



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

MCPB No. 18-091
Forest Conservation Plan No. MR2018036
Takoma Park Middle School
Date of Hearing: September 13, 2018

OCT 10 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 13, 2018, Montgomery County Public Schools (“Applicant”) filed an application for approval of a forest conservation plan on approximately 18.10 acres of land located at 7611 Piney Branch Road (“Subject Property”) in the 2000 Approved and Adopted Takoma Park Master Plan (“Master Plan”); and

WHEREAS, Applicant’s forest conservation plan application was designated Forest Conservation Plan No. MR2018036, Takoma Park Middle 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 September 13, 2018, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and

WHEREAS, on September 13, 2018, 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. MR2018036 on the Subject Property, subject to the following conditions:¹

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: 

1. The Applicant must record a Category I Conservation Easement of 2.99 acres, as shown on the Approved Preliminary Forest Conservation Plan. The Conservation Easement, approved by the M-NCPPC Office of the General Counsel, must be recorded in the Montgomery County Land Records by deed prior to the start of any demolition, clearing, or grading on the Subject Property.
2. The Applicant must plant 1.17 acres of forest on the Takoma Park Middle School property to be included in the total area of the Category I Conservation Easement.
3. The Applicant must plant all reforestation and landscape credit areas within one year of construction completion.
4. The Applicant must prepare a Final Forest Conservation Plan, which must show the planting of four (4), 3-inch caliper native shade trees as mitigation for the loss of one 49-inch specimen tree requiring a variance. The trees must be planted within one year of construction completion. All trees must be planted outside of the Category I Conservation Easement. Adjustments to the planting locations of these trees are permitted with the approval of the M-NCPPC forest conservation inspector.
5. The Applicant must comply with all tree protection and tree save measures shown on the approved Final Forest Conservation Plan. Tree save measures not specified on the approved Final Forest Conservation Plan may be required by the M-NCPPC forest conservation inspector.
6. The Applicant must install permanent Conservation Easement signage along the perimeter of the conservation easement.
7. 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.
8. The Final Sediment Control Plan must depict the limits of disturbance (LOD) identical to the LOD on the approved Final Forest Conservation Plan.
9. The Final Forest Conservation Plan must be amended to address outstanding items and be consistent with the approved Preliminary Forest Conservation Plan.
10. The Applicant must submit a final Forest Conservation Plan, 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 1.11-acre reforestation and afforestation requirement. The Applicant proposes to meet this requirement through the planting of 1.17 acres of forest planting. Mitigation for the loss of (1) 49-inch specimen tree requires the planting of (4) 3-inch caliper canopy landscape trees.

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 one specimen tree and impacts to the critical root zones of 5 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 specified trees is a result of the need to build a new school facility and associated stormwater management improvements. The size and configuration of the school

preclude alternative site designs that would allow the variance trees to remain undisturbed. The Applicant has met with the City of Takoma Park arborist to consider alternatives to minimize impacts and provide maximum tree protection measures.

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 site, the requirements of the construction for the new additions and necessities for circulation and stormwater management. The Applicant has designed the proposed school to minimize forest and tree removal.

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 impacts by the proposed layout of the 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 construct the proposed additions and associated upgrades in order to meet the needs of the growing student population.

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

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 should improve with the proposed development and State water quality standards will not be violated. The proposed work will include the construction of two bioretention areas to treat the runoff from the new additions. Upgrades to the stormwater outfall will be made, and the planting of 1.17 acres of forest will occur. As replacement for the loss of the 49-inch Morus (mulberry) tree, the Applicant will plant 4 canopy trees 3-inches in diameter or greater. The intent is to replace the form and function of the variance tree proposed for removal. These measures are provided to improve water quality and the health of the associated communities.

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 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, September 27, 2018, in Silver Spring, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board