



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

**JUL 11 2012**

**MCPB 11-86**  
**Forest Conservation Plan No. MR2012001**  
**Clarksburg Fire Station #35**  
**Date of Hearing: September 22, 2011**

**RESOLUTION**

WHEREAS, under Montgomery County Code Chapter 22A, the Montgomery County Planning Board ("Planning Board" or "Board") is vested with the authority to review forest conservation plan applications; and

WHEREAS, on July 27, 2011, the Montgomery County Department of General Services ("Applicant"), filed an application for approval of a Forest Conservation Plan on approximately 4.04 acres of land located at 23420 Frederick Road (MD 355) immediately north of the intersection of Frederick Road (MD 355) and Clarksburg Road (MD 121) ("Property" or "Subject Property"), in the Clarksburg master plan ("Master Plan") area; and

WHEREAS, Applicant's Forest Conservation Plan application was designated Forest Conservation Plan No. MR2012001, Clarksburg Fire Station #35 ("Forest Conservation Plan" or "Application"); and

WHEREAS, Staff issued a memorandum to the Planning Board dated September 5, 2011, setting forth its analysis, and recommendation for approval, of the Application subject to certain conditions ("Staff Report"); and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and the staff of other governmental agencies, the Planning Board held a public hearing on the Application (the "Hearing") on September 22, 2011; and

WHEREAS, at the Hearing, the Planning Board heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, on September 22, 2011, the Planning Board approved the Forest Conservation Plan on a motion of Commissioner Presley, seconded by Commissioner Wells-Harley, with a vote of 4-0; Chair Carrier, and Commissioners Dreyfuss, and Presley, voting in favor, Commissioner Anderson abstaining.

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Approved as to  
Legal Sufficiency:

8787 Georgia Avenue, Suite 200, Spring, Maryland 20910 Chairman's Office: 301.495.4605 Fax: 301.495.1320

[www.MCParkandPlanning.org](http://www.MCParkandPlanning.org) E-Mail: [mcp-chairman@mncppc.org](mailto:mcp-chairman@mncppc.org)

NOW, THEREFORE, BE IT RESOLVED, that the Planning Board APPROVES Forest Conservation Plan No. MR2012001.

BE IT FURTHER RESOLVED, that having fully considered the recommendations and findings in the Staff Report, which the Board hereby adopts and incorporates by reference (except as modified herein), and considering the entire record, the Montgomery County Planning Board FINDS that:

1. *The Application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A.*

Forest Conservation

The Applicant will meet the 0.65 acre forest planting requirement through 0.13 acres of landscape planting onsite, 0.33 acres of reforestation onsite, and 0.19 acres to be met via a fee-in-lieu payment.

Forest Conservation Variance

Section 5-1607(c) of the Natural Resources Article, MD Ann. Code 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) of the County Code. Otherwise such resources must be left in an undisturbed condition.

As more specifically identified in the Staff Report, this project will require three Protected Trees, 30 inches and greater DBH to be removed. Further, the project will impact two Protected Trees. Therefore, a variance is required. Although the Applicant proposed tree preservation measures to help ensure the Protected Trees with anticipated impacts survive construction, the variance is required simply due to the impact. 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 Tree Variance:

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

The proposed development is situated in an area of the Clarksburg Master Plan that was identified for future development. The Applicant is filing a standard Forest Conservation Plan concurrently with this variance request, and will follow the rules and requirements set forth by that plan. The project is

not seeking any special privilege only the minimal amount of relief necessary through the established variance process.

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

As shown on the proposed plans, the grading for the site and the location of the storm water facilities seek to minimize the impacts to the existing forest and the few specimen trees on the site. Impacts to the specimen trees are the unavoidable result of the proposed development, not an inappropriate action taken by the applicant.

- 3. The need for the Tree Variance 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 required buildable envelope as well as the proposed site design and layout on the subject property, and is not a result of land or building use on a neighboring property.

- 4. Granting the Tree Variance will not violate State water quality standards or cause measurable degradation in water quality.*

The proposed fire station has an approved Storm Water Management (SWM) Concept Plan, with final SWM Plans under-going review with MCDPS. The project will be developed in accordance with the latest state and local regulations for stormwater management designed to provide sufficient protection of the streams. These include five proposed bio-filtration facilities, which will filter and cleanse the runoff generated by the proposed development.

The Board finds that the Forest Conservation Plan complies with the requirements of Chapter 22A, the Montgomery County Forest Conservation Law.

BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is JUL 11 2012 (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

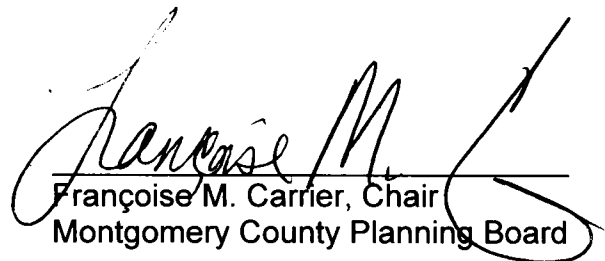
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Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

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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, and Commissioners Anderson and Presley present and voting in favor of the motion, and Vice Chair Wells-Harley temporarily absent, and Commissioner Dreyfuss absent, at its regular meeting held on Thursday, June 28, 2012, in Silver Spring, Maryland.

  
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Françoise M. Carrier, Chair  
Montgomery County Planning Board