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

JUN 24 2016

MCPB No. 16-073
Forest Conservation Plan No. MR2012001
Project Name: Clarksburg Fire Station #35
Date of Hearing: June 16, 2016

Dept Gen Services
Div of Bldg Design & Const
JUN 28 2016
RECEIVED

RESOLUTION

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

WHEREAS, on July 11, 2012, the Planning Board, by Resolution MCPB No. 11-86 approved Final Forest Conservation Plan No. MR2012001 on approximately 4.07 acres of land in the R-200 zone, located at 23420 Frederick Road (MD 355) just north of the intersection of Frederick Road (MD 355) and Clarksburg Road (MD 121), in the Clarksburg Master Plan area; and

WHEREAS, on May 6, 2016, Montgomery County Department of General Services ("Applicant") filed an application for approval of an amendment to the previously approved forest conservation plan on approximately 3.99 acres of CRN zoned property located at 23420 Frederick Road (MD 355) ("Subject Property") in the Clarksburg Policy Area, *Clarksburg Master Plan & Hyattstown Special Study Area and 10 Mile Creek Area Limited Amendment Master Plan* ("Master Plan") area to incorporate changes to the design of the proposed fire station to conform to the Master Plan and the Clarksburg East Environmental Overlay Zone; and

WHEREAS, Applicant's application to amend the forest conservation plan was designated Forest Conservation Plan No. MR2012001, Clarksburg Fire Station #35 ("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 June 3, 2016, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on June 16, 2016, 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

Approved as to
Legal Sufficiency: _____
M-NCPPC Legal Department

WHEREAS, at the hearing, the Planning Board voted to approve the Application subject to certain conditions, by the vote as certified below.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Forest Conservation Plan No. MR2012001 on the Subject Property, subject to the following conditions:[1]

1. Prior to the start of any clearing, grading, or demolition on the Subject Property, the Applicant must place a Category I conservation easement over all areas of forest planting and retention, as specified on the approved Final Forest Conservation Plan. Conservation easements must be in a form approved by the M-NCPPC Office of the General Counsel and recorded by deed in the Montgomery County land records.

2. Prior to the start of any clearing, grading, or demolition on the Subject Property, the Applicant must satisfy the 0.15 acre offsite planting requirement.

3. Prior to the acceptance of any on-site forest planting by M-NCPPC forest conservation inspectors, the Applicant must enter into and record in the Montgomery County land records a five-year Maintenance and Management Agreement in a form approved by the M-NCPPC Office of the General Counsel.

4. 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 Final Forest Conservation Plan may be required by the M-NCPPC forest conservation inspector.

5. The Applicant must install permanent conservation easement signage along the perimeter of the conservation easements as shown on the approved Final Forest Conservation Plan. Exact locations of the signs to be determined by the M-NCPPC forest conservation inspector to best define the limits of the conservation easement.

6. The limits of disturbance shown on the final Sediment Control Plan must be consistent with the limits of disturbance shown 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

[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.

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.

   A Natural Resources Inventory and Forest Stand Delineation (NRI/FSD) #420110590 was approved by Staff on November 12, 2010 and a Final Forest Conservation Plan for the Subject Property was approved by the Planning Board on July 11, 2012 as part of Mandatory Referral Application 2012001. This Application addresses the redesign of the fire station in an effort to reduce impervious surfaces and minimize impacts to sensitive resources, including forest. The Application depicts a reduced footprint for the fire station and a corresponding reduced limits of disturbance resulting in additional forest retention on the Subject Property.

   The Application proposes to remove approximately 2.58 acres and retain 1.06 acres of the 3.64 acres of existing forest on the Subject Property, resulting in a 0.40 acre planting requirement. The Applicant will meet the forest planting requirements through 0.13 acres of landscape planting onsite, 0.12 acres of forest planting onsite, and 0.15 acres to be met through preserving 0.30 acres of existing forest on Parcel P888, which is located within the same sub-watershed, SPA, and Environmental Overlay Zone as the Subject Property. The amended FCP varies from the approved FCP in that there is less forest clearing required, resulting in greater forest retention and a reduced forest planting requirement. The proposal to meet the planting requirements through a combination of onsite forest planting, onsite landscape planting credit, and at an offsite location is consistent with the previously approved FCP.

   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.

Under Section 22A-12(b) (3) of the Montgomery Forest Conservation Law, a variance for the removal of three trees (#17, #18, and #20) and impacts to two trees (#12 and #13) was granted as part of the original Final FCP approval. This Application does not result in any changes to the previously granted variance.

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 JUN 24 2016 (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 Presley, seconded by Commissioner Fani-González, with Vice Chair Wells-Harley and Commissioners Dreyfuss, Presley, and Fani-González voting in favor, and Chair Anderson absent at its regular meeting held on Thursday, June 16, 2016, in Silver Spring, Maryland.

Casey Anderson, Chair
Montgomery County Planning Board