



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

MAY 13 2021

MCPB No. 21-039

Forest Conservation In-Lieu Fee and Administrative Civil Penalty Rate

Date of Hearing: April 8, 2021

RESOLUTION

WHEREAS, Section 22A-12(g)(1) of the Montgomery County Forest Conservation Law authorizes the County Council, either by law or resolution, to set the amount of the fee the Planning Board may charge in-lieu of afforestation or reforestation required under Section 22A-12(g)(1); and

WHEREAS, Section 22A-16(d)(1) of the Montgomery County Forest Conservation Law authorizes the County Council, either by law or resolution, to set the maximum amount of the administrative civil penalty authorized under Section 22A-16(d)(1); and

WHEREAS, County Council Resolution 15-1271, without further action by the County Council, requires the Montgomery County Planning Board on each odd-numbered year to adjust the dollar amounts the Planning Board may charge i) for in-lieu afforestation and reforestation under Section 22A-12(g)(1), and ii) the maximum amount of the administrative civil penalty under Section 22A-16(d)(1), by the percentage amount of the annual average increase, or decrease, in the Consumer Price Index ("CPI") of all urban consumers in the Washington-Baltimore metropolitan area, or its successor; and

WHEREAS, in January 2018, the United States Bureau of Labor Statistics discontinued the CPI for the Washington-Baltimore metropolitan area and placed Montgomery County in the Washington-Arlington-Alexandria Core Based Statistical Area (CBSA) for determining the CPI; and

WHEREAS, following review and analysis of The United States Bureau of Labor Statistics indicators by the Planning Board staff ("Staff"), Staff issued a memorandum to the Planning Board, dated April 8, 2021 setting forth its analysis, and recommendation for approval of increases to the in-lieu fee and the maximum

Approved as to

Legal Sufficiency /s/ Matthew T. Mills
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civil administrative penalty (“Staff Report”) consistent with the CPI increase; and

WHEREAS, on April 8, 2021, the Planning Board held a public hearing on the Staff analysis and recommendation, and at the hearing, the Planning Board heard testimony and received evidence submitted for the record on the proposed fee changes; and

WHEREAS, at the hearing, the Planning Board voted to approve the revisions to i) the in-lieu fee, and ii) the maximum civil administrative penalty as set forth in the Staff Report on motion of Commissioner Cichy, seconded by Commissioner Verma, with a vote of 5-0, Commissioners Anderson, Cichy, Fani-Gonzalez, Patterson and Verma voting in favor;

NOW, THEREFORE, BE IT RESOLVED THAT, pursuant to County Council Resolution 15-1271, the Planning Board approves the following fee changes:

1. Effective July 1, 2021, the fee in-lieu of afforestation or reforestation under Section 22A-12(g)(1) shall be \$1.30 per square foot.
2. Effective July 1, 2021, the maximum civil administrative penalty under Section 22A-16(d)(1) shall be \$11.75 per square foot.

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 upon consideration of the entire record, the Montgomery County Planning Board FINDS, that:

The changes to the fee in-lieu afforestation and reforestation under Section 22A-12(g)(1), and the maximum civil administrative penalty under Section 22A-16(d)(1) satisfies all the applicable requirements of law, including County Council Resolution 15-1271.

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 13 2021 (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 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 decision 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 Fani-González, with Chair Anderson, Vice Chair Fani-González, and Commissioners Cichy, Patterson, and Verma voting in favor of the motion at its regular meeting held on Thursday, April 29, 2021, in Wheaton, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board