



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

APR 4 2013

MCPB No. 13-41
 Forest Conservation Plan No. MR2013016
 Candlewood Elementary School
 Date of Hearing: March 21, 2013

RESOLUTION

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

WHEREAS, on November 30, 2013, Montgomery County Public Schools ("Applicant") filed an application for approval of a forest conservation plan on approximately 11.99 acres of land¹ located on the west side of Osprey Drive at the intersection Leopold Terrace ("Subject Property") in the Upper Rock Creek master plan ("Master Plan") area; and

WHEREAS, Applicant's forest conservation plan application was designated Forest Conservation Plan No. MR2013016 Candlewood Elementary School ("Forest Conservation Plan" or "Application");² and

WHEREAS, following review and analysis of the Application by Planning Board Staff ("Staff") and other governmental agencies, Staff issued a memorandum to the Planning Board dated March 11, 2013, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on March 21, 2013, 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

WHEREAS, at the hearing, the Planning Board voted to approve the Application subject to certain conditions, by the vote as certified below.

¹ The property subject to the forest conservation plan includes a small portion of property beyond the boundaries of the Candlewood Elementary School.

² 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:

[Handwritten Signature] 3/13/13

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVED Forest Conservation Plan No. MR2013016 on the Subject Property subject to the following conditions:

1. *Prior to any land disturbing activities, Applicant must submit and receive Staff approval of a final forest conservation plan that substantially conforms to the preliminary forest conservation plan.*
2. *Prior to any land disturbing activities, Applicant must record a Category I Conservation Easement over the area of preserved forest.*

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 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 the Forest Conservation Plan complies with the requirements of the Forest Conservation Law.

This Application was submitted together with the mandatory referral review for the Candlewood Elementary School modernization. The development is subject to the Montgomery County Forest Conservation law because it is on a tract of land greater than 40,000 square feet. In its current configuration, 4.22 acres of forest exist along the southern and western perimeters of the Subject Property. The redevelopment will remove 1.25 acres of forest and permanently protect 2.97 acres of forest with a Category I Conservation Easement. No other mitigation, except as mandated by the Forest Conservation Variance discussed below are required.

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 11 Protected Trees as identified in the Staff Report. In accordance with Section 22A-21(a), the Applicant requested a Variance and 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.*

Granting the variance will not confer a special privilege on the Applicant as disturbance and removal of trees are due to redevelopment of the existing school and the need to extend playing fields into the existing forest perimeter. The Applicant has made significant efforts in its design to impact as little of the existing forest as possible, including turning a single story school into a two-story school, particularly because the buildable site is severely restricted by minimal size for an elementary school, steep slopes and a stream buffer. The majority of impacts are necessary because retaining walls must be added to the perimeter for ADA access due to the steep slopes.

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

The Applicant has prepared and submitted plans which meet all applicable master plan, and forest conservation requirements. The requested variance is based upon existing site conditions, including the number and locations of the large trees. See also finding #1.

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 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 trees required as mitigation for the loss of Protected Trees will substantially replace the form and function of the existing tree

canopy, protect water quality by reducing runoff through rainfall interception and water uptake, and provide shade for impervious areas and improve soil texture. A Stormwater Management Concept Plan has been accepted by the MCDPS – Stormwater Management Section. In accordance with that approval, the concept design will maintain appropriate water quality standards.

Mitigation for the Variance is at a rate that approximates the form and function of the Protected Trees removed. For the loss of the two Protected Trees, the Board requires a replacement ratio of approximately 1" diameter breast height ("DBH") for every 4" DBH removed. Thirteen (13) three-inch trees will be planted in the area of the parking lot. No mitigation is required for Protected Trees impacted but retained.

BE IT FURTHER RESOLVED, that this Resolution incorporates by reference all evidence of record, including maps, drawings, memoranda, correspondence, and other information; and

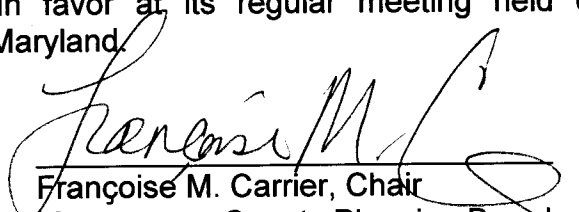
BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Planning Board in this matter, and the date of this Resolution is APR 4 2013 (which is the date that this Resolution is mailed to all parties of record); and

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 Anderson, seconded by Commissioner Presley, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Anderson, Dreyfuss, and Presley voting in favor at its regular meeting held on Thursday, March 21, 2013, in Silver Spring, Maryland.


Françoise M. Carrier, Chair
Montgomery County Planning Board