

Montgomery County Planning Board

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB No. 22-064
Forest Conservation Plan No. SC2021023
Brooke Farm, Lot 5
Date of Hearing: July 7, 2022

JUL 18 2022

RESOLUTION

WHEREAS, under Montgomery County Code Chapter 22A, the Montgomery County Planning Board is authorized to review forest conservation plan applications; and

WHEREAS, on March 25, 2021, Olney Boys & Girls Club, Inc. (“Applicant”) filed an application for approval to amend a Forest Conservation Plan that would remove 1.72 acres of Category I Conservation Easement and mitigate onsite on the property located at 4501 Olney Laytonsville Road (“Subject Property”) in the 2005 *Olney Master Plan* (“Master Plan”) area; and

WHEREAS, Applicant’s forest conservation plan application was designated Forest Conservation Plan No. SC2021023, Brooke Farm, Lot 5 (“Forest Conservation Plan,” “Application” or “Amendment”); 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 June 23, 2022, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and

WHEREAS, on July 7, 2022, the Planning Board held a public hearing on the Application and voted to approve the Forest Conservation Plan Amendment on motion of Commissioner Rubin; seconded by Vice Chair Verma; with a vote of 4-0, Chair Anderson, Vice Chair Verma, and Commissioners Cichy and Rubin voting in favor with Commissioner Patterson being absent.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Forest Conservation Plan Amendment No. SC2021023 on the Subject Property, 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

Approved as to
Legal Sufficiency: /s/ Allison Myers
M-NCPPC Legal Department

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

removed at a rate of 4 additional acres protected for each acre removed (4:1) for portions of the easement within environmentally sensitive areas and at a rate of 2 additional acres protected for each acre removed (2:1) for portions of the easement that are not within environmentally sensitive areas. The on-site mitigation requirement would result in 6.69 acres of new onsite Category I Easement on the Subject Property, for a total of 33.33 acres protected by a Category I Conservation Easement on site. The Amendment also requires the Applicant to plant 7.6 acres of afforestation within the new onsite Category I Easement area.

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 JUL 18 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).

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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 the motion of Commissioner Rubin, seconded by Vice Chair Verma, with a vote of 4-0-1, Chair Anderson, Vice Chair Verma, and Commissioners Cichy, and Rubin voting in favor, Commissioner Patterson abstaining, at its regular meeting held on Thursday, July 14, 2022, in Wheaton, Maryland and via video conference.



Casey Anderson, Chair
Montgomery County Planning Board

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.

BE IT FURTHER RESOLVED that having given full consideration to the recommendations of its Staff as presented at the hearing and/or as set forth in the Staff Report, which the Board hereby adopts and incorporates by reference, 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.*

The Board finds that, as conditioned, the Forest Conservation Plan Amendment complies with the requirements of the Forest Conservation Law. The Applicant seeks an Amendment in response to violations of the Applicant's Forest Conservation Plan and the terms of an existing Category I Conservation Easement on the Subject Property. The Board find that the Amendment would adequately address and mitigate the impacts of the forest conservation violation. Although the Amendment would remove 1.72 acres of existing on-site Category I Easement, it would require on-site mitigation for all areas