

Montgomery County Planning Board

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

Date Mailed:

June 28, 2024

MCPB No. 24-058
Forest Conservation Plan No. F20240010
Calverton
Date of Hearing: June 13, 2024

RESOLUTION

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

WHEREAS, on August 21, 2023, Zhixiong Shi and Xiumei Chen (“Applicant”) filed an application for approval of a forest conservation plan on approximately 0.97 acres of land located at 3100 Fairland Road, Silver Spring, MD 20904 (“Subject Property”) in the Fairland/Colesville Policy Area and the Fairland Master Plan (“Master Plan”) area; and

WHEREAS, Applicant’s forest conservation plan application was designated Forest Conservation Plan No. F20240010, Calverton (“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 May 31, 2024, providing its analysis and recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and

WHEREAS, on June 13, 2024, the Planning Board held a public hearing on the Application and voted to approve the Application subject to conditions, on the motion of Commissioner Bartley, seconded by Vice Chair Pedoeem, with a vote of 4-0 ; Chair Harris, Vice Chair Pedoeem, Commissioners Hedrick and Linden voting in favor, with Commissioner Bartley absent.

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Approved as to
Legal Sufficiency: /s/ Allison Myers
M-NCPPC Legal Department

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Forest Conservation Plan No. F20240010 on the Subject Property, subject to the following conditions:¹

1. The Applicant must schedule the required site inspections by M-NCPPC Forest Conservation Inspection Staff per Section 22A.00.01.10 of the Forest Conservation Regulations.
2. The Applicant must comply with all tree protection and tree save measures shown on the approved Final Forest Conservation Plan (“FFCP”). Tree save measures not specified on the FFCP may be required by the M-NCPPC Forest Conservation Inspection Staff.
3. 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.
4. Before recordation of the plat and the start of any demolition, clearing, grading, or construction, whichever comes first, for this development Application, the Applicant must record an M-NCPPC approved Certificate of Compliance in an M-NCPPC approved off-site forest bank within the Anacostia River watershed or Priority Area to satisfy the reforestation requirement of 0.55 acres of mitigation credit. If no off-site forest banks exist within the Anacostia River watershed or Priority Area, then the off-site requirement may be met by purchasing 0.78 acres of mitigation credits from a mitigation bank within Montgomery County outside of the Anacostia River watershed or Priority Area, subject to Staff approval. If forest mitigation bank credits are not available for purchase, a fee-in-lieu payment must be made to M-NCPPC for the appropriate mitigation credits outside of the same watershed or Priority Area.

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.

¹ 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 Applicant has submitted Final Forest Conservation Plan No. F20240010 (“FFCP”) for concurrent review with the Administrative Subdivision Plan No. 620230140. The Application satisfies the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A and is in compliance with the Montgomery County Planning Department’s approved Environmental Guidelines.

The Subject Property is zoned R-90 and is assigned a Land Use Category of High Density Residential (“HDR”) as defined in Section 22A-3 of the Montgomery County Forest Conservation Law (“FCL”) and in the Land Use Table of the Trees Technical Manual. This results in an afforestation threshold of 15 percent and a conservation threshold of 20 percent of the Net Tract Area.

The Net Tract Area for forest conservation purposes includes the 0.97-acre Total Tract Area plus 0.12 acres of offsite disturbance associated with this Application, for a total Net Tract area of 1.09 acres. There is a total of 0.45 acres of existing forest on the Subject Property. The Application counts the entirety of the 0.45 acres of forest as removed resulting in a total afforestation/reforestation requirement of 0.55 acres within the Anacostia watershed or a Priority Area or 0.78 acres outside of the Anacostia watershed or Priority Area. As conditioned, the Applicant will meet the reforestation requirement by purchasing the appropriate acreage of mitigation credits from an offsite forest mitigation bank or by paying a fee-in-lieu into the Forest Conservation Fund if no forest mitigation banks are available. The Subject Property contains no specimen trees or trees protected by Sec. 22A-12(b)(3) of the FCL, and therefore no tree variance request is required for the plan.

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

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(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 consistent with the Maryland Rules for the judicial review of administrative agency decisions.

* * * * *

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 Hedrick, seconded by Vice Chair Pedoeem, with a vote of **4-0**; Chair Harris, Vice Chair Pedoeem, and Commissioners Hedrick, and Linden, voting in favor of the motion, Commissioner Bartley necessarily absent, at its regular meeting held on Thursday, June 27, 2024, in Wheaton, Maryland and via video conference.



Artie L. Harris, Chair
Montgomery County Planning Board