



MAYOR AND CITY COUNCIL OF LAUREL DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT

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July 26, 2024

AGENDA ITEM NO.

TECHNICAL STAFF REPORT

TO: City of Laurel Planning Commission
FROM: Monta Burrough, Acting Director
CASE: Corridor Center – Forest Conservation Plan

GENERAL INFORMATION

APPLICANT: Pulte Home Company, LLC
7807 Exeter Road
Bethesda, MD 20814

OWNER: FRD Properties, LLC
7807 Exeter Road
Bethesda, MD 20814

LOCATION: 6820, 6900, 6902, 6920 Contee Road, Laurel, MD 20707
15203 Pirate Lane, Laurel, Maryland 20707

ZONE: M-X-T (Mixed Use Transportation Oriented)

REQUESTED ACTION: Forest Conservation Plan Approval

PREVIOUS ACTION:

- Annexation 2-2002, 2-2004, and 4-2004
- Adopted 2009, Land Use Map (M-X-T)
- Amended Master Plan adopted 7.25.2016, pursuant to Ordinance No. 1873

BACKGROUND INFORMATION:

The Applicant is requesting approval of a Forest Conservation Plan associated with the proposed development of 6902 Contee Road into Corridor Center. The Applicant is seeking M-X-T Subdivision Preliminary Plan approval to subdivide 28.24+ acres of land to construct 293 residential units. The Applicant will be building on parcels identified in Tax Id Number: 10-0993337, 10-0993329, 10-993345, and 10-993303.

Site Statistic Table Summary

NET TRACT AREA	
Total Tract Area:	28.24 AC
Deductions:	0.00 AC
Net Tract Area:	28.24 AC
LAND USE CATEGORY	
Afforestation Threshold:	4.24 AC
Conservation Threshold:	4.24 AC
EXISTING FOREST COVER	
Forest Cover within Net Tract Area:	26.65 AC
Area of Forest Above Conservation Threshold:	22.41 AC
BREAK EVEN POINT	
Breakeven Point:	8.72 AC
Forest Clearing Permitted without Mitigation:	17.93 AC
PROPOSED FOREST CLEARING	
Total Area to be Cleared:	23.95 AC
Total Area to be Retained:	2.70 AC
PLANTING REQUIREMENTS REFORESTATION	
Reforestation for Clearing Above the Conservation Threshold:	5.60 AC
Reforestation for Clearing Below the Conservation Threshold:	3.07 AC
Credit for Retention Above Conservation Threshold:	0.00 AC
Total Reforestation Required:	8.68 AC
AFFORESTATION	
Area of Forest Above Afforestation Threshold:	0.00 AC
To Meet Afforestation Minimum:	0.00 AC
For Clearing Below Afforestation Threshold:	0.00 AC
Total Afforestation Required:	0.00 AC
TOTAL PLANTING REQUIRED:	
8.68 AC	

ANAYLSIS

Forest Conservation- This property is subject to the provisions of the Forest Conservation Section 20-41.3 of the City Code because the proposed development is greater than 40,000 square feet. A Forest Stand Delineation and a Forest Conservation Plan are required.

The site consists of 28.24 acres, and 26.65 acres of the site is wooded. The development proposes to clear 23.95 acres of the existing forest. The Applicant is proposing to retain 2.70 acres of existing forest on site, which will result in a total reforestation requirement of 8.68 acres. The Applicant is proposing to provide 2.21 acres of on-site reforestation, (through a combination of 2.02 acres of reforestation and 0.19 acres of qualified landscaped areas), leaving 6.47 acres of off-site (or other) planting requirement. There are sensitive areas on site including nontidal wetlands, nontidal wetland buffers, streams, and specimen trees.

The Applicant is proposing to meet the 8.68-acre reforestation requirement by a combination of:

- 2.02 acres of on-site reforestation;
- 1.00 acres of street tree planting per Section 20-41.9(a)(1)b.i. of the City of Laurel Unified Development Code;
- acquisition of an off-site protection easement on existing forested areas (with credit given at a rate of 50% of the area protected) per Section 20-41.9(a)(1)b.ii. of the City of Laurel Unified Development Code;
- 0.19 acres of landscape areas per Section 20-41.9(a)(1)b.iii. of the City of Laurel Unified Development Code; and
- credits obtained from a Forest Mitigation Bank which has been designated by the City, per Section 20-41.9(a)(5) of the City of Laurel Unified Development Code.

The Applicant has proposed a site for the off-site protection easement on the property of the First Baptist Church of Laurel, abutting the subject property. At this time, the church has not yet approved the easement. If the easement is not approved, the total requirement will have to be met by a combination of the other methods itemized above.

Sec. 20-41.9. - Priorities and time requirements for afforestation and reforestation.

(a) Sequence for afforestation and reforestation.

- (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.

Sec. 20-41.10. Payment by credits from a Forest Mitigation Bank.

(a) *Use of Forest Mitigation Bank.*

- (1) If a person required to conduct afforestation or reforestation demonstrates to the satisfaction of the Planning Commission that requirements for reforestation or afforestation onsite or offsite cannot be reasonably accomplished, the person may contribute credits from a Forest Mitigation Bank. A credit is required for each tenth ($\frac{1}{10}$) of an acre of an area of required planting.
- (2) The credits shall be debited from an approved Forest Mitigation Bank within ninety (90) calendar days after development project completion.

Sec. 20-41.11. Establishing Forest Mitigation Banks.

(a) *Forest Mitigation Banks.*

- (1) A person may create a Forest Mitigation Bank from which applicants may purchase credits to meet the afforestation and reforestation requirements of this article.
- (2) The Forest Mitigation Bank shall:
 - a. Afforest or reforest an area of land in accordance with a Forest Mitigation Bank Agreement;
 - b. Be protected by an easement, deed restrictions, or covenants which require the land in the bank to remain forested in perpetuity and are enforceable by the City and the Department of Natural Resources;
 - c. Limit the use of the land in the bank to those activities which are not inconsistent with forest conservation such as recreational activities, forest management under a

forest conservation and management program under Tax-Property Article, Section 8-211, Annotated Code of Maryland, as amended, or activities specified in a

Forest Management Plan prepared by a licensed forester and approved by the Planning Commission;

- d. Use native plant materials for afforestation or reforestation unless inappropriate; and
- e. Cause trees to be planted which:
 - i. Establish or enhance forested buffers adjacent to intermittent and perennial streams and coastal bays to widths of at least fifty (50) feet;
 - ii. Establish or increase existing forested corridors, which, where practical, should be a minimum of three hundred (300) feet in width to facilitate wildlife movement, to connect existing forests within or adjacent to the site;
 - iii. Establish or enhance forest buffers adjacent to critical habitats where appropriate;
 - iv. Establish or enhance forested areas in one hundred-year floodplains;
 - v. Stabilize slopes of twenty-five (25) percent or greater;
 - vi. Stabilize slopes of fifteen (15) percent or greater with a soil "K" value greater than thirty-five hundredths (0.35) including the slopes of ravines or other natural depressions;
 - vii. Establish buffers adjacent to areas of differing land use where appropriate, or adjacent to highways or utility rights-of-way; or
 - viii. Establish forest areas adjacent to existing forests to increase the overall area of contiguous forest cover, when appropriate.
- (3) A person proposing to create a Forest Mitigation Bank shall submit to the Department of Economic and Community Development a:
 - a. Completed application on a form approved by the Department of Economic and Community Development which has been signed by an authorized individual in conformance with COMAR 08.19.04.02I;
 - b. Forest Mitigation Bank Plan which contains a:
 - i. Vicinity map of the proposed mitigation bank site;
 - ii. Simplified Forest Stand Delineation which meets the criteria in COMAR 08.19.04.02;

- iii. Detailed afforestation or reforestation plan, which shall include a timetable and description of the site and soil preparation needed, species, size, and spacing to be utilized, prepared by a licensed Maryland forester, a licensed landscape architect, or a qualified professional who meets the requirements stated in COMAR 08.19.06.01A and Subsection 20-41.5(2) of this article; and
- iv. Proposed two-year maintenance agreement that:
 - 1. Sets forth how the areas afforested or reforested will be maintained to ensure protection and satisfactory establishment,
 - 2. Complies with COMAR 08.19.04.05C (4)(a), and
 - 3. Includes watering and reinforcement planting provisions if survival falls below required standards;
- c. Copy of the deed to the property;
- d. Survey or other legally sufficient description of the bank site for inclusion in the deeds of easement, deed restrictions, or covenants;
- e. Title report or other assurance that:
 - i. The property is not encumbered by any covenants or other types of restrictions which would impair the property's use as a Forest Mitigation Bank; and
 - ii. There is legally sufficient access to the Forest Mitigation Bank site which can be used by the City and its assignees to inspect the Forest Mitigation Bank; and
- f. Description of the system to be used by the person owning and operating the Forest Mitigation Bank to identify and keep track of which portions of the Bank have been debited to meet an applicant's offsite afforestation or reforestation requirements.

(4) The owner of an approved Forest Mitigation Bank shall enter into an agreement with the City which contains:

- a. The approved reforestation or afforestation plan;
- b. The approved system for marking and tracking which portions of the bank have been debited; and
- c. An acknowledgment that the bank may not debit any portion of the afforested or reforested land until two (2) years of successful growth has been achieved unless the banker has posted a bond or alternate form of security

Section 20-41.6(a)(2) of the City's Unified Land Development Code does not require the preservation of all existing forest, but it does require that, "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...Why the priority forests and priority areas specified in Subsection 20-41.7(b), cannot be left in an undisturbed condition.”

Section 20-41.7(b). Retention. The following trees, shrubs, plants, and specific areas are considered priority for retention and protection and shall be left in an undisturbed condition unless the applicant has demonstrated, to the satisfaction of the Planning Commission that reasonable efforts have been made to protect them and the plan cannot be reasonably altered:

Trees, shrubs and plants located in sensitive areas, including the one-hundred-year floodplain, intermittent and perennial streams and their buffers, steep slopes, nontidal wetlands and critical habitats.

Response:

First, essentially all of the existing forest was proposed to be retained in all of these Master Plan-designated Sensitive Areas when the initial planning was completed. It was considered most essential to protect this category of priority forest as much as practicable. Except for an area smaller than 500sf for a storm drain outfall, no forest is being cleared in areas within 100-year floodplain, streams, and or their buffers or wetlands and their buffers.

- (1) Contiguous Forest that connects the largest undeveloped or most vegetated tracts of land within and adjacent to the site.

Response:

Because the site is almost predominantly wooded, this component of the defined priority forest areas is the most relevant to the evaluation of the site's Forest Conservation Plan. As discussed above, however, 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.

- (2) Trees, shrubs or plants determined to be rare, threatened, or endangered under:
 - a. The Federal Endangered Species Act of 1973 in 16 U.S.C., Sections 1531 through 1544, inclusive, and in 50 CFR Part 17;
 - b. The Maryland Nongame and Endangered Species Conservation Act, Annotated Code of Maryland, Natural Resources Article, Sections 10-2A01 through 10-2A-09, inclusive; and
 - c. COMAR 08.03.08, which contains regulations relating to the threatened and endangered species.

Response: No trees, shrubs or plants on-site have been found to be rare, threatened, or endangered.

(4) Trees that:

- a. Are part of an historic site;
- b. Are associated with an historic structure; or
- c. Have been designated by the state or the Department of Economic and Community Development as a national, state or county champion tree; and

Response: No historic sites or structures, or designated champion trees exist on the site.

(5) Any tree having a diameter measured at four and one-half (4½) feet above the ground of:

- a. Thirty (30) inches or more; or
- c. Seventy-five (75) percent or more of the diameter, measured at four and one-half (4½) feet above the ground, of the current state champion tree of that species as designated by the Maryland Department of Natural Resources.

Response:

Colloquially known as “specimen trees,” there are a number of these larger-diameter trees scattered throughout the site. 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.

Forest Conservation- This property is subject to the provisions of the Forest Conservation Section 20-41.3 of the City Code because the proposed development is greater than 40,000 square feet. A Forest Stand Delineation and a Forest Conservation Plan are required.

The following is provided by the Applicant as justification as to why existing forest cannot be retained on-site and how the planting requirement is being satisfied:

“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 (sic) 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. ... The applicant has designed and engineered the site with retention techniques in mind and has exhausted them to reduce the forest removal and still

meet the intent of the Code, and to maintain the approval provided by the CSP approval (Ordinance No. 2004)."

It is also important to note that the Subject Property is zoned M-X-T, as reflected in the City's 2016 Master Plan, and this zone is intended to accommodate higher density development, with a maximum floor area ratio of 8.0. Consistent with this zoning, the City Council approved Concept Plan No. 935 through Ordinance No. 2004 on January 23, 2023, for 302 residential units (now reduced to 293).

Given that the development of 302 (now 293) dwelling units was approved by the City Council through the above-referenced Concept Plan, there is effectively no area available for forest creation, and as this property has been zoned M-X-T, it can be concluded that this property is a site that is one of the "designated areas approved by the City."

Conclusion:

This TCP1 proposes meeting the woodland conservation requirements with a combination of on-site woodland preservation (2.70 ac.), on-site Reforestation and Landscape Planting (2.21 acres), street tree planting (1.00 acres), the acquisition of an off-site protective easement, and the acquisition of off-site woodland conservation credits in an approved woodland conservation bank (totaling 6.47 acres). Much consideration has been taken to preserve and plant forests on-site to the maximum extent possible, including proposing the loss of 9 units to add more area of preservation and reforestation from earlier versions of the plan. The applicant has provided an efficient layout that creates a balance of preserving the environmental features on-site and fulfilling the goals and densities of the M-X-T zone. The existing development does not allow for any additional areas for woodland conservation planting. Adding more on-site conservation would result in a greatly reduced project scope and make it economically unviable for development.

RECOMMENDATION:

It is recommended that the Planning Commission **APPROVE** the Forest Conservation Plan with the following conditions:

1. At the time of Site and Landscape Plan, the Applicant shall submit a Final Forest Conservation Plan which shall demonstrate as a part of its reforestation plan specific methods proposed under Section 20-41.9(a)(1)b. of the City of Laurel Unified Development Code, and if those are not sufficient to meet the reforestation requirement, the final area for the off-site protective easement, and /or a Mitigation Bank Plan per Section 20-41.9 (a) (1) (b) of the Unified Land Development Code for Planning approval.
2. If credits from a Forest Mitigation Bank are part of the Final Forest Conservation Plan, the Applicant shall comply with the requirements of Section 20-41.10 of

Unified Land Development Code, and if necessary, the provisions for establishing a Forest Mitigation Bank in Section 20-41.11 of the Unified Land Development Code or the provisions of Section 20-41.12 of the Unified Land Development Code.

ATTACHMENTS:

1. Corridor Center Forest Conservation Plan.

REVIEWED:

Monta Burrough

Monta Burrough
Acting Director