



FEB 21 2012

MONTGOMERY COUNTY PLANNING BOARD

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB No. 11-139

Amendment to Final Forest Conservation Plan No. MR1994002

Glenmont Fire Station/WMATA Triangle

Date of Hearing: December 15, 2011

MONTGOMERY COUNTY PLANNING BOARD

RESOLUTION

WHEREAS, pursuant to 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 October 6, 2011, Montgomery County Department of General Services ("Applicant"), filed an application for approval of an amendment to a final forest conservation plan on approximately 10.27 acres of land located at 12600 Georgia Avenue, known as the Glenmont Fire Station/WMATA Triangle ("Property" or "Subject Property"), in the Glenmont Transit Impact Area and Vicinity Master Plan ("Master Plan") area; and

WHEREAS, Applicant's final forest conservation plan application was designated Forest Conservation Plan No. MR1994002, Glenmont Fire Station ("Forest Conservation Plan" or "Application"); and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and the staff of other governmental agencies, Staff issued a memorandum to the Planning Board, dated December 1, 2011, setting forth its analysis, and recommendation for approval of the Application subject to certain conditions ("Staff Report"); and

WHEREAS, the Planning Board held a public hearing on the Application (the "Hearing") on December 15, 2011; and

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

WHEREAS, on December 15, 2011, the Planning Board approved the Forest Conservation Plan subject to certain conditions, on motion of Commissioner Dreyfuss, seconded by Commissioner Anderson, with a vote of 4-0; Commissioners Carrier,

Approved as to
Legal Sufficiency

Christina Sorenst 2/8/12

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Wells-Harley, Anderson, and Dreyfuss voting in favor; Commissioner Presley being absent.

NOW, THEREFORE, BE IT RESOLVED THAT, pursuant to the relevant provisions of Montgomery County Code Chapter 22A, the Planning Board hereby approves the requested amendment to Final Forest Conservation Plan No. MR1994002 subject to the following conditions:

1. The proposed development shall comply with the conditions of the amended Final Forest Conservation Plan. The Applicant shall satisfy all conditions prior to Montgomery County Department of Permitting Services (MCDPS) issuance of sediment and erosion control permits.
2. Limits of disturbance shown on Sediment Control Plan must match the limits of disturbance shown on Final Forest Conservation Plan.
3. Required site inspections by M-NCPPC monitoring staff must occur as specified in "Trees Technical Manual."

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, and upon consideration of the entire record, the Montgomery County 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 Forest Conservation Regulations Section 1.09(B) (COMCOR 22a.00.01.09B).*

The Applicant is retaining 1.54 acres of forest on-site and planting 2.18 acres of forest off-site to meet Forest Conservation Law requirements. All areas of temporary disturbance will be replanted. In addition, the Applicant is proposing to plant an additional 0.08 acres of tree cover to mitigate for the 0.04 acres of temporary wetland buffer encroachment. The Planning Board finds that the Application satisfies the applicable requirements of the Forest Conservation Law.

2. *Applicant has met all criteria required to grant a variance to Section 5-1607(c) of the Natural Resources Article, MD Ann. Code in accordance with Section 22A-21 of the Montgomery County Code.*

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.

The following Protected Trees require a variance for disturbance within their CRZ:

Tree Number	Species	D.B.H	Approved for Disturbance (D) or Removal (R)
23	Quercus alba	40"	D
41	Ulmus pumila	32"	D
45	Liquidambar styraciflua	38"	D

As set forth on pages 5-7 of the Staff Report, the Applicant has demonstrated that without a variance the Applicant will be subject to an unwarranted hardship. In accordance with Section 22A-21(e), the Board finds that the Applicant has met all of the following criteria required to grant the variance.

a. Approval of 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 of the specified trees is due to the site constraints and the need to connect to the existing stormdrain. Granting a variance request for disturbance to the CRZs of the trees for the purposes of developing a fire station is not a special privilege unique to this Applicant.

b. Approval of the variance is not based on conditions or circumstances which are the result of the actions by the Applicant.

The requested variance is based on the site constraints and the program requirements. Thus, approval of the variance is not the result of actions by the Applicant.

c. Approval of the variance does not arise from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property.

The variance is a result of the proposed site design and layout on the Subject Property and not a result of land or building use on a neighboring property.

d. Approval of the variance will not violate State water quality standards or cause measurable degradation in water quality.

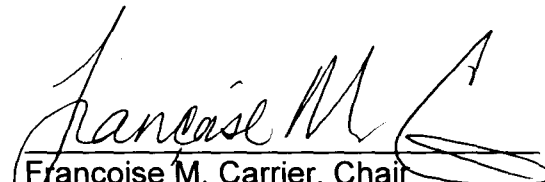
The requested variance will not violate State water quality standards or cause a measurable degradation in water quality.

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 FEB 21 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 Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

* * * * *

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 Dreyfuss, seconded by Vice Chair Wells-Harley, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Anderson and Dreyfuss voting in favor of the motion, and Commissioner Presley abstaining at its regular meeting held on Thursday, February 16, 2012, in Silver Spring, Maryland.


Françoise M. Carrier, Chair
Montgomery County Planning Board