

Montgomery County Planning Board

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

DATE MAILED:

February 14, 2025

MCPB No. 24-121

Preliminary Forest Conservation Plan No. F20250010

7501 Standish Place

Date of Hearing: December 19, 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 8, 2024, TriPointe Homes DC Metro Inc. (“Applicant”) filed an application for approval of a forest conservation plan, for concurrent review and approval with Local Map Amendment H-156, on approximately 13.86 acres of land located at 7501 Standish Place (“Subject Property”) in the 2021 *Shady Grove Minor Master Plan Amendment* area; and

WHEREAS, Applicant’s forest conservation plan application was designated Preliminary Forest Conservation Plan No. F20250010, 7501 Standish Place (“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 December 5, 2024, providing its analysis and recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and

WHEREAS, on December 19, 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 Vice Chair Pedoeem, 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/ Allison Myers
M-NCPPC Legal Department

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Preliminary Forest Conservation Plan No. F20250010 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 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 inch trees totaling forty-eight (48) 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 Preliminary Forest Conservation Plan complies with the requirements of the Forest Conservation Law. The Preliminary Forest Conservation Plan (PFCP) has been submitted and approved with Local Map Amendment H-156. The approved NRI/FSD No. 420241620 indicates there are no forested areas on the Site.

This application was reviewed under the CRNF-1.25, C-0.0, R-1.25, H-60’ zone and it is assigned a Land Use Category of Mixed-Use Development Area (“MDP”) 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

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.

an afforestation requirement of 15% and conservation thresholds of 20_% of the Net Tract Area.

The Net Tract Area for forest conservation purposes includes the Total Tract Area of 12.73 acres plus 0.46 acres of offsite disturbance associated with this Application. This results in a total Net Tract Area of 13.19 acres. There is no forest on the Subject Property which results in a total afforestation requirement of 1.98 acres, as shown on the FFCP Worksheet. The Applicant will address afforestation requirements by providing 1.98 acres of afforestation mitigation as detailed in the conditions of approval.

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 or CRZ impact to six (6) Protected Trees as identified below:

Tree #	Species (Common Name)	Species (Scientific Name)	D.B.H. (inches)	Impact (%)	Tree Condition	Status
6	Willow Oak	<i>Quercus phellos</i>	30.5	100%	Good	Remove
13	Willow Oak	<i>Quercus phellos</i>	31	100%	Fair	Remove
14	Willow Oak	<i>Quercus phellos</i>	30.5	100%	Good/Fair	Remove
28	American Beech	<i>Fagus grandifolia</i>	35.5	100%	Good/Fair	Remove
33	Northern Red Oak	<i>Quercus rubra</i>	31	100%	Good	Remove
36	Willow Oak	<i>Quercus phellos</i>	30	100%	Good/Fair	Remove

In accordance with Section 22A-21(a), the Applicant requested a Variance, and the Board agrees that the Applicant would suffer unwarranted hardship by being denied reasonable and significant use of the Subject Property to allow the replacement of an office complex and surface parking lot with up to 210 dwelling units 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 the residential project. The Property is developed with buildings and parking lots covering almost the entire Property. Preparing the Property for redevelopment will require demolishing the existing buildings, removing the parking lot, and regrading the Site. The variance trees being removed are within the limits of disturbance needed to prepare the Site and construct the new development. If the Applicant were not able to impact the variance trees, the Applicant would not be able to demolish the existing improvements or redevelop the Property. This would not grant a special privilege to the Applicant.

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

The requested variance is not based on conditions or circumstances which are the result of actions by the Applicant but is based upon the existing site conditions and the locations of the Protected Trees. The six (6) trees to be removed are located throughout the site. In order to remove existing infrastructure and build the new development, these trees will be removed, with 100% impact to the critical root zones. Due to the location of the Protected Trees throughout the site, there is no feasible alternative that allows reasonable development of the Property without impacts to the Protected Trees.

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.*

The variance request will not violate State water quality standards or cause measurable degradation in water quality. The Applicant will implement updated stormwater management practices. Additionally, sixteen (16) new 3-inch caliper native trees will be planted in mitigation for the removal of the six (6) variance sized trees to replace the water quality functions of the trees being removed.

The Protected Trees requested for removal are not located in an environmental buffer or special protection area. This approval is conditioned on mitigation that approximates the form and function of the trees removed. Therefore, their removal will not violate State water quality standards or cause measurable degradation in water quality. The Protected Tree being impacted will remain to provide the same level of water quality protection as it currently provides.

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 forty-eight (48) inches, with a minimum at installation of sixteen (16) 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

February 14, 2025

(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 Vice Chair Pedoeem, seconded by Commissioner Linden, with a vote of 3-0; Chair Harris, Vice Chair Pedoeem and Commissioner Linden voting in favor of the motion, Commissioner Bartley and Hedrick necessarily absent at its regular meeting held on Thursday, February 6, 2025, in Wheaton, Maryland and via video conference.



Artie L. Harris, Chair
Montgomery County Planning Board