

# **Montgomery County Planning Board**

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

DATE MAILED:

July 22, 2025

MCPB No. 25-083  
Forest Conservation Plan Amendment No. F20250280  
Pepco Norbeck Substation  
Date of Hearing: July 10, 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 25, 2024, Pepco filed an application for approval of a forest conservation plan amendment on approximately 79.82 acres of land located at 16610 Emory Lane (“Subject Property”) in the Olney Policy Area and 2005 *Olney Master Plan* (“Master Plan”) area; and

WHEREAS, Applicant’s forest conservation plan amendment application was designated Forest Conservation Plan Amendment No. F20250280, Pepco Norbeck Substation (“Forest Conservation Plan,” “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 June 27, 2025, providing its analysis and recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and

WHEREAS, on July 10, 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 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 Forest Conservation Plan Amendment No. F20250280 on the Subject Property, subject to the following conditions:<sup>1</sup>

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<sup>1</sup> 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 Code of Montgomery County Regulations (“COMCOR”), 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. Within 120 days of the mailing date of the Planning Board Resolution approving the amendment to the Final Forest Conservation 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 Final Forest Conservation Plan Amendment. 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.
  - b. Install permanent conservation easement signage along the perimeter of the conservation easements as shown on the FFCP amendment, or as directed by the M-NCPPC Forest Conservation Inspection Staff.
  - c. Install permanent conservation easement fencing along the perimeter of the conservation easements as shown on the FFCP amendment, or as directed by the M-NCPPC Forest Conservation Inspection Staff.
4. Before the recordation of the Category I Conservation Easement:
  - a. All structures, buildings, and stockpiling must be removed from the easement areas, as shown on the FFCP amendment.
  - b. All cleared areas and areas with existing structures must have a planting plan approved by Planning Staff prior to the recordation of the easement.

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 proposed Forest Conservation Plan Amendment is consistent with the *Guidelines for Environmental Management and Development in Montgomery County* (“Environmental Guidelines”). The Amendment establishes a Forest Conservation Easement over forest retention areas to comply with the original 1994 Forest Conservation Plan approval of CBA-1821. A total of 37.25 acres of the Property will be placed into a Category I Forest Conservation Easement. This includes 36.8 acres of existing forest and 0.45 acres of unforested environmental buffer. Of the 52.59 acres of existing forest on Site, 36.8 acres of forest will be placed into a Category I Forest Conservation easement, while 15.79 acres of forest will not be placed into a conservation easement. There is no additional afforestation or reforestation required. The 15.79 acres of forest not placed into an easement are excluded to preserve Pepco's operational flexibility. These areas must remain unencumbered to accommodate future substation expansions, transmission and distribution infrastructure, energy storage, and potential renewable energy generation, which is critical to meeting regional energy demands.

#### Priority Forest Removal

The Subject Property includes 52.59 acres of forest designated as a high priority for retention, as the Property is located within a Priority Urban Forest area, as mapped by the Maryland Department of Natural Resources. The Amendment proposes that 15.79 acres of forest will not be protected by a conservation easement; therefore, for the purposes of the Forest Conservation Plan, that area is counted as cleared and deemed the removal of forest although there are no plans for actual clearing at this time. Per Section 22A-12(b) of Forest Conservation Law, the FCP must retain certain vegetation and specific areas in an undisturbed condition unless specific findings are made.

The Board makes the following findings necessary to approve removal of priority forest:

- 1. The development would make maximum use of any available planning and zoning options that would result in the greatest possible forest retention.*

The Subject Property is zoned R-200. The Application maximizes forest retention by utilizing all feasible planning and zoning options within the constraints of operating and expanding the Pepco substation. While 15.79 acres of Priority Urban Forest must be considered removed due to the potential future expansion and operational needs, the design minimizes impact by concentrating already developed areas and preserving continuous forest areas, including most of the stream valley buffer (SVB) with a proposed Category I Forest Conservation Easement. This approach is an efficient and

conservation-focused use of the site under current zoning allowances, and it allows the preexisting utility to function effectively into the future, minimizing the need for development at an entirely new site.

2. *Reasonable efforts have been made to protect the specific areas and vegetation listed in the plan.*

Reasonable efforts have been made to protect existing forest and vegetation by placing most of the onsite forest into a conservation easement. While the forest spans east to west across the Property's midpoint, which limits development flexibility, the amount of forest not protected through a conservation easement has been reduced to only what is necessary to support the existing substation and its future expansion. The site design reflects a balanced approach that prioritizes forest protection within the constraints of essential utility infrastructure.

3. *The development proposal cannot be reasonably altered.*

Since the substation is already built and operational, its location and footprint cannot be changed. Placing the entire Priority Urban Forest into a conservation easement would interfere with essential infrastructure. The current proposal preserves as much forest as possible without compromising the substation's function, and therefore cannot be reasonably altered.

#### B. Impacts to Forested Stream Valley Buffer

Due to potential future expansion of the substation, which may be necessary for meeting regional power demands, 1.37 acres of forested SVB are not being placed in a Category I Conservation Easement. As this area will not be protected by an easement, the area is considered cleared for the purposes of the Forest Conservation Plan. As provided in Section 22A-12(b)(3)(D), any impacts to the forested stream buffer require a variance, unless the activity occurring within the floodplain or stream buffer is permitted under the *Guidelines for Environmental Management of Development in Montgomery County* ("Environmental Guidelines"). The Environmental Guidelines provide that unavoidable utility impacts are permitted in SVBs, provided no feasible alternatives exist and disturbance is minimized. (p. 16.) The Planning Board finds that these criteria are met in this Application, as the potential expansion of the substation may be necessary for continuing to meet the demand for power in the region and there are no feasible alternative locations on-site for expansion due to the location of the existing structure. In addition, the Board finds that the impacts are minimized to a small portion of the SVB, relative to the amount of on-site forest protected; therefore, the impacts to the forested SVB are allowable and do not require a variance in this case.

C. Requirement to Afforest Stream Valley Buffer

In addition to the forested SVB, the Property contains approximately 14.8 acres of unforested SVB that will not be protected by a conservation easement and is not proposed for afforestation. Under Section 22A-12(e)(1)(B), all unforested SVB must be reforested or afforested, unless the Planning Board finds that one of the relevant exemptions applies. In this case, the Planning Board finds that “the stream valley buffer is not suitable to establish and retain required planting materials” and is therefore exempt from the requirement to afforest under Section 22A-12(e)(1)(B)(iii). The Board finds that the 14.8 acres of unforested SVB are located within the Pepco right-of-way and substation area and therefore must remain clear to ensure uninterrupted utility operations. Further, the Planning Board finds that the majority of SVB on the Property will be protected within a conservation easement, helping to offset the limited and necessary impacts.

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 22, 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.

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**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, July 17, 2025, in Wheaton, Maryland and via video conference.



Artie L. Harris, Chair  
Montgomery County Planning Board