

MCPB ITEM# **April 7, 2011**

MEMORANDUM

TO:

Montgomery County Planning Board

VIA:

Khalid Afzal, Team Leader, East County Team, Area 2 Division

Glenn Kreger, Acting Chief, Area 2 Division

FROM:

Amy Lindsey, Senior Planner, Area 2 Division

DATE:

March 24, 2011

PLAN NAME:

Glenallan Elementary School Modernization

PLAN NUMBER:

MR2011202

PLAN TYPE:

Preliminary Forest Conservation Plan

REVIEW BASIS:

Chapter 22A of the County Code

APPLICANT:

Montgomery County Public Schools

ENGINEER:

Norton LandDesign

RECOMMENDATION

Area 2 staff has reviewed the Preliminary Forest Conservation Plan for the project referenced above and recommends approval of the Preliminary Forest Conservation Plan subject to the following conditions:

- 1. The proposed development shall comply with the conditions of the Preliminary Forest Conservation Plan. The applicant shall satisfy all conditions prior to Montgomery County Department of Permitting Services (MCDPS) issuance of sediment and erosion control permits:
 - Approval of Final Forest Conservation Plan consistent with the approved Preliminary Forest Conservation Plan prior to any clearing, grading or demolition on the site.

- 2. Final Forest Conservation Plan must include:
 - a. Mitigation for the removal of tree #25 (35" yellow poplar) without authorization, by planting 12 trees with a minimum size of 3" DBH in addition to planting requirements to meet forest conservation requirements.
 - b. Deer protection fencing for all new plantings.
- 3. Applicant must record a Category I Conservation Easement over all areas of forest retention prior to any clearing or grading occurring onsite.
- 4. Required site inspections by M-NCPPC monitoring staff must occur as specified in "Trees Technical Manual".
 - a. A copy of the maintenance and management agreement must be kept on-site and given to the Montgomery County Public Schools (MCPS) maintenance staff to ensure compliance with conditions of the forest conservation plan.

BACKGROUND

The MCPS is proposing to replace the existing one-story Glenallan Elementary School with a new three-story school. The subject property is 11.57 acres, located at the intersection of Randolph Road and Heurich Drive in the Kensington-Wheaton planning area. Adjacent uses are all single-family residential. The proposed plan is to build a new three-story building, with parking lots, drop-off loops, an athletic field and stormwater management facilities.



The Planning 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 420100460, on December 10, 2009. The site slopes down from Randolph Road to the eastern corner on Heurich Drive. There are 1.80 acres of high priority upland forest in one stand dominated by yellow poplars with black oaks, red maples, white pines, and hickory interspersed. All forest on the site is considered a high priority for retention for the following reasons:

- Presence of steep slopes;
- Presence of specimen trees;
- High quality forest.

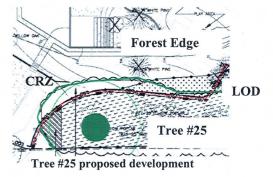
There are 30 significant (≥4" DBH) trees and 14 specimen (≥0" DBH) trees on-site. The property is within the Wheaton Park subwatershed of the Northwest Branch watershed; a Use IV watershed. The *Countywide Stream Protection Strategy* (CSPS) identifies this subwatershed as a Watershed Restoration Area.

Specimen Tree Removal

During maintenance activities on this property, a specimen tree (35" yellow poplar labeled as #25 on the plan) was removed. The approval memo for NRI/FSD 420100460 clearly states "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." (See Attachment A for full memo) Plan enforcement staff issued a Notice of Violation to MCPS on 3/23/2011 and delegated the corrective action to the Preliminary Forest Conservation Plan, as plan review was already in process.



Tree # 25 was designated as being in good condition at the time of NRI/FSD. The 35" yellow poplar was located within the forest stand but close to the edge. While the proposed development would have affected the critical root zone of tree #25 and required a variance in accordance with Section 22A-21, the tree was proposed for retention on the initially submitted Forest Conservation Plans as the anticipated effects were minor.



As the removal of this tree was clearly a direct consequence of the applicant's actions, staff is recommending compensation at a 1" DBH replaced for every 1" DBH lost, using trees with a minimum size of 3" DBH. This translates into 12 trees with a minimum size of 3" above and beyond planting requirements for this development.

Forest Conservation

This property is subject to the Chapter 22A Montgomery County Forest Conservation Law and a Forest Conservation Plan has been submitted for approval. There are 1.80 acres of forest in a single stand on the subject property. The forest is considered high priority for retention, due to steep slopes, specimen trees, and quality of forest.

Through the redevelopment of this school, 0.20 acres of forest will be cleared and 1.60 acres of forest will be retained. There is a 0.39 acre planting requirement that will be met on-site through forest planting.

Forest Conservation Variance

Section 1607(c) of the Natural Resources Article, MD Ann. 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 Montgomery County Code. The law requires no impact, the retention and protection to the greatest extent possible of all trees that measure 30" diameter at breast height (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 16 trees greater than 30 inches DBH, a variance is required. The applicant has requested a variance to impact the following trees:

		TABULA	TION OF S	PECIMEN T	REES IMPACT	red .	
Tree #	Species	D.B.H	Critical Root	CRZ Impacts	CRZ Impacts	Tree	Status
		(inches)	Zone (Sq. Ft.)	(Sq. Ft.)	(Percentage)	Condition	
1 .	WHITE PINE	29	5945	5283	89%	GOOD	TO BE REMOVED
2	WHITE PINE	34	8171	8171	100%	GOOD	TO BE REMOVED
4	WILLOW OAK	31	6793	6793	100%	GOOD	TO BE REMOVED
6	WHITE PINE	28	5542	4620	83%	GOOD	TO BE REMOVED
7	WILLOW OAK	31	6793	6708	99%	GOOD	TO BE REMOVED
12	SYCAMORE	30	5352	1717	27%	GOOD	TO BE SAVED
15	NORTHERN RED OAK	30	6362	2938	46%	GOOD	TO BE REMOVED
17	WHITE OAK	55	21382	7615	36%	GOOD	TO BE SAVED
18	WHITE PINE	30	6362	6292	99%	GOOD	TO BE REMOVED
19	WHITE PINE	29	5945	5945	100%	GOOD	TO BE REMOVED
20	WILLOW OAK	38	10207	10207	100%	GOOD	TO BE REMOVED
21	WILLOW OAK	37	9677	9677	100%	GOOD	TO BE REMOVED
23	WILLOW OAK	32	7238	7238	100%	GOOD	TO BE REMOVED
25	YELLOW POPLAR	35	8659	829	10%	GOOD	PREVIOUSLY REMOVED
37	YELLOW POPLAR	35	8659	2101	24%	GOOD	TO BE SAVED
45	YELLOW POPLAR	34	8171	2794	34%	GOOD	TO BE SAVED

The applicant has offered the following justification of the variance request:

(1) Describe the special conditions peculiar to the property which would cause the unwarranted hardship;

Response: "As part of the program, the task was to provide the community with an updated elementary school facility that can accommodate a growing number of students as well as a modernized, safe and healthy environment for young students to learn.

Efforts have been made to impact as little of the forest on site as possible because forest is a highly valuable resource. Some of the forest was impacted, but onsite reforestation will provide more square feet of forest than existed prior to construction. This work will require disturbance of the root zones of trees numbered 12, 17, 37 and 45 but will not require their removal. However, it will require the removal of trees 1, 2, 4, 6, 7, 18, 19, 20, 21 and 23. Tree 25 was removed after the NRI/FSD was approved. It should be noted that the trees that need to be removed stand alone and are not part of the existing forest on site. This results in an impact of a total of fourteen (14) live trees. If we are not allowed to remove these trees, there would not be adequate room for the development program.

If we are not allowed to impact the trees, the school will not be able to be updated due to the close proximity of specimen trees to the school building. As such, this would cause an *unwarranted hardship* to the community that it serves."

(2) Describe how enforcement of these rules will deprive the landowner of rights commonly enjoyed by others in similar areas;

Response: "If the County were required to keep all improvements outside the root zones of the specimen trees, the building would fail to be updated due to the close proximity of specimen trees."

(3) Verify that State water quality standards will not be violated or that a measurable degradation in water quality will not occur as a result of the granting of the variance;

Response: "The trees to be removed have been limited to the central area of the site and away from natural drainage systems. In addition, this property will be developed in accordance with the latest Maryland Department of the Environment criteria for stormwater management. This includes Environmental Site Design to provide for protecting the natural resources to the Maximum Extent Practicable. This includes limiting the impervious areas and providing on-site stormwater management systems. A Stormwater Management Concept is currently under review by the Montgomery County Department of Permitting Services to ensure that this criterion is enforced. Therefore, the proposed activity will not degrade the water quality of the downstream areas and will not result in measurable degradation in water quality."

(4) Provide any other information appropriate to support the request.

Response: "The reforestation planned for the site is meant to enhance the quality of the forest onsite and provide a greater environmental and educational quality to the school after its modernization."

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 County Arborist has and has elected not to review the variance request (see Attachment B).

In accordance with Section 22A-21(e), 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 development site is relatively constrained and the proposed school and associated fields are being developed in the development footprint of the existing school. Therefore, staff believes that is not a special privilege that would be denied to other applicants.

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. The requested variance is based on the proposed site layout and design to separate access to the property for bus and parent drop-off traffic. The disturbance has been minimized as much as possible through compact, efficient site design. This includes minimizing parking, building a three-story school, and locating the geothermal field under existing ball fields.

Eleven of the twelve trees proposed for removal on-site are located within the footprint of the school building and parking. An additional tree (#15, 30" northern red oak) is located within close proximity to the limits of disturbance (LOD) and is proposed for removal because more than 50% of the CRZ will be affected. There will also be some disturbance within the CRZ of another 4 trees on-site but they are excellent candidates for safe retention.

- 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.
- 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, 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 16 trees. The variance approval is assumed into the Planning Board's approval of the forest conservation plan.

Attachments:

- A. NRI/FSD approval memo
- B. Letter from County Arborist
- C. Copy of Forest Conservation Plan submitted for PB approval



December 10, 2009

Montgomery County Public Schools c/o James Song 2096 Gaither Road, Suite 203 Rockville, MD 20854

Dear Mr. Song:

This letter is to inform you that Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) Plan 420100460, Glenallen Elementary School, 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 or amy.lindsey@mncppc-mc.org.

Sincerely,

Amy Lindsey, Environmental Planner

Cc: 420100460

Michael Norton, Michael.norton@nortonlanddesign.com



DEPARTMENT OF ENVIRONMENTAL PROTECTION

Isiah Leggett
County Executive

Robert G. Hoyt Director

March 22, 2011

Françoise Carrier, Chair Montgomery County Planning Board Maryland National Capital Park & Planning Commission 8787 Georgia Avenue Silver Spring, Maryland 20910

RE: Glenallen Elementary School, MR20020110, NRI/FSD applied for on 9/14/2009

Dear Ms. Carrier:

Based on a review by the Maryland National Capital Park & Planning Commission (MNCPPC), the application for the above referenced request is required to comply with Chapter 22A of the Montgomery County Code. As stated in a letter to Royce Hanson from Bob Hoyt, dated October 27, 2009, the County Attorney's Office has advised me that the specific provisions pertaining to significant trees in the State's Forest Conservation Act do not apply to any application that was submitted before October 1, 2009. Since this application was submitted before this date, I will not provide a recommendation pertaining to the approval of this request for a variance.

If you have any questions, please do not hesitate to contact me directly.

Sincerely,

Laura Miller County Arborist

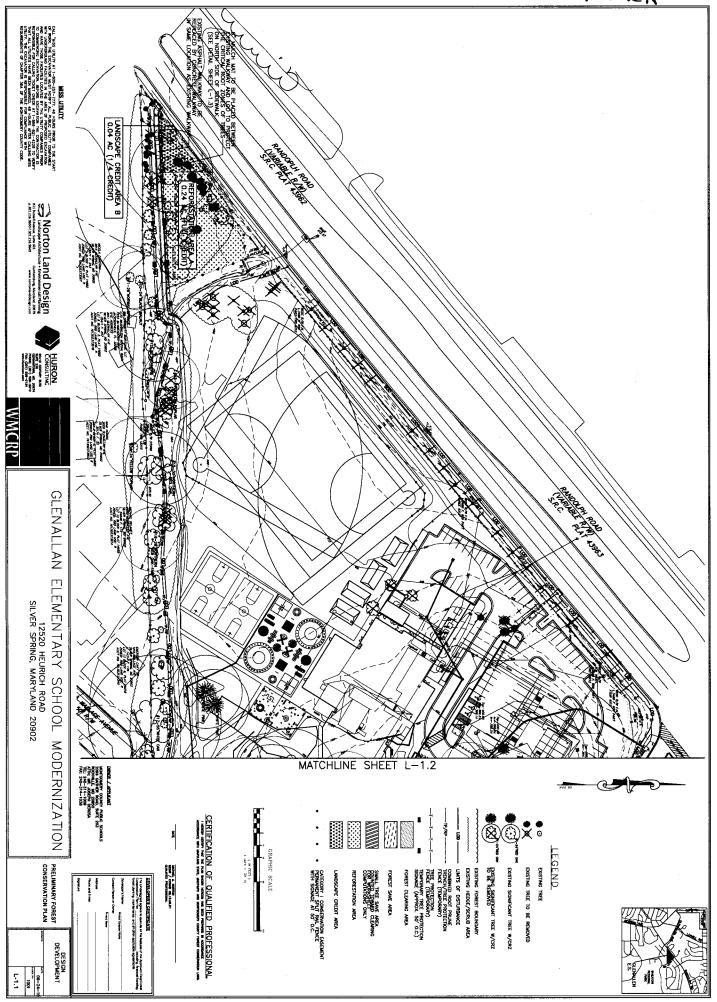
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Robert Hoyt, Director

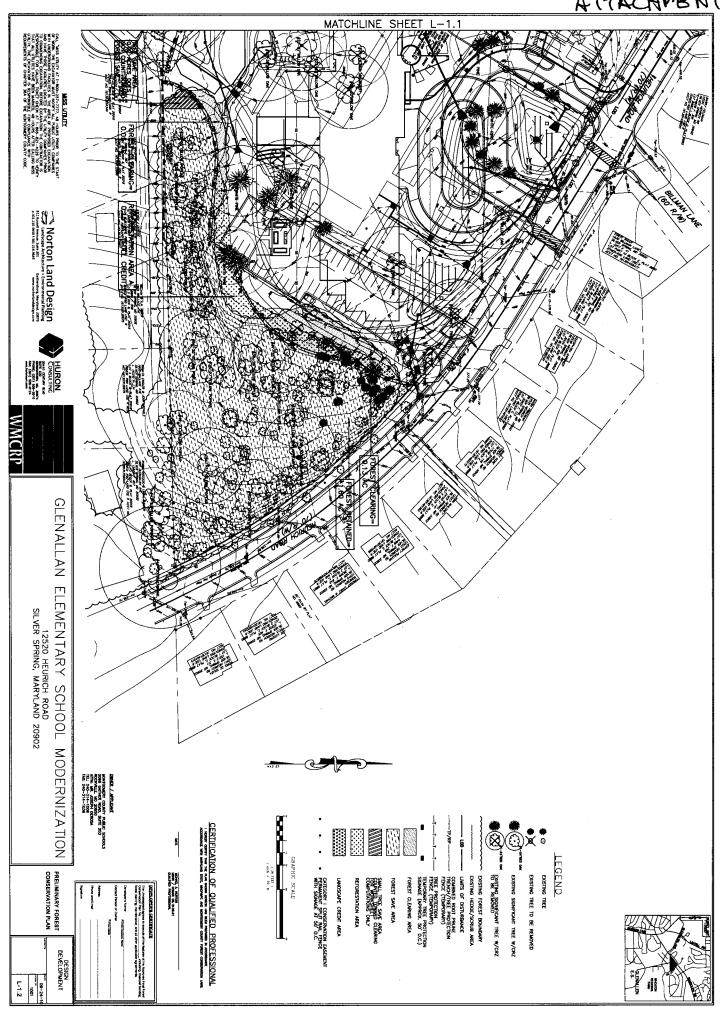
Walter Wilson, Associate County Attorney

Mark Pfefferle, Acting Chief

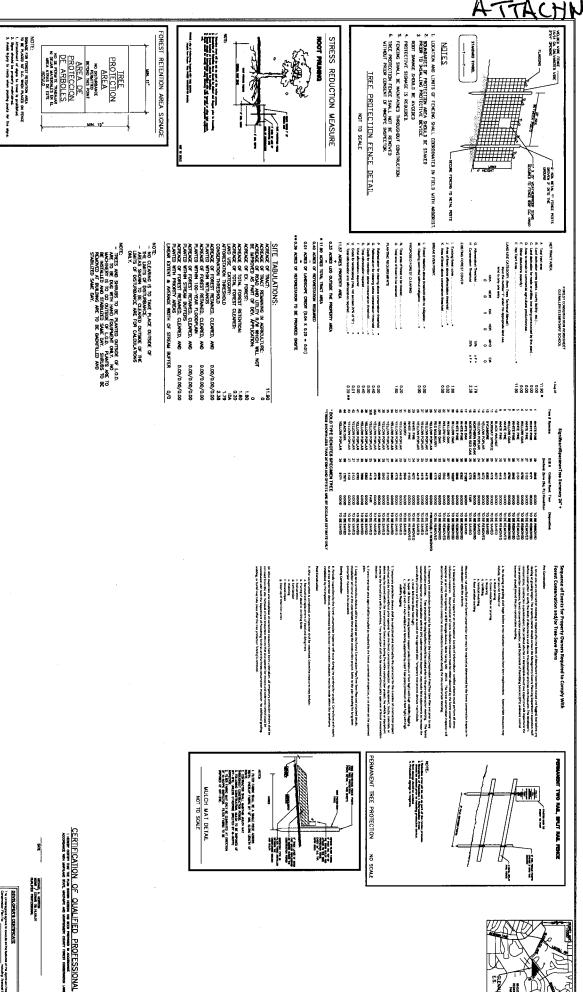
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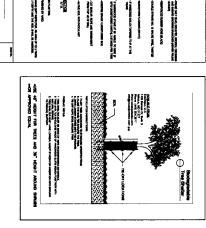
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