

Montgomery County Planning Board

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

Date Mailed:

April 17, 2025

MCPB No. 25-045

Forest Conservation Plan No. F20240990

Pike Center

Date of Hearing: April 17, 2025

RESOLUTION

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

WHEREAS, on September 18, 2024, Pike Center Fee 1807, LLC (“Applicant”) filed an application for approval of a forest conservation plan for concurrent review and approval with Local Map Amendment No H-155 (“Accompanying Plan”) on approximately 6.71 acres of land located at 12101 – 12151 Rockville Pike (“Subject Property”) in the North Bethesda Policy Area and 2018 *White Flint 2 Sector Plan* (“Sector Plan”) area; and

WHEREAS, Applicant’s forest conservation plan application was designated Forest Conservation Plan No. F20240990, Pike Center (“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 April 7, 2025, providing its analysis and recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and

WHEREAS, on April 17, 2025, the Planning Board held a public hearing on the Application and approved the Application subject to certain conditions, by the vote certified below.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Forest Conservation Plan No. F20240990 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.

1. The Applicant must submit a Final Forest Conservation Plan (“FFCP”) for review and approval in conjunction with the review and approval of a Preliminary Plan and prior to any demolition, clearing, grading or construction on the Property.
2. The FFCP must be consistent with the approved Preliminary Forest Conservation Plan.
3. The FFCP must include planting locations and details for a minimum of 27 inches of native canopy trees as mitigation for the removal of Protected Trees. The variance mitigation trees must be a minimum size of 3 caliper inches.

BE IT FURTHER RESOLVED that having given full consideration to the recommendations of its Staff as presented at the hearing and/or as set forth in the Staff Report, which the Board hereby adopts and incorporates by reference (except as modified herein), 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

The Board finds that as conditioned, the Forest Conservation Plan complies with the requirements of the Forest Conservation Law.

There is no forest on the Property. The Property has a Tract Area of 6.71 acres and is in the Mixed-Use Development land use category. The addition of 0.65 acres of off-site disturbance produces a Net Tract Area of 7.36 acres and generates an afforestation requirement of 1.10 acres, which will be met off-site in a forest conservation bank or by payment of fee-in-lieu.

B. Forest Conservation Variance

Section 22A-12(b)(3) of the Forest Conservation Law identifies certain individual trees as a 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 five (5) Protected Trees (two (2) to be impacted but saved and three (3) to be removed) 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 for a mixed-use project without the Variance. Without the Variance, the Applicant would not be able to demolish the existing development or make improvements to the ROW.

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.*

Granting the Variance will not confer a special privilege on the Applicant as the disturbance is to demolish the existing development and construct the proposed development. If the Applicant were not able to impact the Protected Trees, the Applicant would not be able to redevelop the Property.

2. *The need for the Variance is not based on conditions or circumstances which are the result of the actions by the Applicant.*

The Applicant has restrained the Limits of Disturbance (LOD) to the Property, except for minor areas of disturbance in the right-of-way. The off-site Protected Trees are located on or near the Property line and would be disturbed by the demolition of the existing on-site development. The need for the variance is not based on actions by the Applicant.

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 proposed 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 Property's existing conditions include a shopping center and associated surface parking with no environmental features. Proposed redevelopment includes Environmental Site Design to the maximum extent practicable. Mitigation is required to replace the lost water quality functions of the three (3) variance trees being removed. Therefore, granting the Variance will not adversely impact water quality and should improve the existing water quality.

Mitigation for the Variance is at a rate that approximates the form and function of the Protected Trees removed. The Board approves the replacement of Protected Trees at a ratio of approximately 1-inch caliper for every 4 inches removed using trees that are a minimum of 3 caliper inches in

size. This results in a total mitigation required of 26 inches. 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

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(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 consistent with the Maryland Rules for the judicial review of administrative agency decisions.

* * * * *

CERTIFICATION

This is to certify that the foregoing is a true and correct copy of a resolution approved and adopted by the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission on motion of Commissioner Hedrick, seconded by Commissioner Linden, with a vote of 3-0; Vice Chair Pedoeem, and Commissioners Hedrick, and Linden, voting in favor of the motion, Chair Harris and Commissioner Bartley being necessarily absent, its regular meeting held on Thursday, April 17, 2025, in Wheaton, Maryland and via video conference.

Mitra Pedoeem

Mitra Pedoeem, Vice Chair/ Presiding Officer
Montgomery County Planning Board