

Montgomery County Planning Board

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

JUL 26 2023

MCPB No. 23-076
Forest Conservation Plan No. F20230170
North Bethesda Market II
Date of Hearing: July 13, 2023

RESOLUTION

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

WHEREAS, on March 13, 2023, AvalonBay Communities, Inc., Woodglen Master Owner, LLC, and Woodglen Master Owner II LLC (“Applicant”) filed an application for approval of a forest conservation plan on approximately 4.41 acres of land located at the southeast quadrant of the intersection of Nicholson Lane and Woodglen Drive (“Subject Property”) in the White Flint Policy Area and 2010 *White Flint Sector Plan* (“Sector Plan”) area; and

WHEREAS, Applicant’s forest conservation plan application was designated Forest Conservation Plan No. F20230170, North Bethesda Market II (“Forest Conservation Plan” or “Application”);¹ 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 June 30, 2023, providing its analysis and recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and

WHEREAS, on July 13, 2023, the Planning Board held a public hearing on the Application and voted to approve the Application subject to conditions, on the motion of Commissioner Hedrick, seconded by Commissioner Linden, with a vote of 5-0; Chair Harris, Vice Chair Pedoeem, Commissioners Bartley, Hedrick and Linden voting in favor.

¹ Unless specifically indicated otherwise, the Board has reviewed the preliminary Forest Conservation Plan and set forth conditions under which the Staff can approve the final Forest Conservation Plan without further Board action. Therefore, for purposes of this Resolution, whether or not indicated, the Board’s action is with regard to the preliminary Forest Conservation Plan.

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Approved as to
Legal Sufficiency: /s/ Matthew T. Mills
M-NCPPC Legal Department

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Forest Conservation Plan No. F20230170 on the Subject Property, subject to the following conditions:²

1. The Applicant must comply with the following conditions of approval for the Final Forest Conservation Plan No. F20230170.
 - a. The Applicant must schedule the required site inspections by M-NCPPC Forest Conservation Inspection Staff per section 22.00.01.10 of the Forest Conservation Regulations.
 - b. The Applicant must comply with all tree protection and tree save measures shown on the approved Final Forest Conservation Plan. Tree save measures not specified on the Final Forest Conservation Plan may be required by the M-NCPPC Forest Conservation Inspection Staff.
 - c. Before the start of any demolition, clearing, grading, or construction for this development Application, whichever comes first, the Applicant must record an M-NCPPC approved Certificate of Compliance in an M-NCPPC approved off-site forest bank to satisfy the reforestation requirement for a total of 0.66 acres of mitigation credit. The off-site requirement may be met by purchasing credits from a mitigation bank elsewhere in the County, subject to Staff approval, if forest mitigation bank credits are not available for purchase or by making a fee-in-lieu payment to M-NCPPC if mitigation credits are not available at any bank.
 - d. The Limits of Disturbance ("LOD") shown on the Final Sediment and Erosion Control Plan must be consistent with the LOD shown on the approved Final Forest Conservation Plan.

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.

² 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.

The Subject Applications meet the requirements of Chapter 22A of the Montgomery County Forest Conservation Law ("FCL"). As required by Chapter 22A, a Final Forest Conservation Plan ("FFCP") was submitted concurrently with the Preliminary and Site Plan applications. The total net tract area for forest conservation purposes is 4.41 acres. The Property is zoned CR-4.0 and is classified as Mixed-Use Development ("MDP") as defined in Section 22A-3 of the FCL and specified in the Trees Technical Manual. The Subject Property does not contain any forest. However, there is a 0.66-acre afforestation requirement as calculated in the Forest Conservation Worksheet, as determined by the property size and 15% afforestation threshold. The afforestation requirement will be met off-site in a forest bank or by payment of fee-in-lieu.

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 JUL 26 2023 (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).

* * * * *

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 Bartley, seconded by Vice Chair Pedoeem, with a vote of 5-0; Chair Harris, Vice Chair Pedoeem, and Commissioners, Bartley, Hedrick, and Linden, voting in favor of the motion, at its regular meeting held on Thursday, July 20, 2023, in Wheaton, Maryland and via video conference.



Artie L. Harris, Chair
Montgomery County Planning Board

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North Bethesda Market II: Preliminary Plan Amendment
12012006C, Site Plan Amendment 82012004B and
Forest Conservation Plan F20230170