



OCT 10 2011

MONTGOMERY COUNTY PLANNING BOARD

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

**MCPB No. 10-125
Forest Conservation Plan No. MR2010722
Herbert Hoover Middle School Modernization
Date of Hearing: July 29, 2010**

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 June 2, 2010, Montgomery County Public Schools ("Applicant"), filed an application for approval of a preliminary forest conservation plan on approximately 18.86 acres of land located at the intersection of Post Oak Road and Tuckerman Lane ("Property" or "Subject Property"), in the Potomac Subregion master plan area ("Master Plan"); and

WHEREAS, Applicant's preliminary forest conservation plan application was designated Forest Conservation Plan No. MR2010722, Herbert Hoover Middle School ("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 July 15, 2010, 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 July 29, 2010; and

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

WHEREAS, on July 29, 2010, the Planning Board approved the Forest Conservation Plan subject to certain conditions, on motion of Commissioner Presley; seconded by Commissioner Wells-Harley; with a vote of 5-0, Commissioners Carrier, Wells-Harley, Presley, Alfandre, and Dreyfuss voting in favor.

Approved as to
Legal Sufficiency:

Amor 7/28/11

8787 Georgia Avenue, Suite 200, Spring, Maryland 20910 Chairman's Office: 301.495.4305 Fax: 301.495.1320

MNCP&PC Legal Department
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NOW, THEREFORE, BE IT RESOLVED THAT, pursuant to the relevant provisions of Montgomery County Code Chapter 22A, the Planning Board approved Forest Conservation Plan No. MR2010722 on the Property, subject to the following conditions, which Applicant shall satisfy prior to Montgomery County Department of Permitting Services (MCDPS) issuance of sediment and erosion control permits and any land disturbing activities, including clearing or grading onsite:

1. Approval of a Final Forest Conservation Plan consistent with the approved Preliminary Forest Conservation Plan.
2. The development shall comply with the conditions of the approved Final Forest Conservation Plan.
3. The electronic file containing the signed Final Forest Conservation plan must be submitted to the Environmental Planning Division for approval. Submission of a final forest conservation plan must be in accordance with section 1.09(B) of the forest conservation regulations, and consistent with the approved preliminary forest conservation plan. Electronic files must have Environmental Planning approval signature, be in PDF format, and be in only one file
4. Applicant must record a Category II conservation easement over all large landscape areas used to meet forest conservation requirements.
5. If Applicant is going to meet the forest conservation planting requirements offsite it must identify the location as required by section 109.B.(f) of the forest conservation regulations, or submit a certificate of compliance to use an offsite forest mitigation bank.
6. A certified arborist must be present at the pre-construction meeting, during construction, and after construction to oversee specific tree protection measures as identified on the Final Forest Conservation Plan.
7. Required site inspections by M-NCPPC monitoring staff (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. *Applicant has met all criteria required to grant a variance to Section*

1607(c) of the Natural Resources Article, MD Ann. Code in accordance with Section 22A-21 of the Montgomery County Code.

Section 1607(c) of the Natural Resources Article, MD Ann. Code identifies certain individual trees as high priority for retention and protection. Any impact to these trees, including removal or any disturbance within a tree's critical root zone (CRZ), requires a variance.

In accordance with Section 22A-21(e), the Applicant has met all of the following criteria required for the Board to grant the variance. All trees identified by number correspond to the chart entitled "Tabulation of Specimen Trees to be Impacted" on page 4 of the Staff Report.

a. Will not confer on the applicant a special privilege that would be denied to other applicants.

The requested variance will not confer on the applicant any special privileges that would be denied to other applicants. The applicant has minimized impacts to trees by restricting limits of disturbance.

b. 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. Several site constraints, including retaining a portion of the existing school and stormwater drainage, require the alteration of the parking lot grades and repaving. The north entrance to the bus loop area will be affected, which requires work in the critical root zones (CRZs) of trees 1 and 2. Also, the access drive from Tuckerman Lane through the staff parking requires repaving, affecting the CRZs of trees 16, 18, and 19. Trees 22, 23, and 26 will be affected by the proposed work to the pedestrian path from Buckhannon Drive. This path is being widened to allow both bicycle and small maintenance vehicle access, as well repair existing maintenance issues.

c. Does not arise from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property.

The requested 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. *Will not violate Site water quality standards or cause measurable degradation in water quality.*

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

2. *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).*

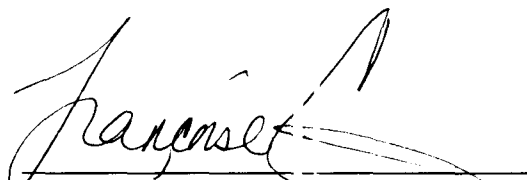
BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Planning Board in this matter, and the date of this Resolution is OCT 10 2011 (which is the date that this Resolution is mailed to all parties of record); and

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).

* * * * *

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 Alfandre, with Vice Chair Wells-Harley, and Commissioners Alfandre and Presley present and voting in favor of the motion, and Chair Carrier and Commissioner Dreyfuss absent at its regular meeting held on Thursday, December 9, 2010, in Silver Spring, Maryland.



Françoise Carrier, Chair
Montgomery County / Planning Board