



Francisco Landscaping: Forest Conservation Plan No. CU2019-04

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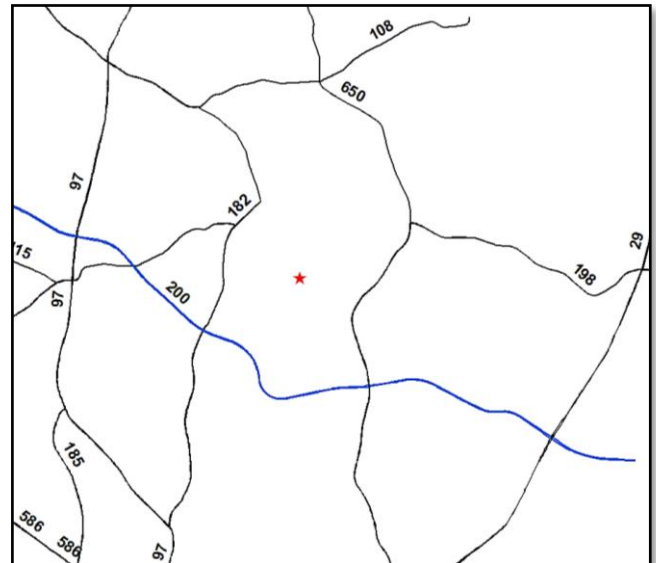
Description

Francisco Landscaping

A. Forest Conservation Plan to address a request for a Conditional Use to operate a Landscape Contractor business on 6.18-acre property located at 15400 Holly Grove Road, Silver Spring, MD, approximately 1,250 feet southwest of the intersection of Holly Grove Road and Norwood Road, identified as Parcel 066 (Snowdens Manor), RE-2C Zone, 1997 Cloverly Master Plan Area.

**Staff Recommendation: Approval with conditions
(Planning Board Action)**

Applicant: FM Group, Inc.
Application Filed: September 20, 2018
Review Basis: Chapter 22A, Forest Conservation Law



STAFF RECOMMENDATION: Approval of the Forest Conservation Plan No. CU2019-04, subject to the following conditions:

1. By May 31, 2019 the Applicant must:
 - a. Record a Category I conservation easement over all areas of forest retention and forest planting as specified on the approved Final Forest Conservation Plan. The Category I Conservation Easement must be approved by the M-NCPPC Office of the General Counsel and recorded by deed in the Montgomery County land records.
 - b. Install permanent forest conservation easement signage along the perimeter of the conservation easement, as determined by the M-NCPPC forest conservation inspector.
 - c. Install permanent fencing along the non-forested conservation easement edge or as determined by the forest conservation inspector.
2. By November 29, 2019 the Applicant must plant 1.24 acres of forest and three variance mitigation trees as specified on the approved Forest Conservation Plan.
3. Submit financial surety for planting 1.24 acres of forest and obtain M-NCPPC approval of a two-year maintenance and management agreement for the forest planting area before any planting activities occur.

SITE DESCRIPTION

The subject property is identified as Parcel 066 and is located at 15400 Holly Grove Road. ("Subject Property" or "Property"). The Property is zoned RE-2C, and it is 6.18 acres in size. The Property is developed as an active landscaping business with three existing buildings, material storage areas and operational parking.

The entire Property drains to the Johnson Road subwatershed of the Northwest Branch Watershed, which is classified by the State of Maryland as Use Class IV waters. The existing impervious level of the site is approximately 18.2 percent. There are no stream valley buffers or existing forest onsite. Fifty-five large trees were identified on and adjacent to the Property, including twenty-five specimen trees (≥ 30 inches Diameter at Breast Height (DBH)). Approximately half of these trees are located in the existing forest beyond the northwestern property boundary. There are no steep slopes or highly erodible soils on the property. Neighboring land uses include residential and landscape business uses. (Figures 1 and 2).

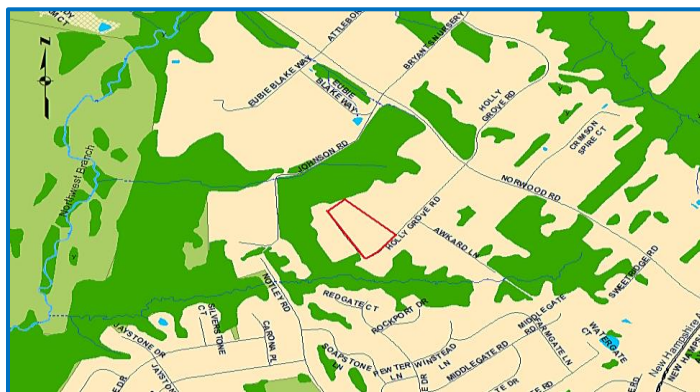


Figure 1. 2017 Aerial Photograph of Vicinity



Figure 2. 2012 Aerial Photograph of Parcel 066

PROJECT DESCRIPTION

The Forest Conservation Plan (FCP) was prepared as part of Conditional Use Application No. CU2019-04 ("Application"), to operate a landscape contractor business. While the Planning Board is technically advisory on Board of Appeals applications, the Planning Board must make a finding that the pending Conditional Use Application complies with Chapter 22A, the Montgomery County Forest Conservation Law.

The Application proposes the use of the existing structures and slight reconfiguration of the driveways and parking areas. The Application does not propose to impact or clear any forest. One specimen tree will be removed and seven others will be impacted.

ANALYSIS AND FINDINGS

Forest Conservation

The Application meets the requirements of Chapter 22A of the Montgomery County Forest Conservation Law. A Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) was approved for the Property on April 12, 2018. A Forest Conservation Plan has been submitted for review. There is no existing forest on the Property.

The total tract area for the Property is 6.18 acres. Based on the land use category and the forest conservation worksheet there is a 1.24-acre afforestation planting requirement. The Applicant proposes to plant 1.24 acres of forest on-site. This planting location will connect to the existing forest near the northwest property boundary. It will also incorporate existing on-site large trees along the northern Property boundary into the forest planting.

Over a period of years there has been a significant amount of off-site clearing that has resulted in the loss of approximately 6,500 square feet of forest. The Applicant has offered to the property owner for this area to be cleared of debris and re-stabilized as part of the forest planting proposed adjacent to this area.

Tree Variance

Section 22A-12(b)(3) of the Montgomery County Forest Conservation Law provides criteria that identify certain individual trees as high priority for retention and protection. The law requires no impact to trees that: measure 30 inches or greater DBH ("Protected Tree"); are part of a historic site or designated with an historic structure; are designated as a national, State, or County champion trees; are at least 75 percent of the diameter of the current State champion tree of that species; or trees, shrubs, or plants that are designated as Federal or State rare, threatened, or endangered species. Any impact to a Protected Tree, including removal or disturbance within the Protected Tree's critical root zone (CRZ) requires a variance. An applicant for a variance must provide certain written information in support of the required findings in accordance with Section 22A-21 of the County Forest Conservation Law. In the written request for a variance, an applicant must demonstrate that strict adherence to Section 22A-12(b)(3), i.e. no disturbance to a Protected Tree, would result in an unwarranted hardship as part of the development of a property.

Unwarranted Hardship

The Subject Property has no forest on site. Eight protected trees grow on and adjacent to the Subject Property. These trees are located within the developed area of the site. Changes, such as paving the driveway and parking lot, extending a water line along the driveway, and adding stormwater management, will impact these trees.

Variance Request

On November 6, 2018, the Applicant requested a variance for impact to six Protected Trees. This request was modified on December 6, 2018 to request impact to seven Protected Trees and removal of one protected tree (tree#4). These trees are shown on the table below.

Variance Tree Table

Tree #	Species (Scientific Name)	Species (Common Name)	D.B.H (inches)	Critical Root Zone (Sq. Ft.)	Critical Root Zone Impacts	Percent of CRZ Impacted (SF)
4	PRUNUS SSP.	CHERRY SSP.	36	9161	4641	51%
5	PRUNUS SSP.	CHERRY SSP.	30	6362	2081	33%
7	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	30	6362	26	1%
9A	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	46	14957	4263	29%
9B	ACER RUBRUM	RED MAPLE	46	14957	4263	29%
11	PRUNUS SSP.	CHERRY SSP.	34	8171	529	6%
17	ACER RUBRUM	RED MAPLE	40	11310	38	1%
19	LIRIODENDRON TULIPIFERA	YELLOW POPLAR	40	11310	20	1%

Based on the following justifications, the Applicant has met all criteria required to grant the variance for the removal of one tree and impact to other trees subject to the variance provision.

Variance Findings

The Planning Board must make findings that the Application has met all requirements of section 22A-21 of the County Code before granting the variance. Staff has made the following determination on the required findings for granting the variance:

1. Will not confer on the applicant a special privilege that would be denied to other applicants;

Granting the variance is not unique to this Applicant. This applicant is normalizing an existing use to comply with conditional use requirements. The proposed improvements will have a lesser impact on environmental resources than the existing use of the Site. Granting the variance will not confer on the Applicant a special privilege that would be denied to other applicants.

2. Is not based on conditions or circumstances which are the result of the actions by the applicant;

The variance is not based on conditions or circumstances which are the result of the action by the Applicant. The imperviousness associated with the proposed development will be less extensive than the existing Site improvements. The variance is necessary to add stormwater management, improve water service safety and pave the existing gravel drive and parking area. There are no feasible options to deconstruct the current use and construct the proposed use that completely avoid impacting the Protected Trees.

3. Is not based on a condition relating to land or building use, either permitted or non-conforming, on a neighboring property;

The requested variance is not related in any way to a condition on an adjacent, neighboring property.

4. Will not violate State water quality standards or cause measurable degradation in water quality;

There are no impacts to streams and their buffers. A stormwater management concept has been approved by the Department of Permitting Services. Proposed facilities will improve the quality of runoff where no facilities existing before. Impact will not violate State water quality standards.

County Arborist's Recommendation on the Variance

In accordance with Montgomery County Code Section 22A-21(c), the Planning Department is required to refer a copy of the variance request to the County Arborist for a recommendation prior to acting on the request. As of the publishing of this report, Staff has not received a recommendation from the County Arborist for this case.

Mitigation

There is one variance tree proposed for removal. The other seven trees will have limited disturbance within their critical root zone and are candidates for safe retention. Mitigation for the loss of Tree #4 will consist of the planting of three three-inch caliper shade trees.

Variance Recommendation

Staff recommends that the variance be granted. The submitted FCP meets all applicable requirements of the Chapter 22A of the County Code (Forest Conservation Law).

CONCLUSION

The Forest Conservation Plan meets all applicable requirements of Chapter 22A of the County Code. Therefore, Staff recommends that the Planning Board approve the Forest Conservation Plan with the conditions cited in this Staff Report.

Attachments

Attachment A –Forest Conservation Plan

