



Glenmont Fire Station, Amendment to the Approved Final Forest Conservation Plan, MR1994002



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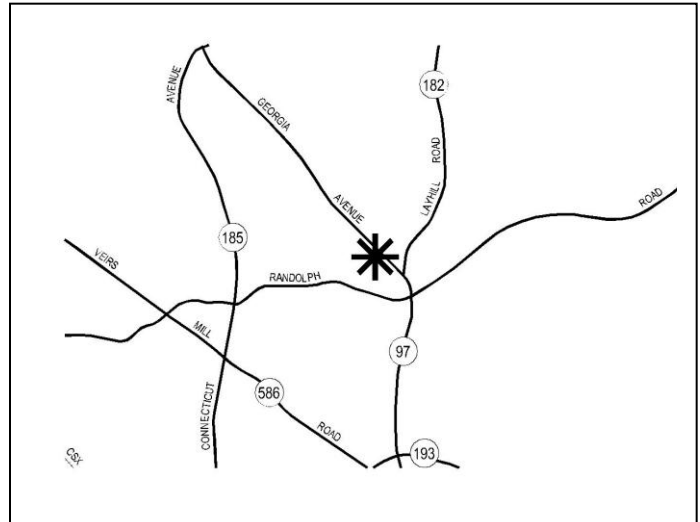


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Completed: 112/01/11

Description

- 12600 Georgia Avenue
- 10.27 acres, RT-12.5
- 1997 Approved and Adopted Sector Plan for the Glenmont Transit Impact Area and Vicinity
- Amendment to the Final Forest Conservation Plan to allow for development of Glenmont Fire Station, which will be reviewed by the Planning Board as Mandatory Referral # MR2012007
- Filing date: 10/6/2011



Summary

- Staff recommends **approval with conditions**.
- This amendment will add the proposed Glenmont Fire Station to the previously approved Final Forest Conservation Plan.
- 0.04 acres of temporary impacts to wetland buffer; 0.08 acres of tree cover planting mitigation.
- No alterations to easements are proposed for this amendment.
- A variance request is part of this application.
- No correspondence has been received on this application.

Conditions

1. The proposed development shall comply with the conditions of the amended Final 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.
2. Limits of disturbance shown on Sediment Control Plan must match the limits of disturbance shown on Final Forest Conservation Plan.
3. Required site inspections by M-NCPPC monitoring staff must occur as specified in "Trees Technical Manual".

Discussion

This memorandum covers staff's review and recommendations on the amended Final Forest Conservation Plan (FFCP). The Preliminary Forest Conservation Plan was initially approved on July 16, 1993, in conjunction with a Mandatory Referral for the construction of a tunnel section of the Glenmont Metro line. The Planning Board amended the Preliminary Forest Conservation Plan on April 8, 2010, in association with MR2009737 for the construction of the Glenmont Station Parking Structure. This amendment established new areas of forest and wetland preservation, which are protected by a Category I Forest Conservation Easement. The approximate location for the fire station was shown on the approved Preliminary Forest Conservation Plan amendment.



The proposed amendment to the Final Forest Conservation Plan respects the previously recorded easement, while providing the full details of the proposed Glenmont Fire Station. 0.04 acres of wetland buffer will be temporarily affected for construction of a stormdrain connection, but will be restored post-construction. An additional 0.08 acres of native landscaping is proposed as mitigation for these impacts.

The Board's actions on Forest Conservation Plans, pursuant to Chapter 22A of the County Code, are regulatory and binding.

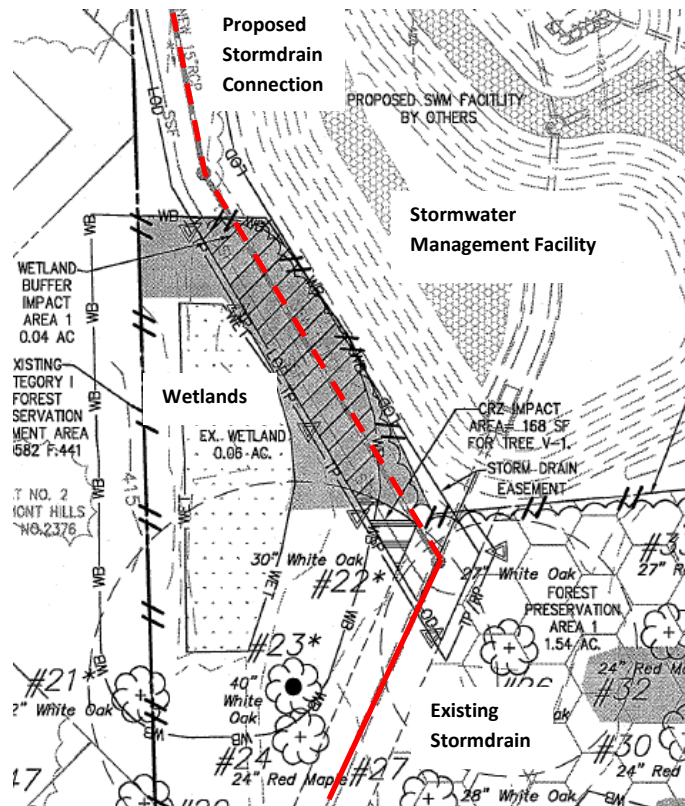
Project Description

The 10.27-acre site (also known as the WMATA triangle, shown in the aerial photograph) is currently owned by the Washington Metropolitan Area Transit Authority (WMATA). Montgomery County is in the process of acquiring 2.31 acres of the property for the purpose of constructing the Glenmont Fire Station in the northern part of the site. The subject property is located at 12600 Georgia Avenue, within the 1997 Approved and Adopted Sector Plan for the Glenmont Transit Impact Area and Vicinity, and is zoned RT-12.5. This Final Forest Conservation Plan (FFCP) amends the FFCP associated with Mandatory Referral MR1994002, previously amended on April 8, 2010, in association with MR2009737.

Analysis

Environmental Guidelines

Staff approved a Natural Resource Inventory/Forest Stand Delineation (NRI/FSD #420092340) on August 25, 2009. The 10.27-acre site currently contains 1.54 acres of forest and 0.06 acres of remnant wetlands. There is 0.20 acres of wetland buffer on-site. This project shows 0.04 acres of wetland buffers affected by the construction of a stormdrain connection, which will be restored and planted post-construction. The location for this stormdrain connection is constrained by the location of the WMATA stormwater management facility, the wetland, and the existing storm drain. Staff believes this temporary encroachment is unavoidable, and acceptable due to the post-construction restoration and proposed mitigation. The proposed project is in compliance with the *Environmental Guidelines*.



Forest Conservation

This property is subject to the Montgomery County Forest Conservation Law (Chapter 22A of the County Code). This site was originally the subject of a Forest Conservation Plan (FCP) associated with Mandatory Referral MR1994002 for the construction of a tunnel section of the Metro line terminating at Glenmont Metro Center. The original FCP showed approximately 2.14 acres of forest retention and 0.49 acres of reforestation, for a total of 2.63 acres. However, the requirements of the FCP were not fulfilled and a Kiss-N-Ride was built on the WMATA triangle site outside of the regulatory process.

The original FCP was previously amended on April 8, 2010 with the Mandatory Referral for the Glenmont Station Parking Structure (#MR2009737), which is currently under construction on the southern part of the WMATA triangle. The amended Preliminary Forest Conservation Plan (PFCP) showed 1.54 acres of forest retained in Category I easement and 2.18 acres of off-site forest planting. The offsite planting reflects a 2:1 replacement for the 1.09 acres of forest that should have been protected (2.63 acres protected forest on original FCP – 1.54 acres protected forest on amended FCP). The amended PFCP brought the property into compliance through delineated and recorded easements and off-site mitigation. On October 10, 2010, Planning Department staff approved an amended Final Forest Conservation Plan consistent with the amended PFCP.

The proposed FFCP is consistent with the PFCP and easement lines approved on October 10, 2010. There is an area of temporary disturbance for the construction of a stormdrain connection; however, the existing forest conservation easement will not be amended. The stormdrain connection can be allowed within the Category I forest conservation easement per the language of the easement itself:

“Nothing in this Agreement shall prevent construction or maintenance of stormwater structures and/or facilities or other utilities, including, but not limited to water and sewer lines, on, over, or under the Easement Area, if said structures, facilities or utilities are (i) required to implement the Plan, (ii) shown on the approved FCP, and (iii) approved by the appropriate governing bodies or agencies in accordance with applicable laws and regulations.”

All areas of temporary disturbance will be replanted. In addition, the applicant is proposing to plant an additional 0.08 acres of tree cover to mitigate for the 0.04 acres of temporary wetland buffer encroachment.

Forest Conservation Variance

Section 22A-12(b) (3) of the Forest Conservation Law provides criteria that identify 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’s Forest Conservation Law. The law requires no impact to trees that: measure 30 inches or greater, DBH; are part of a historic site or designated with a historic structure; are designated as a national, State, or County champion tree; 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 October 5, 2011 for the impacts to high priority trees with the proposed layout (Attachment A). The applicant proposes to impact, but not remove, three trees that are considered high priority for retention under Section 22A-12(b) (3) of the Forest Conservation Law. The following table describes the impacts to the trees.

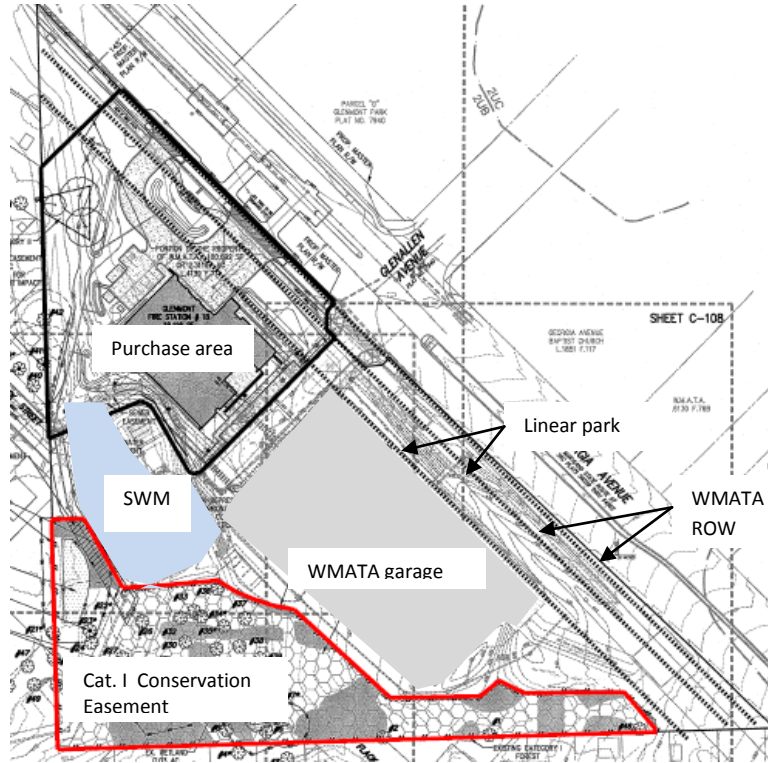
Variance/ Tree #	Species	Diameter (inches)	Condition	Disposition	CRZ Area (sf)	CRZ Impacts (sf)	CRZ Impacts (%)
V-1 (23)	Quercus alba	40" DBH	Fair/Good	Saved	11,304	168	1.5%
V-2 (41)	Ulmus pumila	32" DBH	Fair	Saved	7,235	1,320	18.0%
V-3 (45)	Liquidambar styraciflua	38" DBH	Fair/Poor	Saved	10,202	304	3%

Tree V-1 (#23) is in the southern portion of the property and is affected by the stormdrain connection. Trees V-2 and V-3 are both located off-site and will be affected by the stormwater management facility and associated stormdrain. All three trees should be easily saved, with minimal tree protection measures.

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

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

Response: “The requested variance is necessary for implementation of the Glenmont Fire Station development, a project which has an approved NRI and is proceeding through the development approval process with the concurrent submission of the Mandatory Referral Site Plan. Tree V-1 is located in the undeveloped southern portion of the subject property. It lies within a newly created Category I Forest Conservation Easement per plans for the WMATA Redline Glenmont Station Parking Structure which is currently under construction. The area of proposed forest conservation is not yet



“forest” but will receive supplemental plantings to increase the tree density. Per the approved FCP for that parking structure, approximately 30% of the critical root zone of the tree will be impacted by storm drain for the parking garage. The fire station plans propose a very minor impact to the tree’s critical root zone totaling only 168 sf and the tree is to be preserved.

Site constraints limit the location of the fire station building itself. In addition to the Georgia Avenue right-of-way, the proposed Master Plan Linear Park requires that the building be another 65’ further to the rear of the site and places it within +/- 75 feet of the western property line on one side and the stormwater management facility for the Glenmont Parking Structure to the rear. To the east, the building is adjacent to the shared entrance for the WMATA garage and the fire station preventing the building from moving any further in that direction. The section of storm drain which impacts the critical root zone of tree V-1 is located between the western property line and the garage SWM facility. The alignment, which must tie into the garage storm drain, has been carefully determined to ensure only a minor impact to the wetland buffer, no impact to the wetland itself and a very minor impact to the critical root zone of tree V-1. The wetland buffer impact will be mitigated with on-site landscaping placed in a Category II forest conservation easement.

Trees V-2 and V-3 are located to the north of Tree V-1 adjacent to the western boundary of the subject property. The critical root zones of these trees will also be minimally impacted by storm drain for the fire station. The alignment for this section of storm drain is limited again by the location of the fire station itself. In addition, the pipe must be aligned to pick up not only runoff from the fire station but also runoff from the existing swale along the western property line. This existing swale is within the critical root of these trees. With these constraints, the pipe is located as far away from the variance trees as possible. Only 18% of the critical root zone for tree V-2 and 3% for tree V-3 will be impacted and the trees will be preserved. ”

Because the site is constrained by the under construction WMATA Glenmont Parking Structure and associated stormwater management facilities, as well as the location of the existing stormdrains, the location of the proposed stormdrain is constrained. Staff has reviewed the variance application and agrees that denial of the variance would cause an unwarranted hardship.

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

The stormdrain connection is a necessary and integral part of the proposed development plan and cannot be relocated to a different part of the site due to site constraints and existing development. Staff has reviewed the application and agrees that enforcing the rules would deprive the landowner of rights.

(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 concept storm water management plan, which was submitted to MCDPS for approval, incorporates environmental site design (ESD) practices to the maximum extent practicable (MEP), according to the latest revision to chapter 5 of the MDE Storm water Management Design Manual. A Micro-biofiltration facility and four grass swales will treat the first 2.0 inches of run-off to the MEP from the proposed disturbed areas, in accordance with table 5.3 of the 2010 MDE ESD Process Computations Manual. Runoff from the remaining disturbed areas which cannot be captured and treated using ESD practices due to site limitations will be treated by the existing conditions they were originally treated by. Two areas of the existing conditions will be treated by the neighboring WMATA stormwater management facility.”

Staff has reviewed the application and agrees that State water quality standards will not be violated or that a measurable degradation in water quality will not occur. In fact, as this is a stream restoration project, water quality should improve as a result of the actions of the applicant.

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

Response: “The 8.91 acre subject property is part of a regional transportation system at the Glenmont Metro Station and is the site of the new 6 level Metro Parking Garage intended to increase ridership on public transportation. 2.31 acres of this site has been designated for construction of the Glenmont Fire Station # 18. The requested variance is based on plans being developed through the County planning process not conditions or circumstances resulting from actions by the applicant. There are 1.54 acres of existing on-site forest and two wetlands which are located in a Category I Forest Conservation Easement. This plan proposes no changes to the Category I Forest Conservation Easement and no impacts to the existing on-site forest. Therefore, there are no reforestation or afforestation planting requirements for this amendment. However, proposed storm drain will impact 0.04 acres of wetland buffer and the critical root zone of these three specimen trees. The wetland buffer impact will be mitigated by landscaping totaling 0.08 acres of tree cover canopy credit placed in a Category II Forest Conservation Easement and the corresponding storm drain easement will also be replanted.”

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, to grant a variance.

Variance Findings - Staff has made the following determination based on the review of the variance request and the proposed Forest Conservation Plan. Granting the variance request requires the following 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 of the specified trees is due to the site constraints. Granting a variance request for disturbance to the CRZs of the trees for the purposes of developing a fire station is not unique to this applicant. Therefore, staff believes that granting a variance 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 site constraints and the program requirements.

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 caused by the proposed fire station development on the subject property, and not 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.*
The requested variance will not violate State water quality standards or cause a measurable degradation in water quality.

Mitigation for Trees Subject to the Variance Provisions –The proposed variance is being requested due to impacts to the CRZs of three trees, which will be retained. Generally, mitigation is not 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 forwarded a copy of the variance request to the County Arborist in the Montgomery County Department of Environmental Protection for a recommendation November 23, 2011. The County Arborist has elected not to review the variance request (see Attachment 2). As such, the County Arborist’s recommendation for the variance request is therefore presumed to be favorable.

Variance Recommendation - Staff recommends that the variance be granted.

Conclusion

Staff recommends that the Planning Board approve the amended Final Forest Conservation Plan with the conditions cited in this staff report. The variance approval is assumed into the Planning Board's approval of the amended Final Forest Conservation Plan

Attachments

1. Amended Final Forest Conservation Plan
2. Letter from County Arborist