



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

MCPB No. 22-007  
Site Plan No. 82017016B  
Mt. Prospect (Hanson Farm)  
Date of Hearing: January 27, 2022

**FEB 03 2022**

**RESOLUTION**

WHEREAS, under Section 59-7.1.2 of the Montgomery County Zoning Ordinance, the Montgomery County Planning Board is authorized to review site plan applications; and

WHEREAS, under Section 59-7.7.1.B.1, the Planning Board reviewed this site plan under the procedures and standards of the Zoning Ordinance in effect on October 29, 2014, ; and

WHEREAS, on March 1, 2018, the Planning Board, by Resolution MCPB No. 18-017, approved Site Plan No. 820170160 to construct 186 new dwelling units including 121 one-family detached and 66 one-family attached units, and to retain one existing one-family detached dwelling, including providing 24 MPDUs and 17 TDRs on 170.77 acres of PD-2 zoned-land, located in the northwestern quadrant of the intersections of Quince Orchard Road, Dufief Mill Road and Travilah Rod ("Subject Property") in the Rural West Policy Area and the *2002 Potomac Subregion Master Plan* ("Master Plan") area; and

WHEREAS, on December 20, 2018, the Planning Board, by Resolution MCPB No. 19-007, approved Site Plan No. 82017016A to modify site grading and retaining walls, the location of certain site amenities, the forest conservation worksheet and the location of off-site sewer and stormwater improvements in the stream valley park on the Subject Property; and

WHEREAS, on October 19, 2021, Toll Brothers ("Applicant") filed an application to modify certain development triggers and minor modifications to stormwater,

2425 Reddie Drive, 14<sup>th</sup> Floor, Wheaton, Maryland 20902 Phone: 301.495.4605 Fax: 301.495.1320  
[www.montgomeryplanningboard.org](http://www.montgomeryplanningboard.org) E-Mail: [mcp-chair@mncppc.org](mailto:mcp-chair@mncppc.org)

---

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

landscaping, recreation area, lighting, limits of disturbance, and forest conservation;  
and

WHEREAS Applicant's application to amend the site plan was designated Site Plan No. 82017016B, Mt. Prospect ("Site 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 Planning Board, dated January 14, 2022, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on January 27, 2022, the Planning Board voted to approve the Amendment subject to certain conditions, by the vote certified below.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves Site Plan No. 82017016B to modify certain development triggers and minor modifications to stormwater, landscaping, recreation area, lighting, limits of disturbance, and forest conservation. All previous conditions of approval remain in full force and effect except as modified and restated by the conditions below<sup>1</sup>:

3. Forest Conservation

- g) The required 3.75 acres of forest planting for Phase 1 must be completed within one year or two growing seasons after issuance of the 90<sup>th</sup> residential building permit.
- h) The required 3.56 acres of forest planting for Phase 2 must be completed within one year or two growing seasons after issuance of the 170<sup>th</sup> residential building permit.

6. Open Space, Facilities, and Amenities

- a) ii. Prior to the issuance of the 120<sup>th</sup> building permit, the Applicant must have completed both the multi-age playground and associated open space identified on the Certified Site Plan as Parcel M Block A, and the amenities around the central farm pond including the sitting areas.
- iii. Prior to the issuance of the 120<sup>th</sup> building permit, all open spaces and amenity areas located within Phase I of the development, shall be completed, except for Parcel A, Block B, located at the southwest corner of Hanson Farm Drive and Quince Orchard Road, which is to be completed prior to bond release of Phase 2.

---

<sup>1</sup> 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.

vii. Prior to the issuance of the 150<sup>th</sup> building permit, the Applicant must have completed the path over the dam embankment and the fishing pier identified on the Certified Site Plan as Parcel J, Block A.

7. M-NCPPC Department of Parks

d) The Applicant must comply with the following development triggers and conditions for the clearing, construction and dedication of the 10-acre local park, identified as Parcel A, Block H:

iii. Prior to the issuance of the 145<sup>th</sup> building permit, construction of the 10-acre local interim improvements must be complete and final concurrent inspections scheduled with MCDPS and MNCPPC Parks to ensure the 10-acre park is free of any trash and unnatural debris and is in compliance with the elements as shown on the Certified Site Plan. Prior to the final concurrent inspection, the Applicant must submit to Staff a certification from a certified professional that all improvements within the 10-Acre local park have been built according to the Certified Site Plan.

17. Lighting

a) Before issuance of any building permit, the Applicant must provide certification to Staff from a qualified professional that the lighting plans, except for bollard lighting, conform to the illuminating Engineering Society of North America (IESNA) standards for residential development.

18. The Planning Board has received and accepts the recommendations of the Montgomery County Department of Permitting Services (MCDPS), Right-of-Way Section in its letter dated September 10, 2018 and updated on December 8, 2021, and hereby incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in the letter, which MCDPS may amend if the amendments do not conflict with other conditions of Site Plan approval.

20. Certified Site Plan

Before approval of the Certified Site Plan, the following revisions must be made and/or information provided subject to Staff review and approval:

m) Revise the Final Forest Conservation Plan and Site Plan to address minor comments in ePlans.

BE IT FURTHER RESOLVED that all site development elements shown on the latest electronic version of Mt Prospect Site Plan Amendment No. 82017016B,

submitted via ePlans to the M-NCPPC as of the date of the Staff Report, are required, except as modified by the above conditions of approval; and

BE IT FURTHER RESOLVED, that having considered the recommendations of its Staff as presented 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:

Unless explicitly stated below, all previous Planning Board findings from the original Site Plan approval remain in full force and effect.

*2. The Site Plan meets all of the requirements of the zone in which it is located.*

The Amendment continues to meet all of the requirements of the PD-2 Zone. The Amendment includes minor lot line adjustments to the Hanson Reserve Outlot A and revisions to several HOA parcels as a result of final engineering and coordination with other agencies. The adjustment to the Hanson Reserve Outlot A is necessary to exclude a small portion of the property now used for stormwater management serving the residential development. Parcels associated with park dedication were also modified to exclude stormwater management facilities serving the residential development and to reflect the phasing of the plat recordation. The amount of park dedication will be reduced slightly by 0.16 acres and replaced with a new parcel to accommodate stormwater for the development. Park dedication in Phase 1 was recorded and therefore, parcels will be created to reflect the remaining area to be dedicated as part of Phase 2. A few additional parcels will also be reconfigured to reflect the parcels that were recorded in Phase 1 and new parcels that will be created to reflect what will be recorded in Phase 2. The lot line adjustments to Hanson Reserve Outlot A, slight reduction to park dedication, and parcel modifications are minor and are generally consistent with the Preliminary Plan approval and are not substantive enough to amend the Preliminary Plan as they do not alter the approved lot and block configuration or conflict with any conditions of approval of the Preliminary Plan.

<u>Development Standard</u>	<u>Required ZO</u>	<u>Required by G-884</u>	<u>Approved with 820170160</u>	<u>Approved with 82017016B</u>
<b>Tract Area</b>				
Gross Tract Area	N/A	170.77 AC	170.77 AC	No change
Public ROW Dedication	N/A	TBD at Site Plan	20.23 AC	No change
MNCPPC SV Park Dedication	N/A	TBD at Site Plan	19.56 AC	19.40 AC
MNCPPC Local Park	N/A	10 AC min	10.05 AC	No change
Dedication	N/A	10 AC min	10.05 AC	No change
Net Developable Area	N/A	TBD at Site Plan	120.93 AC	No change

3. *The locations of buildings and structures, open spaces, landscaping, recreation facilities, and pedestrian and vehicular circulation systems are adequate, safe, and efficient.*

#### Buildings and Structures

The location of all buildings remains unchanged, and most structures remain the same. Due to the modifications in grading, a seat wall located in the southeast portion of the Property along Potomac Hunt Road (Street E) and Whisper Way (Street F) is no longer necessary. The removal of the seat wall results in fewer retaining walls requiring less long-term maintenance for the community. Removal of the seat wall also improves accessibility and pedestrian circulation. The pond embankment located in the southern portion of the Property along Hanson Farm Drive will also be retrofitted and the storm drain alignments will also be revised. Modification to the pond embankments and storm drain are necessary so the facilities will be in compliance with all safety requirements per the Maryland Department of the Environment and Montgomery County Department of Permitting Services or relocated for efficiency. The location of structures as amended continues to be adequate, safe, and efficient.

#### Open Spaces, Landscaping, Recreation Facilities and Pedestrian and Vehicular Circulation

The location of open spaces will remain the same and minor modifications to the landscaping, recreation facilities, and pedestrian circulation are substantially similar to the previous approval. Several minor modifications will be made at the tot lot located in Parcel M along Ankonian Overlook (Street C) to accommodate new playground equipment that complies with the American Society for Testing and Materials (ASTM). These revisions include shifting a small sidewalk

segment accessed from Ankonian Overlook, revisions to bollard locations and shade trees, and relocation of the bike rack pad. These changes do not impact the overall quality of the project and will continue to be adequate, safe, and efficient. The Site Plan Amendment also includes modifications to the triggers in Conditions 6a.ii., 6.a.iii. and 7d.iii. in response to disruptions in the supply chain for building materials during the COVID-19 pandemic and corresponding delay in construction. As a result, the Amendment delays the completion of the amenities around the central farm pond including the sitting areas on Parcel J, Block A until the release of the 120th or the 150th building permit as discussed in the statement of justification. Although the completion of these amenities will be delayed, amenities in the 10-acre Local Park, such as picnic tables and dog park, will be completed ahead of schedule to provide current residents with adequate recreation amenities.

Condition 17.a. related to IESNA standards for lighting will also be revised to clarify that bollard lighting is exempt from the lighting certification requirements. Therefore, as conditioned, the Application will continue to have open space, recreation amenities, and lighting that are adequate, safe, and efficient.

5. *The Site Plan meets all applicable requirements of Chapter 22A regarding forest conservation, Chapter 19 regarding water resource protection, and any other applicable laws.*

As conditioned, the Site Plan Amendment continues to meet the applicable requirements of Chapter 19 and Chapter 22A. The embankments of the two existing ponds must be retrofitted to meet the Maryland Department of the Environment's dam safety requirements. In addition, some of the storm drains and associated outfalls have been realigned. Ongoing coordination between the Applicant and Montgomery County Department of Permitting Services will be necessary to ensure compliance with all dam safety requirements and to determine final locations off storm drain outfalls.

The Amendment requires modifications to Conditions 3.g. and 3.h. associated with the Final Forest Conservation Plan to reflect approved changes to the planting requirements. The amount of approved forest clearing will increase by 0.07 acres in the area designated on the FCP as "Forest Clearing Area F". Forest Save Area B correspondingly decreases by 0.07 acres. The additional forest clearing will allow for the construction of a step pool conveyance system for a storm drain outfall located on Parcel R. The step pool conveyance system was requested by the Department of Parks to reduce the potential for erosive



conditions to develop at the outfall due to the current steep grade. The additional forest clearing is located on land that will be dedicated to M-NCPPC Department of Parks; therefore, there will not be any revisions to the approved conservation easements. This forest clearing results in an increase in the required reforestation from 0.46 acres to 0.55 acres. This is reflected on the revised forest conservation worksheet on the FCP. To accommodate this, the acreage of Forest Planting Areas A, C3, and D were increased by a total of 0.10 acres, and the amount of newly planted forest available for the creation of a forest bank decreased by 0.06 acres. The increase in area available for forest planting is due to the elimination of some storm drain outfalls within the stream buffer/planting areas.

As a result of the Amendment, the Application protects a total of 15.35 acres of forest (retained and planted) through dedication to the M-NCPPC Department of Parks and 30.02 acres of forest through Category I conservation easements, for a total of 45.37 acres of protected forest on the Property. This represents a slight increase of 0.03 acres in the total amount of forest protected (retained and planted) on the Property compared to the 45.34 acres protected under the prior approval.

#### Amended Tree Variance Request

Section 22A-12(b)(3) of the Montgomery County Forest Conservation Law provides criteria that identify certain individual trees and other vegetation as high priority for retention and protection. The law requires that there be no impact to: trees that measure 30 inches or greater DBH; are part of an historic site or designated with an historic structure; are designated as national, State, or County champion trees; are at least 75 percent of the diameter of the current State champion tree of that species; or trees, shrubs, or plants that are designated as Federal or State rare, threatened, or endangered species. Any impact to high priority vegetation, including disturbance to the critical root zone (CRZ) requires a variance. An applicant for a variance must provide certain written information in support of the required findings in accordance with Section 22A-21 of the County Forest Conservation Law. The Amendment to the Application includes changes to the LOD resulting in impacts to one tree identified as high priority for retention and protection (Protected Tree); therefore, the Applicant has submitted an amendment to their original variance request.

The amended Tree Variance requests permission to impact approximately six percent (6%) of the critical root zone (CRZ) of Tree #431, a 48" DBH tulip tree, to allow for the construction of a step pool conveyance system from a stormwater

outfall down to the stream. The step pool conveyance system was requested by the Department of Parks to reduce the potential for erosive conditions to develop at the outfall due to the current steep grade on land that will be dedicated as park land.

#### Unwarranted Hardship Basis

Per Section 22A-21, a variance may only be granted if the Planning Board finds that leaving the requested trees in an undisturbed state would result in unwarranted hardship, denying the Applicant reasonable and significant use of its property. In this case, the unwarranted hardship is caused by the need for stormwater management facilities to treat the runoff generated by the development and discharge that runoff to the stream in a non-erosive manner. There is one tree that will receive impacts to its CRZ, but the impacts are minimal, affecting approximately 6% percent of the CRZ. The previous approval did not include these impacts because the step pool conveyance was not part of the design. After further review, it was determined that the existing topography would result in the creation of erosive conditions adjacent to the stream if the step pool conveyance system was not incorporated into the design. The inability to impact this Protected Tree would potentially result in an erosive condition and degradation to the receiving stream channel. The step pool conveyance is related to the management of stormwater for the development, a necessary component of the development application. Therefore, the Applicant has demonstrated sufficient unwarranted hardship justifying a request for a variance to impact Tree #431.

#### Variance Findings

Section 22A-21 of the County Forest Conservation Law sets forth the findings that must be made by the Planning Board or Planning Director, as appropriate, for a variance to be granted. The Planning Board must find that the requested variance:

1. *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 Tree is due to the reasonable development of the Property. The amended plan impacts the critical root zone of one tree, Tree #431. The construction of a step pool to convey stormwater from a storm drain outfall to the stream will impact approximately 6 percent of the CRZ of this Protected Tree. This tree will receive adequate tree protection measures to minimize the disturbance during construction. The requested



impact to Tree #431 is necessary to avoid the creation of an erosive condition due to the steep topography and would be necessary under any similar-sized application for development of the Property, and disturbance within the anticipated developable area of the site. Granting a variance to allow land disturbance within the developable portion of the Property is not unique to this Applicant. The granting of this variance is not a special privilege that would be denied to other applicants.

2. *Is not based on conditions or circumstances which are the result of the actions by the applicant.*

The requested variance is not based on conditions or circumstances which are the result of actions by the Applicant. The requested variance is based upon existing site conditions, including the steep topography and necessary design requirements for this project.

3. *Is not based on a condition relating to land or building use, either permitted or non-conforming, on a neighboring property.*

The requested variance is a result of the existing conditions and the approved design and layout of the Property, and not a result of land or building use on a neighboring property.

4. *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 Tree being impacted is located within a stream buffer; however, the impacts are minimal, and the tree will remain in place. The impacts are due to the construction of a step pool conveyance system from a storm drain outfall to the stream so that the stormwater is transported to the stream in a non-erosive manner. The intent of the construction of this step pool is to avoid water quality impacts to the stream. In addition, the Montgomery County Department of Permitting Services (MCDPS) has found the stormwater management concept for the project acceptable. The stormwater management concept incorporates Environmental Site Design standards.

#### Mitigation for Protected Trees

The Amended Forest Conservation Plan does not remove any additional Protected Trees. The Amendment impacts the CRZ of one Protected Tree,

which will continue to provide the functions that it currently does. Therefore, no mitigation is required for Protected Trees that are impacted but retained.

Variance Recommendation

The Planning Board approves the amendment to the variance request.

BE IT FURTHER RESOLVED, that this Resolution incorporates by reference all evidence of record, including maps, drawings, memoranda, correspondence, and other information; and

BE IT FURTHER RESOLVED, that this Site Plan shall remain valid as provided in Montgomery County Code § 59-D-3.8; and

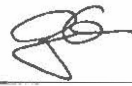
BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is ~~\_\_\_\_\_ FEB 03 2022 \_\_\_\_\_~~ (which is the date that this resolution is mailed to all parties of record), and

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 Rubin, seconded by Commissioner Cichy, 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