



MONTGOMERY COUNTY PLANNING DEPARTMENT
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB
Item # 3A
4/28/11

MEMORANDUM

TO: Montgomery County Planning Board
VIA: John Carter, Chief, Area 3 Planning Team *JAC*
FROM: Josh Penn, Senior Planner, Area 3 Planning Team *JP*
DATE: April 11, 2011
PLAN NAME: Beverly Farms Elementary School
PLAN NUMBER: MR 2011304
PLAN TYPE: Preliminary Forest Conservation Plan pursuant to a Mandatory Referral Review
REVIEW BASIS: Chapter 22A of the County Code
ZONE: R-90
LOCATION: 8501 Post Oak Road northwest of the intersection with Tuckerman Lane
MASTER PLAN: Potomac Subregion
APPLICANT: Montgomery County Public Schools (MCPS)
HEARING DATE: April 28, 2011

RECOMMENDATIONS

Approval of the Preliminary Forest Conservation Plan subject to the following conditions:

1. Approval of a final forest conservation plan prior to clearing, grading, or demolition.

DISCUSSION

There are two items for the Planning Board to review for this Mandatory Referral application:

- 1) Mandatory Referral MR2011304
- 2) A Preliminary Forest Conservation Plan (MR2011304)

This memorandum covers staff's review and recommendations on the preliminary forest conservation plan. Unlike the review of the Mandatory Referral, the Board's actions on forest conservation plans pursuant to Chapter 22A of the County Code are regulatory and binding. The Planning Board must act on the forest conservation plan before it can act on the mandatory referral.

Project Description - The Montgomery County Public Schools (MCPS) is proposing a complete replacement "Modernization" of the Beverly Farms Elementary School located at 8501 Post Oak Road. The project will include the demolition of the existing school facility and the construction of a new school, parking, drop-off location, play areas, and ball fields. The Beverly Farms Elementary School site is composed of three separate parcels, parcels 212 and 156 are owned by the Board of Education, while Parcel 113 is owned by M-NCPPC parks. This school is what is commonly referred as a park school, where the facilities are used jointly between Parks and MCPS.



Figure 1: 2010 Aerial Photograph

ANALYSIS

Environmental Guidelines - A Natural Resource Inventory/Forest Stand Delineation (NRI/FSD #420101640) was approved by staff on May 19, 2010. The 13.73 acre site contains 3.9 acres of forest, no streams, and no wetlands. The property is located within the Cabin John Creek watershed, a Use Class I stream. The Countywide Stream Protection Strategy (CSPS) rates this watershed as “good” stream resource condition. The proposed project does not have any proposed activities within any streams, wetlands, or environmental buffers and is in compliance with the *Environmental Guidelines*.

Forest Conservation - This project is subject to the Montgomery County Forest Conservation law (Chapter 22A of the Code) under section 22A-4(d) which states “*a government entity subject to mandatory referral on a tract of land 40,000 square feet or larger...*” The site is 13.73 acres in size, including off-site improvements, and contains 3.90 acres of forest. The majority of the forest resource is located on the portion of the site owned by M-NCPPC. The submitted preliminary forest conservation plan (PFCP) shows 0.09 acres of forest removal (shown in red on Figure 2) and 3.81 acres of forest retention (shown in green on Figure 2). Since the amount of clearing is below the break-even point no planting requirement is generated. No forest conservation easements will be placed on the saved forest because it is on property owned by M-NCPPC. Staff finds that the forest conservation plan meets the requirements of the Forest Conservation Law.

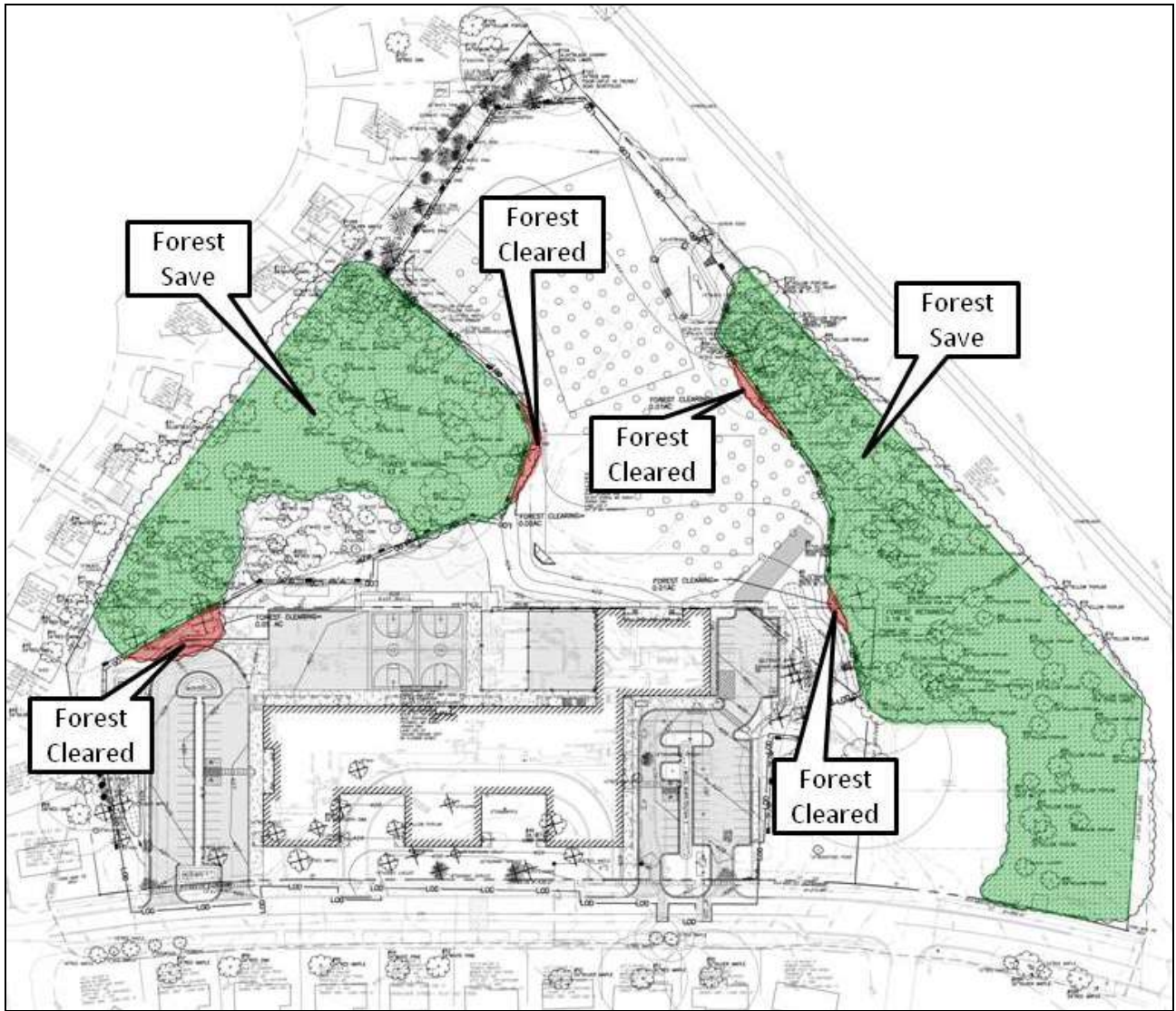


Figure 2: On-site Forest Retention and Clearing Areas

Forest Conservation Variance - Section 22A-12(b) (3) of the County Forest Conservation Law provides criteria that identifies certain individual trees as high priority for retention and protection. Any impact to these trees, including removal of the subject tree or disturbance within the 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 Forest Conservation Law. The law requires no impact to trees that measure 30 inches or greater, DBH; trees that are part of a historic site or designated with a historic structure; trees that are designated as a national, State, or County champion tree; trees that are at least 75 percent of the diameter of the current State champion tree of that species; or trees, shrubs, or plants that are designated as Federal or State rare, threatened, or endangered species. The applicant submitted a variance request on February 21, 2011 for the impacts/removal to trees with the proposed layout. The applicant proposes to remove five trees that are 30 inches and greater, DBH, and to impact, but not remove, 10 others that are considered high priority for retention under Section 22A-12(b) (3) of the County Forest Conservation Law.

Tree Number	Species	D.B.H	Status
8	Black Cherry (<i>Prunus serotina</i>)	40", 15" split	Off-site
23	Red Oak (<i>Quercus rubra</i>)	30"	To be saved if possible, requesting permission to remove if necessary.
59	Sawtooth Oak (<i>Quercus acutissima</i>)	22"	75% of the County Champion
98	Tulip Poplar (<i>Liriodendron tulipifera</i>)	36"	
99	Tulip Poplar (<i>Liriodendron tulipifera</i>)	32"	

Table 1: Trees to be removed

Tree Number	Species	D.B.H	CRZ Impact	Status
1	Red Oak (<i>Quercus rubra</i>)	43"	26%	
2	Red Oak (<i>Quercus rubra</i>)	58"	8%	75% of the County Champion
13	Tulip Poplar (<i>Liriodendron tulipifera</i>)	33"	16%	
15	White Oak (<i>Quercus alba</i>)	37"	11%	
22	Red Oak (<i>Quercus rubra</i>)	38"	12%	
26	Red Oak (<i>Quercus rubra</i>)	40"	17%	
95	Tulip Poplar (<i>Liriodendron tulipifera</i>)	30"	5%	
108	White Pine (<i>Pinus strobus</i>)	27"	21%	75% of the County Champion
109B	Silver Maple (<i>Acer saccharinum</i>)	30"	1%	Off-site
113	Red Oak (<i>Quercus rubra</i>)	30"	1%	

Table 1: Trees to be affected but retained

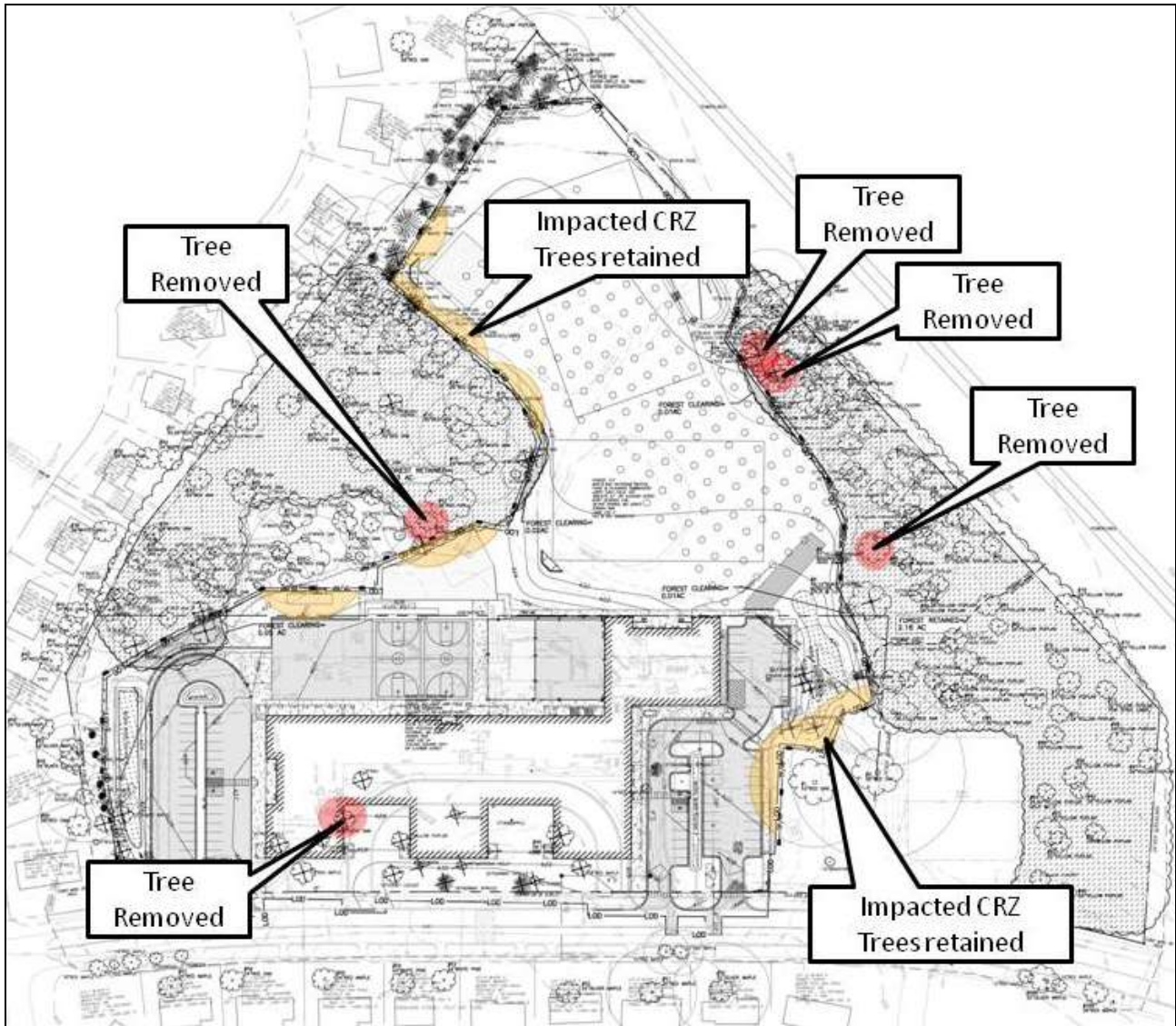


Figure 3: Trees Requiring Variance

Section 22A-21 of the County Forest Conservation Law sets forth the findings that must be made by the Planning Board or Planning Director, as appropriate, in order for a variance to be granted. Staff has made the following determinations in the review of the variance request and the proposed forest conservation plan:

Variance Findings - Staff has made the following determination based on the required findings:

1. *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 disturbance and removal of the specified trees are due to the development of the site. The trees and/or their critical root zones lie within the developable area of the site. Granting a variance request to allow land disturbance within the developable portion of a site is not unique to this applicant. This variance is necessary to achieve the County goals of enlarging this public

school facility to operate adequately and safely. Therefore, staff believes that is not a special privilege that would be denied to other applicants.

2. *Is not 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 achieve adequate level of service and safety for the school.

3. *Is not based on a condition relating to land or building use, either permitted or non-conforming, 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 not violate State water quality standards or cause measurable degradation in water quality.*

DPS has approved a stormwater management concept, dated March 22, 2011 for the proposed project. The approved concept will consist of Environmental Site Design in accordance with the latest revisions to the MDE Stormwater Design Manual. In addition, there are no impacts to trees or forest within environmental buffers. Therefore, the project will not violate State water quality standards or cause measurable degradation in water quality.

Mitigation for Trees Subject to the Variance Provisions - There are five trees proposed for removal on-site, four within existing forest. There will also be some disturbance within the CRZ of another 10 trees on-site but they are excellent candidates for safe retention.

Mitigation should be at a rate that approximates the form and function of the trees removed. Therefore, staff is recommending that replacement occur at a ratio of approximately 1" DBH for every 4" DBH removed, using trees that are 2" to 3" DBH. This means that for the 160 caliper inches of trees removed, they will be mitigated by the applicant with 14 - 3" DBH native canopy trees on the site. While these trees will not be as large as the trees lost, they will provide some immediate canopy and will help augment the canopy coverage and eventually fill in open areas of the forest where the large trees have been removed.

The trees subject to this variance to be impacted but retained are excellent candidates for safe retention and will receive tree protection measures as outlined on the Forest Conservation Plan, including root pruning and tree protection fencing. No mitigation is recommended for trees impacted but retained.

County Arborist's Recommendation on the Variance - In accordance with Montgomery County Code Section 22A-21(c), the Planning Department is required to refer a copy of the variance request to the County Arborist in the Montgomery County Department of Environmental Protection for a recommendation prior to acting on the request. The request was forwarded to the County Arborist on April 11, 2011. On April 14, 2011 the County Arborist issued her recommendations on the variance request and recommended the variance be approved with mitigation.

Variance Recommendation - Staff recommends that the variance be granted with the additional mitigation of 14 - 3" DBH trees to be planted on-site.

CONCLUSION

Staff recommends that the Planning Board approve the preliminary forest conservation plan with the condition cited in this staff report.