bridges, and maintenance roads that are being released and are located within the stream valley buffer or wetlands will be mitigated onsite at approximately a 4:1 ratio. Structures, bridges, and maintenance roads being released and are located upland and outside of the stream valley buffer and wetlands easement areas will be mitigated onsite at approximately a 2:1 ratio. The forest conservation plan amendment proposes to abandon a total of 1.72 acres of Category I easement, including 1.21 acres

abandoned within the sensitive environmental areas and 0.51 acres abandoned in the upland areas. This application also proposes adding additional natural surface trails that would connect other future event stations to the main trails. Even though these areas will not be carved out of the easement, since a wood chip trail is considered a “natural” feature, OBGC has included an additional 0.56 acres of impact to their mitigation package at the same 4:1/2:1 onsite planting ratio as compensation.

A total of 7.6 acres of afforestation will be planted within the new easement area. 2.68 acres of the afforestation requirement will be planted within unforested portions of the existing Category I easement, and 4.92 acres will be planted within the new easement areas. Some areas within the new easement do not require planting because either forest currently exists or acceptable forest regeneration was found. A summary sheet of the mitigation breakdown is shown in ATTACHMENT 5.

In addition to the afforestation requirement, The Final Forest Conservation Plan requires an invasive species management plan that will commence immediately following the Planning Board’s decision. The management plan will be implemented for a period of five years and that work along with the afforestation requirements will be insured with a performance bond. This application will also require a new record plat to be recorded along with a new Category I Forest Conservation Easement Agreement and other specified conditions.

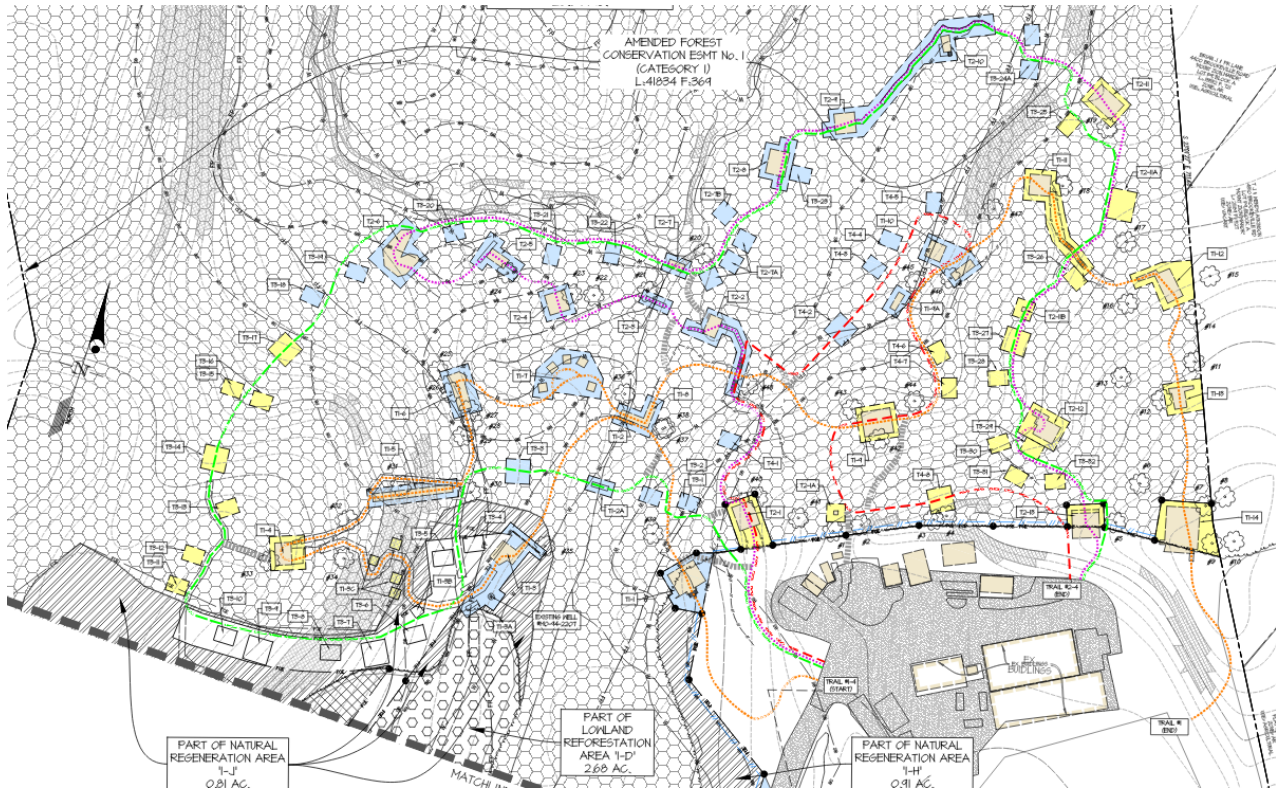


Figure 6– Existing and Proposed Trail System

## SECTION 5: ANALYSIS AND FINDINGS

### STAFF REVIEW

A Natural Resources Inventory and Forest Stand Delineation (NRI/FSD) #420211480 was approved by Staff on March 18, 2021. The Site includes 1200 linear feet of Reddy Branch stream, a tributary of the Hawlings River, designated use IV, P and a portion of the property is within the Patuxent Primary Management Area limiting imperviousness to 10%. The Site contains 27.64 acres of forest, 14.12 acres of Stream Valley Buffer (SVB), 7.54 acres of Wetlands and 9.29 acres within a 100-year Floodplain.

The Application meets the requirements of Chapter 22A of the Montgomery County Forest Conservation Law (“FCL”). As required by Chapter 22A, a Final Forest Conservation Plan (“FFCP”) was submitted with the Special Exception Application. SC2021023 proposes to amend the Final Forest Conservation Plan under Special Exception No. S-2385 approved May 12, 2000, which was preceded by Preliminary Forest Conservation Plan #119900410.

No forest clearing is proposed by this amendment. Existing trails and structures within the easement were built with minimal disturbances. To permit the structures to remain, the parts of the easement they occupy would be removed from the long-term protective agreement. Staff viewed allowing the structures to remain where they were built as more environmentally beneficial than requiring their removal and rebuilding them in other undisturbed areas of the forest outside of the stream valley buffer since the area was already disturbed. Although many of the structures are located in the stream valley buffer contrary to the Environmental Guidelines, the structures are only utilized as shells with walking paths through them during very limited times of the year. Due to the limited disturbance, limited use throughout the year, natural nature of the paths, mitigation, and established fundraising event for the property owner, Staff allowed the structures to remain as currently sited. A total of 1.72 acres are proposed to be abandoned from the existing easement which results in a total afforestation requirement of 7.6 acres as calculated in the Forest Conservation worksheet. The Applicant is proposing to meet this afforestation requirement by planting within the Category I easement onsite. The Amendment includes provisions for non-native invasive plant maintenance within the Conservation Easement and can be reviewed in ATTACHMENT 6.

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 of easement removal is generally preferable to offsite mitigation because it provides in-kind replacement for the removal in the same location and watershed. The provided onsite mitigation largely exceeds the Planning Board’s policy of 2:1 offsite mitigation or 1:1 onsite mitigation.

The Application is removing 1.72 acres of Category I easement and replacing it with 6.69 of Category I easement. This mitigation meets the requirements of the Forest Conservation Law and the Planning Board’s policy.



## SECTION 6: NOTIFICATION AND OUTREACH

The Applicant has met all proper signage and noticing requirements for the submitted Application. As of the date of this Staff Report, Staff has not received any correspondence related to this Application.

## SECTION 7: CONCLUSION

The Application satisfies the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A. Therefore, Staff recommends approval of the Forest Conservation Plan Amendment No. SC2021023 as conditioned in this staff report and to mitigate the easement abandonment onsite as proposed.

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### ATTACHMENTS

*Attachment 1: Board of Appeals Opinion*

*Attachment 2: NRI – Existing Conditions Plan*

*Attachment 3: Staff Correspondence*

*Attachment 4: Timeline of Enforcement Actions*

*Attachment 5: Summary of Mitigation*

*Attachment 6: Forest Conservation Plan Amendment No. SC2021023*