



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

APR 8 2015

MCPB No. 14-89
Site Plan No. 82008019C
Batchellors Forest
Date of Hearing: September 18, 2014

RESOLUTION

WHEREAS, under Montgomery County Code Division 59-D-3, the Montgomery County Planning Board is authorized to review site plan applications; and

WHEREAS, on September 14, 2008, the Planning Board, by Resolution MCPB No. 09-95 (corrected on December 8, 2009), approved Site Plan No. 820080190, for approval of a site plan for 37 lots including 32 one-family detached dwelling units and 5 one-family attached MPDUs ("Site Plan" or "Plan") on 93.64 acres of RNC-zoned land, located on Batehellors Forest Road approximately 3,000 feet south of the intersection with Doctor Bird Road ("Property" or "Subject Property"), in the Olney Policy Area, Olney Master Plan ("Master Plan") area; and

WHEREAS, on August 9, 2011, the Planning Board approved an amendment to the Site Plan No. 82008019A (MCPB No. 11-50) to convert one MPDU into one market-rate, minimize water and sewer connections to Batchellors Forest Road, and incorporate DOT comments on the Property; and

WHEREAS, on January 22, 2014, Staff approved an administrative amendment to the Site Plan No. 82008019B to revise entrance features and landscaping enhancements abng Old Vic Blvd. and Batchellors Forest Road on the Property; and

WHEREAS, on May 23, 2014, Montgomery County Public Schools "Applicant", filed an application for approval of an amendment to the previously approved site plan(s) to amend the Final Forest Conservation Plan to include construction of new school on parcel previously dedicated to M-NCPPC Parks as part of plan to develop the Batchellors Forest subdivision on the Property; and

WHEREAS, Applicant's application to amend the site plan was designated Site Plan No. 82008019C, Batchellors Forest ("Site Plan," "Amendment" or "Application"); and

Approved as to
Legal Sufficiency

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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 September 8, 2014, setting forth its analysis of, and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on September 18, 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 September 18, 2014 the Planning Board voted to approve the Application subject to conditions, on the motion of Commissioner Dreyfuss, seconded by Commissioner Wells-Harley, with a vote of 4-0; Commissioners Anderson, Dreyfuss, Presley, and Wells-Harley voting in favor.

NOW, THEREFORE, BE IT RESOLVED that, the Planning Board APPROVES Site Plan No. 82008019C to amend the Final Forest Conservation Plan to include construction of new school by adding the following conditions:¹

1. Prior to any land disturbing activities or issuance of Sediment and Erosion Control Permit, the Applicant must submit a revised Forest Conservation Plan, subject to Staff approval, for the following:
 - a. Include a signed developers certificate on every page;
 - b. Include an original Qualified Professional's signature on every page;
 - c. Add a note that indicates that nineteen (19) – three inch (3") DBH native canopy trees are required to be planted onsite as required for the Variance Tree mitigation;
2. Applicant must plant nineteen (19) – three inch (3") DBH native canopy trees onsite as Variance Tree mitigation.
3. All areas of planting, reforestation and mitigation, must be placed in a Category I conservation easement. All easements must be recorded by deed or record plat prior to any land disturbing activities or issuance of Sediment and Erosion Control Permit.

BE IT FURTHER RESOLVED, that all other site plan conditions of approval for this project remain valid, unchanged and in full force and effect.

BE IT FURTHER RESOLVED, that all site development elements as shown on Batchellors Forest drawings stamped by the M-NCPPC on July 8, 2014, shall be required, except as modified by the above conditions of approval; and

¹ For the purpose of these conditions, the term "Applicant" shall also mean the developer, the owner or any successor(s) in interest to the terms of this approval.

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

1. Unless specifically set forth herein, this Amendment does not alter the intent, objectives, or requirements in the originally approved preliminary plan as revised by previous amendments, and all findings not specifically addressed remain in effect.

The Application, including the submitted FFCP amendment, meets all applicable requirements of Chapter 22A of the County Code (Forest Conservation Law).

This amendment includes 0.81 acres of off-site improvements for the construction of a sewer line to serve the new school, increasing the total net tract area of 94.45 acres, and proposes an additional 0.01 acres of forest clearing above what was previously approved generating an additional 0.02 acre planting requirement. Additionally the amendment includes some minor encroachment into previously recorded Category I conservation easements. All encroachments will be mitigated for onsite at a 1:1 ratio.

The revised FFCP included a Variance Request for the removal of five Variance trees and impacts to an additional three Variance trees. The Planning Board made the following findings in regard to the Variance Request:

1. Will not confer on the applicant a special privilege that would be denied to other applicants.

The Farquhar Middle School Modernization is in conformance with the County's General plan. As such, this is not a special privilege to be conferred on the applicant.

2. Is not based on conditions or circumstances which are the result of the actions by the applicant.

Montgomery County Public Schools has taken no actions leading to the conditions or circumstances that are the subject of this variance request.

3. Is not based on a condition relating to land or building use, either permitted or non-conforming, on a neighboring property.

The surrounding land uses (residences) do not have any inherent characteristics or conditions that have created or contributed to this particular need for a variance.

4. Will not violate State water quality standards or cause measurable degradation in water quality.

The granting of this variance will not adversely affect water quality. Appropriate erosion and sediment controls will be installed, as specified in the Erosion and Sediment Control Plan for this project. Additionally, Staff is recommending mitigation for the five protected trees and would result in 19 - 3" DBH native canopy trees being planted to offset the water quality benefits of the five Variance Trees lost.

BE IT FURTHER RESOLVED, that this Resolution incorporates by reference all evidence of record, including maps, drawings, memoranda, correspondence, and other information; and

BE IT FURTHER RESOLVED, that this Site Plan shall remain valid as provided in Montgomery County Code § 59-D-3.8; and

BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is APR 8 2015 (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

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Planning Commission on motion of Vice Chair Wells-Harley, seconded by Commissioner Presley, with Chair Anderson, Vice Chair Wells-Harley, and Commissioners Dreyfuss, Presley, and Fani-Gonzalez voting in favor at its regular meeting held on Thursday, March 26, 2015, in Silver Spring, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board

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