



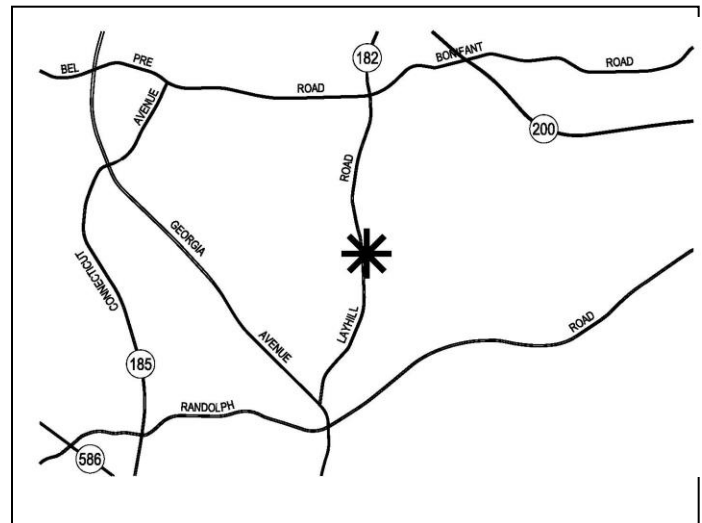
Poplar Run (formerly known as Indian Spring), Limited Site Plan Amendment, 82007002B

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Completed: 2/21/14

Description

- Limited Site Plan Amendment to amend Final Forest Conservation Plan associated with Poplar Run development to allow changes in the construction of the Tivoli Lake Boulevard extension;
- 310.76 acres zoned R-90 and R-200;
- 1989 *Master Plan for the Communities of Kensington-Wheaton*;
- Applicant: Winchester Homes;
- Filing date: 3/14/13.



Summary

- Staff recommends **approval**.
- Final Forest Conservation Plan amended to reflect revised LODs at the Tivoli Lake Boulevard culvert due to changes in the culvert, roadway, and sanitary sewer designs and associated easements.
- 0.13 acres of forest removed.
- Forest conservation requirements to be met on-site.
- Variance request for removal of three specimen trees and impacts to one specimen tree.

Pursuant to Chapter 22A of the County Code, the Board's actions on Forest Conservation Plans, are regulatory and binding.

OVERVIEW

This memorandum covers staff's review and recommendations on the Amended Final Forest Conservation Plan (FFCP) for the Poplar Run (formerly known as Indian Spring) subdivision. Before the residential subdivision was approved, the majority of the 310-acre site was associated with the Indian Spring Country Club, which included a golf course, tennis courts, a swimming pool, and other country club facilities. The Planning Board approved a Preliminary Plan (No. 120060510) on September 21, 2006, and a Site Plan (No. 820070020) on October 11, 2007 for 773 dwelling units. A subsequent Limited Site Plan Amendment (No. 82007002A) included revisions to stormwater management facilities and adjacent lots, building setbacks, recreation areas, landscape, lighting, and paving.

The proposed amendment reflects revised Limits of Disturbance (LOD) at the Tivoli Lake Boulevard culvert due to changes in the culvert, roadway, and sanitary sewer designs and associated easements. The culvert was raised to accommodate safe passage for wildlife, as required by the Planning Board. The roadway grading was redesigned to meet the new culvert profiles, according to the requirements of both Montgomery County Department of Permitting Services and Montgomery County Department of Transportation. Additionally, the Washington Suburban Sanitary Commission required the replacement of a sanitary sewer line.



COMCOR 22A. (Forest Conservation Regulations) requires Planning Board action on certain types of modifications to an approved FCP. Section 22A.00.01.13 113.A(2) states:

Major amendments which entail more than a total of 5000 square feet of additional forest clearing must be approved by the Planning Board or Planning Director (depending on who approved the original plan).

Since the proposed modifications to the FFCP approved by the Planning Board require the removal of 5,663 square feet (0.13 ac) of forest, Planning Board action is required for this proposed amendment.

ANALYSIS

Environmental Guidelines

Staff approved a Natural Resource Inventory/Forest Stand Delineation (NRI/FSD #420033460) on June 7, 2004. Of the approximately 99.5 acres of environmental buffers on the site, 72.4 acres had been in golf course use. Some buffer areas were fully forested, while others were partly or completely within the golf course and were covered in grasses that were mowed down to the stream channel. Floodplains cover 45.8 acres of the site, all of which had been in golf course use.

The site lies within the Northwest Branch watershed (State Use IV, or recreational trout waters). The main stem of Northwest Branch lies to the east in M-NCPPC parkland and Bel Pre Creek, a major tributary of Northwest Branch, lies within the site adjacent to the southern property boundary. Five smaller streams also flow within the site. Northwest Branch Stream Valley Park surrounds the property to the south and east. The proposed project is in compliance with the *Environmental Guidelines*.

Forest Conservation

The proposed project is subject to the Montgomery County Forest Conservation law (Chapter 22A of the Code). The Planning Board approved a Preliminary Forest Conservation Plan (PFCP) with a Preliminary Plan (#120060510) on September 21, 2006, and a Final Forest Conservation Plan (FFCP) with Site Plan (#820030130) on October 11, 2007. Staff approved an Amended FFCP (Attachment 1) on May 2, 2012, which included the relocation of some of the residential lots, stormwater management facilities, and sediment traps/ponds. It also included modifications to planting schedules and details for planting in areas designated for forest banking adjacent to residential lots and roads.

The amendment includes an additional 0.13 acres of forest clearing (Attachment 2) due to changes to the roadway, culvert, and sanitary sewer designs and associated easements. The culvert was raised to accommodate safe passage for wildlife, as required by the Planning Board. The roadway grading was redesigned to meet the new culvert profiles, according to the requirements of both Montgomery County Department of Permitting Services and Montgomery County Department of Transportation. Additionally, Washington Suburban Sanitary Commission required the replacement of a sanitary sewer line. All forest conservation requirements are met through forest retention and on-site planting, with excess planting areas used to create a forest bank. The amendment includes a 0.07-acre increase in planting requirements, which will be met by reducing the area used to create a forest planting bank.

Forest Conservation Variance

Section 22A-12(b) (3) of the County Code provides criteria that identify certain individual trees as high priority for retention and protection. The law requires a variance for any impact, including removal or disturbance within the tree's critical root zone (CRZ), to trees that are: 30 inches or greater Diameter at

Breast Height (DBH); part of a historic site or designated with a historic structure; designated as national, State, or County champion tree; at least 75 percent of the diameter of the current State champion tree of that species, or trees, shrubs; and plants that are designated as Federal or State rare, threatened, or endangered species. An applicant for a variance must provide certain written information in support of the required findings in accordance with Section 22A-21 of the County Forest Conservation Law.

The applicant submitted a variance request on March 14, 2013 and a revised variance request on May 24, 2013 for the impacts to trees caused by the proposed layout (Attachment 3). The applicant proposes to remove three trees and to impact but retain one tree. All four trees are considered high priority for retention under Section 22A-12 (b) (3) of the County code.

Priority tree to be impacted and retained

ID	Type	DBH	Condition	Comments
554	Tulip poplar	30"	Good	This tree located on the northwest side of the proposed culvert and will be impacted by the removal of an existing golf cart path bridge adjacent to the tree.

Priority trees to be removed

ID	Type	DBH	Condition	Comments
508	Tulip poplar	34"	Good	This tree is located on the northeast side of the proposed culvert and is within the LOD.
518	Tulip poplar	40"	Good	This tree is located on the northeast side of the proposed culvert and is within the LOD.
535	Red oak	38"	Good	This tree is located on the southeast side of the proposed culvert and is impacted by the embankment and the sanitary sewer.

Unwarranted Hardship - Per Section 22A-21, a variance may only be granted if the Planning Board finds that leaving the requested trees in an undisturbed state would result in unwarranted hardship. The variance is necessary because trees #508, 518, and 535 must be removed in order to construct the revised extension of Tivoli Lake Boulevard and the required sanitary sewer line. The changes to the Tivoli Lake Boulevard extension and sewer line were required by government agencies. Tree #554 will be impacted by the removal of the existing golf cart path, which is located within the environmental buffers.

Variance Findings - Based on the review of the variance request and the proposed Amended Final Forest Conservation Plan, staff makes the following findings that granting this variance request:

1. *Will not confer on the applicant a special privilege that would be denied to other applicants.* Granting this variance will not confer a special privilege on the Applicant as disturbance of the specified trees is due to requirements imposed on the Applicant by governmental agencies and are necessary for the redevelopment of this property. Therefore, staff believes that is not a special privilege that would be denied to other applicants.

2. *Is not based on conditions or circumstances which are the result of the actions by the applicant.*
The requested variance is not based on conditions or circumstances which are the result of actions by the Applicant. The requested variance is based on the locations of the trees and the required redesign of the development's infrastructure.
3. *Is not based on a condition relating to land or building use, either permitted or non-conforming, on a neighboring property.*
The requested variance is a result of the residential redevelopment of the Property and not a result of land or building use on a neighboring property.
4. *Will not violate State water quality standards or cause measurable degradation in water quality.*
The requested variance will not violate State water quality standards or cause a measurable degradation in water quality. All areas of environmental buffer will be replanted with forest and all encroachments removed.

Mitigation for Trees Subject to the Variance Provisions – The Applicant is requesting a variance to remove three trees and impact but retain one tree. All variance trees requested for removal are located within forest and any impacts for removal have been compensated for as part of the forest conservation worksheet. Mitigation is not recommended for trees impacted but retained.

County Arborist's Recommendation on the Variance - In accordance with Montgomery County Code Section 22A-21(c), the Planning Department is required to refer a copy of the variance request to the County Arborist in the Montgomery County Department of Environmental Protection for a recommendation prior to acting on the request. The request was forwarded to the County Arborist on July 24, 2013. The County Arborist has reviewed the variance request and recommended approval (Attachment 4).

Variance Recommendation - Staff recommends that the variance be granted.

CONCLUSION

Staff recommends that the Planning Board approve the Amended Final Forest Conservation Plan. The variance approval is assumed into the Planning Board's approval of the Amended Final Forest Conservation Plan.

Attachments

1. Approved Final Forest Conservation Plan
2. Proposed Amended Final Forest Conservation Plan
3. Variance Application
4. Letter from County Arborist