

LAND PLANNING ANALYSIS Corridor Center

Prepared in connection with the
Preliminary Forest Conservation Plan
Associated with
Preliminary Subdivision Plan Application No. 956

Prepared by:
Mark G. L. Ferguson, R.A.

Site Design Inc
LAND PLANNING • LAND SURVEYING • ENGINEERING

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LAND PLANNING ANALYSIS
Preliminary Forest Conservation Plan
Corridor Center
Laurel, Maryland

This report is written to consider the conformance of the Preliminary Forest Conservation Plan for the Corridor Center Preliminary Subdivision Plan with the provisions of Article V of the City of Laurel's Unified Land Development Code and with provisions of Title 5 of the State of Maryland's Natural Resources Article enacted by HB1511-2024.

PROPERTY INSPECTION

The subject property is a 28.24-acre tract of land in the southeast quadrant of the interchange of Interstate I-95 and Maryland Route 198. The property is currently occupied by a cellular telephone tower and a vehicle repair facility in its southwesternmost corner, but the bulk of the property is undeveloped, woods occupy 26.65 of its 28.24 acres. Twenty-nine "specimen"¹ trees are intermixed into portions of the property's wooded areas, and a further nine specimen trees are distributed nearby, beyond the periphery of the property's boundaries. There are no champion trees, nor is the subject property the habitat of any rare, threatened or endangered species.

There are no areas of 100-year floodplain on the property, but there is one Sensitive Area, an area of nontidal wetlands associated with an emerging tributary stream to Bear Branch, in the northeastern corner of the property.

The subject property is not, nor does it abut a historic site, nor does it contain a historic structure.

MASTER PLAN CONSIDERATIONS

Because the subject Preliminary Forest Conservation Plan is associated with a Preliminary Subdivision Plan, the recommendations of the City's 2016 Master Plan are germane to the evaluation of the Preliminary Forest Conservation Plan.

The Master Plan recommends the subject property for Mixed-Use Transportation Oriented Land Use. In its vision for Growth Areas, the Plan states that, "Growth is concentrated in existing population and business centers, growth areas adjacent to these centers, or strategically selected new centers."² The Plan's discussion of its vision for Growth Areas goes on to observe that, "there is very little vacant land within the City, there are vacant parcels scattered throughout the City that are appropriate for infill development,"³ and then states that,

¹ "Specimen" trees are trees with a trunk diameter exceeding 30", measured four and a half feet above the ground, or else trees with a trunk diameter exceeding 75% of the diameter of the current State champion tree for of that tree's given species.

² City of Laurel, *Master Plan* (July, 2016), p. 41.

³ *Master Plan*, p. 42.

“the Mayor and City Council amended the City Zoning Regulations to include Mixed Use-Transportation Oriented (M-X-T) Zone to:

- “Promote the orderly development and redevelopment of land in the vicinity of major intersections, and major transit stops, so that these areas will enhance the economic status of the City and provide an expanding source of desirable employment and living opportunities for its citizens;
- “Conserve the value of land and buildings by maximizing the public and private development potential inherent in the location of the zone, which might otherwise become scattered throughout and outside the City, to its detriment...”⁴

Accordingly, the Plan directs that the subject property is to be viewed as one of the few critical sites left in the City to enhance its economic status and provide for its growth.

DESCRIPTION OF THE PROPOSED DEVELOPMENT

The proposed development is to follow the uses and development pattern approved under Conceptual Site Plan No. 935 in January of 2023. That plan proposed 302 units, of which 148 were to be “two-over-two” condominiums (11 of which were to be affordable units), 141 were to be townhouses (11 of which were to be priced as “workforce” units and 12 of which were to be live-work units), and 13 of the units were to be attached “villa”-type units for active seniors. The proposed Preliminary Subdivision Plan reduces the proposed total to 293 units, with a slightly different street layout to avoid disturbance to the property’s Sensitive Areas. The new unit mix will be 148 “two-over-two” condominiums (10 of which are to be affordable units), 132 townhouses (10 of which are to be priced as “workforce” units and 12 of which are to be live-work units), and the 13 attached “villa”-type units for active seniors.

The proposed development will require the clearing of 23.95 of the property’s 26.65 acres of existing woodland. Earlier versions of the plan proposed the full 302 lots approved under Conceptual Site Plan No. 935, and proposed clearing 24.33 acres of the existing woodland. The current plan proposes fewer units, less clearing, more preservation, and more reforestation.

CONFORMANCE TO ARTICLE V OF THE UNIFIED LAND DEVELOPMENT CODE

The provisions of Article V (Forest Conservation) of the City’s Unified Land Development Code provide that persons making application for a subdivision shall submit a Forest Conservation Plan to the City.

Forest Conservation Plan Approval Requirements

Section 20-41.6(a)(1) of the City’s Unified Land Development Code provides that, *“In developing a Forest Conservation Plan, the applicant shall give priority to techniques for retaining existing forest on the site.”* Because the development of the subject property in accordance with the approval of Conceptual Site Plan No. 935, and in keeping with the City’s plan for growth as laid out in its Master Plan require the clearing of a substantial area of the property’s existing woodland, the Section 20-41.6(b)(2) applies instead. That section requires that,

⁴ *Ibid.*, pp. 42-43.

"If existing forest on the site, subject to a Forest Conservation Plan, cannot be retained, the applicant shall demonstrate to the satisfaction of the Planning Commission:

- a. How techniques for forest retention have been exhausted;*
- b. Why the priority forests and priority areas specified in Subsection 20-41.7(b), cannot be left in an undisturbed condition;*
- c. If priority forests and priority areas cannot be left undisturbed, how the sequence for afforestation or reforestation will be followed in compliance with Subsections 20-41.9(a)(1) and (a)(2); and*
- d. Where on the site in priority areas afforestation or reforestation will occur in compliance with Subsection 20-41.9(a)(3)."*

Exhaustion of Techniques for Forest Retention

In its prior submittals to the City, the Applicant explained with respect to subsection 20-41.6(a)(2)(a) that, "during the planning and engineering, the site was carefully thought out to ensure that the minimal amount of tree clearing was done to support the mandated infrastructure. Grading was done so that maximum slopes were maintained to reduce the horizontal distance necessary to grade. Retaining walls were introduced were prudent so that additional forest cover could be retained. Stormwater Management facilities were sized to hold only what was necessary to meet the regulations. Roads were designed to reduce the amount of necessary pavement to the minimal required thus saving the site from additional asphalt and grading to support."

Disturbance to Priority Areas

With respect to subsection 20-41.6(a)(2)(b), why priority forests and areas specified under Section 20-41.7(b) cannot be left in an undisturbed condition, the Applicant further noted with respect to the five categories or priority forests and priority areas that:

- All of the property's Sensitive Areas are being preserved;
- "Implementing the City's planning for growth and for affordable housing at this site is in direct opposition to a requirement to preserve expansive areas of the site's contiguous forest. Accordingly, forest areas were preserved at the eastern and western peripheries of the site where they are contiguous with other forested areas adjacent to the site. Significant areas of contiguous existing open land abutting the preserved priority forest areas will also be reforested to ameliorate the effects of the necessary clearing,"
- There are no rare, threatened or endangered trees shrubs or plans on the subject property;
- There are no trees that are part of a historic site, are associated with a historic structure, or are designated champion trees; and
- "As with the contiguous forest areas, specimen trees have been preserved in the eastern and western peripheries of the site, and during the City staff's review of this application, additional efforts have been made to refine the design to save more specimen trees."

Reforestation Requirement

With respect to subsection 20-41.6(a)(2)(c), the sequence laid out in Sections 20-41.9(a)(1) and (2) for the reforestation necessary to compensate for the proposed clearing has been addressed by the proposed Preliminary Forest Conservation Plan as follows.

First, the reforestation requirement is established pursuant to the provisions of Section 20-41.8 of the Unified Land Development Code. The calculation for the reforestation requirement is as follows: The Net Tract Area of the property (28.24 acres) gets multiplied by the Forest Conservation Threshold percentage from Section 20-41.8(a)(2), which for mixed use development is 15%. That yields a Conservation Threshold of 4.24 acres. This threshold represents a point at which the mitigation rates for clearing existing forest change.

Next, the amount of existing forest cover is evaluated. On this property, it's 26.65 acres. Of that 26.65 acres, the first 4.24 acres are counted as "below the Conservation Threshold," and the remaining 22.41 acres of forest are counted as "above the Conservation Threshold." Clearing forest area above the threshold requires mitigation at a rate of 0.25 acre of reforestation per acre of existing forest cleared above the threshold. Clearing below the Conservation Threshold requires mitigation at a rate of 2.00 acres of reforestation per acre of existing forest cleared below the threshold.

The plan proposes to clear 23.95 acres of the existing forest. Because 23.95 acres is more than the 22.41 acres of existing forest above the Conservation Threshold, all of the 22.41 acres of existing forest above the Conservation Threshold are being cleared and 1.54 acres of the existing forest (23.95 - 22.41) below the Conservation Threshold are being cleared.

To calculate the required reforestation requirement, the 22.41 acres cleared above the Conservation Threshold is multiplied by 0.25 to yield 5.60 acres, and the 1.54 acres of acres cleared below the Conservation Threshold is multiplied by 2.00 to yield 3.07 acres, and those 5.60 and 3.07 acre values get added together for a total reforestation requirement (labeled as a "planting requirement" on the Forest Conservation Plan) of 8.68 acres.

Required Sequence for Preferred Reforestation Techniques

Sections 20-41.9(a)(1) and (2) are as follows:

- (1) *After techniques for retaining existing forest on the site have been exhausted, the preferred sequence for afforestation and reforestation, as determined by the Planning Commission, is as follows:*
 - a. *Forest creation in accordance with a Forest Conservation Plan using one (1) or more of the following:*
 - i. *Transplanted or nursery stock, two and one-half (2½) inch caliber minimum,*
 - b. *For sites located in existing population centers or any other designated areas approved by the City, the use of:*
 - i. *Street trees as a permissible step in the priority sequence for afforestation or reforestation and with a mature canopy coverage may be granted full credit as a mitigation technique;*
 - ii. *Acquisition of an off-site protection easement on existing forested areas not currently protected as a mitigation technique, in which case the afforestation or reforestation credit granted by not exceed fifty (50) percent of the area of forest cover protected; and*

- iii. When all other options, both on-site and off-site have been exhausted, landscaping as a mitigation technique conducted under an approved landscape plan that establishes a forest at least thirty-five (35) feet wide and covering at least two thousand five hundred (2,500) square feet of area.*
- (2) *A sequence other than the one (1) described in Subsection (1) of this section may be used for a specific project, if necessary, to achieve the objectives of the City Master Plan and Land Use Policies, or to take advantage of opportunities to consolidate forest conservation efforts.*

Proposed Reforestation Techniques

First, it is projected that the Final Forest Conservation Plan will be proposed to contain 2.02 acres of forest creation in accordance with 20-41.9(a)(1)(a)(i). In accordance with the provisions of Section 20-41.6(b)(2)(d), the 2.70 acres of retained forest and the 2.02 acres proposed for reforestation by forest creation are shown on the Preliminary Forest Conservation Plan.

Next, it is projected that the Final Forest Conservation Plan will propose 1.00 acres of street tree planting in accordance with 20-41.9(a)(1)(b)(i).

It is also projected that the Final Forest Conservation Plan will propose acquisition of a 7.65-acre protective easement on the property of the abutting First Baptist Church of Laurel, which could only be credited at 50% of its area, or 3.83, acres towards the total reforestation requirement in accordance with 20-41.9(a)(1)(b)(ii). While the easement has not yet been formally acquired, the membership of the church voted in July as being strongly in favor of the grant of an easement, and are currently considering the proposal for the 7.65-acre easement, which will also include setting aside other areas of forest preservation to compensate for the church's construction, and for the construction of two athletic fields on the church property by the Applicant, which will be a part of the terms for the grant of the easement.

The Preliminary Forest Conservation also illustrates the creation of 0.19 areas of landscaping of sufficient area and dimension, in accordance with 20-41.9(a)(1)(a)(iii).

The four foregoing techniques add up to 7.04 acres against the project's reforestation requirement of 8.68 acres, leaving a remaining area of 1.64 acres. It is currently anticipated that this remaining amount will be met by acquisition of credits from a forest mitigation bank, pursuant to the provisions of 20-41.9(a)(5) and 20-41.10 of the Unified Land Development Code. As this planner understands that there are no banks currently designated by the City, the Applicant intends to pursue the creation of a forest mitigation bank, pursuant to the provisions of Section 20-41.11 of the Unified Land Development Code, in which the remaining 1.64 acres can be credited.

As a last resort, if suitable property for the creation of a forest mitigation bank can not be acquired within the City, or if the City can not otherwise approve the use of banks outside of the City limits, then the provisions of Section 20-41.12 could be applied to meet the remaining requirement.

With the use of these five techniques – forest creation, street tree planting, acquisition of a protective easement, qualified landscape planting, and acquisition of credits from a forest mitigation bank – the

proposed Preliminary Forest Conservation Plan will meet the first three requirements for approval of a Forest Conservation Plan, pursuant to Section 20-41.6(b) of the Unified Land Development Code.

Location of Reforestation

Finally, Section 20-41.6(b)(2)(d), indicates that “priority” areas on site are the first priority for reforestation. This planner assumes that priority areas in this context means Sensitive Areas, areas around historic sites and structures, and abutting retained areas of contiguous forest from the list in Section 20-41.7(b). Since all of the property’s Sensitive Areas are fully wooded and are not proposed to be disturbed, that there are no historic sites or structures on the subject property, the remaining priority area is abutting retained areas of contiguous forest.

This will be accomplished in two ways. First, in the areas of forest creation along the western side of the property, which will be contiguous with the retained forest in the southwestern corner of the property. Second, if finally approved by the Church, through the acquisition of the 7.65-acre protective easement, which will abut the retained forest around the property’s Sensitive Areas along its eastern edge.

In summary, the proposed Preliminary Forest Conservation Plan meets the requirements for approval of a Forest Conservation Plan, as laid out in Section 20-41.6(b) of the Unified Land Development Code.

CONFORMANCE TO HB1511-2024

Among other provisions of the State’s Natural Resources Article, HB1511-2024 amended Section 5-1605 of the Forest Conservation provisions to limit the use of “qualified conservation” to 50% of a project’s total reforestation requirement. Given that the project’s reforestation requirement is 8.68 acres, the effect of HB1511 is to limit the use of protective easements to meeting no more than 4.34 acres of the project’s reforestation requirement.

Given that the provisions of Section 20-40.11 require that forest mitigation banks be created by planting of new forest rather than the protection of existing forest, the methods proposed above for meeting the project’s reforestation requirement will meet the requirement approved by HB1511, as only 3.83 acres of the project’s requirement will be met through the use of qualified conservation.

Respectfully submitted,



Mark G. L. Ferguson
Senior Land Planner