



MONTGOMERY COUNTY PLANNING BOARD
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

JUN 25 2014

MCPB No. 14-33
Forest Conservation Plan No. MR2014029
Wayside Elementary School
Date of Hearing: June 5, 2014

RESOLUTION

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

WHEREAS, on May 8, 2014, Montgomery County Public Schools ("Applicant") filed an application for approval of a forest conservation plan together with its mandatory referral submission on approximately 9.2594 acres of land located at 10011 Glen Road ("Subject Property") in the Potomac Policy Area, Potomac Subregion Master Plan area; and

WHEREAS, Applicant's forest conservation plan application was designated Forest Conservation Plan No. MR2014029 Wayside Elementary School Modernization Forest Conservation Plan ("Forest Conservation Plan" or "Application")¹ and

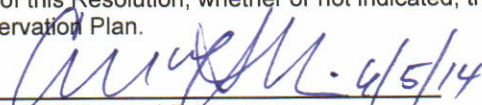
WHEREAS, following review and analysis of the Application by Planning Board Staff ("Staff") and other governmental agencies, Staff issued a memorandum to the Planning Board dated May 23, 2014 setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on June 5, 2014, 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 June 5, 2014, the Planning Board voted to approve the Application subject to certain conditions, on motion of Commissioner Anderson,

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:

 6/5/14

seconded by Commissioner Wells-Harley, with a vote of 5-0; Commissioners Anderson, Carrier, Dreyfuss, Presley, and Wells-Harley, voting in favor.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVED Forest Conservation Plan No. MR2014029 on the Subject Property, subject to the following conditions:²

1. The Final Forest Conservation Plan must be consistent with the approved Preliminary Forest Conservation Plan.
2. Prior to clearing and grading, a Category I conservation easement must be placed over all areas of forest retention and planting, as shown on the approved Final 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 (unless modified herein), 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

The Board finds that as conditioned, the Forest Conservation Plan complies with the requirements of the Forest Conservation Law.

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.

There are eight (8) Protected Trees in the project area that will be impacted and one (1) that will be removed as identified in the Staff Report. All of these trees are located along the perimeter of the school property. Redevelopment of the already developed school site, together with

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.

encroachment into the perimeter forest area, creates the impact to the trees. In accordance with Section 22A-21(a), the Applicant has requested a Variance and the Board agreed 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.*

Granting the Variance will not confer a special privilege on the Applicant, as disturbance and removal of the Protected Trees are due to redevelopment of the existing school. The impact has as much to do with removal and improvement to existing infrastructure as to building the new school. Improvements to the stormwater management system have been designed to meet current standards, minimize impacts to downstream neighbors and minimize buffer disturbance. Four of the impacts are due to the repaving an existing trail through the forest that connects the neighborhood to the north with the school. Granting a Variance to allow land disturbance within this area is not unique to this Applicant.

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

The need for the Variance is based upon existing site conditions, including the number and locations of the large trees and the presence of the existing school and school infrastructure.

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 need for the Variance is a result of the school expansion 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 Protected Tree requested for removal is not located in an environmental buffer or special protection area. Therefore, its removal will not violate State water quality standards or cause measurable degradation in water quality. The Protected Trees

being impacted will remain to provide the same level of water quality protection as it currently provides. A Stormwater Management Concept Plan has been approved by the MCDPS – Stormwater Management Section. In accordance with that approval, the concept design will improve existing conditions and maintain appropriate water quality standards. Mitigation for the Protected Tree to be removed will take place as part of the forest planting. No mitigation is required for Protected Trees impacted but retained.

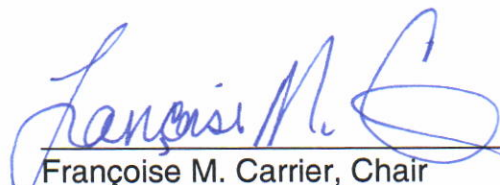
BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Planning Board in this matter, and the date of this Resolution is JUN 25 2014 (which is the date that this Resolution is mailed to all parties of record); and

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).

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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 Anderson, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Anderson, Dreyfuss, and Presley voting in favor at its regular meeting held on Thursday, June 12, 2014, in Silver Spring, Maryland.



Françoise M. Carrier, Chair
Montgomery County Planning Board