

M-NCPPC



MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

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Silver Spring, Maryland 20910-3760
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Item # 8
MCPB 5-11-06

MEMORANDUM

Date: April 26, 2006
TO: Montgomery County Planning Board
VIA: Jeff Zyontz, Chief, Countywide Planning
Steve Federline, Supervisor, Environmental Planning
FROM: Mark Pfefferle, Planner Coordinator, Environmental Planning
REVIEW TYPE: Forest Conservation Plan Review
APPLYING FOR: Amendment to a Final Forest Conservation Plan (FCP) – Proposal to remove a 1.44 acres of existing forest and to replant 1.75 acres of new forest
PLAN NAME: Roberts Landing
PLAN NUMBER: 120041050
REVIEW BASIS: Forest Conservation Regulations, Section 113.A.(2), Regulation No. 1-01AM (COMCOR) 18-01AM
ZONE: R-200
LOCATION: Located on the north side of Turkey Foot Road approximately 125 feet west of Jones Lane; Potomac Subregion
APPLICANT: Classic Community Corporation
ENGINEER: Gutschick, Little, and Weber, PA.
HEARING DATE: May 11, 2006

STAFF RECOMMENDATION: Staff recommends approval of the amendment to Final Forest Conservation Plan 120041050, dated March 27, 2006, subject to the following conditions:

1. Applicant to post a performance pond for the re-planting areas prior to any forest removal approved by this amendment.
2. Applicant to enter into an agreement with M-NCPPC to maintain and manage the planted areas for two years, or until the M-NCPPC Forest Conservation Inspector approves full release of the performance bond.

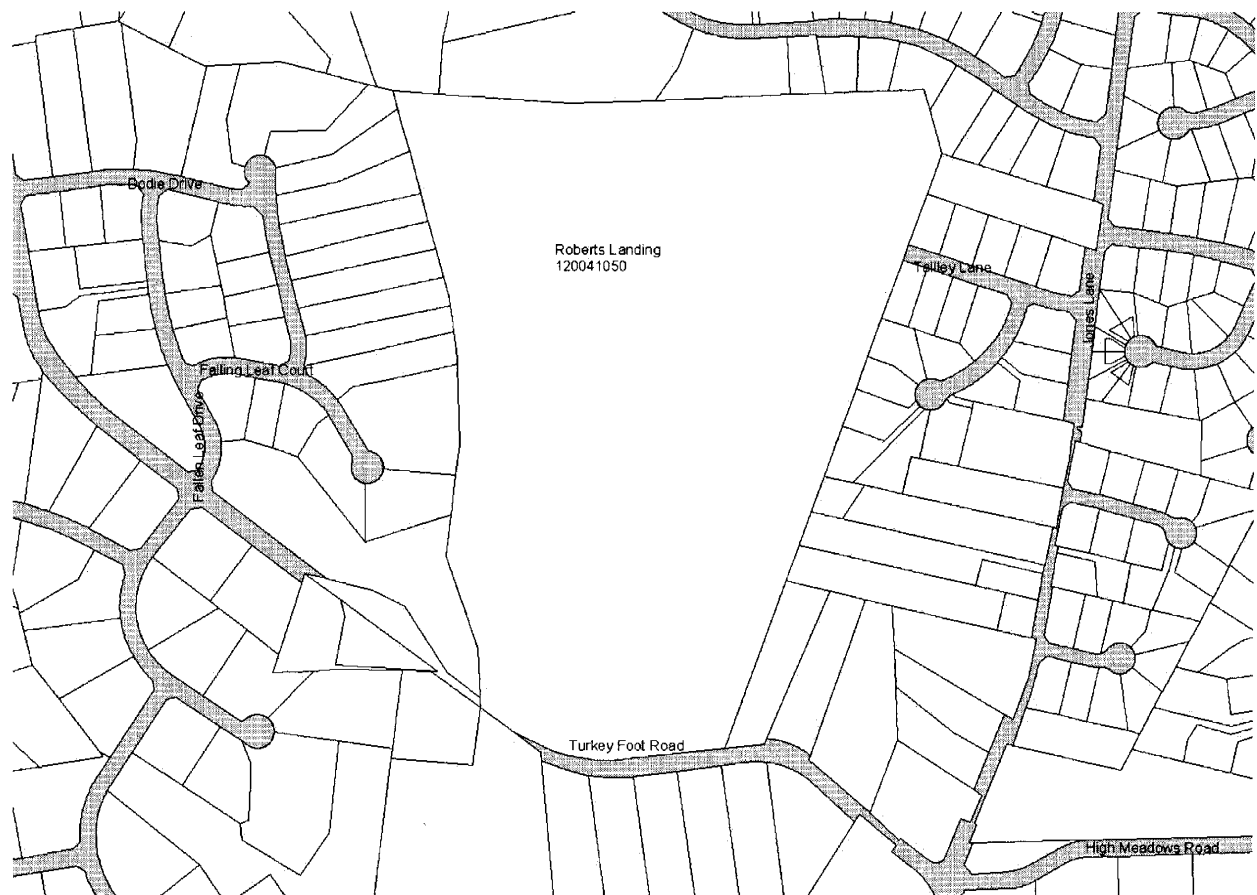
SITE DESCRIPTION

The subject property is a 78.4-acre property located within the Potomac Master Plan boundaries. The property is located on the north side of Turkey Foot Road (designated as rustic road) approximately 125 feet west of Jones Lane (Exhibit 1). The property is zoned R-200 and is served by public water, but not sewer. The site abuts existing R-200 zoned residential

development on the east and west, and larger lots to the north. Existing Talley Lane will be extended into the site from the east to serve the proposed units.

The property is within the Muddy Branch watershed, a Use I-P watershed. A tributary stream to Muddy Branch flows along the western property boundary. The land uses, prior to Planning Board approval of the preliminary plan, included open land, forest, two existing farm ponds, and two residential structures. The existing residential structures are to be removed. The site contains 27 acres of forest, minimal wetlands, and 13 acres of environmental buffers.

Exhibit 1. Vicinity Map



PROPOSED FOREST CONSERVATION PLAN CHANGES

This is an application to amend Final FCP 120041050. The applicant proposes to remove an additional 1.44 acres of forest from what was previously approved by the Planning Board. The applicant proposes to compensate for the removal of the existing forest by planting 1.75 acres of forest on-site. The planting area is entirely within the area to be disturbed.

BACKGROUND

The Planning Board approved Preliminary Plan 120041050, with conditions, on December 16, 2004 and an amendment to the preliminary plan on October 10, 2005. The preliminary plan

covers 78.4 acres and includes 33 lots/outlots, HOA parcels, and land to be dedicated to M-NCPPC Parks. Environmental Planning staff approved the final forest conservation plan on May 20, 2005. The approved final forest conservation plan indicates the removal 7.4-acres of existing forest and the retention of 20.3-acres of forest. There are no planting requirements associated with the forest conservation plan approved in 2005. The developer of the site was granted approval to begin clearing and grading of the subject site in December 2005.

The Department of Permitting Services' (DPS) approval of the stormwater management concept requires the applicant to consult with the Maryland Department of Environment on the integrity of the dams for the existing ponds. The ponds were inspected the ponds and determined that the dam needed to be reconstructed to comply with current county standards for dam safety or to breach the dam.

PLANNING BOARD REVIEW AUTHORITY

The Forest Conservation Regulation requires Planning Board action of certain types of modifications to an approved FCP. Section 113.A.(2) of the Forest Conservation Regulation states:

Major amendments which entail more than a total of 5000 square feet of additional forest clearing must be approved by the Planning Board or Planning Directory (depending on who approved the original plan). Notice of each major plan amendment must be given to adjacent property owners as part of the Planning Board or Planning Directory approval processes.

This amendment proposes the removal of a 1.44-acres of existing forest and therefore constitutes a major amendment requiring Planning Board approval.

REVIEW ISSUES

Applicant's Position

The applicant must amend the final forest conservation plan 120041050 to comply with the Department of Permitting Services' requirements for dam safety and depth of storm drains. (See Attachment A for a copy of the memorandum that explains the reasons for the amendment). The DPS inspector reviewed the ponds and determined that dam of the lower pond needed to be brought to current county standards or breached. The applicant made the decision to breach the dam, reduce the water level in the upstream pond, and change the upstream pond into a wetland. To accomplish this activity requires a loss of an additional 1.14-acres of forest. This forest is within the stream buffer.

The second area of forest removal is on Lot 11. A storm drain easement in HOA parcel D runs parallel to the Lot 11 property line. The approved stormwater management concept plan includes storm drains over 12 feet deep. DPS requested the applicant to reduce the storm drain depths and to comply with the County's storm drain criteria. The result is a need to remove an additional 0.29 acres of existing forest on Lot 11. This forest is outside of the stream buffer but within the forest conservation easement.

Community Issues

All adjoining and confronting property were notified of the proposed amendment in a memorandum dated February 7, 2006. Environmental Planning staff received no comments on the proposed amendment.

Staff Analysis/Position

Staff supports the request to amend final forest conservation plan 120041050 as shown on the plan dated March 27, 2006. Environmental Planning concurs with the applicant's position that the forest removal is necessary to construct storm drains that meet County guidelines.

Environmental Planning concurs with the applicant's position to remove additional forest associated with the breaching of the dam and configuring the pond to a natural condition. The applicant is showing 1.14 acres of forest removal associated with the dam breaching and re-grading of the pond as a conservative estimate. Only after the pond is drained, will the applicant be able to determine how much grading and forest removal is necessary. It is possible that less forest will be removed. However, this approval does not authorize any more forest removal than shown on the March 27, 2006 plan. If it becomes necessary to remove more forest than shown, the applicant will need another amendment to the forest conservation plan.

Removal of the pond will reduce the water temperature of the receiving stream by removing the source of greatest ambient temperature increases. Once the pond is removed and the stream recreated, water that was formerly captured in the stream will not heat up. This will result in cooler water temperatures in the stream and hopefully for increased aquatic and benthic communities in the stream. In addition, removal of the dam eliminates the potential for dam failure and negative impacts to the stream below the dam, if the dam were to fail.

The applicant initially proposed only replacing the forest removed. This would leave a large void where the old pond was located. Environmental Planning requested that former pond site be planted as well as the all the areas to be cleared. The applicant submitted a forest conservation showing this area planted in addition to the area cleared. In order to ensure the planting will occur, Environmental Planning request the Planning Board include the following conditions on the amended final forest conservation plan:

1. Applicant to post a performance bond for the re-planting areas prior to any forest removal approved by this amendment.
2. Applicant to enter into an agreement with M-NCPPC to maintain and manage the planted areas for two years, or until the M-NCPPC Forest Conservation Inspector approves full release of the performance bond.

STAFF FINDING

Regardless of whether the applicant removes or reconstructs the dam there will be forest loss and amendment to the Final Forest Conservation. Staff finds the removal of 1.44-acres of existing forest as necessary. The applicant will replant the entire disturbed area and will plant the former pond, for a total planting area of 1.75-acres. Staff recommends approval of the amendment to final forest conservation plan 120041050 with the conditions noted above.

Final FCP 120041050

Roberts Landing

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ATTACHMENTS

Attachment A – Letter from Gutschick, Little, & Weber, P.A., to Mark Pfefferle, Environmental Planning dated March 2, 2006.

Attachment B – Amended Final Forest Conservation Plan for Roberts Landing 120041050

Attachment A

GLWGUTSCHICK, LITTLE & WEBER, P.A.

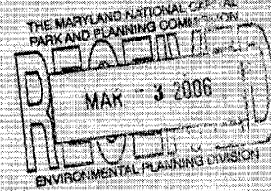
CIVIL ENGINEERS, LAND SURVEYORS, LAND PLANNERS, LANDSCAPE ARCHITECTS

Thursday, March 02, 2006

MNCPPC
Environmental Planning Division
8787 Georgia Ave.
Silver Spring, MD. 20910

Attn: Mr. Mark Pfefferle

RE: Final Forest Conservation Plan # 1-04105
Roberts Landing



Mark, this letter is in response to some of your comments.

1. Attached is all of the sediment control plans. The phases are 1a - Approved, 1b - approved, 1c - in for review and ready for approval, and phase 2 - in for review.
7. When we submitted our storm drain plans to the county for review and approval, some of our structures were over 12 feet deep. We had to revise our alignment to avoid the excessive depth. We managed to reduce the depths to 12 feet or less, but had to place larger easements over these pipes because of the Montgomery County Storm Drain Criteria Part Three, Section II, G. 3. We must have a bottom of trench equal to the lesser of twice the diameter or the outside diameter of the pipe plus 18 inches on each side. We are allowed a vertical trench up to five feet, then we must go at a 1:1 side slope for the trench. Then we must have an additional 10 foot on one side and 2 feet on the other to accommodate equipment. We are required to look at the worst case depth for the pipe run and run the calculations. This is why some of the easements are larger than show on the original forest conservation plans. We are not allowed any other type of easement width calculations based on other construction methods. We are required to remove the forested areas in these Public Easements when the storm drains are constructed. Since all the outfalls are public, we could not avoid the increased forest removal.
8. As a conditional of our SWM Concept approval, item number five states the MDE must be notified of the ponds and given the opportunity to inspect them. After several email correspondence to the Dam Safety Division, MDE only deals with very large pond drainage areas and does not get involved with these types of small private ponds. MDE stated that it was up to the county to inspect the dam. Montgomery County responded by saying that they wanted a structurally safe

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Attachment A - Continued

pond when the HOA took over the Parcel. There suggestions were to either rebuild the Dam to the current county standards or Breach the Dam. The developer of the property, CG Roberts, LLC. Made the decision to Breach the downstream Dam and reduce the water level of the upstream pond, and change the upstream pond into a wetland. This project was reviewed by the wetland committee. We have revised our sediment control plans and resubmitted them in order to include the dam breach. Montgomery County DPS is waiting for your approval of the Forest Conservation plan.

Sincerely,



Brian Lewandowski, PE