



SEP 12 2014

MCPB No. 13-164
Forest Conservation Plan No. MR2014009
Glenmont Fire Station #18
Date of Hearing: November 7, 2013

RESOLUTION

WHEREAS, under Montgomery County Code Chapter 22A, the Montgomery County Planning Board is authorized to review forest conservation plan applications; and

WHEREAS, on September 10, 2013, the Montgomery County Department of General Services ("Applicant") filed an application for approval of a forest conservation plan on approximately 5.66 acres of land located at 12210 Georgia Avenue ("Subject Property") in the 1997 Approved and Adopted *Sector Plan for the Glenmont Transit Impact Area and Vicinity* ("Master Plan") area; and

WHEREAS, the September 10, 2013 application was designated Forest Conservation Plan No. MR2014009, Glenmont Fire Station #18 ("Forest Conservation Plan" or "Application");¹ and

WHEREAS, on October 25, 2013, following review and analysis of the Application by Planning Board Staff ("Staff") and other governmental agencies, Staff issued a memorandum to the Planning Board setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on November 7, 2013 the Planning Board held a public hearing on the Application, and at the hearing the Planning Board heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, on November 7, 2013, the Planning Board approved the Forest Conservation Plan on motion of Commissioner Wells-Harley; seconded by Commissioner Anderson, by a vote of 3-0 Commissioners Anderson, Carrier, and Wells-Harley voting in favor, and Commissioners Dreyfuss and Presley absent.

¹ Unless specifically indicated otherwise, the Board has reviewed the preliminary Forest Conservation Plan and set forth conditions under which the Staff can approve the final Forest Conservation Plan without further Board action. Therefore, for purposes of this Resolution, whether or not indicated, the Board's action is with regard to the preliminary Forest Conservation Plan.

Approved as to
Legal Sufficiency:

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Forest Conservation Plan No. MR2014009 subject to the following conditions:²

1. Revise the Preliminary Forest Conservation Plan and variance request to remove all impacts to tree #5 (31" red maple).
2. Final Forest Conservation Plan must reflect development staging and match sediment control measures.
3. Final Forest Conservation Plan must include details on trees planted for mitigation of the removal of three specimen trees.

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 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 and the protection of environmentally sensitive features.*

A. Forest Conservation

While there is no forest on the Property, there is a 0.86-acre afforestation requirement. The Preliminary Forest Conservation Plan proposes to meet this 0.86-acre afforestation requirement through offsite banking or payment of fee-in-lieu.

B. Forest Conservation Variance

Section 22A-12(b)(3) of the Forest Conservation Law 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 under Section 22A-12(b)(3) ("Variance"). Otherwise such resources must be left in an undisturbed condition.

This Application will require the removal or CRZ impact to 3 Protected Trees – trees #2, #3, and #18 – as identified in the Staff Report. The

² 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.

Applicant had proposed, and Staff opposed, the removal of tree #5, and at the hearing the Applicant clarified that it could avoid removing tree #5. In accordance with Section 22A-21(a), the Applicant has requested a Variance, and the Board finds that the Applicant would suffer unwarranted hardship by being denied reasonable and significant use of the Subject Property without the Variance.

The Board made the following findings necessary to grant the Variance:

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

The removal of trees #2, #3, and #18 is necessary and unavoidable. Without removing these three trees, the Applicant could not construct the proposed fire station in this location. The Applicant had proposed, and Staff opposed, impacts to tree #5, and at the hearing the Applicant clarified that it could avoid any impact to tree #5.

2. *The need for the Variance is not based on conditions or circumstances that are the result of the actions by the Applicant.*

The necessity of removing trees #2, #3, and #18 is not based on conditions or circumstances that are the result of Applicant's actions, but rather on the locations of the three trees, which, if left intact, would prevent the proposed development of the Subject Property.

3. *The need for the Variance is not based on a condition related to land or building use, either permitted or non-conforming, on a neighboring property.*

The requested variance is a result of the proposed fire station development on the Subject 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 impacted trees are not within a stream buffer, wetland, or a special protection area. This approval is conditioned on mitigation that approximates the form and function of the trees removed. Therefore, their removal will not violated State water quality standards or cause measurable degradation in water quality.

Mitigation for the Variance is at a rate that approximates the form and function of the Protected Trees removed. The Board approves replacement of Protected Trees at a ratio of approximately 1" caliper planted for every 4" Diameter Breast Height, using a minimum 3" caliper trees. No mitigation is required for Protected Trees impacted but retained.

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 SEP 12 2014 (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 Vice Chair Wells-Harley, seconded by Commissioner Anderson, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Anderson, Dreyfuss, and Presley voting in favor of the motion, at its regular meeting held on Thursday, November 7, 2013, in Silver Spring, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board