

Montgomery County Planning Board

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

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DATE MAILED:

April 28, 2026

MCPB No. 26-26
Forest Conservation Plan No. F20260360
15700 Shady Grove
Date of Hearing: March 26, 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 17, 2025, Dash-In Food Stores, Inc. (“Applicant”) filed an application for approval of a forest conservation plan for concurrent review and approval with Conditional Use No. CU202604 (“Accompanying Plan”) on approximately 1.995 acres of land located at 15700 Shady Grove Road (“Subject Property”) in the 2024 *Great Seneca Plan* (“Master Plan”) area; and

WHEREAS, Applicant’s forest conservation plan application was designated Forest Conservation Plan No. F20260360, 15700 Shady Grove Road (“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 March 13, 2026, providing its analysis and recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and

WHEREAS, on March 26, 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 Vice Chair Linden, with a vote of 4-0; Chair Harris, Vice Chair Linden, and Commissioners Bartley and Hedrick, voting in favor, Commissioner Pedoeem was necessarily absent.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Forest Conservation Plan No. F20260360 on the Subject Property, subject to the following conditions:¹

1. Before the start of any demolition, clearing, grading, or construction for the Accompanying Plan, whichever comes first, the Applicant must:
 - a. Record an M-NCPPC-approved Certificate of Compliance in an M-NCPPC-approved off-site forest bank within the Rock Creek watershed to satisfy the afforestation requirement for a total of 3.33 acres of mitigation credit. The off-site requirement may be met by purchasing credits from a mitigation bank elsewhere in the County, subject to Staff approval, if forest mitigation bank credits are not available for purchase within the Rock Creek watershed. Credits debited from forest mitigation banks that protect all or part of an existing forest may only be used to meet up to 50% of the afforestation requirement. If mitigation credits are not available at any bank, the Applicant may meet the afforestation requirement by making a fee-in-lieu payment to M-NCPPC.
 - 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 mitigation tree plantings, including variance tree mitigation plantings, credited toward meeting the requirements of the FCP.
 - c. Submit a cost estimate for the variance tree mitigation plantings. 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 mitigation trees and maintenance 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 be a minimum size of 3 caliper inches totaling 9 caliper inches, as shown on the approved FCP. Adjustments to the planting locations of these trees are permitted with the approval of the M-NCPPC Forest Conservation Inspection Staff.

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.

3. 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.
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.

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 total net tract area for forest conservation purposes is 2.18 acres, which includes the Subject Property of 2.0 acres, and off-site work of 0.18 acres for utility connection and access improvements. The Subject Property is zoned GR-1.5, H-45’ and is classified as a Commercial Industrial Area as defined in Section 22A-3 of the Law and specified in the Trees Technical Manual. The Subject Property contains no forest and has an afforestation requirement of 0.33 acres as calculated in the Forest Conservation Worksheets. The Applicant proposes to meet this requirement by purchasing mitigation credits within a forest bank or, if no credits are available, by payment of a fee-in-lieu.

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 four (4) Protected Trees as identified in the Staff Report. 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 filling station with accessory car wash and convenience store without the Variance. Development is constrained by existing site conditions, including the size and shape of the Subject Property, and the locations of existing trees on the Subject Property. The ability to design the development around the existing features, while incorporating additional requirements, including stormwater management and connections to existing storm drains, has limited the ability to avoid impacts to Protected Trees. Tree 1 is requested to be removed due to its location within the active construction zone of the proposed development. Trees 4, 6, and 7 will be impacted by the proposed limits of disturbance for the construction of the walking path. The Planning Board has reviewed this Application and, based on the existing conditions on the Subject Property, finds that there is an unwarranted hardship.

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 Tree 1 will not confer a special privilege on the Applicant, as the impacts are due to the necessary development requirements of the site. Trees 4, 6, and 7 will be impacted due to necessary grading to construct a parking area and a stormwater management system. The Board finds that the impacts to Trees 4, 6, and 7 have been minimized and cannot be avoided. Therefore, the granting of this Variance is not a special privilege 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 resulting from actions by the Applicant. The requested Variance is

based on existing site conditions and the requirements to meet development standards.

- 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 impacted or removed are not located within a stream buffer, wetland, or a special protection area, and as conditioned, mitigation will be provided for the Protected Tree to be removed. The Protected Trees being impacted will remain to provide the same level of water quality protection as they currently provides. Therefore, their removal will not violate State water quality standards or cause measurable degradation in 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, using trees that are a minimum 3-inch caliper size. There is one tree approved for removal, resulting in a total of 30 inches of DBH removed. This results in a total mitigation of 7.5 inches with an installation of three 3-inch caliper 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

April 28, 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 the motion of Commissioner Hedrick, seconded by Vice Chair Linden, with a vote of 4-0-1; Chair Harris, Vice Chair Linden, and Commissioners Bartley and Hedrick, voting in favor of the motion, Commissioner Pedoeem abstaining at its regular meeting held on Thursday, April 23, 2026, in Wheaton, Maryland and via video conference.



Artie L. Harris, Chair
Montgomery County Planning Board

Approved as to
Legal Sufficiency:

/s/ Emily Vaias
M-NCPPC Legal Department