

Montgomery County Planning Board

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

DATE MAILED:

February 10, 2026

MCPB No. 25-147
Forest Conservation Plan No. F20250330
Cabin John Park
Date of Hearing: December 18, 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 19, 2025, Daniel Demeria (“Applicant”) filed an application for approval of a final forest conservation plan for concurrent review and approval with Preliminary Plan No. 120250080 (“Accompanying Plan”) on approximately 2.38 acres of land located on 80th Place, 115 feet East of 81st Street (“Subject Property” or “Property”) in the Bethesda/Chevy Chase Policy Area and 1990 *Bethesda Chevy Chase Master Plan* (“Master Plan”) area; and

WHEREAS, Applicant’s final forest conservation plan application was designated Forest Conservation Plan No. F20250330 (“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 8, 2025, providing its analysis and recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and

WHEREAS, on December 18, 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 Pedoeem, seconded by Vice Chair Linden, with a vote of 4-0-1; Chair Harris, Vice Chair Linden, Commissioners Hedrick and Pedoeem voting in favor, and Commissioner Bartley abstaining.

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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. F20250330 on the Subject Property, subject to the following conditions:¹

1. Before recordation of the plat and the start of any demolition, clearing, grading, or construction, whichever comes first, for the development under 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 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 plat.
 - b. Install the permanent conservation easement fencing and signage along the perimeter of the conservation easements as shown on the FCP, or as directed by the M-NCPPC Forest Conservation Inspection Staff.
 - c. 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 FCP. 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 the sensitive nature of this watershed. The use of herbicides should be avoided where possible.
 - d. Submit a cost estimate for the FCP requirements, which include but are not limited to trees, variance mitigation trees, five years of maintenance including invasive species management controls, permanent easement fence, posts and signage, 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

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 and maintenance, including invasive species management controls, credited toward meeting the requirements of the FCP.
2. 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 FCP. The variance tree mitigation plantings must total at least 121 caliper inches, as shown on the approved FCP. The mitigation plantings should be at least five (5) feet away from any property lines, structures, paving, stormwater management facilities, PIEs, PUEs, ROWs, utility lines, and/or their associated easements. Adjustments to the planting locations of these trees is permitted with the approval of the M-NCPPC Forest Conservation Inspection Staff.
 3. Before submittal of the Certified Final Forest Conservation Plan, the Applicant must make the following changes:
 - a. Provide notes, details and specifications for an onsite invasive species management control program.
 - b. Adjust mitigation plantings to maximize screening along the western and interior boundaries in coordination with staff.
 - c. Provide matting and/or other specialized measures to reduce any disturbance/tree impacts associated with the utility connections within the MacArthur Boulevard right-of-way.
 - d. Shift SWM facilities to be at least five (5) feet from conservation easement boundaries.
 - e. Include provisions for soil restoration for landscape and lawn areas within the limits of disturbance (“LOD”).
 - f. Perform minor corrections in coordination with M-NCPPC Planning Staff.
 4. 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.
 5. 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.
 6. The LOD shown on the Final Sediment and Erosion Control Plan must be consistent with the LOD shown on the approved Final Forest Conservation Plan.

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.*

The Board finds that as conditioned, the Forest Conservation Plan (“FCP”) complies with the requirements of the Forest Conservation Law.

The tract area of the Subject Property for forest conservation purposes includes the 2.38-acre Subject Property plus 0.07 acres of offsite disturbance associated with the Accompanying Plan. However, the existing onsite forested utility/drainage easements, although not affected by the Application, cannot be placed within an overlapping conservation easement. Therefore, existing utility/drainage easements are deducted from the overall forest and site area, resulting in a total net tract area of 2.06 acres. The Subject Property is zoned R-90 and is assigned a Land Use Category of High-Density Residential Areas (“HDR”) as defined in Section 22A-3 of the Forest Conservation Law and in the Land Use Table of the Trees Technical Manual, with an afforestation threshold of 15% and a conservation threshold of 20% of the Net Tract Area. This results in a conservation threshold of 0.41 acres for the Subject Property.

The FCP includes the clearing of 1.03 acres and the retention of 0.96 acres and meets all forest conservation requirements onsite. The retained forest, including stream valley buffer and steep slopes, will be protected by a Category I Conservation Easement². The FCP also includes a request for a variance for removal or impacts to 28 trees, as further discussed below, as well as mitigation plantings for removal of subject trees. As required by the FCP, the removal of miscellaneous debris and invasive species will occur throughout the Subject Property to further enhance the retained forest and canopy.

A. Priority Forest Removal

The entire Subject Property (2.38 acres) is forested and is designated as Priority Urban Forest due to its location within a Priority Urban Forest area, as mapped by the Maryland Department of Natural Resources. Furthermore, the forest area is

² Although not impacted by the limits of disturbance, the forest setting within the 0.06-acre Category I Conservation Easement at the eastern edge of the Subject Property was considered cleared for worksheet calculation purposes since it is not connected to a formally protected forest and is smaller than 10,000 square feet.

also designated as Priority Forest due to the association with stream buffers, steep slopes, contiguous forests, trees connected to an historic site, and/or as areas designated as priority save areas in a master plan.

The FCP includes the clearing of 1.03 acres of forest. 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 2.38-acre property is zoned R-90 and located within the Palisades subsection of the 1990 *Bethesda-Chevy Chase Master Plan* (“Master Plan”). Based on the requirements of the zone, the Property could theoretically yield approximately 11 lots. The Master Plan contemplates six lots for the Property. The Applicant’s plan to subdivide the Property into three lots for the development of three new single-family dwellings served by a shared driveway limits the amount of development and imperviousness, maximizing the amount of Priority Forest retained on the Property. The development envelope is well under half of the Property, and most of the Priority Forest will remain undisturbed by the Applicant. The Applicant has made maximum use of zoning and planning options to result in the greatest amount of forest retention.

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

The Applicant has made reasonable efforts to protect the Priority Forest onsite. The overall layout and circulation of the associated development are efficient with the dwelling units located on the western side of the Property to avoid impacts to the forested stream valley buffer and steep slopes on the eastern side. The proposal for a three-lot subdivision, where additional lots would be allowed by the Zoning Code, demonstrates that the Application balances the goal to create housing with the goal of protecting forest and other sensitive environmental areas onsite. The Application meets and exceeds the forest conservation worksheet requirements onsite and includes the use of restrictive Building Restriction Lines (BRLs), fencing, and specialized construction techniques (such as the directional boring of utilities) to avoid/minimize the overall forest impacts and does not disturb the stream valley buffer or areas with steep slopes. In addition to the protection afforded by the easements, the remaining onsite forest will be enhanced through the

removal of existing man-made debris and invasive species, and planting of supplemental native species.

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

There are no opportunities to save additional existing forest by reasonably altering the development to increase building heights, rearrange buildings, or alter the circulation. Any development of the Property would require impacts to the priority forest onsite, and the current layout minimizes forest removal while protecting over half of the existing forest.

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 a total of 28 Protected Trees as identified in the following tables.

Protected Trees to be Impacted

| Tree Number | Species | DBH Inches | % CRZ Impacts | Status and Notes |
|--------------------|----------------|-------------------|----------------------|-------------------------|
| 21 | Tulip Tree | 38.5 | 16% | Fair/Poor condition |
| 22 | Sycamore | 28.4 | 2% | Fair condition |
| 24 | Tulip Tree | 32.5 | 1% | Poor condition |
| 25 | Tulip Tree | 40.6 | 19% | Fair condition |
| 28 | Tulip Tree | 45.4 | 3% | Fair condition |
| 29 | Tulip Tree | 35.6 | 11% | Fair condition |
| 31 | Tulip Tree | 43.3 | 1% | Fair condition |
| 32 | Tulip Tree | 39.4 | 1% | Fair condition |
| 38 | Tulip Tree | 65.0 | <1% | Fair condition |
| 69 | Sycamore | 38.3 | 10% | Fair condition |
| H-1 | Black Walnut | 11.2 | 27% | Fair/Poor condition |
| H-2 | Hickory | 21.0 | 29% | Poor condition |
| H-3 | Hackberry | 8.0 | <1% | Fair condition |
| H-8 | Paulownia | 18.5 | 8% | Poor condition |
| H-9 | Paulownia | 21.7 | 6% | Poor condition |
| H-10 | Elm | 9.0 | 8% | Poor condition |

Protected Trees to be Removed

| Tree Number | Species | DBH Inches | Status and Notes |
|--------------------|----------------|-------------------|-------------------------|
| 4 | Tulip Tree | 43.0 | Poor condition |
| 5 | Tulip Tree | 33.3 | Fair condition |
| 6 | Tulip Tree | 34.3 | Fair condition |
| 7 | Tulip Tree | 47.3 | Fair/Poor condition |
| 8 | Tulip Tree | 33.9 | Fair condition |
| 10 | Tulip Tree | 39.4 | Fair condition |
| 11 | Tulip Tree | 48.9 | Poor condition |
| 12 | Tulip Tree | 31.8 | Fair condition |
| 13 | Tulip Tree | 44.4 | Fair condition |
| 16 | Tulip Tree | 43.0 | Fair/Poor condition |
| 17 | Tulip Tree | 48.5 | Fair condition |
| 18 | Tulip Tree | 35.0 | Poor condition |

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 single family residential use without the Variance. In this case, the unwarranted hardship is caused by the Property being almost entirely covered by the CRZs of Protected Trees, including a cluster at the north portion of the site near 80th Place. As the Bethesda-Chevy Chase Master Plan makes a specific recommendation for access to the site to come from 80th Place, impacts to many of the Protected Trees located in the area adjacent to 80th Place cannot be avoided. The inability to obtain a variance would preclude any development activity on the site. Therefore, there is a sufficient unwarranted hardship to justify a variance request because the Applicant would be denied a reasonable and significant use of the Property for three single-family homes, which is fewer lots than what the Master Plan contemplated and the Zoning Code would allow.

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 removal and disturbance to the specified trees are due to the reasonable development under the general and site-specific recommendations of the Master Plan and requirements of the R-90 zone. Granting a variance to allow disturbance within the developable portion of the site and meet the objectives and site-specific recommendations of the Master Plan is not unique to this

Applicant. Granting of this variance is not a special privilege 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 Variance is not based on conditions or circumstances which are the result of actions by the Applicant. The Variance is based upon the existing site conditions, development standards of the zone, and Master Plan recommendations.

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 Variance is a result of the existing conditions, the site design and layout of the Subject Property, 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 removed are not located within a stream buffer, wetland or Special Protection Area. As conditioned, the Applicant must mitigate for the removal of Protected Trees by planting replacement trees on-site. These trees will ultimately replace water quality functions that may be lost by the removed trees.

Mitigation for the Variance is at a rate that approximates the form and function of the Protected Trees removed. There are twelve (12) Protected Trees to be removed in this variance request, resulting in a total of 482.8 inches DBH removed. The Board approves the replacement of Protected Trees at a ratio of at least one-inch caliper for every four inches removed. This results in a total mitigation requirement of 121 inches of canopy trees. No mitigation is required for Protected Trees impacted but retained.

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 10, 2026

(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 Pedoeem, with a vote of 4-0; Chair Harris, and Commissioners Bartley, Hedrick and Pedoeem, voting in favor of the motion, Vice Chair Linden being necessarily absent at its regular meeting held on Thursday, February 5, 2026, in Wheaton, Maryland and via video conference.



Artie L. Harris, Chair
Montgomery County Planning Board