

MONTGOMERY COUNTY PLANNING DEPARTMENT

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB Item #12 December 20, 2007

MEMORANDUM

TO:

Montgomery County Planning Board

VIA:

Gwen Wright, Acting Director

Planning Department

Mary Dolan, Acting Chief

Countywide Planning

Jorge A. Valladares, P.E., Chief

Environmental Planning, Countywide Planning

Steve Federline, Supervisor

Environmental Planning, Countywide Planning

FROM:

Mark Pfefferle, Forest Conservation Program Manager

Environmental Planning, Countywide Planning

DATE:

December 14, 2007

REVIEW TYPE:

Briefing on Staff Action for a New Application:

Final Forest Conservation Plan SC2008014

LOCATION:

12000 River Road, Potomac, MD

MASTER PLAN:

Potomac

APPLICANT:

Aris Mardirossian

APPLICANT'S ATTORNEY:

Barbara Sears, Linowes and Blocker

APPLICANT'S ENGINEER:

Huron Consulting

PURPOSE

The purpose of this report is to inform the Board about a new forest conservation plan submitted for 12000 River Road in Potomac and to indicate the changes that have occurred to the plan since March 2007. This report is for informational purposes only. The new plan has been approved by staff under Section 22A-11(d) of the Forest Conservation Law, and requires no action by the Board.

BACKGROUND

On June 28, 2007, the Montgomery County Planning Board voted to deny the Applicant's appeal of a staff denial of Forest Conservation Plan SC2007003. The property is located at 12000 River Road in Potomac. A forest conservation plan is necessary for the Applicant to obtain a sediment control permit to construct a house on his already platted lot. Under Section 22A-11(d) of the County Code the Applicant's forest conservation plan must be reviewed by the Planning Director or her designee. That review happened, and Environmental Planning Staff, acting as the Planning Director's designee, denied the Applicant's proposed forest conservation plan on March 30, 2007.

The reasons for the staff's denial included:

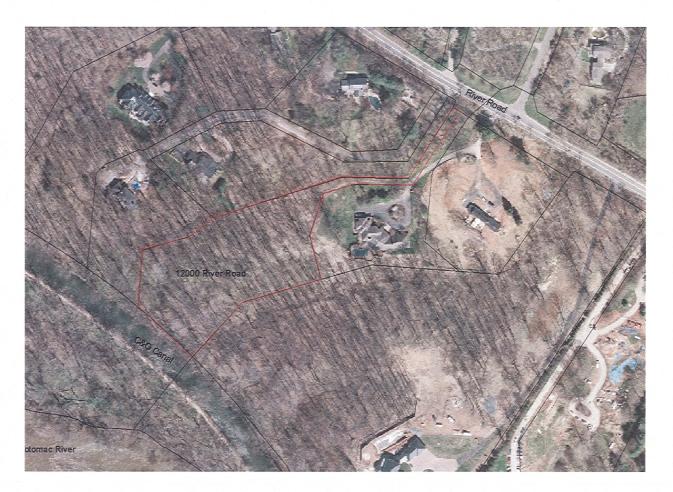
- 1. The plan did not comply with Section 22A-12(h)(2) of the County Code and Section 115 of the Forest Conservation Regulation which requires the conservation area to be subject to a long-term protective measure that limits the area's use consistent with conservation. The applicant was proposing to remove 59 trees, many of which were located in areas where the tree where required to be protected under the Forest Conservation Law, including a stream valley buffer. Some of the trees that Applicant had proposed to remove are located on extremely steep slopes. Removing them would destabilize the slope, cause erosion and negatively impact water quality. The Applicant proposed to "protect" the forest with a National Park Service Scenic Easement which would not have protected the trees as well as either a Category I or Category II conservation easements, and could not be enforced by the Commission.
- 2. The Applicant proposed to install a six-plus foot tall wrought iron-style, "ornamental" fence around the entire perimeter of the property which would injure trees during installation, and likely require the removal of trees that grow too close to or through the fence. The proposed fence would also significantly limit wildlife passage, be highly visible from the canal towpath, and limit the visual enjoyment of the forest in its natural state and the National Historic Park.

The applicant appealed the March 30, 2007 denial of a forest conservation plan submitted by applicant for 12000 River Road under Section 22A-20(c)(1) of the County Code. This section provides for appeals to the Board where staff denies a proposed forest conservation plan.

On November 30, 2007, the Applicant submitted a new forest conservation plan. Staff has reviewed the new submission and Final Forest Conservation Plan SC2008014 for 12000 River Road that it was approved administratively on December 6, 2007.

Site Description

The subject site, pictured below is a recorded lot near the intersection of River Road and Spur Wheel Lane in Potomac. The property is also known as Potomac Hunt Lot 10 and 12000 River Road. Lot 10 was created with preliminary plan of subdivision 119860490 and includes a long 25-foot wide panhandle to River Road. Preliminary plan 119860490 created 3 lots on 8.35 acres of land. Lot 10 is the farthest lot from River Road, but the closest to the Chesapeake and Ohio Canal National Historic Park. The Planning Board opinion, for this subdivision, was mailed on April 8, 1987.



The subject site abuts residential lots in all directions except for the Chesapeake and Ohio (C&O) Canal National Historic Park, which is to the southwest of lot 10. Groundwater and stormwater runoff from the property drains directly to the C&O Canal.

Project Description

The Applicant proposes to construct a single-family dwelling on a recorded lot at 12000 River Road. The project includes a separate driveway parallel to the driveway for 11940 River Road. This driveway would extend from River Road right-of-way to a turnaround at the front of the proposed house. The new application also indicates a combination of ornamental and split rail fencing around the property. Split rail fencing will be within the future conservation easement area and an ornamental fence elsewhere.

Natural Resource Inventory/Forest Stand Delineation

The Applicant submitted a Natural Resource Inventory/Forest Stand Delineation for the property on August 11, 2006. Environmental Planning staff approved the NRI/FSD on October 16, 2006. The subject site is entirely wooded and backs to the C&O Canal. There are steep slopes, exposed rocks within the steep slopes, erodible soils, and a stream/environmental buffer on the subject site. The buffer is measured from the bank of the C&O Canal and not the Potomac River and the buffer extends to the top of the steep slopes (slopes 25% and greater). The property slopes from a high point of 286 feet above sea level, which is

nearest to lot 9, to a low point of 176 feet above sea level, which is along the common property line shared with the United States Government near the C&O Canal.

Forest Conservation Plan

The Applicant submitted a new forest conservation plan on November 30, 2007 (SC2008014 Attachment A). Environmental Planning staff, as the Director's designee, approved the plan on December 6, 2007. The plan submitted complies with the forest conservation law and regulations. The forest conservation plan shows the clearing of 1.35 acres of forest and the retention of 1.65 acres. The plan shows all environmentally sensitive areas within a Category I conservation easement. There are no planting requirements generated by the removal of forest on the subject site.

NPS Scenic Easement

Since November 12, 1974 there has been a scenic easement on the property at 12000 River Road. This easement is recorded at Liber 4596 Folio 313. The easement prohibits structures greater than 40 feet in height, no buildings or structures on slopes greater than 20 percent, no change in the character of the topography or disturbance of natural features except for building footings, septic areas, and prohibits the removal of any timber 6 inches dbh except for diseased, dead, injured or hazardous trees. The Secretary of the Interior or his designee may on authorize exceptions to these controls in writing. The majority, if not all, retained forest is within the scenic easement.

DISCUSSION

Legal Basis for the Review

Before obtaining the sediment control permit necessary to construct a residence at 12000 River Road, the Applicant must first obtain approval of a forest conservation plan (22A-11(d)(3) of the County Code). Under Section 22A-4(b) of the County Code (Forest Conservation Law) "a person required by law to obtain ... a sediment control permit on a tract of land 40,000 square feet or larger, and who is not otherwise required to obtain" a preliminary plan of subdivision, development plan, etc., is subject to the Forest Conservation Law. Section 22A-5(a) of the Forest Conservation Law allows exemptions from submitting a forest conservation plan if the activity is for the construction of a dwelling house, or accessory structures, on an existing single lot, if less than 40,000 square feet of forest is removed. The Applicant proposes to remove more than 40,000 square feet of forest on an existing recorded lot and therefore, the Applicant is required to submit and have approved a forest conservation plan for 12000 River Road.

Forest conservation plans associated with sediment control permits are reviewed, approved, or denied by the Planning Director (Section 22A-11(d) of the Montgomery County code). Section 22A-3 of the Montgomery County Code defines the Planning Director as the Director of the Montgomery County Park and Planning Department, or the Director's designee.

On December 6, 2007, M-NCPPC Environmental Planning staff, as the Planning Director's designee, approved forest conservation plan SC2008014 for 12000 River Road. (Attachment B).

Forest Conservation Plan

The new forest conservation plan submitted on November 30, 2007 indicates 1.27-acres of existing forest will be protected in a Category I conservation easement. This corresponds to the area entirely within the environmentally sensitive areas. In addition, 0.38-acres of existing and retained forest, outside the category I conservation easement will be protected by the National Park Service Scenic Easement. In total, the Applicant is proposing to remove 1.35 acres of existing forest and save 1.65 acres. There are no forest conservation planting requirements associated with the removal of forest on the subject site.

The previously submitted Forest Conservation Plan (SC2007003) showed an ornamental fence five feet from the property line and within the proposed forest conservation easement. The plan also showed an ornamental fence within 20 feet from the common property line with the United States Government. Since the staff's denial of forest conservation SC2007003, the County Council enacted Zoning Text Amendment 07-04 which prohibits anything but rustic fences within 200 feet of a National Park. Forest Conservation Plan SC2008014 complies with this requirement. The Applicant will construct a three rail split fence along the perimeter of the property for all areas within 200 feet of the National Park Service property. The Applicant's plan shows an ornamental fence bisecting the property and no closer than 200 feet to the national park, and not within any portion of the property subject to the Category I conservation easement. At the property lines the split rail fence will transition into an ornamental fence and continue to comply with zoning text amendment.

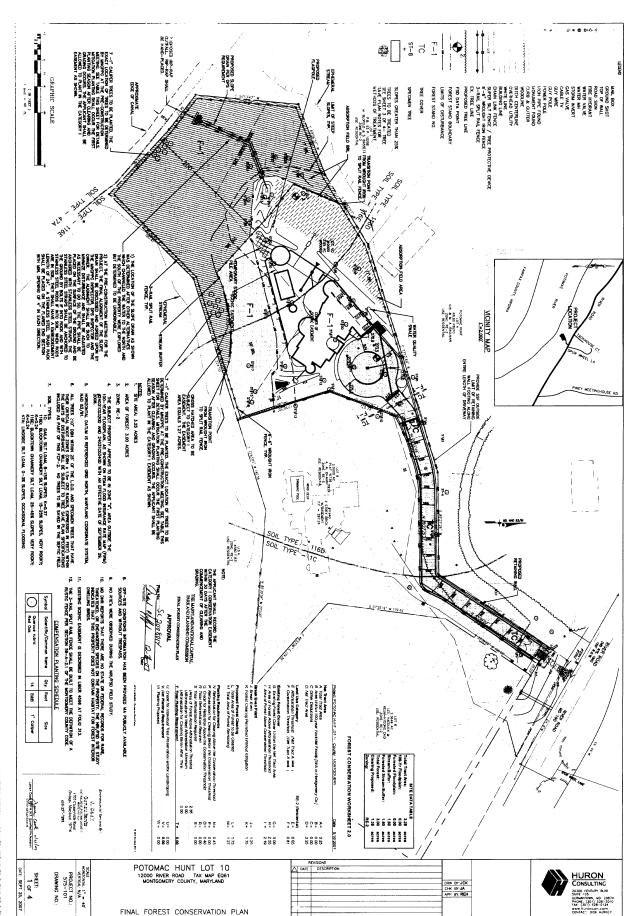
The Application locates the ornamental fence along the border of the Category I easement area. In order to protect his children from exposure to certain nut trees to which they are allergic, the Applicant proposes to remove four nut trees from areas that are outside of the limits of disturbance, and that are located either inside or near the ornamental fence, which will keep the Applicant's children from being exposed to nut trees. Three of these trees are outside the conservation easement. The largest of the three trees is 5 inches in diameter. The fourth tee, a 5-inch dbh hickory tree located at the edge of the conservation easement, where the tree canopy might grow over the ornamental fence, is located within the conservation area. The Applicant will compensate for the loss of all four of the removed trees with planting 14 one-inch caliper native trees within the conservation easement area. The trees will be planted in the area immediately adjacent to the 5-inch hickory tree and near the common property line with the United States Government.

Finally, forest conservation plan SC2008014 shows the required stormwater management pipe and outfall on the western side of the property. This discharge is necessary to safely convey stormwater down the steep slope. Forest conservation plan SC2007003 did not include this pipe and outfall. The alignment of the slope drain will be field adjusted to minimize disturbance. The pipe will be placed on the ground and be anchored to the ground with stainless steel bolts or rods to minimize land disturbance.

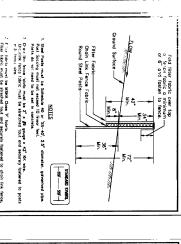
ATTACHMENTS

Attachment A. November 30, 2007 Forest Conservation Plan Attachment B. M-NCPPC December 6, 2007 letter approving forest conservation plan SC2008014

Attachment A



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Maintenance must be performed as needed and slit buildups removed when they reach an 18" depth above existing ground or when "builges" develop in slit fence. For labria must be MSMA Class "F" fabria.

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All other details and specifications shall be in accordance with U.S.D.A.—S.C.S., M.D.E.—W.M.A. and M.S.H.A. specifications.

MODIFIED SUPER SILT FENCE DATE: 6/03

MONTGOMERY COUNTY DEPARTMENT OF PERMITTING SERVICES WATER RESOURCES

TREE PROTECTION DEVICE

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TREE SAYE PLAN NOTES

hes marked for removal will be cut as near grade as possible by chainsew and the stump and believe grade. Digging the roots or pushing the nink over is not allowed. The stumps will gound to at least 12 believe grade, chips and debris channed from the area, and the holes diffed to natural grade with native soil or topsoil. nediately following backfilling, apoly rool growth hormone to the rool pruning trenches as a n. Mix the hormone with clean water and apply at a rate compatible with ANSI standards. will be root pruned within one foot (1) of the limits of disturbance (LOD) along the extire shown on the Final Forest Conservation Plan. Backfill the trenches with excavated soil t, not fill dirt.

"ertifize designated trees with critical root zones impacted by 40% at the discretion of the crief. The recommendations are for a single treatment, however, institution may be used sconstruction if future monitoring and exhaustion indicate it could improve the condition of the (b). Additional applications should be based on tree and site investigations performed by a oper sit force (SSF) will serve as the Tree Protective Device and may be installed in the crot-ter of the Community of the C

prima designated trees with critical cost considering by 60% at the discretion of the AI primary must be by a sharphard Lorenset of the Clear Expent Growing AINS ALON or primary sharphare. They are seen into the between in each appropriate primary and to lose of the control o ze tres using liquid sol injection according to ANSI standards and using a slow release on especially for trest (ex., Davey "Arbor Green"). Compensate for root pruning and rig critical root zones when calculating firelizer quantities and injection locations. Do not when the ground is frozen.

Site (bot) conditions the prevent root praining to 24' depth shall be reported to the when forester or AE not later than the read of the whiching day in which they were accountered. Root privrile operational in not undertable any delictional later accountered on the remodal which relicional counterparts from the AE is a writting. Root privring shall be to the maximum depth reasonably possible which the committeews, up to 24'.

mmedialely following puning, super shi fence may be installed and any open trenches shall be bo o original grade with either soil excavated during roof pruning or topsoil (Hill dirt is not acceptable).

Access into the Forset Conservation Aces (FCAs) shall be minimized as much as possible. Only the foreign absolutely foreign and applicable the root is the behanded otherwise personnel, equipment machinery, and supplies, including atomps or any misselest, we prohibited.

Roods ghalf be out to a depth of all read 24 inches using a roof prening saw, unless field conditions (ex. cross) prevents maching the depth. Equations tablors shall be interpreted prior to be planting each working marker winn charled by u.g. oas to col most desirely without leasting or displacement. Rood to large to coll dearly with this equipment shall be call with a challeter.

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by the AIE and any other appropriate personnel minoridately of any situation or condition suspected of being unaste or cusping unaste conditions. Spowork, clear the area, and teps to ensure exclusion of anyone into the area of any suspected hazard.

FERTILIZATION SPECIFICATIONS

Magate direct root loss or damage, and/or indirect root damage via soil compaction, term health, principally lihrough development of a vigorous root system.

Except as specified below, ANSI Standard ASSS (Part 2) "Fertilization" will apply

For this project, "tertifization" is the applic

titlaat to be a slow-release type formulation developed specifically to be eppired yis sub-surface liquid injection t efficies (countries Devey Arbor Green), with publicaturated 200 (PB2) or similar (examples: Dopper's Malaria varre or Foorly.

zefon rata will be two pounds of actual nitrogen por 1,000 square feet (2 lb. / 1,000 sq. ft.) with PBZ as por facturer's recommendations, mixed in an appropriate volume of water.

ter will be applied when directed by the Urben Forester or Project Manager.

VEHICLES and EQUIPMENT rillizer mbdng and vehicle travel are not allowed within the critical root zone of any tree

y these trees specified by the Urban Forester or Project Manger will be firstitized. These that the Firstitization instate receive should be brought to the attention of the Urban Forester or world Manager, but should be brought to the attention of the Urban Forester or world Manager, but should not be fertilized without prior approval. surface liquid fertifizer injection is required. ation of tree nutrients and root growth hormone.

diber is to be bloowyby mbod with clean water to polyeve uniform and complete expension or discobing asien may be movied during expension to mainten a uniform, complete application at apposited rates. (Aquit Validons are preferred to all requireds)

Application area to defined as the critical root zone excluding the erea within four feet of the time fourth. "Citical root zone is defined by the formula of the critical root zone is defined by the formula of 20 x 1.5 = 30).

tication will begin at the specified depth, and then the injection by will be gradually withdrawn during lication until within 4" of the existing grade.

rashing/dumping is prohibited on the site. sintenance and overnight parking must be on pavement ident is required.

NOTES:

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C. Long-term protection devices will be installed par the Forset Conservation Plan and attached deals in Installation will be occur at the exprepanted time furing the construction project. Refer to the plan drawing for long term protection measures to be installed. Forset retention area signs shall be installed as required by the MNCPPC inspector, or as shown approved plan.

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SIGN DETAIL

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D. Periodic inspections by MNCPPC will occur during the construction project. Corrections and regarks as all free protein detection, as determined by the MNCPPC inspector, must be made within the limeframe established by the MNCPPC inspector.

E. After construction is completed, an inspection shall be requested. Corrective measures which
may be required include.

Removal and replacement of dead and dying trees
 Puring of dead or declining limbs
 Soil aeration
 V Fertilization

F. After inspection and completion of corrective measures have been undertaken, all temporary protection devices shall be removed from the site. No additional grading, adding, or burist may take place





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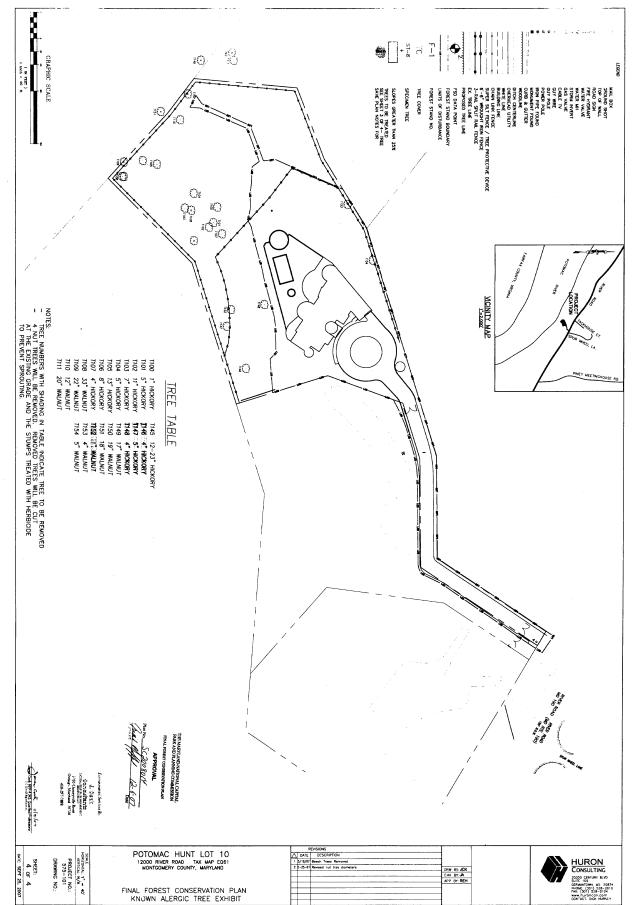
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POTOMAC HUNT LOT 10 12000 RIVER ROAD TAX MAP EQ61 MONTGOMERY COUNTY, MARYLAND

FINAL FOREST CONSERVATION PLAN DETAILS

1200 RIVER ROAD, POTOMAC, MC

SEPT 25, 2007



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Attachment B



December 14, 2007

Guru Nanak Foundation 12917 Old Columbia Pike Silver Spring, MD 20906

Dear Applicant:

This letter is to inform you that Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) 420071300, Guru Nanak Foundation, is approved. A forest conservation plan can now be submitted to the Development Review Division in conjunction with any application to which it a necessary component, or directly to Environmental Planning staff if not associated with an application before the Planning Board.

Since the property is subject to the Montgomery County Forest Conservation law there shall be no clearing of forest, understory, or tree removal on the subject site prior to the approval of a final forest conservation plan. If there are any subsequent modifications to the approved plan, not including changes initiated by a government agency, a separate amendment must be submitted to M-NCPPC for review and approval prior to the submission of a forest conservation plan.

If you have any questions regarding these actions, please feel free to contact Amy Lindsey at (301)495-2189.

Sincerely,

Amy Lindsey, Environmental Planner

Cc: 420071300

Surinder Singh, (301)279-7121 Donald Zimar, (703)331-1359