

Montgomery County Planning Board

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MAY 05 2023

MCPB No. 23-036

Forest Conservation Plan No. 12008003D

Bullis School

Date of Hearing: April 13, 2023

RESOLUTION

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

WHEREAS, on May 24, 2022, The Bullis School ("Applicant") filed an application for approval of a forest conservation plan amendment on approximately 101.87 acres of land located at 10601 Falls Road ("Subject Property") in the Potomac Policy Area and 2002 Potomac Subregion Master Plan area; and

WHEREAS, Applicant's forest conservation plan application was designated Forest Conservation Plan No. 12008003D, Bullis 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 April 3, 2023, providing its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on April 13, 2023, the Planning Board held a public hearing on the Application and voted to approve the Application subject to conditions, on the motion of Commissioner Pedoeem, seconded by Commissioner Bartley, with a vote of 4-0; Commissioners Bartley, Hedrick, Pedoeem, and Piñero voting in favor with Chair Zyontz being absent.

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Approved as to

Legal Sufficiency: /s/ Matthew T. Mills

M-NCPPC Legal Department

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Forest Conservation Plan No. 12008003D on the Subject Property, subject to the following conditions:¹

1. The Applicant must comply with all tree protection and tree save measures shown on the approved Forest Conservation Plan. Tree save measures not specified on the approved Forest Conservation Plan may be required by the M-NCPPC forest conservation inspector.
2. The limits of disturbance on the Final Sediment and Erosion Control Plan must be consistent with the limits of disturbance 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/or 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 amendment complies with the requirements of the Forest Conservation Law.

This FFCP is an amendment to previously approved FFCP #12008003C. The proposed revisions are all typical of a private educational facility and are consistent with the approved use on the Property. The additional limits of disturbance will not trigger any changes to afforestation/reforestation requirements.

B. Forest Conservation Variance

Section 22A-12(b)(3) of the Forest Conservation Law identifies certain individual trees as a 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

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.

variance under Section 22A-12(b)(3) ("Variance"). Otherwise, such resources must be left in an undisturbed condition.

This Application will require impact to one Protected Trees as identified in the Staff Report. In accordance with Section 22A-21(a), the Applicant requested a Variance, and the Board agrees that the Applicant would suffer unwarranted hardship by being denied reasonable and significant use of the Subject Property 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 reasonable modifications to the existing features on the Property. Granting a variance to allow land disturbance within the Property to better fulfill the operation of the school while minimizing impacts is not unique to this Applicant. The granting of this variance is not a special privilege that would be denied to other applicants.

2. *The need for the Variance is not based on conditions or circumstances which are the result of 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 upon existing conditions on the Property, including the location of the protected trees within the area of the Property and connectivity between commonly owned pieces of land.

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 need for a variance is a result of the existing conditions and the desire for the Applicant to reconfigure existing features to better serve the existing school and is not based on a condition relating to land or building use, either permitted or non-conforming, on a neighboring property.

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. No trees are proposed to be removed and one tree will be impacted. The tree that will be impacted but not removed will continue to provide its existing functions. In addition, the Montgomery County Department of Permitting Services will require a detailed sediment and erosion control plan for the land disturbance and a stormwater management plan to treat all runoff from impervious surfaces on the Property prior to discharging into the receiving waterway.

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 MAY 05 2023 (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 Hedrick, seconded by Commissioner Bartley, with a vote of 4-0-1; Vice Chair Piñero, and Commissioners Bartley, Hedrick, and Pedoeem, voting in favor of the motion, Chair Zyontz abstaining, at its regular meeting held on Thursday, April 27, 2023, in Wheaton, Maryland and via video conference.


Jeffrey Zyontz, Chair
Montgomery County Planning Board