



June 23, 2020

Written Testimony for Staff Draft of Amended Administrative Regulations for Chapter 22A, Forest Conservation Law, Public Hearing ¹ for Montgomery Planning Board Hearing on June 25, 2020².

Denisse Guitarra

Maryland Conservation Advocate, Audubon Naturalist Society (ANS)

Dear Montgomery County Planning Board,

For 123 years, Audubon Naturalist Society has inspired people to enjoy, learn about and protect nature. We thank the Montgomery County Planning Board for the opportunity to provide testimony for the proposed amended regulations as part of the county's Forest Conservation Law. ANS applauds Montgomery County for its long history as a leader in forward-thinking planning and environmental conservation. The County has long been a leader in the region and the nation in protecting and restoring the natural resources that make this county such a desirable place to live, work, and play. ANS asks the Planning Board to approve the proposed Forest Conservation Regulation amendments but to do so with the following additional recommendations:

Overall Forest Conservation Recommendations

- We would like to see changes in the Montgomery County Forest Conservation Law with the goal of achieving net zero loss of forests. Frederick County has recently revised their Law in such a way. Under today's climate crisis, preserving and protecting our trees should

¹ Montgomery County Planning Board Regulation – Forest Conservation Law- May 21, 2020 Draft. Available from: https://montgomeryplanningboard.org/wp-content/uploads/2020/05/Chapter-22A.-Forest-Conservation-Trees-Regulations_Proposed-Changes-2018_2020_Attachment-A.pdf

² Montgomery Planning Board – June 25, 2020 Planning Board Agenda – Item 4. Available from: <https://montgomeryplanningboard.org/agenda-item/june-25-2020/>

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be a priority. Trees provide shade which mitigate urban heat island effects, serve as home to wildlife, and their roots prevent soil erosion.

- Although we recognize that at this time the Forest Conservation regulations, and not the Forest Conservation Law, are under revision, we would like to provide the following suggested changes to the county’s Forest Conservation Law. Under item “k” of the “Exceptions”³ the law specifies that “any lot covered by a preliminary plan of subdivision or site plan that did not receive a sediment control permit before July 1, 1991, and for which the preliminary plan of subdivision or site plan,” could be exempt from submitting a forest conservation plan. Furthermore, provision (k)(1) states that the exception still applies if the lot “was approved before July 1, 1984 and has less than 40,000 square feet of forest cover.” We therefore proposed that lots with subdivision plans not be exempt from submitting a forest conservation plan, but instead are required to submit one.
- We would like to see more resources allocated to staff to enforce the Forest Conservation Law and regulations on the field.
- We would like to see an increase rate to the Forest Conservation Fund to fund reforestation projects in the county. Currently, the county’s fee in lieu is \$1.25 per square foot,⁴ which is higher than state’s fee in lieu of \$0.30 cents per square foot for projects inside the priority area, and \$0.36 cents per square foot for projects outside the priority funding area.⁵

Specific Recommendations and Comments for the Newly Amended Regulations

- We would like to advocate for reforestation and mitigation to be tied into the location of the existing watershed of the trees. Under subsection 22A-12 (e)(4) of the Forest Conservation Law, reforestation or afforestation projects must occur within the county and the watershed or either option.⁶ However, the proposed amended Forest Conservation regulations do not mention ensuring that reforestation occurs within the same watershed or county.

³ Chapter 22 A. Forest Conservation – Trees. Montgomery Planning (2019). Exceptions (k) - Page 9. Available from: <https://montgomeryplanning.org/wp-content/uploads/2017/10/Chapter-22A-effective-October-2018.pdf>

⁴ Montgomery County Forest Conservation Law - Fee in Lieu price. Available from: <https://montgomeryplanning.org/planning/environment/forest-conservation-and-trees/forest-conservation-fund/>

⁵ Maryland Code, Natural Resources § 5-1610 (c) (1) (i) (ii) – MD Forest Conservation Law. Available from: <https://codes.findlaw.com/md/natural-resources/md-code-nat-res-sect-5-1610.html>

⁶ Chapter 22 A. Forest Conservation – Trees. Montgomery Planning (2019). Retention, afforestation, and reforestation requirements (e)(4) - Page 22. Available from: <https://montgomeryplanning.org/wp-content/uploads/2017/10/Chapter-22A-effective-October-2018.pdf>

- We would like to see more provisions in the proposed amended regulations that create incentives that protect and preserve forests, and that seek to leave forested lands on easements.
- We agree with the Planning staff recommendation listed under “Priorities of Retention” that highlights the importance of protecting not only champion trees, but also the biodiversity of trees, shrubs, and plants under subsection 22A.00.01.07 (A)(3).⁷
- We agree with the Planning staff recommendation to increase the tree maintenance time from 2 to 5 years. The additional time will assure that the trees will be better protected and maintained for a longer period of time and to assure their livelihood.⁸

We thank the Department of Planning for taking in consideration our comments and look forward to continuing to be engaged and be part of the Forest Conservation regulation and law changes.

Sincerely,

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Audubon Naturalist Society

⁷ Forest Conservation – Trees Regulations. Section 22A.00.01.07 Priorities for Retention. Page 12. Available from: https://montgomeryplanningboard.org/wp-content/uploads/2020/05/Chapter-22A.-Forest-Conservation-Trees-Regulations_Proposed-Changes-2018_2020_Attachment-B.pdf

⁸ Forest Conservation – Trees Regulations. Section 22A.00.01.14 Forest Conservation Maintenance and Management Agreements. Page 26. Available from: https://montgomeryplanningboard.org/wp-content/uploads/2020/05/Chapter-22A.-Forest-Conservation-Trees-Regulations_Proposed-Changes-2018_2020_Attachment-B.pdf