

AUG 12 2011



MONTGOMERY COUNTY PLANNING DEPARTMENT
THE MARYLAND NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB No. 11-27
Forest Conservation Plan No. MR2011202
Glenallan Elementary School Modernization
Date of Hearing: April 7, 2011

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 January 10, 2011, Montgomery County Public Schools ("Applicant"), filed an application for approval of a final forest conservation plan on approximately 11.57 acres of land located at the intersection of Randolph Road and Heurich Drive ("Property" or "Subject Property") in the Kensington-Wheaton Master Plan area ("Master Plan")("Master Plan"); and

WHEREAS, Applicant's final forest conservation plan application was designated Forest Conservation Plan No. MR2011202, Glenallan Elementary School Modernization ("Final 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 March 24, 2011, 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 April 7, 2011; and

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

WHEREAS, on April 7, 2011, the Planning Board approved the Final Forest Conservation Plan subject to certain conditions, on motion of Commissioner Dreyfuss; seconded by Commissioner Wells-Harley; with a vote of 4-0, Commissioners Carrier, Wells-Harley, Alfandre, and Dreyfuss voting in favor and Commissioner Presley being absent.

Approved as to
Legal Sufficiency:

Christina Sone 7/8/11

888 Georgia Avenue, Springville, Maryland 20740 Directors Office: 301.495.4500 Fax: 301.495.1310

M-NCPPC Legal Department

www.MontgomeryPlanning.org

NOW, THEREFORE, BE IT RESOLVED THAT, pursuant to the relevant provisions of Montgomery County Code Chapter 22A, the Planning Board approved Final Forest Conservation Plan No. MR2011202 subject to the following conditions, which Applicant shall satisfy prior to Montgomery County Department of Permitting Services (MCDPS) issuance of sediment and erosion control permits and any land disturbing activities, including clearing or grading onsite:

1. The proposed development shall comply with the conditions of the Preliminary 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:
 - a. The Applicant must obtain approval of the Final Forest Conservation Plan consistent with the approved Preliminary Forest Conservation Plan prior to any clearing, grading or demolition on the site.
2. The Final Forest Conservation Plan must include:
 - a. Mitigation for the removal of tree #25 (35" yellow poplar) without authorization, by planting 12 trees with a minimum size of 3" DBH in addition to planting requirements to meet forest conservation requirements.
 - b. Deer protection fencing for all new plantings.
3. Applicant must record a Category I Conservation Easement over all areas of forest retention prior to any clearing or grading occurring onsite.
4. Required site inspections by M-NCPPC monitoring Staff must occur as specified in "Trees Technical Manual".
 - a. A copy of the maintenance and management agreement must be kept on-site and given to the Montgomery County Public Schools (MCPS) maintenance staff to ensure compliance with conditions of the forest conservation plan.

BE IT FURTHER RESOLVED, that, having given full consideration to the recommendations and findings of its Staff as presented at the Hearing and 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 5-1607(c) of the Natural Resources Article, MD Ann. Code in accordance with Section 22A-21 of the Montgomery County Code.

Section 5-1607(c) of the Natural Resources Article, MD Ann. Code identifies certain individual trees as high priority for retention and protection (“Protected Trees”). Any impact to these Protected Trees, including removal or any disturbance within a Protected Tree’s Critical Root Zone (CRZ), requires a variance. The following Protected Trees require a variance for disturbance within their CRZ:

TABULATION OF SPECIMEN TREES IMPACTED							
Tree #	Species	D.B.H (Inches)	Critical Root Zone (Sq. Ft.)	CRZ Impacts (Sq. Ft.)	CRZ Impacts (Percentage)	Tree Condition	Status
1	WHITE PINE	29	5945	5283	89%	GOOD	TO BE REMOVED
2	WHITE PINE	34	8171	8171	100%	GOOD	TO BE REMOVED
4	WILLOW OAK	31	6793	6793	100%	GOOD	TO BE REMOVED
6	WHITE PINE	28	5542	4620	83%	GOOD	TO BE REMOVED
7	WILLOW OAK	31	6793	6708	99%	GOOD	TO BE REMOVED
12	SYCAMORE	30	6362	1717	27%	GOOD	TO BE SAVED
15	NORTHERN RED OAK	30	6362	2938	46%	GOOD	TO BE REMOVED
17	WHITE OAK	55	21382	7615	36%	GOOD	TO BE SAVED
18	WHITE PINE	30	6362	6292	99%	GOOD	TO BE REMOVED
19	WHITE PINE	29	5945	5945	100%	GOOD	TO BE REMOVED
20	WILLOW OAK	38	10207	10207	100%	GOOD	TO BE REMOVED
21	WILLOW OAK	37	9677	9677	100%	GOOD	TO BE REMOVED
23	WILLOW OAK	32	7238	7238	100%	GOOD	TO BE REMOVED
25	YELLOW POPLAR	35	8659	829	10%	GOOD	PREVIOUSLY REMOVED
37	YELLOW POPLAR	35	8659	2101	24%	GOOD	TO BE SAVED
45	YELLOW POPLAR	34	8171	2794	34%	GOOD	TO BE SAVED

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

- a. Approval of the variance will not confer on the Applicant a special privilege that would be denied to other applicants.

The variance will not confer on the Applicant any special privileges that would be denied to other applicants. The development site is relatively constrained and

the proposed school and associated fields are being developed in the development footprint of the existing school. Therefore, the Planning Board finds that granting the variance is not a special privilege that would be denied to other applicants.

b. Approval of the variance is not based on conditions or circumstances which are the result of the actions by the Applicant.

The variance is not based on conditions or circumstances which are the result of actions by the Applicant. The variance is based on the proposed site layout and design, which 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 three-story school, and locating the geothermal field under existing ball fields.

Eleven of the twelve trees proposed for removal on-site are located within the footprint of the school building and parking. An additional tree (#15, 30" northern red oak) is located within close proximity to the limits of disturbance (LOD) and is proposed for removal because more than 50% of the CRZ will be affected. There will also be some disturbance within the CRZ of another 4 trees on-site but they are excellent candidates for safe retention.

c. Approval of the variance does not arise from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property.

The 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. Approval of the variance will not violate State water quality standards or cause measurable degradation in water quality.

The 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 1.09(B) (COMCOR 22a.00.01.09B).

The Applicant is removing 0.20 acres of forest and retaining 1.60 acres in order to modernize an elementary school. In addition, 0.39 acres of forest will be planted on-site to meet Forest Conservation Law requirements. The Forest Conservation Plan protects 1.99 acres of forest in a Category I Easement. The Planning Board finds that the Application satisfies the applicable requirements of the Forest Conservation Law.

BE IT FURTHER RESOLVED that for the purpose of these conditions, the term "Applicant" shall also mean the developer, the owner or any successor in interest to the terms of this approval.

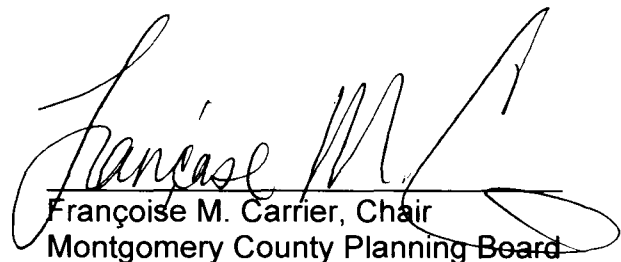
BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Planning Board in this matter, and the date of this Resolution is AUG 12 2011 (which is the date that this Resolution is mailed to all parties of record); and

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 Chair Carrier, Vice Chair Wells-Harley, and Commissioners Dreyfuss and Presley present and voting in favor of the motion, and Commissioner Anderson abstaining at its regular meeting held on Thursday, July 28, 2011, in Silver Spring, Maryland.


Françoise M. Carrier, Chair
Montgomery County Planning Board