



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

June 21, 2012

MCPB No. ~~12-61~~ 12-55  
Forest Conservation Plan No. 420102090  
LMA G-909 Glen Aldon  
Date of Hearing: May 3, 2012

**Corrected Resolution**

The correction of this resolution is only to change the MCPB No. ~~12-61~~ to 12-55.



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**MCPB No. 12-55**  
**Forest Conservation Plan No. 420102090**  
**LMA G-909 Glen Aldon**  
**Date of Hearing: May 3, 2012**

**RESOLUTION**

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

WHEREAS, on October 25, 2011, Glenwood Glen Aldon, LLC/Glenmont Apartments ("Applicant") filed an application for approval of a forest conservation plan on approximately 5.29 acres of R-10 and R-10/TDR zoned land located at 4857, 4858, 4890 and 4900 Battery Lane ("Subject Property") in the 1994 Bethesda CBD Sector Plan and the 2006 Woodmont Triangle Amendment area; and


WHEREAS, this Application was filed in conjunction with Local Map Amendment G-909 in which Applicant has submitted an application to rezone the Subject Property to PD-100, or in the alternative, PD-88; and

WHEREAS, Applicant's forest conservation plan application was designated Forest Conservation Plan No. 420102090, LMA G-909 Glen Aldon ("Forest Conservation Plan" or "Application");<sup>1</sup> and

WHEREAS, following review and analysis of the Application by Planning Board Staff and other governmental agencies, Staff issued a memorandum to the Planning Board dated May 3, 2012, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions; and

WHEREAS, on May 3, 2012, 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

<sup>1</sup> Unless specifically indicated otherwise, the Board has reviewed the preliminary Forest Conservation Plan and set forth conditions under which the Staff can approve the final Forest Conservation Plan without further Board action. Therefore, for purposes of this Resolution, whether or not indicated, the Board's action is with regard to the preliminary Forest Conservation Plan.

Approved as to  
Legal Sufficiency:  5/30/12

WHEREAS, on May 3, 2012, the Planning Board voted to approve, with conditions, the Application on motion of Commissioner Presley, seconded by Commissioner Anderson with a unanimous vote of 5-0; Commissioners Anderson, Carrier, Dreyfuss, Presley, and Wells-Harley voting in favor; and

WHEREAS, before a Resolution had been adopted memorializing the Board's action, Staff determined that condition no. 6 as approved needed to be revised for compliance with the Forest Conservation Law, Montgomery County Code, Chapter 22A in that an optional method project must satisfy afforestation obligations completely on-site; and

WHEREAS, Staff issued a memorandum to the Planning Board dated May 31, 2012, setting forth its analysis and recommendation to revise condition no. 6 of the Board's previous approval and adopt a Resolution consistent with such revised recommendation (the May 3, 2012, and the May 31, 2012, together, the "Staff Report"); and

WHEREAS, on May 31, 2012, Staff presented the Staff Report together with this Resolution to the Planning Board as a consent item for its review and action; and

NOW, THEREFORE, BE IT RESOLVED that, pursuant to the relevant provisions of Montgomery County Code Chapter 22A, the Planning Board APPROVES Forest Conservation Plan No. 42010290 associated with LMA G-909 on the Property, subject to the following conditions:<sup>2</sup>

1. Approval of a final forest conservation plan must be secured, consistent with the approved preliminary forest conservation plan and associated conditions, prior to any clearing, grading or demolition on the site.
2. The final forest conservation plan must include detailed and specific tree protection measures for off-site trees affected by the limits of disturbance, particularly for the trees on the adjacent to the property owned by the National Institute of Health.
3. A tree save plan is required and must be a component of the final forest conservation plan. The tree save plan must be signed by an International Society of Arboriculture certified arborist.
4. Applicant to obtain services of an ISA certified arborist, or a Maryland licensed tree expert, to perform the required tree preservation measures and appropriately protect the saved trees.
5. The final sediment and erosion control plan must match the limits of disturbance as shown on the final forest conservation plan and be consistent with its recommendations for tree protection.

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<sup>2</sup> For the purpose of these conditions, the term "Applicant" shall also mean the developer, the owner, or any successor in interest to the terms of this approval.

6. The Applicant must provide all afforestation requirements on-site using tree cover as part of the final forest conservation plan; and

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 the protection of environmentally sensitive features.*

A. Forest Conservation

The Board finds that as conditioned, the Forest Conservation Plan complies with the requirements of the Forest Conservation Law.

B. Forest Conservation Variance

Section 22A-12(b)(3) of the Forest Conservation Law 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) ("Variance"). Otherwise such resources must be left in an undisturbed condition.

This Application will require the removal or CRZ impact to six Protected Trees as identified in the Staff Report. In accordance with Section 22-A-21(a) of the County Code, 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 Variance:

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

Urban properties with transit access and existing infrastructure such as the Subject Property have been identified as high priority for redevelopment. The Subject Property has a development footprint that is constrained by size. Any applicant for redevelopment of the Subject Property would be required to remove or impact the Protected Trees and require a Variance.

2. *The need for the Variance is not based on conditions or circumstances which are the result of the actions by the Applicant*  
Since the Subject Property meets the conditions for high priority redevelopment, the need for the Variance is not based on conditions or circumstances which are the result of the actions by the Applicant.
3. *The need for the Variance is not based on a condition related to land or building use, either permitted or non-conforming, on a neighboring property.*

The requested Variance is a result of the Application, which promotes an efficient site design and layout; not as a result of land or building use on a neighboring property.

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

Redevelopment of the Subject Property should ultimately improve water quality by providing stormwater management in an area where there are presently no treatment measures.

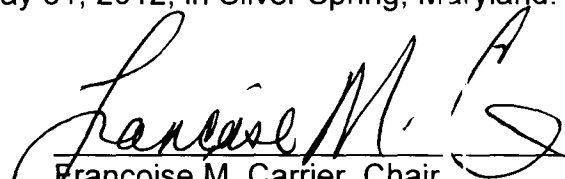
BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Planning Board in this matter, and the date of this Resolution is July 21 2012 (which is the date that this Resolution is mailed to all parties of record); and

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).

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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 Vice Chair Wells-Harley, seconded by Commissioner Anderson, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Anderson, Dreyfuss, and Presley voting in favor of the motion, at its regular meeting held on Thursday, May 31, 2012, in Silver Spring, Maryland.

  
Françoise M. Carrier, Chair  
Montgomery County Planning Board