

Montgomery County Planning Board

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

Date Mailed:

November 19, 2024

MCPB No. 24-110
Preliminary Forest Conservation Plan No. F20241040
North Bethesda Industrial Center
Date of Hearing: November 7, 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 July 19, 2024, Arcland Property Company, LLC (“Applicant”) filed an application for approval of a preliminary forest conservation plan, to be reviewed and approved concurrently with Local Map Amendment No. H-154, Parklawn Self Storage, on approximately 2.15 acres of land located at 11900 Parklawn Drive (“Subject Property”) in the *White Flint Sector Plan Phase 2* (“Sector Plan”) area; and

WHEREAS, Applicant’s forest conservation plan application was designated Forest Conservation Plan No. F20241040 North Bethesda Industrial Center (“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 October 28, 2024, providing its analysis and recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and

WHEREAS, on November 7, 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 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.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Forest Conservation Plan No. F20241040 on the Subject Property, subject to the following conditions:²

1. The Applicant must submit a Final Forest Conservation Plan (“FFCP”) for review and approval at time of site plan and before obtaining a Sediment and Erosion Control Permit from the Montgomery County Department of Permitting Services for the Subject Property. No demolition, clearing, or grading is permitted on the Subject Property prior to the approval of the FFCP.
2. The FFCP must be consistent with the approved Preliminary Forest Conservation Plan.
3. The FFCP must include:
 - a) Limits of Disturbance consistent with the Sediment and Erosion Control Permit.
 - b) Variance tree mitigation plantings on the Subject Property with a minimum size of three (3) caliper inches totaling thirty (30) caliper inches.

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.

A Preliminary Forest Conservation Plan has been submitted with Local Map Amendment Application H-154, Parklawn Self Storage to rezone the Property from EOF-0.75, H-100 to ILF-1.0, H-55’ to allow for the development of up to 104,628 square feet of self-storage use on the site. The Subject Property has no forest, streams, stream buffer or other environmental features on site. The Subject Property is requested to be zoned ILF and is classified as Commercial and Industrial Use Areas as defined in Section 22A-3 of Chapter 22A of the Montgomery County Forest Conservation Law (FCL) and specified in the Trees Technical Manual. This results in an afforestation requirement of 15% of the net tract area and a conservation threshold of 15%. The Net Tract Area is 2.15 acres. There is no forest

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.

on the site; therefore, the forest mitigation requirement is for 0.35 acres of afforestation.

The Applicant proposes to fulfill their forest conservation mitigation via purchase of forest mitigation bank credits, if available. Otherwise, the requirement will be met via payment of a fee-in-lieu.

B. Forest Conservation Variance

Section 22A-12(b)(3) of the Forest Conservation Law identifies certain individual trees as a high priority for retention and protection (“Protected Trees”). Any impact to these Protected Trees, including removal or any disturbance within a Protected Tree’s critical root zone (“CRZ”), requires a variance under Section 22A-12(b)(3) (“Variance”). Otherwise, such resources must be left in an undisturbed condition.

This Application will require the removal of three (3) Protected Trees as identified in the Staff Report. In accordance with Section 22A-21(a), the Applicant requested a Variance, and per Section 22A-21, a variance may only be granted if the Planning Board finds that leaving the requested trees in an undisturbed state will result in unwarranted hardship. The requested variance is necessary due to the need to accommodate construction, utilities, stormwater, and removal of existing infrastructure. The trees are located on steep slopes directly adjacent to existing parking lot and will be impacted by demolition. The proposed development includes new stormwater facilities and other construction significantly impacting the Critical Root Zones of these trees. The Board finds that the Applicant would suffer unwarranted hardship by being denied reasonable and significant use of the Subject Property without the Variance.

The Board makes the following findings necessary to grant the Variance:

1. *Granting the Variance will not confer on the Applicant a special privilege that would be denied to other applicants.*

Granting the variance will not confer a special privilege on the Applicant as the disturbance is unavoidable to develop the Property to meet the needs of redevelopment and current stormwater management regulations.

2. *The need for the Variance is not based on conditions or circumstances which are the result of the actions by the Applicant.*

All three trees to be removed (#2, #3, and #4) are just behind the rear curb of the parking lot in the tree cover bordering the railroad. In order to remove the parking lot and build the new development, a significant portion of the roots

will be impacted. To remove the parking lot, the structural roots of all three trees will be severely impacted. In addition, the storm drain connects in this area and crosses the roots of all three trees. As the storm drain needs to be upgraded as part of this development, impacts to the trees in this area are unable to be avoided.

3. *The need for the Variance is not based on a condition related to land or building use, either permitted or non-conforming, on a neighboring property.*

The requested variance is a result of the location of trees and the proposed construction and not a result of land or building use on a neighboring property.

4. *Granting the Variance will not violate State water quality standards or cause measurable degradation in water quality.*

Currently there is no stormwater treatment on-site, therefore the redevelopment offers an improvement in water quality. The required Environmental Site Design (ESD) volume treatment will confirm that the goals and objectives of the current state water quality standards are being met. A Stormwater Management Concept will be submitted for the proposed improvements. Stormwater treatment is provided by multiple micro-bioretenion facilities. As noted below, variance mitigation trees will be planted to replace the lost water quality functions of the trees being removed.

Mitigation for the Variance is at a rate that approximates the form and function of the Protected Trees removed. The Board approves the replacement of Protected Trees at a ratio of approximately 1-inch caliper for every 4 inches removed using trees that are a minimum of 3-inch caliper in size. This results in a mitigation of thirty (30) inches, with a minimum installation of ten (10) 3-inch caliper trees.

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

November 19, 2024

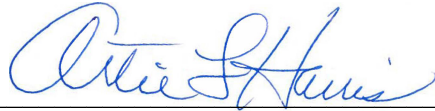
(which is the date that this Resolution is mailed to all parties of record); and

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 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, November 14, 2024, in Wheaton, Maryland and via video conference.



Artie Harris, Chair
Montgomery County Planning Board