



MEMORANDUM

DATE: June 2, 2010
TO: Montgomery County Planning Board
VIA: Catherine Conlon, Supervisor, Development Review Division
 Mark Pfefferle, Acting Chief, Environmental Planning *MP*
FROM: Richard A. Weaver, Planner Coordinator, Development Review Division *RAW*
 Amy V. Lindsey, Senior Planner, Environmental Planning *ALL*
REVIEW TYPE: Limited Amendment to the Preliminary Plan and Site Plan, including
 associated Final Forest Conservation Plan (FCP)
APPLYING FOR: Amendment to a Preliminary Plan, Site Plan and Final Forest
 Conservation Plan (FCP)
PLAN NAME: Smalls Nursery (Parcel A)
PLAN NUMBER: 11994011C and 81995015B
PLAN TYPE: Preliminary Plan, Site Plan and Final Forest Conservation Plan
REVIEW BASIS: Forest Conservation Regulations, Section 113.A.(2), Regulation No. 1-
 01AM (COMCOR) 18-01AM
ZONE: RE-1
LOCATION: Located on Thistlebridge Drive, 500 feet west of Georgia Avenue (MD
 97) in Olney
APPLICANT: Tower Company c/o Arnold Kohn
ATTORNEY: N/A
HEARING DATE: June 24, 2010

STAFF RECOMMENDATION: Staff recommends approval of the Limited Amendment to the Preliminary Plan, Site Plan and associated Final Forest Conservation Plan with the following conditions.

1. Applicant must record a new record plat within nine (9) months of the mailing of the Planning Board Resolution approving the limited amendment to the Preliminary Plan and Site Plan. The record plat must reference the standard Category I conservation easement as recorded in the Land Records for Montgomery County, Maryland (liber 13178 folio 412).
2. Applicant must receive staff approval of the certificate of compliance for an offsite forest conservation mitigation bank for 0.50 credits prior to Planning Board approval of the record plat.
3. All other conditions of Preliminary Plan and Forest Conservation Plan No. 119940110, as contained in the Planning Board's Resolution dated February 23, 1995 and all subsequent amendments, that were not modified herein, remain in full force and effect.
4. All other conditions of Site Plan No. 81990150, as contained in the Planning Board's Resolution dated July 20, 1995 and all subsequent amendments, that were not modified herein, remain in full force and effect.

PROPOSAL

This Limited Amendment to the Preliminary Plan, Site Plan and associated Final Forest Conservation Plan is for the removal of 0.25 ac of Category I conservation easement, and the associated protected forest, for the construction of an access road for the adjacent Townhouses at Smalls Nursery (Approved Preliminary Plan 120070610 and pending Site Plan 820100060). The access will be primarily located in a future ROW for a future connector road to the future re-aligned MD Route 28. The applicant is proposing to mitigate off-site with the purchase of 0.50 credits, at a rate of 2:1.

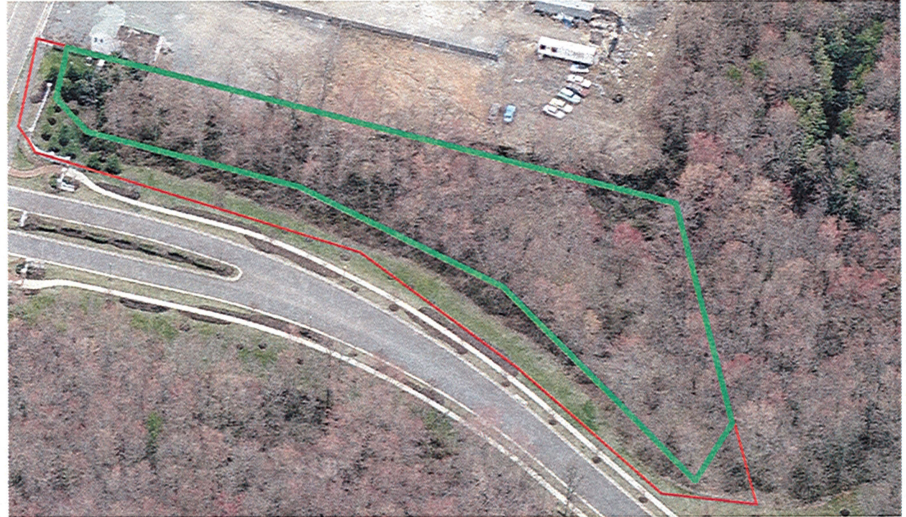
BACKGROUND

The Montgomery County Planning Board approved Preliminary Plan #119940110 “Smalls Nursery”, on June 16, 1994. The original approval was for 130 lots on 180.3-acres of land in the RE-1 zone. The subject property is also subject to Site Plan #819950150 “Preserves at Smalls Nursery”, approved on April 20, 1995. The forest conservation law of Montgomery County (Chapter 22A of the County Code) applied to both of these plans; thus, a forest conservation plan (FCP) was required.

This limited amendment to the Preliminary, Site and Final Forest Conservation Plan is not for the entire subdivision, but only applies to Parcel A of the Preserves at Smalls Nursery (78,408 square feet or 1.8 ac).

SITE DESCRIPTION

The subject property is located on Thistlebridge Drive north of the intersection of Norbeck Road and Georgia Avenue in Olney. The subject property is a forested, undeveloped parcel with a ~1.31 ac Category I conservation easement. There is an area of wetlands and associated buffers on the property, which are part of the larger wetland system located on the adjacent property to the west.



PLANNING BOARD REVIEW AUTHORITY

The Forest Conservation Regulations require Planning Board action on certain types of modifications to an approved FCP. Section 113.A.(1) of the Forest Conservation Regulation states:

Minor amendments which do not result in more than a total of 5000 square feet of additional forest clearing may be approved by the Planning Director on a case by case basis...

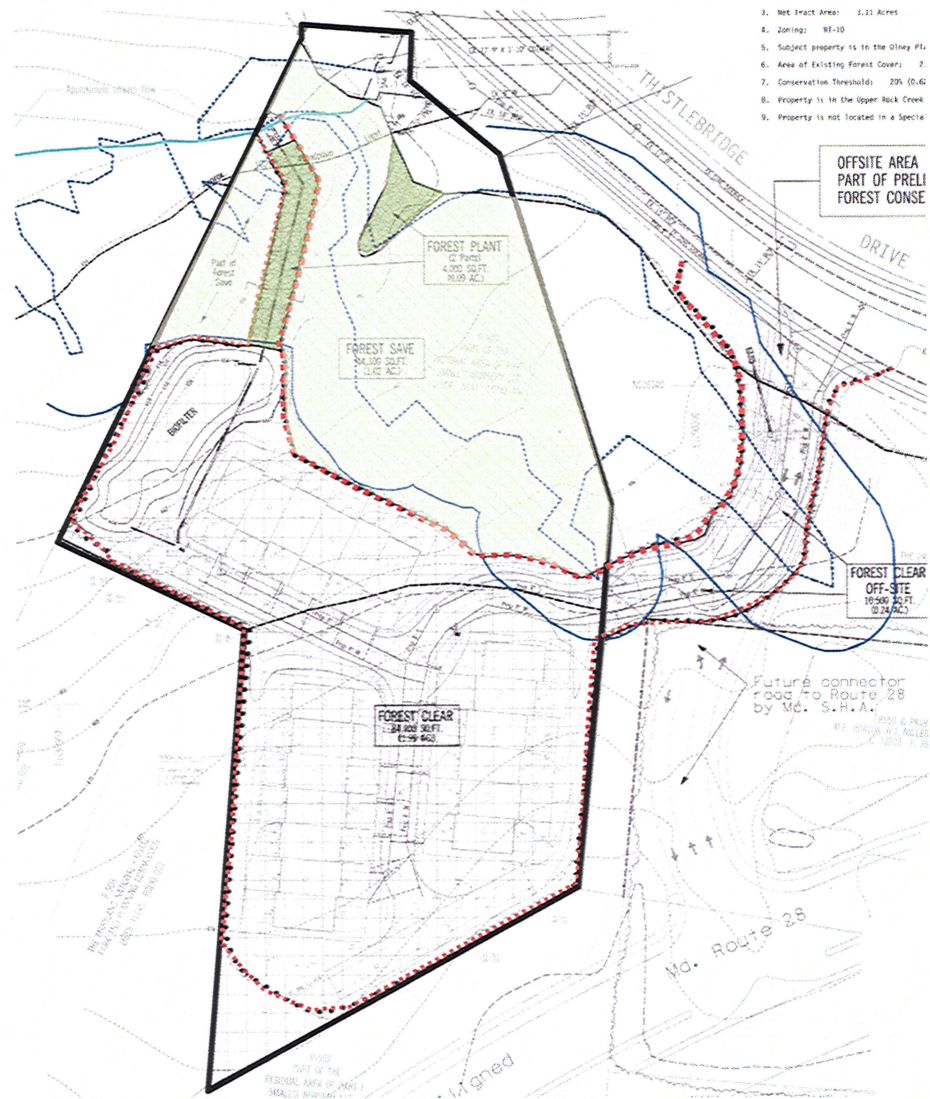
The proposed modifications to the Final Forest Conservation Plan require the removal of 10,890 square feet or 0.25 ac of forest, therefore; Planning Board action is required.

REVIEW

Direct access to the Townhouses at Small's Nursery subdivision is from Thistlebridge Drive. At the preliminary plan hearing for that subdivision, the Planning Board discussed the location of a wetland system adjacent to the road and how a direct connection would seriously impact and permanently displace the wetlands and possibly sever the hydrology. In order to avoid this disturbance, the applicant worked with MD State Highway Administration (SHA) and The Preserves at Small's Nursery Homeowners Association to provide an access with fewer environmental impacts. This access will be

located in the same future ROW as the future connector road to the future re-aligned MD Route 28. While this access still has significant environmental impacts, staff believes that these negative effects are less than those caused by direct access for the following reasons:

1. The proposed access is primarily in the future ROW of the Route 28 connector road and will be disturbed regardless of this development.
2. The area of wetland and wetland buffer disturbed with this access is at the edge of the wetlands, instead of dividing the majority of the wetlands from the stream. In this location, the effect of the impact is less.



FINDINGS

All previous findings of the Planning Board for Preliminary Plan No. 119940110 and Site Plan 819950150 remain valid. This preliminary plan and site plan continue to comply with Chapter 22A, the Montgomery County Forest Conservation Law because the Category I easement and forest removed from the site will be mitigated in an off-site location.

CITIZEN CORRESPONDENCE

This plan was properly processed in accordance with the current submittal procedures. A copy of the plan was sent to all adjacent and confronting property owners as well as local civic associations. As of this date, no citizen correspondence has been received to the file or by staff.

RECOMMENDATION

Staff recommends that the Planning Board approve this limited Preliminary Plan amendment, limited Site Plan amendment and the revision to the Forest Conservation Plan with the conditions specified above.