



# MONTGOMERY COUNTY PLANNING BOARD

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

JAN - 6 2011

MCPB No. 10-92  
Forest Conservation Plan No. MR2010701  
Garrett Park Elementary School Modernization  
Date of Hearing: May 27, 2010

## MONTGOMERY COUNTY PLANNING BOARD

### RESOLUTION

WHEREAS, pursuant to Montgomery County Code Chapter 22A, the Montgomery County Planning Board ("Planning Board" or "Board") is vested with the authority to review forest conservation plan applications; and

WHEREAS, on December 11, 2009, Montgomery County Public Schools ("Applicant"), filed an application for approval of a Preliminary Forest Conservation Plan on approximately 8.00 acres of land located on Oxford Street ("Property" or "Subject Property"), in the North Bethesda-Garrett Park master plan area ("Master Plan"); and

WHEREAS, Applicant's preliminary forest conservation plan application was designated Forest Conservation Plan No. MR2010701, Garrett Park Elementary School ("Forest Conservation Plan" or "Application"); and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and the staff of other governmental agencies, Staff issued a memorandum to the Planning Board, dated May 13, 2010, setting forth its analysis, and recommendation for approval, of the Application subject to certain conditions ("Staff Report"); and

WHEREAS, the Planning Board held a public hearing on the Application (the "Hearing") on May 27, 2010; and

WHEREAS, at the Hearing, the Planning Board heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, on May 27, 2010, the Planning Board approved the Forest Conservation Plan subject to certain conditions, on motion of Commissioner Marye Wells-Harley; seconded by Commissioner Norman Dreyfuss; with a vote of 3-0, Commissioners, Royce Hanson, Marye Wells-Harley, and Norman Dreyfuss voting in favor, with Commissioners Presley and Alfandre absent from the Hearing.

Approved as to  
Legal Sufficiency:

8787 Georgia Avenue, N.W., Suite 200, Silver Spring, MD 20910 Chairman's Office: 301.495.4605 Fax: 301.495.1320

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NOW, THEREFORE, BE IT RESOLVED THAT, pursuant to the relevant provisions of Montgomery County Code Chapter 22A, the Planning Board approved Forest Conservation Plan No. MR2010701 on approximately 8.00 acres of land located on Oxford Street ("Property" or "Subject Property"), in the North Bethesda-Garrett Park master plan area ("Master Plan"), subject to the following conditions, which Applicant shall satisfy prior to the issuance by Montgomery County Department of Permitting Services (MCDPS) of sediment and erosion control permits:

1. The proposed development shall comply with the conditions of the preliminary forest conservation plan.
2. Approval of final forest conservation plan consistent with the approved preliminary forest conservation plan prior to any clearing, grading or demolition on the site.
3. The final forest conservation plan must identify the off-site planting area used to fulfill the forest conservation requirements.
4. Mitigation for tree loss of all on-site trees marked as either "To be saved" or "Candidate to be removed" will be at a rate of 1" DBH replaced for every 4" lost. Replacement trees must be 4" DBH or greater.
5. A certified arborist must be present at the pre-construction meeting, during construction, and after construction to oversee specific tree protection measures as identified on the final forest conservation plan.
6. Required site inspections by M-NCPPC monitoring staff (as specified in "Trees Technical Manual").
7. The electronic file containing the signed final forest conservation plan must be submitted to the Environmental Planning Division for approval prior to clearing or grading on the site. Electronic files must have Environmental Planning approval signature, be in PDF format, and be in only one file.

BE IT FURTHER RESOLVED, that, having given full consideration to the recommendations and findings of its Staff as set forth in the Staff Report, which the Board hereby adopts and incorporates by reference, and upon consideration of the entire record, the Montgomery County Planning Board FINDS, with the conditions of approval, that:

1. *Applicant has met all criteria required to grant a variance to Section 1607(c) of the Natural Resources Article, MD Ann. Code in accordance with Section 22A-21 of the Montgomery County Code.*

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.

In accordance with Section 22A-21(e), the Applicant has met all of the following criteria required for the Board to grant the variance.

a. *Will not 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 not only small for the use but also irregularly shaped and constrained by the existing historic childcare building and the Garrett Park Nursery School. Therefore, a variance is not a special privilege that would be denied to other applicants.

b. *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 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 two-story school, and locating the geothermal field under excising ball fields.

c. *Does not arise 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 a result of land or building use on a neighboring property.

d. *Will not violate Site 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.

2. *The Application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A and Forest Conservation Regulations Section 109B (COMCOR 22a.00.01.09B..*

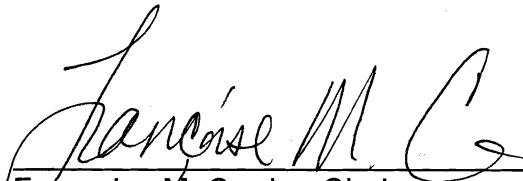
BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Planning Board in this matter, and the date of this Resolution is JAN - 6 2011 (which is the date that this Resolution is mailed to all parties of record); and

BE IT FURTHER RESOLVED, that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

\* \* \* \* \*

#### CERTIFICATION

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission on motion of Commissioner Dreyfuss, seconded by Commissioner Presley, with Vice Chair Wells-Harley, Commissioners Alfandre, Dreyfuss, and Presley present and voting in favor of the motion, and Chair Carrier abstaining, at its regular meeting held on Thursday, September 23, 2010, in Silver Spring, Maryland.

  
Françoise M. Carrier, Chair  
Montgomery County Planning Board