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

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DATE MAILED:

October 20, 2026

MCPB No. 26-91
Forest Conservation Plan No. F20250860
Wheaton Lane Subdivision
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 November 12, 2025, B&S Estate LLC ("Applicant") filed an application for approval of a forest conservation plan for concurrent review and approval with Preliminary Plan No. 120250200 ("Accompanying Plan") on approximately 1 acre of land located at 1307 Wheaton Lane, Silver Spring, MD ("Subject Property") in the Kensington/Wheaton Policy Area and the 1989 *Master Plan for the Communities of Kensington-Wheaton* ("Master Plan") area; and

WHEREAS, Applicant's forest conservation plan application was designated Forest Conservation Plan No. F20250860, Wheaton Lane Subdivision, ("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 14, 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 Commissioner Hedrick, seconded by Commissioner Linden, with a vote of 5-0; Chair Harris, Vice Chair Bartley and Commissioners Hedrick, Linden and Pedoeem voting in favor.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Forest Conservation Plan No. F20250860 on the Subject Property, subject to the following conditions:[1]

1. Before recordation of the plat and the start of any clearing, grading, or construction, except clearing and grading associated with the demolition of existing buildings and paving, whichever comes first, for the accompanying Preliminary Plan, the Applicant must record an M-NCPPC-approved Certificate of Compliance in an M-NCPPC-approved off-site forest bank within the Anacostia River watershed or Priority Area to satisfy the 0.13 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. Credits may only be debited from forest banks that protect all or part of an existing forest to meet up to 50 percent of the afforestation requirement. If forest mitigation credits are not available for purchase, a fee-in-lieu payment must be made to M-NCPPC for the appropriate mitigation credits.
2. 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.
3. 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.
4. 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 ("FCP") complies with the requirements of the Forest Conservation Law. The FCP

[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.

will allow for the development of the four single-family detached homes approved for construction by the Accompanying Plan

The Subject Property is zoned R-60 and is assigned a Land Use Category of High Density Residential ("HDR") as defined in Section 22A-3 of the Montgomery County Forest Conservation Law ("FCL") and in the Land Use Table of the Trees Technical Manual. This results in an afforestation threshold of 15% and conservation threshold of 20% of the Net Tract Area. The net tract area for forest conservation purposes includes the 1-acre total tract area, with 0.12 acres of land dedication for roads and utilities deducted from the total tract area, resulting in a net tract area of 0.88 acres. There is no forest onsite; however, there is an afforestation requirement of 0.13 acres.

Since no on-site priority planting area is present, no other appropriate on-site planting area is available, and the afforestation requirements are less than 0.5 acres, the afforestation requirements can be met through a forest bank purchase or through 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 CRZ impact to 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 the new dwelling units without the Variance. In this case, the unwarranted hardship is caused by the location of the Protected Trees in the rear yards of the Subject Property and offsite. The Applicant has proposed the new dwelling units in locations to minimize impacts to the Protected Trees and still provide usable backyard areas for future residents.

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 to the specified trees is limited and necessary to allow reasonable mobility and yard space around the proposed houses. Granting the variance to allow for such is not unique to this Applicant and 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. The requested variance is based upon the existing site conditions, as the existing trees' locations are primarily towards the rear of the existing homes, so the demolition and reconstruction of homes will be near the root zones of the trees. The development standards of the zone and the Master Plan recommendations impact the location and size of the proposed development.

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 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 impacted are not located within a stream buffer, wetland, or Special Protection Area.
   The Protected Trees being impacted will remain to provide the same level of water quality protection as it currently provides.

   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

October 20, 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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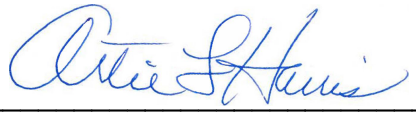
CERTIFICATION

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 Hedrick, seconded by Commissioner Pedoeem, with a vote of 4-0; Chair Harris and Commissioners Hedrick, Linden, and Pedoeem, voting in favor of the motion, Vice Chair Bartley was necessarily absent, at its regular meeting held on Thursday, October 15, 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