Montgomery County Planning Board
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

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DATE MAILED:

October 13, 2026

MCPB No. 26-101
Forest Conservation Plan No. F20260600
River Road Estates
Date of Hearing: September 24, 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 March 18, 2026, Hamid Shirazi ("Applicant") filed an application for approval of a forest conservation plan for concurrent review and approval with Preliminary Plan No. 120260120 ("Accompanying Plan") on approximately 2.43 acres of land located at 9312 Persimmon Tree Road and 9810 Newhall Road ("Subject Property") in the Potomac Policy Area and 2002 *Potomac Subregion Master Plan* ("Master Plan") area; and

WHEREAS, Applicant's forest conservation plan application was designated Forest Conservation Plan No. F20260600, River Road Estates ("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 September 4, 2026, providing its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on September 24, 2026, the Planning Board held a public hearing on the Application and voted to approve the Application subject to conditions, on the motion of Vice Chair Bartley, seconded by Commissioner Pedoeem, with a vote of **3-0**; Chair Harris, Vice Chair Bartley, and Commissioner Pedoeem voting in favor, Commissioners Hedrick and Linden necessarily absent.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Final Forest Conservation Plan No. F20260600 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 Accompanying Plan, the Applicant must record an M-NCPPC approved Certificate of Compliance in an M-NCPPC approved off-site forest bank within the Lower Potomac River watershed or Priority Area[2] to satisfy the reforestation and stream buffer variance mitigation requirements of 1.09 acres and 0.06 acres, respectively, for a total of 1.15 acres of mitigation credit. If no off-site forest banks exist within the Lower Potomac River watershed or Priority Area, then the off-site requirement may be met by purchasing 1.38 acres and 0.075 acres for a total of 1.46 acres of mitigation credits from a mitigation bank within Montgomery County outside of the Lower Potomac River watershed or Priority Area, subject to Staff approval. Credits may only be debited from forest mitigation banks that protect all or part of an existing forest to meet up to 50 percent of the reforestation requirement. If forest 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.

2. The Applicant must retain and protect the six (6) mitigation trees required under Forest Conservation Plan Exemption No. 42025141E. The proposed activities associated with Forest Conservation Plan No. F20260600 and the Accompanying Plan must not result in the removal of or impacts to these mitigation trees.

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.

[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.

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. The Applicant must obtain approval of an amendment to the Forest Conservation Plan for any major amendments, as defined in Section 22A.00.01, COMCOR, Forest Conservation Regulations.

7. Before Certification of the Final Forest Conservation Plan, the Applicant must show on the Final Forest Conservation Plan the location of the mitigation trees associated with Forest Conservation Plan Exemption No. 42025141E.

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 ("FCL").

The Subject Property has a Net Tract Area of 2.68 acres, including the Subject Property area of 2.43 acres and offsite disturbance of 0.25 acres. The proposed FCP includes the clearing of 0.58 acres of forest. Based on the R-200 site zoning, which is classified as High-Density Residential Areas (HDR) as defined in Section 22A-3 of the FCL, the reforestation requirement is 1.09 acres if met within the Lower Potomac watershed or a Priority watershed, Special Protection Area (SPA) or Patuxent Management Area (PMA). The reforestation requirement is 1.38 acres if met outside of the Lower Potomac watershed or a Priority watershed, SPA or PMA.

As further discussed below, a 0.03-acre portion of the 0.58 acres of forest is located within a stream buffer. Approximately 760 square feet (0.02 acres) of the stream buffer will remain undisturbed outside the utility easements and the limits of disturbance. However, this isolated area cannot be permanently protected through a forest conservation easement,

pursuant to Planning Board policy, as the easement area would be too small and would be located on an individual residential lot. Because the area cannot be protected by a Category I Conservation Easement, it cannot be credited as retained forest under the Forest Conservation Law. As a result, the entire stream buffer area onsite is counted as cleared for purposes of the forest conservation worksheet calculations. This results in an additional mitigation requirement of 0.06 acres within the Lower Potomac watershed or a Priority watershed, SPA or PMA, or 0.075 acres outside the Lower Potomac watershed or a Priority watershed, SPA or PMA.

As conditioned, the Applicant will satisfy the reforestation and stream buffer variance mitigation requirements of 1.09 acres and 0.06 acres, respectively, for a total of 1.15 acres of mitigation credit, by purchasing credits from a mitigation bank within the Lower Potomac River watershed or a Priority Area. If no off-site forest banks exist within the Lower Potomac River watershed or Priority Area, then the off-site requirement may be met by purchasing 1.38 acres and 0.075 acres for a total of 1.46 acres of mitigation credits from a mitigation bank within Montgomery County outside of the Lower Potomac River watershed or Priority Area, subject to Staff approval, or through fee-in-lieu payment.

B. Priority Forest Removal

The Subject Property includes 0.58 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. Additionally, a 0.03-acre portion of the 0.58 acres of forest is located within a stream buffer. The FCP proposes clearing 0.58 acres of forest and meeting Forest Conservation Requirements off-site. 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 grant the 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 Applicant proposes to retain the two existing single-family dwellings rather than redevelop the site entirely, which reduces the overall limits of disturbance (“LOD”). The subdivision layout also complies with the

development standards of the R-200 zone while minimizing disturbance where feasible. There are no other available planning or zoning options that would result in greater forest retention, while meeting the zoning requirements and Master Plan recommendations.

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

The Applicant evaluated opportunities to minimize forest impacts by retaining the existing homes and reducing site disturbance where feasible. While portions of the priority forest remain outside the limits of disturbance, those areas are too small and fragmented to be permanently protected through a forest conservation easement and would be located on individual residential lots. Accordingly, these isolated remnants cannot be credited as forest retained under the Forest Conservation Law and are accounted for as forest removed.

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

The proposed subdivision seeks to accommodate two new residential lots, the retained existing homes, and required utility connections and their associated easements. The existing forest extends across the rear of proposed Lots 1, 2 and 4. Because the forest occupies the necessary building envelope on Lot 4 and Lots 2 and 4 are already at the minimum lot size permitted by the zone, the development proposal cannot be reasonably altered to avoid forest removal. Although portions of the priority forest remain outside the limits of disturbance, redesigning the subdivision would not result in permanently protected retained forest because the remaining fragments are too small to be placed in a forest conservation easement and would remain on individual residential lots.

C. Forest Conservation Variance

Section 22A-12(b)(3) of the Forest Conservation Law identifies all areas of forest in floodplains or stream valley buffers as high priority for retention and protection. Any impact to areas of forest in floodplains or stream valley buffers requires a variance under Section 22A-12(b)(3) (“Variance”), except if the activity is permitted under the environmental guidelines. Otherwise, such resources must be left in an undisturbed condition.

This Application will require the removal of 0.03-acres of forest in stream valley buffer 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 to create four (4) lots for four (4) single-family detached dwelling units without the Variance.

The requested Variance is necessary for the proposed sewer connection. The Applicant has demonstrated that the denial of the Variance request would cause unwarranted hardship because the Property contains only a small portion of the stream buffer associated with an offsite stream, and that portion is constrained by existing and proposed public utility infrastructure. The proposed subdivision requires modifications to the existing utilities, including abandonment of a portion of the sewer main outside the stream buffer, connection to the existing sewer immediately outside the stream buffer, and installation of a headwall and riprap to connect to the existing storm drain within the stream buffer. Although a small portion of the stream buffer forest would remain outside the limits of disturbance and the proposed easements, it is too small to be permanently protected through a forest conservation easement. As a result, based on the existing conditions on the Subject Property, 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 will not confer a special privilege on the Applicant as the disturbance is due to necessary development requirements of the site. The forest in stream buffer will be impacted due to location of the existing sewer main and its associated easement within the stream buffer and necessary sewer main connection. Therefore, the 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 requested variance is not based on conditions or circumstances which are the result of actions by the Applicant but is based upon the existing site conditions and the location of the stream buffer. The requested Variance is based on existing site conditions including the location of the forest and stream buffer as they relate to the existing sewer main and storm drain and results from the need to modify and

connect to the existing infrastructure.

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 public utility infrastructure located on the subject Property 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 proposed development includes Environmental Site Design to the maximum extent practicable. Disturbance within the stream buffer is limited to the modifications necessary to connect to the existing public utility infrastructure, which will require mitigation. Given this, granting the variance will not adversely impact water quality.

   Section 22A-21(f) of the FCL states that an applicant is required to provide mitigation for removal of forest within a stream buffer at a rate of 2:1, if the reforestation is occurring within the same watershed as the project or a priority watershed, or at a rate of 2 ½:1, if the reforestation is occurring outside of the same watershed and outside of a priority watershed. This results in an additional mitigation requirement of 0.06 acres if met within the Lower Potomac watershed or a Priority watershed, SPA or PMA, or 0.075 acres if met outside the Lower Potomac watershed or a Priority watershed, SPA or PMA.

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

October 13, 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 the motion of Commissioner Pedoeem, seconded by Vice Chair Bartley, with a vote of 3-0-1; Chair Harris, Vice Chair Bartley and Commissioner Pedoeem, voting in favor of the motion, Commissioner Linden abstaining and Commissioner Hedrick being necessarily absent at its regular meeting held on Thursday, October 8, 2026, in Wheaton, Maryland and via video conference.

Artie L. Harris, Chair
Montgomery County Planning Board

Approved as to
Legal Sufficiency: /s/ Allison Myers
M-NCPPC Legal Department