



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

MCPB No. 17-099
Forest Conservation Plan No. MR2017014
Tilden Middle School/Rock Terrace School
Date of Hearing: November 9, 2017

JAN 22 2018

RESOLUTION

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

WHEREAS, on June 14, 2017, Montgomery County Public Schools ("Applicant") filed an application for approval of a forest conservation plan on approximately 19.75 acres of land located at 6300 Tilden Lane ("Subject Property") in the 1992 Approved and Adopted North Bethesda/Garrett Park Master Plan ("Master Plan"); and

WHEREAS, Applicant's forest conservation plan application was designated Forest Conservation Plan No. MR2017014, Tilden Middle School/Rock Terrace School ("Forest Conservation Plan" or "Application"); 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 October 30, 2017, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on November 9, 2017, 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 approved the Application subject to certain conditions, by the vote as certified below.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVED Forest Conservation Plan No. MR2017014 on the Subject Property, subject to the following conditions:¹

1. Prior to issuance of a Sediment Control Permit from the Department of Permitting Services, the Applicant must obtain approval of a Final

¹ 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.

Approved as to
Legal Sufficiency:

Christina Souza 1/4/18

Forest Conservation Plan from the Planning Department. The Final Forest Conservation Plan must be consistent with the approved Preliminary Forest Conservation Plan.

2. The Applicant must record a Category I Forest Conservation Easement over all areas of forest retained and forest planted prior to any demolition, clearing, or grading on site.
3. The Final Forest Conservation Plan must show the planting of 18, 3-inch caliper native shade trees as mitigation for the loss of trees requiring a variance. The trees must be planted within one year of construction completion. All trees must be planted outside of the Category I Forest Conservation Easement.
4. The Applicant must plant all reforestation and landscape credit areas within one year of construction completion.
5. The Applicant must submit a forest conservation maintenance and management agreement and have it approved by the Planning Department prior to any demolition, clearing, or grading on site.

BE IT FURTHER RESOLVED, that having considered 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 as conditioned, the Forest Conservation Plan complies with the requirements of the Forest Conservation Law.

There is a 1.06-acre reforestation and afforestation requirement. The Applicant proposes to meet this requirement through 0.74 acres of forest planting, and 0.32 acres of landscape credit.

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 of eight trees and CRZ impact to 29 Protected Trees as identified in the Staff Report. In accordance with Section 22A-21(a), the Applicant has 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 requested Variance is necessary due to the location of the existing trees on and around the site, the need to demolish the existing school building and parking area prior to constructing the collocated facility and associated circulation, and the requirement to provide stormwater management for all facilities.

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 this variance will not confer a special privilege on the Applicant as disturbance of the Protected Trees is a result of the need to build a new collocated school facility and associated circulation and parking facilities. The development is the continuation of an existing, reasonable use of the site and disturbance has been minimized to retain trees where possible. The size and configuration of the site preclude alternative site designs that would allow the variance trees to remain undisturbed.

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 that are the result of actions by the Applicant. The variance is necessary due to the constraints of size, the requirements to demolish existing facilities, and the location of the existing trees on and around the site. The Applicant has designed the school to minimize forest removal, which adds an additional constraint.

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 location of trees and the impacts by the layout of the collocated school facility, and not a result of land or building use on a neighboring property. The impact to the trees is the minimum disturbance necessary to demolish the existing

school building and build the collocated schools and associated upgrades to the site.

4. *Granting the Variance will not violate State water quality standards or cause measurable degradation in water quality.*

The Applicant will plant 18 3" caliper native shade trees to replace the form and function of the variance trees proposed for removal. In addition, the site will be developed in accordance with the Maryland Department of the Environment criteria for stormwater management, including the provision of Environmental Site Design to protect natural resources to the maximum extent practicable. Water quality will improve with the proposed development and State water quality standards will not be violated.


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 JAN 22 2018 (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 Fani-González, seconded by Commissioner Cichy, with Chair Anderson and Commissioners Fani-González, Cichy, and Patterson voting in favor, and Vice Chair Dreyfuss absent at its regular meeting held on Thursday, January 11, 2018, in Silver Spring, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board