



MONTGOMERY COUNTY PLANNING DEPARTMENT

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB
Item No. 7
Date: 3/12/2020

Briefing: Forest Conservation Law Amendments, Forest Conservation Regulation Amendments, and Trees Technical Manual Revision Update

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SUMMARY

The County's Forest Conservation Law is a direct result of the 1991 Maryland Forest Conservation Act that required jurisdictions with planning zoning authority to adopt the state enabling legislation. The Montgomery County Planning Department has administered the County's forest conservation program since its inception. To assist the administration of the law regulations and a trees technical manual were also adopted.

The Forest Conservation Law (FCL), identifies who, what and when a person is subject to the law. If a development activity is subject to the FCL that property must either obtain a forest conservation plan or be exempt from submitting a forest conservation plan. There are numerous exemptions from submitting a forest conservation plan. If a development activity does not qualify for an exemption, a forest conservation plan must be submitted for review concurrently with a development application and finalized prior to any land disturbing activities occur. The law identifies the amount of forest that should be protected, or planted, onsite based on thresholds. These thresholds, or percentages, vary based on the type of development from institutional, commercial, mixed use, and residential. The law also identifies, among other things, priority areas for planting, when planting should occur, and how the law is enforced.

To supplement the FCL, the Planning Board and Montgomery County Council adopted a regulation. The regulation addresses submission requirements, identification of the number of trees and shrubs to be planted, and in general more detailed information on how to comply

with the law. In addition, the Planning Board approved a Trees Technical Manual which further provides developers guidance and greater clarification on how to design plans which are sensitive to forest tree resources and how regulators will review this information. The Trees Technical Manual shows various techniques to protect trees, how to plant trees, lists trees that are native to Montgomery County, identifies non-native and invasive plants, documents the diameter of various trees to be classified as specimen trees, and provides the twenty year canopy spread of native trees.

The Forest Conservation Law (Chapter 22A of the County code) was adopted by the County Council in 1992. Since then numerous amendments to the law have occurred. The impetus for most changes to the FCL were amendments to the state enabling legislation. On February 20, 2020 staff presented amendments to the Planning Board. These changes will soon be introduced by the County Council and Planning staff will work closely with Council staff to obtain approval of the proposed changes. We anticipate work sessions occurring in the spring.

The Forest Conservation Regulation (Chapter 22A of the Code of Montgomery County Regulations) was last updated in 2001. The numerous amendments to the FCL necessitates changes to the regulation. In 2018 staff presented changes to the Planning Board, held a public hearing and a work session. The Planning Board voted to approve the changes. The changes were never submitted to the County Council for their approval because at the same time substantial changes to the State enabling legislation were being discussed. However, those changes were never approved during the Maryland legislative session. Staff will soon be proposing additional changes to the forest conservation regulation. Once we know the Council's schedule for the amendments to the FCL, staff will present changes to the forest conservation regulation, request the Planning Board set a date for a public hearing, and then there will be future work sessions before approval. We do anticipate presenting the proposed changes before the Planning Board in the spring with a public hearing during the summer. Depending on the comments a work session may also occur during the summer.

Lastly there is the Trees Technical Manual. The manual was initially adopted in 1992. No changes or updates have occurred to the manual since there. As result the manual is outdated and identifies techniques and procedures to prepare and review forest conservation plans that are not consistent with the law. The manual also identifies practices for tree protection and planting that are no longer commonly used by the industry. Staff does anticipate presenting an updated Trees Technical Manual to the Planning Board before the end of July with a final adoption of the changes in the fall.

Similar to the drafting of the amendments to the Forest Conservation law, Planning staff will seek input from the representatives of development community and environmental groups before presenting changes to the Forest Conservation Regulation and the Trees Technical Manual.