

# Montgomery County Planning Board

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

**DATE MAILED:**

**March 11, 2026**

MCPB No. 26-09  
Final Forest Conservation Plan No. F20260280  
Chaberton Solar Victoria  
Date of Hearing: January 29, 2026

## **RESOLUTION**

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

WHEREAS, on December 4, 2025, Mike Doniger (“Applicant”) filed an application for approval of a forest conservation plan for concurrent review and approval with Mandatory Referral Nos. MR2026010 and MR2026011 (the “Accompanying Plans”) on approximately 42.09 acres of land located at 15220 River Road, 1,200 feet west of Signal Tree Lane (“Subject Property”) in the 2002 *Potomac Subregion Master Plan* (“Master Plan”) area; and

WHEREAS, Applicant’s final forest conservation plan application was designated Final Forest Conservation Plan No. F20260280, Chaberton Solar Victoria (“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 January 19, 2026, providing its analysis and recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and

WHEREAS, on January 29, 2026, 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 Pedoem, with a vote of 4-1; Chair Harris, Vice Chair Linden and Commissioners Hedrick and Pedoem voting in favor and Commissioner Bartley voting nay.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Forest Conservation Plan No. F20260280 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. Before recordation of the plat and the start of any demolition, clearing, grading, or construction, whichever comes first, for the Accompanying Plans, the Applicant must:
  - a) Record a Category I Conservation Easement over all areas of forest retention and environmental buffers as specified on the approved Final Forest Conservation Plan. The easement must specify that the Applicant will be permitted to install and maintain an electrical line, using directional boring, within the stream valley buffer as shown 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.
  - 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 mitigation tree plantings, including variance tree mitigation plantings.
  - d) Submit a cost estimate for the FCP requirements, which may include, 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 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 planting on the Subject Property as shown on the approved FCP. The variance tree mitigation plantings must total at least 16 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. 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.
4. 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.
5. 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.
6. No disturbance other than directional boring associated with the electric line is allowed within the stream valley buffer.
7. Before Certification of the Final Forest Conservation Plan, the Applicant must:
  - a. Revise all planting shown as occurring within the Category I Conservation Easement to include only species native to the Piedmont Region of Maryland that are part of a natural occurring forest association.
  - b. Reduce the LOD within the stream valley buffer to reflect the directionally bored electric line only.
  - c. Enlarge the area of the Category I Conservation Easement to cover the entire stream valley buffer.

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 Forest Conservation Plan is also consistent with the Guidelines for Environmental Management and Development in Montgomery County (“Environmental Guidelines”).

The Subject Property contains 1.69 acres of forest, a stream with 7.23 acres of associated stream valley buffer, and hydraulically adjacent steep slopes. Large

specimen trees are distributed across the Property. The Accompanying Plans propose to construct a ground-mounted, 2-megawatt community solar array facility on the northern portion of the Property and a ground-mounted, 1.25-megawatt community solar array facility on the southern portion of the Property. There will be no forest clearing as part of the Accompanying Plans. In accordance with the Maryland State Code, Natural Resources Article, Section 5-1606(A)(6), solar photovoltaic facilities are not subject to afforestation requirements. The Applicant will retain the entirety of the existing forest onsite and will protect the forest and stream valley buffer area in a Category I Conservation Easement. The creation of the conservation easement on the Property is an effective long-term conservation method to maintain water quality. The FCP submitted with the Accompanying Plans conforms with the Environmental Guidelines by allowing development without any encroachments or impacts to the buffer or forest and placing the forest and stream valley buffer in a Category I Conservation Easement.

**B. Forest Conservation Variance**

Section 22A-12(b)(3) of the Forest Conservation Law identifies certain individual trees as high priority for retention and protection (“Protected Tree”). 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 impacts to 9 Protected Trees and the removal of two Protected Trees as identified below:

Table 1: Impacted Protected Trees

<b>Tree No.</b>	<b>Common Name</b>	<b>Latin Name</b>	<b>DBH</b>	<b>Condition</b>
1	Weeping Willow	<i>Salix babylonica</i>	37.3	Poor
13	Red Oak	<i>Quercus rubra</i>	37.1	Poor
21	Tulip Poplar	<i>Liriodendron tulipifera</i>	49.8	Poor
23	White Mulberry	<i>Morus alba</i>	30	Poor
24	Sawtooth Oak	<i>Quercus acutissima</i>	36	Fair
47	Sawtooth Oak	<i>Quercus acutissima</i>	31.1	Fair
48	Sycamore	<i>Platanus occidentalis</i>	52.7	Good
60	Silver Maple	<i>Acer saccharinum</i>	31.2	Poor
63	Eastern Red Cedar	<i>Juniperus virginiana</i>	39	Good

Table 2: Removed Protected Trees

<b>Tree No.</b>	<b>Common Name</b>	<b>Latin Name</b>	<b>DBH</b>	<b>Condition</b>
14	Black Cherry	<i>Prunus serotina</i>	30	Poor
19	White Mulberry	<i>Morus alba</i>	32.6	Poor

In accordance with Section 22A-21(a), the Applicant requested a Variance. The Planning Board agrees that the Applicant would suffer unwarranted hardship by being denied reasonable and significant use for the redevelopment of the Subject Property with two community solar array facilities in accordance with the recommendations of the Sector Plan and Zoning Ordinance without the Variance for the proposed Project.

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 disturbance is due to the scattered location of the trees and the necessary site design requirements for solar arrays that has been designed to minimize environmental impacts. The layout of the development is centralized and the Protected Trees to be removed are in the region of the Property that is most suitable for the solar arrays. Therefore, granting 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 requested Variance is not based on conditions or circumstances that are the result of actions by the Applicant. The requested Variance is based on the existing site conditions and the necessary design requirements for this specific use. The Applicant cannot reasonably redesign the project to avoid impacts to Protected Trees.

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 existing conditions and not due to 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 approved for removal are not located within a stream valley buffer or otherwise environmentally sensitive area. The proposed development will plant six (6) new 3-inch caliper native trees as mitigation for the removal of Protected Trees. These new trees will replace any water quality

functions that may be lost due to the removal of Protected Trees. Given the proposed plantings, granting the Variance will not adversely impact water quality.

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 1-inch caliper for every 4 inches removed. As conditioned, the 62.6 inches of Protected Trees removed result in a mitigation requirement of at least 16-caliper inches planted.

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

**March 11, 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.

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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 Pedoeem, seconded by Commissioner Hedrick, with a vote of 3-0; Vice Chair Linden, and Commissioners Hedrick and Pedoeem voting in favor of the motion, Chair Harris and Commissioner Bartley were necessarily absent, at its regular meeting held on Thursday, March 5, 2026, in Wheaton, Maryland and via video conference.



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Artie L. Harris, Chair  
Montgomery County Planning Board