

Montgomery County Planning Board

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

DATE MAILED:

April 1, 2025

MCPB No. 25-021
Forest Conservation Plan No. F20230100
16998 Overhill Road
Date of Hearing: January 9, 2025

RESOLUTION

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

WHEREAS, on February 9, 2024, Community Housing Initiative, Inc. (“Applicant”) filed an application for approval of a forest conservation plan for concurrent review and approval with Preliminary Plan No. 120240060 (“Accompanying Plan”) that would create one lot on approximately 3.77 acres of land located at 16998 Overhill Road (“Subject Property”) in the Derwood Policy Area and 2004 *Upper Rock Creek Master Plan* (“Master Plan”) area; and

WHEREAS, Applicant’s forest conservation plan application was designated Forest Conservation Plan No. F20230100, 16998 Overhill Road (“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 December 30, 2024, providing its analysis and recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and

WHEREAS, on January 9, 2025, 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 4-0; Chair Harris, Vice Chair Pedoeem, Commissioners Hedrick and Linden voting in favor, with Commissioner Bartley necessarily 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. F20230100 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. Tree save measures not specified on the Final Forest Conservation Plan 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 the associated development application the Applicant must:
 - a. Record a Category I Conservation Easement over all areas of forest retention, forest planting and environmental buffers as specified on the approved Final Forest Conservation Plan. The Category I Conservation Easement must be in a form approved by the M-NCPPC Office of the General Counsel and must be recorded in the Montgomery County Land Records by deed. The Book/Page for the easement must be referenced on the record plat.
 - b. Install permanent conservation easement signage along the perimeter of the conservation easements as shown on the Forest Conservation Plan (“FCP”) or as directed by the M-NCPPC Forest Conservation Inspection Staff.
 - c. Execute a five (5)-year Maintenance and Management Agreement (“MMA”) in a form approved by the M-NCPPC Office of the General Counsel. The MMA is required for all forest planting areas, mitigation tree plantings, including variance tree mitigation plantings, and landscape plantings credited toward meeting the requirements of the FCP. The MMA includes invasive species management control measures as deemed necessary by the M-NCPPC Forest Conservation Inspection Staff.
 - d. Submit a cost estimate for the reforestation/afforestation and other FCP requirements, which includes but is not limited to trees and shrubs, variance

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.

mitigation trees, five (5) years of maintenance including invasive species management controls, permanent easement posts and signage, natural surface trails, split rail fencing, mulching, staking, tree protection, and tree protection removal credited toward meeting the requirements as shown on the FCP. This cost estimate must be reviewed and approved by the M-NCPPC Planning Department Inspection Staff prior to the submission of financial surety to determine the amount of the financial surety.

- e. Submit financial surety, in a form approved by the M-NCPPC Office of the General Counsel, to the M-NCPPC Planning Department Inspection Supervisor for the 0.64 acres of new forest planting, mitigation trees, and maintenance, including invasive species management controls, credited toward meeting the requirements of the FCP.
 - f. Record an M-NCPPC approved Certificate of Compliance in an M-NCPPC approved off-site forest bank within the Rock Creek watershed or Priority Area to satisfy the reforestation requirement for a total of 0.22 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, a fee-in-lieu payment must be made to M-NCPPC for the appropriate mitigation credits.
5. Within one year or two growing seasons following the release of the first building permit of the primary structure from the Montgomery County Department of Permitting Services for the Subject Property, or as directed by the M-NCPPC Forest Conservation Inspection Staff the Applicant must install the Afforestation/Reforestation plantings as shown on the approved FCP.
6. Within one year or two growing seasons following the release of the first building permit of the primary structure from the Montgomery County Department of Permitting Services for the Subject Property, or as directed by the M-NCPPC Forest Conservation Inspection Staff, the Applicant must install the variance tree mitigation plantings on the Subject Property as shown on the approved FCP. The variance tree mitigation plantings must be a minimum size of 3 caliper inches totaling 77 caliper inches, as shown on the approved FCP. Adjustments to the planting locations of these trees is permitted with the approval of the M-NCPPC Forest Conservation Inspection Staff.
7. Before submittal of the certified FFCP, the Applicant shall revise the Final Forest Conservation Plan to:
 - a. Include the correct Land Use Category "IDA" and include worksheets for both, if the requirements will be met onsite or offsite; and
 - b. Provide the full planting schedule.

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.

The Subject Property is zoned RE-1 but is assigned a Land Use Category of Institutional Development Areas ("IDA") 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 based on the institutional use. This results in an afforestation threshold of 20 percent and a conservation threshold of 25 percent of the Net Tract Area.

The Net Tract Area for forest conservation purposes includes the 3.77-acre Total Tract plus 0.50 acres of offsite improvements associated with this Application, for a total Net Tract area of 4.28 acres. The Subject Property contains no existing forest and includes approximately 0.53 acres of unforested stream valley buffer. As part of the approved FFCP, the stream valley buffer must be planted with forest cover. As conditioned, all planting areas must be protected with a proposed Category I Conservation Easement.

The Application results in an afforestation requirement of 0.86 acres, which will be met with 0.64 acres of forest planted on the Subject Property and protected in a Category I Conservation Easement. The remaining afforestation requirement of 0.22 acres will be met off-site, either by the purchase of forest mitigation bank credits or, if no credits are available, through the payment of a fee-in-lieu to the Forest Conservation Fund.

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. A Variance request was approved by the Planning Board

on July 20, 2023, with the Preliminary FCP No. F20230010 (MCPB No. 23-089) to allow the removal of eight Protected Trees and CRZ impacts to two Protected Trees. The impact to the Protected Trees has not changed with the submission of the FFCP. As conditioned, the approved Variance requires planting of mitigation trees at a minimum size of 3 caliper inches totaling 77 caliper inches.

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

April 1, 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 Commissioner Hedrick, seconded by Vice Chair Pedoeem, with a vote of 4-0-1; Chair Harris, Vice Chair Pedoeem, and Commissioners Hedrick, and Linden, voting in favor of the motion, Commissioner Bartley abstaining, at its regular meeting held on Thursday, March 27, 2025, in Wheaton, Maryland and via video conference.



Artie L. Harris, Chair
Montgomery County Planning Board