



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

**MCPB**  
**ITEM #**  
**May 7, 2009**

April 24, 2009

**MEMORANDUM**

**TO:** Montgomery County Planning Board

**VIA:** Mark Pfefferle, Acting Chief, Environmental Planning *MP*

**FROM:** Stephen D. Federline, Environmental Planning *SD*

**SUBJECT:** Preliminary Forest Conservation Plan  
Fairland Park Community  
Development Plan Amendment (DPA) No. 09-01

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**STAFF RECOMMENDATION**

**APPROVAL of the preliminary forest conservation plan subject to the following conditions:**

1. Compliance with the conditions of approval for the latest amendment to the preliminary forest conservation plan which was dated and sealed by John Markovich, Licensed Forester, on April 8, 2009). The applicant must meet all conditions prior to site plan amendment, plat recordation, and MCDPS issuance of sediment and erosion control permit(s), as appropriate.
  - a. Approval of Final Forest Conservation Plan consistent with the approved Preliminary Forest Conservation Plan prior to any clearing, grading or demolition on the site, except for approved reclamation activities required for stabilization of the stump dump and environs.
  - b. At a minimum, the final forest conservation plan must meet onsite forest retention requirements as specified in Chapter 22A-12(b) and 22A-12(f-2.B) in a configuration and amount as shown on the preliminary forest conservation plan, unless amended by the Planning Board in subsequent reviews.

- c. To the extent feasible, forest retention areas shall be protected through Park ownership wherever forested parkland adjoins onsite retention areas, or in a category one conservation easement, to be determined in subsequent Board reviews.

The Board's action on the Preliminary Forest Conservation Plan is regulatory and binding. The Planning Board must act on the Preliminary Forest Conservation Plan before it can make a recommendation on the Development Plan Amendment. Environmental Planning/Green Division's comprehensive input to the Department staff recommendation on the Development Plan Amendment has been forwarded under separate cover to Development Review.

## **BACKGROUND**

The previously-approved Development Plan, preliminary plan, and site plan for the Fairland Golf Course Community covered approximately 313 acres of private and public lands, and was approved with recognition that achievement of all the major master plan objectives (including the land-intensive golf course use) would result in significant loss of valuable natural resources, principally high-priority forest (approximately 100 acres) and environmental buffer area. The current plan, which deletes the golf course, provides far greater opportunity to fully achieve environmentally-compatible development, with the current plan removing 74 acres of forest, or 26 fewer acres of priority forest lost.

The current proposal contains 183.33 acres of land, 131.60 acres of existing forest, 57.7 acres forest retained, with 48.4 acres of environmental buffer area.

## **ANALYSIS**

The master plan has many environmentally-related design objectives that must be met on this site. One of them emphasized and prioritized protection of the unique and high quality forest resources of the Silverwood Tributary and the undisturbed portions of the McKnew Tributary. The plan says:

*"Encourage cluster development of low to medium density residential uses away from environmentally sensitive areas. This would create forested open spaces near the streams that are larger than the regulatory stream buffers to protect the resource". (page 134).*

These resources are more specifically defined on pages 118 and 119 of the master plan. The high quality of these areas comes in part from the fact that the areas contain large contiguous forest (over 400 acres), as well as significant areas of diverse geologic and soil conditions and resulting unique vegetation. This is the result of its location at the fall line between the Piedmont and Coastal plain physiographic provinces. Preserving resources in this area and keeping them accessible to the public is of countywide importance. Through its identification in the master plan, the forest has the highest priority for forest retention consistent with section 22A-12(b)(2)(F) of the County Code and section 107A.(3) of the Forest Conservation regulations.

## **FOREST RESOURCES**

There are 133.40 acres of forest on-site, all designated as high-priority forest and identified for protection in the Master Plan. The realization of the Master Plan objective for forest preservation is to use zoning options to the greatest extent consistent with other Master Plan objectives to achieve the maximum contiguous high-priority forest. The forest conservation regulatory priority is to avoid reforestation, as stated in Section 22A-12(b)(1) of the County Code. This plan exceeds the amount of retained forest needed to avoid any forest planting requirements (the so-called “break even point”) by approximately 2.4 acres.

Further, the required amount of forest retained meets the minimum retention per Section 22-A 12(f) of the County code. The forest conservation law requires planned developments to meet the conservation threshold onsite. The conservation threshold for this particular project is 36.13 acres and the preliminary forest conservation plan shows the retention of 57 acres of forest, which exceeds the conservation threshold by approximately 20 acres.

In addition to meeting numerical requirements of Chapter 22A, the configuration of the retained forest provides large areas of contiguous forests, since it adjoins forest on MNCPPC’s McKnew Local Park to the north, and the newly acquired parkland area just below the dedicated school site.

In summary, the amount and configuration of retained forest shown on the preliminary forest conservation plan meets the priorities of the forest conservation law, the law’s objective to avoid reforestation and save large areas of contiguous forests, and the objective of the master plan to protect the very diverse and unusual plant community.

### **Forest Protection Mechanism**

The appropriate and preferred mechanism for protection of forest identified is through the retention of the land in private ownership and a conservation easement. However, in certain instances forest is permanently protected by park ownership. For this plan, the retained forest is a logical connection to adjoining forest already held in park ownership and therefore Environmental Planning staff recommends protection of the retained forest immediately adjacent to existing parkland to be dedicating those lands to the Parks Department. Certain retention areas not contiguous to existing forested parkland are appropriate for protection using Category One forest conservation easement, the precise extent of which shall be determined at the final forest conservation plan stage.

Staff notes that the preliminary forest conservation plan shows forest retained on the southernmost portion of the area to be dedicated to school use (“PS” designated area). The portion of the dedicated school site where the applicant has shown forest retention is located below the school’s ball field and its limits of disturbance are as shown on the illustrative school site layout of the Amended Development Plan. The forest retention area shown is not inconsistent with any aspect of the proposed school site layout.

Staff strongly supports retention in this area since it prevents forest bifurcation and expands the breadth of contiguous forests between two park dedication/ownership areas. The forest can be permanently protected either by a category I conservation easement over the forest retention area on school property, or by dedication to MNCCPC.

MP:SF:ss