

Montgomery County Planning Board

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

DATE MAILED:

July 7, 2025

MCPB No. 25-065

Final Forest Conservation Plan Amendment No. F2025012A

Alfred House/Cashell Road

Date of Hearing: May 29, 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 28, 2025, Veena J. Alfred Trust (“Applicant”) filed an application for approval of a forest conservation plan amendment for concurrent review and approval with Preliminary Plan Amendment No. 12022007A (“Accompanying Plan”) on approximately 4.96 acres of land located at 18100 Cashell Road (“Subject Property”) in the Olney Policy Area and the *Olney Master Plan* (“Master Plan”) area; and

WHEREAS, Applicant’s forest conservation plan application was designated Forest Conservation Plan Amendment No. F2025012A, Alfred House/Cashell Road (“Forest Conservation Plan”, “FFCP”, “Amendment” 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 18, 2025, providing its analysis and recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and

WHEREAS, on May 29, 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 Vice Chair Pedoeem, with a vote of 4-0; with Chair Harris, Vice Chair Pedoeem, and Commissioners Hedrick and Linden voting in favor. Commissioner Bartley was necessarily absent.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Forest Conservation Plan Amendment No. F2025012A on the Subject Property, subject to the following

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Approved as to

Legal Sufficiency: /s/ Matthew Mills
M-NCPPC Legal Department

conditions¹. The following conditions supersede all previous Final Forest Conservation Plan conditions of approval for the Olney Acres/Alfred House:

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 for this development Application, whichever comes first, the Applicant must:
 - a) 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 variance tree mitigation 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.
 - b) Submit a cost estimate for the variance mitigation trees, five years of maintenance, 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.
 - c) 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 variance mitigation trees and maintenance credited toward meeting the requirements of the FFCP.
 - d) Record an M-NCPPC approved Certificate of Compliance in an M-NCPPC approved off-site forest bank within the Rock Creek watershed or a Priority Area² to satisfy the afforestation requirement of 0.76 acres of forest conservation mitigation credit. If no off-site forest banks exist within the Rock Creek watershed or a Priority Area, then the off-site requirement may be met by purchasing 0.76 acres of forest conservation mitigation credits from a mitigation bank within Montgomery County outside of the Rock Creek watershed or a Priority Area, subject to Staff approval. If forest

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.

² Priority Area means a priority 8-digit watershed, special protection area, or the Patuxent Primary Management Area (PMA) as defined in Section 22A-12(c)(1) of the Forest Conservation Law.

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.

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 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 27.75 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 Applicant has submitted the Amendment for concurrent review with the Preliminary Plan Amendment No. 12022007A. As conditioned, the Application satisfies the applicable requirements of the Montgomery County Forest Conservation Law, Montgomery Code, Chapter 22A ("FCL") and is in compliance with the Montgomery County Planning Department's approved *Guidelines for Environmental Management of Development in Montgomery County* ("Environmental Guidelines").

The Subject Property is zoned RE-1 and is classified as Medium Density Residential ("MDR") as defined in Section 22A-3 of the FCL and specified in the Trees Technical Manual. The Subject Property contains no forest or environmentally sensitive features and is located within the Rock Creek watershed. The original Final Forest Conservation Plan No. 120220070, as amended under Forest Conservation Plan Amendment No. F20250120, showed a total net tract area for forest conservation purposes as 4.98 acres, resulting in an afforestation requirement of 1 acre.

This Amendment incorporates the original net tract area of 4.98 acres and adds 0.21 acres in separate FFCP Worksheets for offsite work within the right-of-way of Cashell Road for right-of-way improvements and utility installations for the three proposed residential lots. This additional 0.21 acres results in a 0.04-acre increase to the afforestation requirement.

Therefore, with this Amendment, the overall afforestation requirement of this development is 1.04 acres. However, the Applicant has partially satisfied this requirement by purchasing 0.28 acres of forest mitigation credit from an offsite forest bank as of February 28, 2025. This results in a remainder of 0.76 acres to be addressed. As conditioned, the balance of 0.76 acres will be met through the purchase of the appropriate credits in an offsite forest bank or, if no banks are available, through a fee-in-lieu payment to the Forest Conservation Fund.

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 and impacts to Protected Trees and requires a request for a variance from Sec. 22A-12(b)(3) of the FCL. The Applicant has made a Variance request for the removal of three (3) and the impacts to three (3) Protected Trees for the construction of three single family residential structures, installation of a sidewalk in the right-of-way of Cashell Road, and the utility connections for the three homes, as follows:

Table 1
Impacted or Removed Protected Trees

| Tree ID | Common Name | Scientific Name | DBH | % Impact | Status |
|----------------|--------------------|--------------------------------|-----------------|-----------------|---|
| 4 | Red Oak | <i>Quercus rubra</i> | 42 in. | 37% | Remove tree. Tree in good condition, impacts to significant portion of the structural roots. |
| 7 | White Oak | <i>Quercus alba</i> | 32 in. | 76% | Remove tree. Tree in fair condition, excessive impacts to CRZ and structural root zone. |
| 10 | Tulip Poplar | <i>Liriodendron tulipifera</i> | 45 in. | 40% | Save tree. Tree in fair condition, impacts to CRZ; stress reduction measures. |
| 11 | Red Maple | <i>Acer rubrum</i> | 34 in. | 21% | Save tree. Tree in good condition, minor impacts to CRZ; stress reduction measures. |
| 13 | Red Maple | <i>Acer rubrum</i> | 37 in. | 60% | Remove tree. Tree in fair to poor condition, tree in LOD, excessive impacts to CRZ and structural root zone. |
| 14 | Tulip Poplar | <i>Liriodendron tulipifera</i> | 40 in. & 36 in. | 31% | Save tree. Tree in fair condition, impacts to CRZ, stress reduction measures. |

In accordance with Section 22A-21(a), the Applicant has requested a Variance from Sec. 22A-12(b)(3)(C) of the FCL to remove three (3) and impact three (3) Protected Trees. Without this variance from the FCL, the Applicant would suffer unwarranted hardship by being denied reasonable and significant use of the Subject Property for the residential development of this site in the RE-1 zone. The removal of trees 4 and 7 are the result of satisfying Montgomery County right-of-way improvement requirements. The removal of tree 13 is due to site grading and the installation of necessary utilities to Lots 3 and 4. The impacts to trees 10, 11 and 14 are due to site grading and the installation of the access drive for the property. While redeveloping this site and addressing Montgomery County

requirements, the Board finds that the Applicant has no option but to remove or impact these Protected Trees.

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 remove trees 4, 7 and 13, and to impact trees 10, 11 and 14 will not confer a special privilege on the Applicant as the impacts or removals are due to necessary development requirements such as frontage improvements, site grading and utility installation. Therefore, the granting of this Variance is not a special privilege for this Applicant and 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 stormwater management and site access.

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 as 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 removed or impacted are not located within a stream buffer or wetland area. Additionally, the required mitigation plantings for the removal of trees 4, 7 and 13 are being installed throughout the Subject Property. These mitigation trees will provide some increased measure of water quality treatment and provide some shade for the entry drive, the residential care facility on Lot 1 and for the terminus of the entry drive for Lots 2, 3 and 4.

There are three Protected Trees proposed for removal in this Variance request resulting in a total of 111 inches of DBH being removed. The FFCP includes mitigation at a rate that approximates the form and function of the trees removed. These trees will be replaced 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 total mitigation of 27.75 inches which will be met with the installation of ten 3-inch caliper trees. These mitigation trees must be overstory trees native to the Piedmont Region of Maryland the installed on the Subject Property outside of any rights-of-way and/or utility easements.

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 7, 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 3-0-1; Chair Harris, and Commissioners Hedrick, and Linden, voting in favor of the motion, Commissioner Bartley abstaining 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