



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

MCPB No. 16-068  
Preliminary Forest Conservation Plan No. MR2014038  
Snouffer School Road North  
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 March 3, 2016, the Montgomery County Department of Transportation (“Applicant”) filed an application to for approval of a preliminary forest conservation plan on approximately 5.33 acres of land located along Snouffer School Road from Centerway Road to 1,600 feet south of Ridge Heights Drive (“Subject Property”) in the 1985 (Amended 1990) Gaithersburg Vicinity Master Plan area; and

WHEREAS, Applicant’s forest conservation plan application was designated Forest Conservation Plan No. MR2014038, Snouffer School Road North (“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.

NOW, THEREFORE, BE IT RESOLVED THAT, the Planning Board approves Preliminary Forest Conservation Plan No. MR2014038, subject to the following conditions:

1. Prior to demolition, clearing, or grading, the Applicant must obtain approval of a Final Forest Conservation Plan from the Planning Department.

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

www.MCParkandPlanning.org E-Mail: mcp-chairman@mncppc.org

- a. The Final Forest Conservation Plan must be consistent with the approved Preliminary Forest Conservation Plan and reflect all requirements of COMCOR 22A.00.01.09.
- b. The Forest Conservation worksheet must show the correct net tract area and reforestation requirement.
- c. The Applicant must plant a minimum total of 18-caliper inches of native canopy trees as mitigation for the tree variance impacts on the Site within one calendar year or two growing seasons after completion of road construction. The trees must be a minimum of three-inch caliper each.
- d. The Final Forest Conservation Plan must show how the 1.30-acre reforestation requirement will be met.
- e. All areas of forest plantings must be outside of right-of-ways and utility easements.
- f. The Final Sediment Control Plan must be consistent with the limits of disturbance on the Final Forest Conservation Plan.

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 net tract area for this project (the Site) is the area within the limits of disturbance (LOD), therefore all forest on the Site will be cleared. There is 0.50 acres of forest clearing and a reforestation requirement of 1.30 acres. The Applicant will compensate for this forest loss through either on-site planting or off-site forest banking.

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 8 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 disturbance necessary 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 specified trees is a result of the need to widen Snouffer School Road and restore Cabin Branch. The Applicant will not be able to do either activity without disturbing the listed 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 sensitively siting the access for the stream restoration activities.

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 road widening and stream restoration and construction, 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 Application should improve water quality by restoring the stream channel and providing bank stabilization. Additionally, the new trees proposed as mitigation for the loss of specimen trees will enhance the form and function of the existing tree canopy. The Protected Trees

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

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.



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Casey Anderson, Chair  
Montgomery County Planning Board