



MCPB
ITEM #
July 29, 2010

MEMORANDUM

TO: Montgomery County Planning Board

VIA: Mark Pfefferle, Acting Chief *MP*
Environmental Planning Division

FROM: Amy Lindsey, Senior Planner *AL*
Environmental Planning Division

DATE: July 15, 2010

PLAN NAME: Herbert Hoover Middle School

PLAN NUMBER: MR2010722

PLAN TYPE: Preliminary Forest Conservation Plan

REVIEW BASIS: Chapter 22a of the County Code

APPLICANT: Montgomery County Public Schools

ENGINEER: ADTEK

RECOMMENDATION

The Environmental Planning staff has reviewed the preliminary forest conservation for the project reference above. Staff recommends approval of the preliminary forest conservation plan subject to the following conditions:

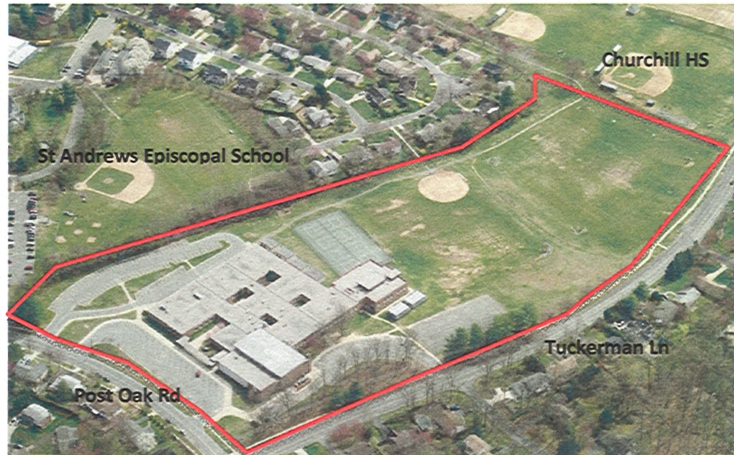
1. Applicant must comply with the staff recommended conditions of approval for the preliminary forest conservation plan, as per the letter dated July 15, 2010.
2. Applicant must submit a final forest conservation plan in accordance with section 109.B. of the forest conservation regulations. Plan must be approved prior to any land disturbing activities occurring on site.
3. Applicant must record a Category II conservation easement, prior to any clearing or grading occurring onsite, over all large landscape areas used to

meet forest conservation requirements.

4. If the applicant is going to meet the forest conservation planting requirements offsite they must identify the location as required by section 109.B.(f) of the forest conservation regulations, or submit a certificate of compliance to use an offsite forest mitigation bank prior to any clearing or grading occurring on site.

DISCUSSION

Herbert Hoover Middle School is an existing school on 18.59-acres located in the Potomac Subregion planning area at the intersection of Post Oak Road and Tuckerman Lane. Access is from both Post Oak Road and Tuckerman Lane. Saint Andrews Episcopal School



and single-family residential dwellings border the school site to the east. Post Oak Road is to the north and Tuckerman Lane is to the west and south. The athletic fields of Winston Churchill High School and Herbert Hoover Middle School share a boundary to the southeast.

The proposed plan is to replace the majority of the existing two-story school with a new predominately three-story building. The new school will replace and modify parking lots, drop-off loops, athletic fields and stormwater management facilities. A two-story addition, completed in 2000, will be re-used and integrated into the proposed design.

The Board's action on the Preliminary Forest Conservation Plan is regulatory and binding. The Planning Board must act on the Forest Conservation Plan before it finalizes its recommendations on the mandatory referral.

Environmental Inventory

The applicant submitted and received approval of a Natural Resources Inventory/Forest Stand Delineation (NRI/FSD) number 420092130 on July 21, 2009. There is 0.44 acres of upland forest dominated by red and white oak trees on the property. This forest is considered a high priority for retention, due to the size of trees within the forest and the buffering function it serves from both the road and residential properties. There are 20 trees greater than or equal to 24" diameter at breast height (DBH) on-site. Of these 20 trees, six are large enough to be considered specimen sized. There are no other environmentally sensitive features onsite.

The property is within the Buck Branch subwatershed of the Cabin John watershed; a Use I watershed. The *Countywide Stream Protection Strategy* (CSPS) identifies this subwatershed as having good water quality.

Forest Conservation

This property is subject to the Chapter 22A Montgomery County Forest Conservation Law and a preliminary forest conservation plan has been submitted for approval. There are 0.44 acres of forest in a single stand on the subject property. The forest is considered high priority for retention, due to specimen trees and buffering function.

The applicant is proposing to remove 0.08 acres of forest, however the remaining stand does not meet the legal definition of forest for it is not 50 feet in width. A forest is defined in Chapter 22A as a “biological community dominated by trees and other woody plants (including plant communities, the understory, and forest floor) covering a land area which is 10,000 square feet or greater and at least 50 feet wide...” Because the forest will not meet this definition all forest including the trees that remain must be counted as cleared. As a result, the applicant has a 3.28 planting requirement for the development of this school. The applicant will meet the planting requirements by permanently protecting the remaining 0.36 acre “forest” as a large landscape area and plant an additional trees onsite to obtain 0.89 acres of tree canopy credit. The remaining 2.03 acres of remaining reforestation will be met off-site with the exact location to be determined with the final forest conservation plan.

Staff is requesting a Category II conservation easement over the 0.36 acres of large landscape area shown on the preliminary forest conservation plan.

Forest Conservation Variance

Section 1607(c) of the Natural Resources Article, Maryland Annotated Code, identifies certain individual trees as high priority for retention and protection. Any impact to these trees, including removal or any disturbance within a tree’s 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 Code. The law requires no impact the retention and protection to the greatest extent possible of all trees that measure 30” diameter at DBH or greater; any tree designated as the county champion tree; trees with a DBH 75% or greater than the diameter of the current State champion for that species; and rare, threatened and endangered species,. Since this project did not obtain approval of a preliminary forest conservation plan prior to October 1, 2009 and the applicant is proposing to impact eight trees greater than 30 inches DBH, a variance is required. The applicant has requested a variance to impact the following trees:

| TABULATION OF SPECIMEN TREES TO BE IMPACTED | | | | | |
|---|------------------|--------------------|---|-------------------------|-------------|
| TREE NO. | CALIPER (d.b.h.) | CRITICAL ROOT ZONE | TREE TYPE | CONDITION | STATUS |
| 1 | 31" | 6793 sf | Pinus Strobus (<i>White Pine</i>) | good condition | To be saved |
| 2 | 31" | 6793 sf | Pinus Strobus (<i>White Pine</i>) | good condition | To be saved |
| 16 | 31" | 6793 sf | Quercus Rubra (<i>Red Oak</i>) | good condition | To be saved |
| 18 | 34" | 8171 sf | Quercus Alba (<i>White Oak</i>) | good condition | To be saved |
| 19 | 31" | 6793 sf | Quercus Alba (<i>White Oak</i>) | good condition | To be saved |
| 22 | 36" | 9161 sf | Acer Rubrum (<i>Red Maple</i>) | good condition, offsite | To be saved |
| 23 | 30" | 6362 sf | Ulmus (<i>Elm</i>) | good condition, offsite | To be saved |
| 26 | 30" | 6362 sf | Robinia pseudocacia (<i>Black Locust</i>) | good condition, offsite | To be saved |

All on-site and off-site trees with critical root zone impacts are proposed for saving.

In accordance with Montgomery County Code, Section 22A-21(c) the Planning Board referred a copy of the variance request to the County Arborist in the Montgomery County Department of Environmental Protection for a written recommendation prior to acting on the request. The variance request was referred to the Montgomery County Arborist initially on December 9, 2009 and revised on April 19, 2010. The County Arborist has and has elected not to review the variance request (see Attachment A).

In accordance with Section 22A-21(e), Planning staff recommends a finding by the Planning Board that the Applicant has met all criteria required to grant the variance.

1. *Will confer on the applicant a special privilege that would be denied to other applicants.*

The requested variance will not confer on the applicant any special privileges that would be denied to other applicants. The applicant has minimized impacts to trees by restricting limits of disturbance.

2. *Is 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. Several site constraints, including retaining a portion of the existing school and stormwater drainage, require the alteration of the parking lot grades and repaving. The north entrance to the bus loop area will be affected, which requires work in the critical root zones (CRZs) of trees 1 and 2. Also, the access drive from Tuckerman Lane through the staff parking requires repaving, affecting the CRZs of trees 16, 18, and 19. Trees 22, 23, and 26 will be affected by the proposed work to the pedestrian path from Buckhannon Drive. This path is being widened to allow both bicycle and small maintenance vehicle access, as well repair existing maintenance issues.

3. *Arises from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property.*

The requested variance is a result of the proposed site design and layout on the subject property and not as a result of land or building use on a neighboring property.

4. *Will violate State water quality standards or cause measurable degradation in water quality.*

The requested variance will not violate State water quality standards or cause measurable degradation in water quality.

As a result of the above findings Environmental Planning staff recommends the approval of the applicant's request for a variance from individual tree retention requirements of the Forest Conservation Law to impact the 36 trees. The variance approval is assumed into the Planning Board's approval of the forest conservation plan. As a condition of approval of the forest conservation plan, staff recommends compensating

RECOMMENDATION

Environmental Planning recommends approval of the Preliminary Forest Conservation Plan with the conditions above.

Attachments:

- A. Letter from County Arborist
- B. Copy of forest conservation plan submitted for PB approval