



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

MCPB No. 19-030  
 Forest Conservation Plan No. CU-19-07  
 Potomac Edison Company – Clarksburg Substation  
 Date of Hearing: March 28, 2019

**MAY 16 2019**

**RESOLUTION**

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

WHEREAS, on December 12, 2018, with authorization from the Montgomery County Department of General Services, Potomac Edison, A First Energy Company (“Applicant”) filed an application for approval of a forest conservation plan on approximately 12.02 acres of land within the Ten Mile Creek Special Protection Area and Clarksburg West Environmental Overlay Zone, located at 22800 Whalen Lane, approximately 100 feet north of its intersection with Clarksburg Road (“Subject Property”) in the Clarksburg Policy Area and 10 Mile Creek Area Limited Amendment Master Plan (“Master Plan”) area; and

WHEREAS, Applicant’s forest conservation plan application was designated Preliminary/Final Forest Conservation Plan No. CU-19-07, Potomac Edison Company – Clarksburg Substation (“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 March 15, 2019, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and

WHEREAS, on March 28, 2019, the Planning Board held a public hearing on the Application at which it 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 on motion of Commissioner Patterson, seconded by Commissioner Dreyfuss, with a vote of 4-0; Commissioners Anderson, Cichy, Dreyfuss, and Patterson voting in favor, and Commissioner Fani-Gonzalez absent.

Approved as to  
 Legal Sufficiency: \_\_\_\_\_

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Forest Conservation Plan No. CU-19-07, subject to the following conditions:<sup>1</sup>

1. Prior to the start of any demolition, clearing, grading, or construction on the Subject Property, the Applicant must record a Category I Conservation Easement over all areas of forest planting and retention, as shown on the approved FCP. The Category I Conservation Easements must be in a form approved by the M-NCPPC Office of the General Counsel and recorded among the Montgomery County Land Records by deed.
2. Prior to the start of any demolition, clearing, grading, or construction on the Subject Property, the Applicant must reforest the 1.37 acres of unforested environmental buffers as shown on the approved FCP.
3. Prior to the start of any demolition, clearing, grading, or construction on the Subject Property, the Applicant must provide financial surety to the M-NCPPC Planning Department for the on-site forest planting areas.
4. Prior to the start of any demolition, clearing, grading, or construction on the Subject Property, the Applicant must submit for review and approval a five-year Maintenance and Management Agreement for the forest planting areas. The Agreement must be approved by the M-NCPPC Office of the General Counsel.
5. Forest planting must begin within the first planting season after issuance of the first grading permit.
6. The Applicant must install permanent conservation easement signage along the perimeter of the Category I Conservation Easements, or as determined by the M-NCPPC forest conservation inspector. Signs must be installed a maximum of 100 feet apart with additional signs installed where the easement changes direction.
7. The Applicant must comply with all tree protection and tree save measures shown on the approved FCP. Tree save measures not specified on the approved FCP may be required by the M-NCPPC forest conservation inspector.
8. The Limits of Disturbance (“LOD”) shown on the Final Sediment and Erosion Control Plan must be consistent with the LOD shown on the approved FCP.

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 (except as modified herein), and upon consideration of the entire record, the Planning Board FINDS, with the conditions of approval, that:

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<sup>1</sup> 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 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

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) 420180400 was approved by Staff on December 5, 2017 and a Preliminary/Final Forest Conservation Plan was submitted as part of a Conditional Use Application. The Subject Property contains approximately 4.90 acres of forest, including approximately 2.2 acres of forested environmental buffer. The Application proposes to retain all the forest and there is no planting requirement per the Forest Conservation Law. The Application proposes to reforest approximately 1.37 acres of unforested environmental buffer to comply with the recommendations of the 10 Mile Creek Area Limited Amendment Master Plan and the Environmental Guidelines for Environmental Management of Development in Montgomery County. All the retained and planted forest, and environmental buffers will be protected in Category I conservation easements.

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 MAY 16 2019 (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 Cichy, seconded by Vice Chair Dreyfuss, with Chair Anderson, Vice Chair Dreyfuss, and Commissioners Fani-González and Cichy voting in favor, and Commissioner Patterson absent at its regular meeting held on Thursday, April 25, 2019, in Silver Spring, Maryland.

  
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Casey Anderson, Chair  
Montgomery County Planning Board