



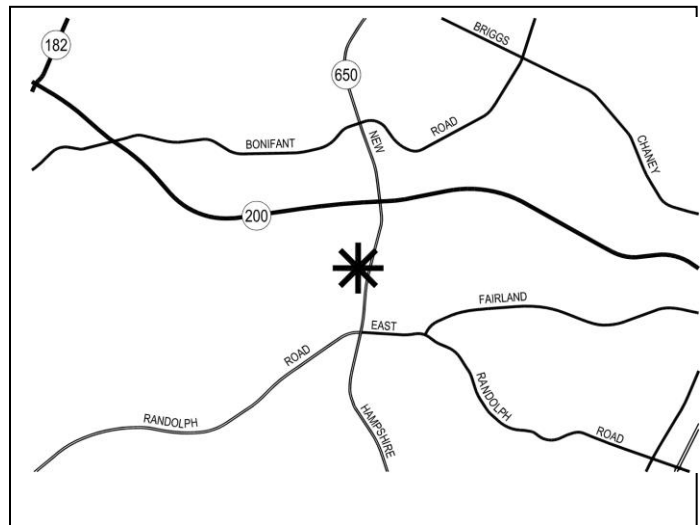
Silver Spring Retirement Residence, Preliminary Forest Conservation Plan, S-2882

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Completed: 05/18/15

Description

- Preliminary Forest Conservation Plan associated with the Special Exception for the construction of a retirement residence;
- 13716 New Hampshire Avenue, Silver Spring, Maryland;
- 4.46 acres zoned R-200;
- 1997 *White Oak Master Plan*;
- Applicant: Hawthorne Development LLC;
- Filing date: December 29, 2014.



Summary

There is no forest or environmental features on-site. The Applicant proposes to:

- Pay fee-in-lieu to meet forest conservation planting requirements.
- Remove 2 trees that require a variance, per Section 22A-12(b)(3).
- Pursuant to Chapter 22A of the County Code, the Board’s actions on Forest Conservation Plans are regulatory and binding.

Staff recommends **approval with conditions**.

Conditions of Approval

1. The Applicant must submit a Final Forest Conservation Plan consistent with the approved Preliminary Forest Conservation Plan at the time of Preliminary Plan.
2. The Final Forest Conservation Plan must include six 3-inch caliper native shade trees as mitigation plantings for the loss of trees requiring a variance.

Project Description

Hawthorne Development LLC is proposing to construct a domiciliary care home with 148 suites. The site is currently with a single-family home and associated structures.



Site Description

The site is a relatively flat property with no environmental features. There are hedgerows of mature trees separating this property from ones to the north and south, but no areas qualify as forest. There is one tree greater than 30" DBH on site.

ANALYSIS

Environmental Guidelines

Staff approved a Natural Resource Inventory/Forest Stand Delineation (NRI/FSD #420150440) on October 31, 2014. The site lies in both the Paint Branch and Northwest Branch watersheds, but outside any Special Protection Areas. There are no forest, streams, wetlands, floodplains, or environmental buffers on the site. The proposed project is in compliance with the *Environmental Guidelines*.



Forest Conservation

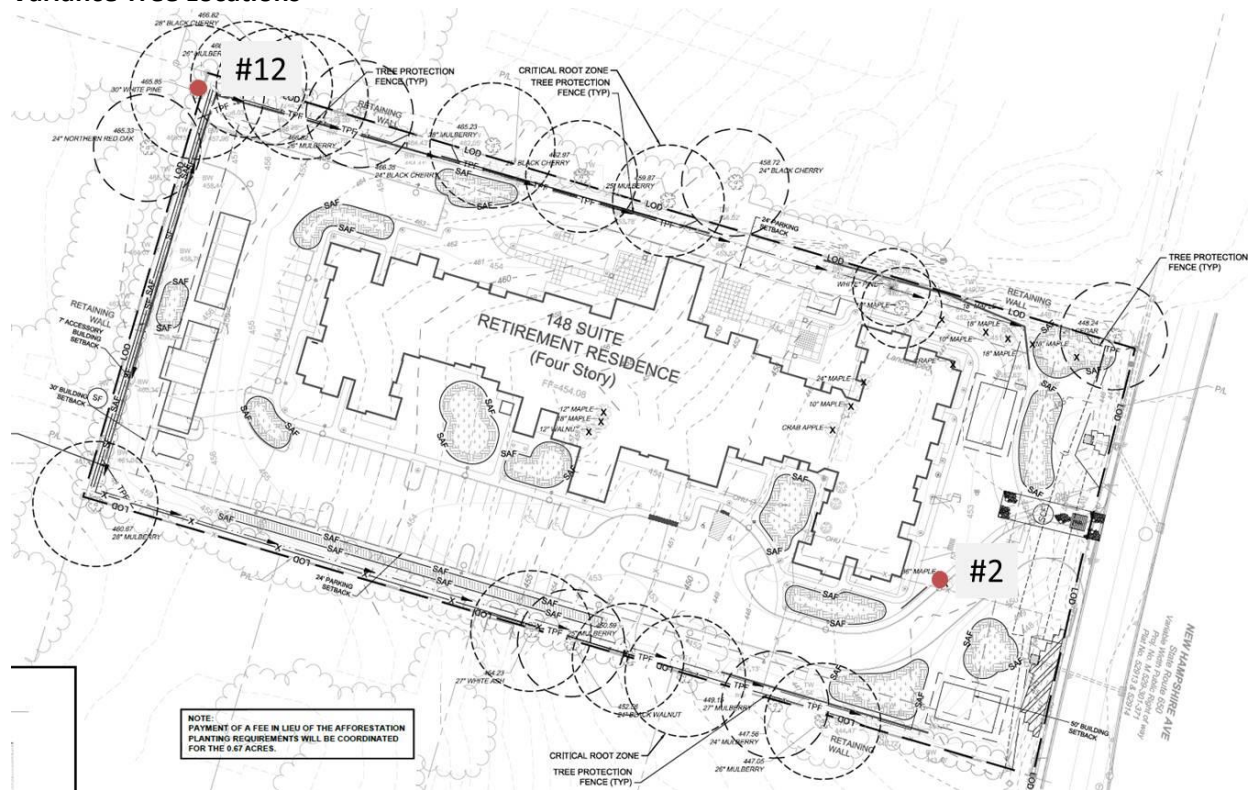
The site is subject to the Montgomery County Forest Conservation Law (Chapter 22A of the County Code) and the Applicant has submitted a Preliminary Forest Conservation Plan (Attachment 1) in conjunction with the Special Exception. There is no forest on site and a 0.67-acre planting requirement. The Applicant proposes to meet this requirement through payment of fee-in-lieu. Staff agrees that this is appropriate, as there are no priority reforestation areas or adjoining forest, and the land use is institutional.

Forest Conservation Variance

Section 22A-12(b) (3) of Forest Conservation Law provides criteria that identify certain individual trees as high priority for retention and protection. Any impact to these trees, including removal 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 a variance to impact trees that: measure 30 inches or greater diameter at breast height (DBH); are part of a historic site or designated with a historic structure; are designated as national, State, or County champion trees; 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 12/19/2014 and a revised variance request on 4/29/2015 for the impacts to trees. (Attachment 2) The proposed layout will remove two trees that are considered high priority for retention under Section 22A-12 (b) (3) of the County Forest Conservation Law.

Variance Tree Locations



Variance Tree Table

Tree No.	Species	Diameter	Field Condition	Disposition	CRZ Area (SF)	CRZ Impacts (SF)	CRZ Impacts (%)
2	Norway Maple	36"	Good, Some Scarring	Poor Form as Specimen and Scarring are not Desirable	9,161	9,161	100
12	White Pine	30"	Good	Unable to save due to grading constraints	6,632	2,031	30

Unwarranted Hardship for Variance Tree Impacts - Per Section 22A-21, a variance may only be granted if the Planning Board finds that leaving the requested trees in an undisturbed state will result in unwarranted hardship. The variance is necessary because of the location of the trees and the need for adequate fire access. To the extent practicable, the proposed development has minimized disturbance with the use of retaining walls to limit grading. The height of the building has been maximized, so it is not possible for the development to grow vertically instead of horizontally. The development of this property with a retirement residence of this size requires a limit of disturbance (LOD) that extends to the property line in all directions.

1. *Granting the variance will not confer on the applicant a special privilege that would be denied to other applicants.*

Granting this variance will not confer a special privilege on the Applicant as disturbance of the specified trees is due to the location of the trees and the need to provide adequate fire access. Tree #2 36" Norway maple is located close to the existing single-family house and would be significantly disturbed by the demolition of the house and any redevelopment of the property would require removal of the tree. Tree #12 30" white pine is just off-site and impacted by the fire access turnaround. This turnaround is required to allow fire and rescue vehicles to safely access all sides of the property.

2. *The need for the variance 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 that are the result of actions by the Applicant. It is based on the locations of the trees and the minimum disturbance required to develop the Property with a retirement residence of this scale. Tree #2 36" Norway maple is located adjacent to the existing single-family house and would be impacted by the demolition of the existing structure. Tree #12 30" white pine is proposed for disturbance by the fire access turnaround. There is no way to remove this disturbance without significantly altering the proposed development program.

3. *The need for the variance 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 location of trees on the property impacted by the proposed layout of the retirement residence on the Property and not a result of land or building use on a neighboring property.

4. *Granting the variance will not violate State water quality standards or cause measurable degradation in water quality.*

The proposed development does not impact environmental buffers and provides mitigation plantings for trees the size and function of the trees lost. 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 Applicant is requesting a variance to remove two trees. The Applicant will plant six, 3-inch caliper, native shade trees as part of the Final Forest Conservation Plan mitigating for the removal of these two trees.

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 County Arborist has reviewed the variance request and recommended approval (Attachment 3).

Variance Recommendation

Staff recommends that the variance be granted.

CONCLUSION

Staff concludes that the proposed Preliminary Forest Conservation Plan meets the requirements of Chapter 22A Forest Conservation Law. Staff therefore recommends that the Planning Board approve the Preliminary Forest Conservation Plan and associated variance, with the above conditions.

Attachments

1. Preliminary Forest Conservation Plan
2. Variance request
3. Letter from County Arborist