

Montgomery County Planning Board

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

DATE MAILED:

July 8, 2025

MCPB No. 25-075

Forest Conservation Plan No. F20250170

2811 14th Street NE Gospel Hall Inc. Church

Date of Hearing: June 5, 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 October 30, 2024, Walter Bowie (“Applicant”) filed an application for approval of a forest conservation plan for concurrent review and approval with Preliminary Plan No. 120250050 (“Accompanying Plan”) on approximately 15 acres of land located at 211 Ednor Road, Silver Spring, MD 20905 (“Subject Property”) in the Cloverly Policy Area and the Cloverly Master Plan (“Master Plan”) area; and

WHEREAS, Applicant’s forest conservation plan application was designated Final Forest Conservation Plan No. F20250170 2811 14th St. NE Gospel Hall Inc. Church (“Forest Conservation Plan”, “FFCP” 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 26, 2025, providing its analysis and recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and

WHEREAS, on June 5, 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 5-0; Chair Harris, Vice Chair Pedoeem, Commissioners Bartley, Hedrick and Linden voting in favor.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Final Forest Conservation Plan No. F20250170 on the Subject Property, subject to the following conditions:¹

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.

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 the start of any demolition, clearing, grading, or construction, whichever comes first, for the development shown on the accompanying Preliminary Plan No. 120250050 (the “Accompanying Plan”), 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 FFCP. 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. At time of dedication of 4.86 acres of Parkland Conveyance Parcel as shown on the FFCP to Montgomery County Department of Parks (“Parks”), the Category I Conservation Easement will be automatically extinguished by its express terms, without the necessity for further action by the Applicant, and the dedicated Parkland Conveyance Parcel will thereafter be maintained by Parks as a conservation area.
 - b) Execute a five-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 FFCP. The MMA includes invasive species management control measures as deemed necessary by the M-NCPPC Forest Conservation Inspection Staff. All proposed measures should be chosen with consideration of the proximity to the on-site stream and wetlands and the sensitive nature of this watershed. The use of herbicides should be avoided wherever practical.
 - c) Submit a cost estimate for the reforestation/afforestation and other FFCP requirements, which includes but is not limited to trees and shrubs, variance mitigation trees, five 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 FFCP. 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.
- d) 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 2.78 acres of new forest planting, variance mitigation trees, and maintenance, including invasive species management controls, credited toward meeting the requirements of the FFCP.
- 5. Within the first planting season following the release of the first Sediment and Erosion Control Permit 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 2.78 acres of afforestation plantings as shown on the approved FFCP.
 - 6. Within the first planting season following the release of the first Sediment and Erosion Control Permit 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 FFCP. The variance tree mitigation plantings must be a minimum size of 3 caliper inches, totaling 68.5 caliper inches, as shown on the approved FFCP. Adjustments to the planting locations of these trees are permitted with the approval of the M-NCPPC Forest Conservation Inspection Staff.

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 Application meets the requirements of Chapter 22A of the Montgomery County Forest Conservation Law ("FCL") and the Montgomery County Planning Department's Environmental Guidelines. The total net tract area for forest conservation purposes is 10.34 acres, which includes the Subject Property of 15 acres, plus off-site work of 0.20 acres for offsite work within the proposed right-

of-way for Ednor Road, minus a Parks deduction of 4.86 acres. The Subject Property is zoned RE-2 and is classified as Medium Density Residential (MDR”) as defined in Section 22A-3 of the FCL and specified in the Trees Technical Manual. Presently, the Subject Property contains no forest. This results in a total afforestation requirement of 2.07 acres as calculated in both of the Forest Conservation Worksheets. The Applicant proposes to meet this requirement by afforesting the 2.78 acres of stream valley buffer (“SVB”) on the Subject Property as required under Sec. 22A-12(e)(1)(B) of the Forest Conservation Law except for the existing and proposed sewer easements. The entire SVB is contained within the Parks Conveyance Parcel of 4.86 acres.

Since the 2.78 acres of afforestation is being used to meet the requirements of the FFCP worksheets and also to afforest the SVB as required under Sec. 22A-12(e)(1)(B) of the FCL, the afforestation plantings must be provided long-term protection as required under Section 22A-12(h)(2) of the FCL. As conditioned, the afforestation plantings and SVB will be protected by placing a Category I Conservation Easement (“FCE”) over the area. Even though the afforestation plantings and the SVB are within the area of future proposed Parks conveyance, that dedication of land will not be accepted until such time that the afforestation has been installed, has finished the five (5) year maintenance period, has been fully accepted by M-NCPPC, and the financial surety has been released. Because the timing of the Parks conveyance is uncertain, the placement of a Category I Conservation Easement over the afforestation plantings and SVB offers protection until such time that Parks accepts the dedicated land. Once this area has been dedicated to Parks and they become the property owners, the previously recorded FCE will no longer be effective, since the owner of the land or grantor, M-NCPPC, and the grantee of the FCE, M-NCPPC, would be the same entity. After dedication, Parks will manage the forested area as a conservation area using their best management practices, which is also considered to be a long-term protection measure sufficient to meet Sec. 22A-12(h)(2) of the FCL and Code of Montgomery County Regulations, Chapter 22A, Sec. 22A.00.01.15.

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 seven (7) Protected Trees as identified in the Staff Report and shown in Tables 1 and 2 below. 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 for a new church without the Variance.

The Applicant has demonstrated that the denial of the Variance request would cause an unwarranted hardship by preventing the construction of the proposed church structure and the required parking lot in the most logical and best location. The optimal location for the structure and the parking lot is on the flatter, more level area of the Subject Property located along the eastern property line toward the northeast corner of the site. Moving away from this area of the site in both the southern and westerly directions, the steepness of the slope increases making construction much more difficult and costly. The Protected Trees that are proposed to be impacted or removed are also located along the eastern property line as a result, the limits of disturbance (“LOD”) will impact or will encompass these Protected Trees.

Table 1 - Impacted Protected Trees

Tree ID	Common Name	Scientific Name	DBH	% Impact	Status
ST12	Tulip Poplar	<i>Liriodendron tulipifera</i>	52 in.	16%	Tree in poor condition, minor impacts to CRZ; save tree
ST13	Tulip Poplar	<i>Liriodendron tulipifera</i>	36 in.	1.5%	Tree in good condition, minor impacts to CRZ; save tree

Table 2 - Removed Protected Trees

Tree ID	Common Name	Scientific Name	DBH	% Impact	Status
ST3	Sycamore	<i>Plantus occidentalis</i>	30 in. and 52 in.	48%	Tree divides below 3.5-ft into 2 main stems; Tree in fair condition, excessive impacts from LOD; LOD removes ½ of structural roots; remove tree
ST4	Pin Oak	<i>Quercus palustris</i>	34 in.	60%	Tree in fair condition, main stem in LOD, structural roots removed; remove tree
ST9	Pin Oak	<i>Quercus palustris</i>	38 in.	58%	Tree in fair condition, main stem in LOD, structural roots removed; remove tree
ST10	Red Maple	<i>Acer rubrum</i>	36 in.	36%	Tree in fair condition
ST11	Tulip Poplar	<i>Liriodendron tulipifera</i>	84 in.	42%	Very poor condition, main stem trunk hallow, main stem in LOD, ½ structural roots removed; remove tree

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 to impact Tree Nos. 12 and 13, and to remove Tree Nos. 3, 4, 9, 10, and 11 will not confer a special privilege on the Applicant as the impacts or removals are due to necessary development requirements of installing the parking for the 500-seat church, installing the access drive to the existing telecommunications tower and the necessary location of development on the Subject Property. All seven (7) trees are either impacted or removed with the installation of the parking lot and the access drive for the telecommunications tower. Therefore, the granting of this Variance is not a

special privilege for this Applicant nor one that would be denied to other applicants.

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. The requested Variance is based on the necessary development standards of providing adequate parking for a 500-seat church and the requirement to provide safe and efficient access to the existing telecommunications tower. This is combined with the construction being limited to the most topographically level area of the site and that the Protected Trees are located in this same area.

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 existing conditions and the required improvements, 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 will not violate State water quality standards or cause measurable degradation in water quality. The Protected Trees being impacted are not located within a stream buffer, wetland, or a special protection area. Additionally, the required mitigation plantings for the removal of these Protected Trees are being installed both within and adjacent to the SVB on the Subject Property and thereby providing some increased measure of water quality treatment for the Northwest Branch stream.

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 one (1) inch caliper for every four (4) inches removed using trees that are a minimum of three (3) inch caliper in size. This results in a total mitigation of 68.5 inches which will be met with the installation of 23, three (3) inch caliper trees. No mitigation is required for Protected Trees impacted but retained.

Planning Board approves the variance request, with individual tree mitigation plantings as conditioned to address the removal of the five (5) Protected 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

July 8, 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 Commissioner Linden, with a vote of 4-0; Chair Harris, and Commissioners Bartley, Hedrick, and Linden, voting in favor of the motion, and Vice Chair Pedoeem being necessarily absent at its regular meeting held on Thursday, June 26, 2025, in Wheaton, Maryland and via video conference.



Artie L. Harris, Chair
Montgomery County Planning Board

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MCPB No. 25 - 074
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