



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

Agenda Date:
Agenda Item No.

MEMORANDUM

TO: Montgomery County Planning Board

FROM: Rose Krasnow, Interim Planning Director

VIA: Glenn Kreger, Area 2 Chief
Khalid Afzal, Area 2 Planner Supervisor
Amy Lindsey, Area 2 Senior Planner

DATE: March 21, 2013

Re: Resolution for Forest Conservation Plan MR2013001, MCPB No. 12-112,
Dennis Avenue Health Center

Attached, please find a amended version of the Resolution for Forest Conservation Plan No. MR2013001 Dennis Avenue Health Center. The Board previously adopted a resolution in this matter, which inadvertently overstated the number of trees affected by the variance. This resolution states the correct number of trees. Because the error in the resolution was caught prior to mailing, this is not titled as a "corrected" resolution.

cc: David Lieb, Associate General Counsel



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

MCPB No. 12-112
Forest Conservation Plan No. MR2013001
Dennis Avenue Health Center
Date of Hearing: October 4, 2012

APR 11 2013

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 6, 2012 Montgomery County Department of General Services ("Applicant") filed an application for approval of a preliminary forest conservation plan on approximately 6.96 acres of land located at 2000 Dennis Avenue ("Property" or "Subject Property") in the Master Plan for the Communities of Kensington-Wheaton ("Master Plan") area; and

WHEREAS, Applicant's preliminary forest conservation plan application was designated Forest Conservation Plan No. MR2013001, Dennis Avenue Health Center ("Preliminary 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 September 21, 2012, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on October 4, 2012, the Planning Board held a public hearing on the Application ("the Hearing"), and at the Hearing the Planning Board heard testimony and received evidence submitted for the record on the Application; and

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

NOW, THEREFORE, BE IT RESOLVED that under Montgomery County Code Chapter 22A the Planning Board APPROVES Forest Conservation Plan

Approved as to
Legal Sufficiency:

No. MR2013001 on the Property, including the requested variance, subject to the following conditions:

1. The Final Forest Conservation Plan must include details on trees planted for mitigation of removal of three specimen trees.

BE IT FURTHER RESOLVED that, 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.

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 with the conditions imposed by this Resolution, the Final Forest Conservation Plan complies with the requirements of Chapter 22A, the Montgomery County Forest Conservation Law.

B. 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 22-A-12(b)(3) of the County Code ("Variance"). Otherwise such resources must be left in an undisturbed condition.

This Application will require the removal or CRZ impact to 4 Protected Trees as identified in Attachment 2 of the Staff Report. In accordance with Section 22-A-21(a) of the County Code, the Applicant has requested a Variance and alleged that it would suffer unwarranted hardship without a Variance to remove or disturb the CRZ of the Protected Trees and that failure to grant the Variance would deny the Applicant reasonable and significant use of the Subject Property for which the variance is requested.

The Board makes 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.*

Granting the variance will not confer a special privilege on the Applicant as disturbance of the specified trees is due to building an updated health center while maintaining current operations. Disturbance has been minimized and tree protection measures have been used to minimize damage. Therefore, staff believes that granting this variance is not a special privilege that would be denied to other applicants.

2. *The need for the Variance is not based on conditions or circumstances that 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 configuration of the Subject Property.

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 proposed health center on the Subject Property and not 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.*

The proposed health center should improve water quality by the addition of modern stormwater management facilities. The trees planted as mitigation will help protect water quality by replacing the form and function of the removed specimen trees.

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 APR 11 2013 (which is the date that this Resolution is mailed to all parties of record); and

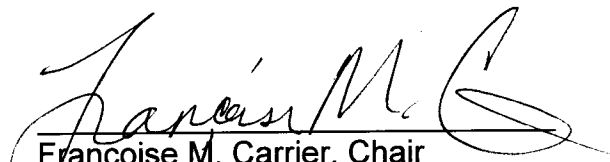
BE IT FURTHER RESOLVED, that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this

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 Commissioner Presley, seconded by Commissioner Dreyfuss, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Anderson, Dreyfuss, and Presley voting in favor at its regular meeting held on Thursday, April 4, 2013, in Silver Spring, Maryland.


Françoise M. Carrier, Chair
Montgomery County Planning Board