



**JAN - 6 2011**

**MCPB No. 10-170**  
**Variance Request Plan No. SC2010013**  
**Horizon Hill, Lot 12**  
**Date of Hearing: October 14, 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 July 2, 2010, Rohit Sawhney ("Applicant"), filed an application for approval of a variance request on 2.14 acres of land known as Horizon Hill, Lot 12 (10507 Tulip Lane) 500 feet west of Glen Mill Road, Potomac, Maryland; in the Potomac Subregion master plan area ("Property" or "Subject Property"),; and

WHEREAS, Applicant's Variance Request was designated SC201013, Horizon Hill, Lot 12 ("Variance Request" or "Application"); and

WHEREAS, Staff issued a memorandum to the Planning Board, dated September 29, 2010, setting forth its analysis, and recommendation for approval, of the Application subject to certain conditions ("Staff Report"); and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and the staff of other governmental agencies, on October 14, 2010, the Planning Board held a public hearing on the Application (the "Hearing"); and

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

WHEREAS, on October 14, 2010, the Planning Board approved the Variance Request, on motion of Commissioner Presley and seconded by Commissioner Wells-Harley with a vote of 5-0; Commissioners Alfandre, Carrier, Dreyfuss, Presley, and Wells-Harley voting in favor.

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Approved as to  
Legal Sufficiency:

*Christina Sorrento* 12/6/10  
M-NCPPC Legal Department

8787 Georgia Avenue, Silver Spring, Maryland 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 Variance Request Plan No. SC2010013 on 2.14 acres of land known as Horizon Hill, Lot 12 (10507 Tulip Lane) 500 feet west of Glen Mill Road, Potomac, Maryland; in the Potomac Subregion master plan area.

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

1. *The Application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A for the Variance Request.*

Section 5-1607(c) of the Natural Resources Article, MD Ann. Code, identifies certain individual trees as high priority for retention and protection. Any impact to trees, including removal or any disturbance within a tree's critical root zone (CRZ), requires a variance. The law requires no impact to all trees that measure 30" diameter at breast height (DBH) or greater; any tree designated as the county champion tree; trees with a DBH 75% or greater than the diameter of the current State champion for that species; rare, threatened and endangered species; and trees part of a historic site or associated structure.

In accordance with Montgomery County Code, Section 22A-21(c) the Planning Board referred a copy of the variance request to the County Arborist in the Montgomery County Department of Environmental Protection and other appropriate officials or agencies for a written recommendation prior to acting on the request. The County Arborist responded on August 19, 2010 indicating that she was electing not to review the variance request for the project.

The Planning Board finds, based on the following justifications, that the Applicant has met all criteria required to grant the variance.

- (a) 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 as the removal and/or disturbance of the specimen trees noted above are the minimum necessary in order to develop the Property as illustrated on the Forest Conservation Plan. The development of this lot is consistent with the development of the surrounding areas. The specimen tree removals for this lot are for access, septic systems,

and the house location, all of these are reasonable and would be extended to any applicant in a similar situation.

- (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 of the Applicant. The variance is based upon the RE-2 zoning, required stormwater management best management practices, and site layout. The specimen trees to be removed would need to be removed due to development of this existing recorded lot. Even if the house layout was shifted and or minimized the trees in question would still need to be removed or impacted.

- (c) 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 development and not a result of land or building use on a neighboring property.

- (d) 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 measurable degradation in water quality. The specimen trees being removed or disturbed are not within a stream buffer, wetland, or a special protection area. A Stormwater Management Plan will be approved by Montgomery County.

BE IT FURTHER RESOLVED, that 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).

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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 Presley, seconded by Commissioner Alfandre, with Vice Chair Wells-Harley and Commissioners Alfandre and Presley voting in favor of the motion, and with Chair Carrier and Commissioner Dreyfuss absent, at its regular meeting held on Thursday, December 9, 2010, in Silver Spring, Maryland.

  
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Marye Wells-Harley, Vice Chair  
Montgomery County Planning Board