



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

MCPB No. 16-069
Final Forest Conservation Plan No. SC2008018
Lois Y. Green Farm Conservation Park
Date of Hearing: May 26, 2016

APR 5 2017

RESOLUTION

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

WHEREAS, on January 22, 2008, Planning Department staff approved Forest Conservation Plan SC2008018 for the development of an entrance and parking area on approximately 47.8 acres of M-NCPPC parkland, located on Snouffer School Road south of Turkey Thicket Drive ("Subject Property"), in the 1985 (Amended 1990) Gaithersburg Vicinity Master Plan; and

WHEREAS, on March 3, 2016, the Montgomery County Department of Transportation ("Applicant") filed an application to amend the Final Forest Conservation Plan for approval of the following modifications:

1. Allow for the widening of Snouffer School Road and the stream restoration associated with this road improvement project.

WHEREAS, Applicant's application to amend the final Forest Conservation Plan was designated Forest Conservation Plan No. SC2008018, Lois Y. Green Farm Conservation Park ("Forest Conservation Plan" or "Application") and

WHEREAS, following review and analysis of the Application by Planning Staff ("Staff") and other governmental agencies, Staff issued a memorandum to the Planning Board dated May 16, 2016, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on May 26, 2016, the Planning Board held a public hearing on the Application at which it heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, on May 26, 2016 the Planning Board approved the Forest Conservation Plan on motion of Commissioner Dreyfuss; seconded by Commissioner Fani-Gonzalez; with a vote of 4-0, Commissioners Anderson, Dreyfuss, Fani-Gonzalez and Presley in favor, Commissioner Wells-Harley absent.

Approved as to
Legal Sufficiency:

M-NCPPC Legal Department

8787 Georgia Avenue, Silver Spring, Maryland 20910 Chairman's Office: 301.495.4605 Fax: 301.495.1320

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NOW, THEREFORE, BE IT RESOLVED THAT the Planning Board approves Forest Conservation Plan No. SC2008018, subject to the following conditions:

1. Prior to demolition, clearing, or grading, the Applicant must revise the amended Final Forest Conservation Plan to reflect all requirements of COMCOR 22A.00.01.09.
2. The Applicant must plant a minimum total of 87 caliper inches of native canopy trees as mitigation for the tree variance impacts on the Property within one calendar year or two growing seasons after completion of road construction. The trees must be a minimum of three-inch caliper each.
3. The Final Forest Conservation Plan must show how the 2.80-acre reforestation requirement will be met.
4. The Sediment Control Plan must be consistent with the limits of disturbance shown on the amended Final Forest Conservation Plan.
5. The Applicant must coordinate planting locations with the Montgomery County Revenue Authority to make sure that planting locations do not conflict with the current operating conditions or future plans of the Montgomery County Airpark.

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 ensures the protection of environmentally sensitive features.*

A. Forest Conservation

As conditioned, the Forest Conservation Plan complies with the requirements of the Forest Conservation Law. The Forest Conservation Plan includes approximately 2.80 acres of additional forest clearing that was previously shown as retained. The Applicant will compensate for this forest loss by either planting 2.80 acres of forest on-site or planting a minimum of 5.6 acres of forest off-site.

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 12 Protected Trees as identified in the Staff Report. In accordance with Section 22A-21(a), the Applicant requested a Variance, and the Board agrees that the Applicant would suffer unwarranted hardship by being denied reasonable and significant use of the Subject Property without the Variance. In this case, the unwarranted hardship is caused by the need for the widening of Snouffer School Road and related stream restoration, as described in the Staff Report.

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.*

The disturbance to the Protected Trees is a result of the need to widen Snouffer School Road and restore Cabin Branch stream. The Applicant will not be able to do either activity without disturbing the Protected Trees.

2. *The need for the Variance 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. The variance is based on the location of the trees next to the road and stream. Disturbance has been minimized by siting the stream restoration access away from the stream and forest.

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 widening of Snouffer School Road and the stream restoration associated with this road improvement project, 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.*

While many of the Protected Trees are within the stream valley buffer, these removals are required in order to restore the Cabin Branch stream. This stream restoration project will improve water quality by reducing sedimentation and stabilizing the stream banks. This approval is conditioned on mitigation that approximates the form and function of the trees removed. Therefore, their removal will not violate State water quality standards or cause measurable degradation in water quality. The Protected

Trees being impacted will remain to provide the same level of water quality protection as it currently provides.

Mitigation for the Variance is at a rate that approximates the form and function of the Protected Trees removed. The Board approves replacement of Protected Trees at a ratio of approximately the rate of 1 caliper inch planted per 4" inch DBH lost, using a minimum 3" caliper native canopy tree. No mitigation is required for Protected Trees impacted but retained.

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 5 2017 (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 written opinion, 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 Fani-González, seconded by Vice Chair Wells-Harley, with Chair Anderson, Vice Chair Wells-Harley, and Commissioners Fani-González and Cichy voting in favor, and Commissioner Dreyfuss absent at its regular meeting held on Thursday, March 23, 2017, in Silver Spring, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board